

Northgate Holdings Prop 207 Claim

Binding Waiver of Enforcement

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Background

Ordinance 2017-31

- On November 17, 2020, the Flagstaff City Council adopted Ordinance 2020-28, which made various amendments to the Flagstaff Zoning Code.
- The amendments made certain changes regulating High Occupancy Housing (“HOH”), including:
 - Creating a definition of HOH
 - Restricting HOH of 4 units or more to the pedestrian shed of an activity center
 - Adding parking, bedroom/bathroom, and other HOH regulations



Background

Northgate's Claim

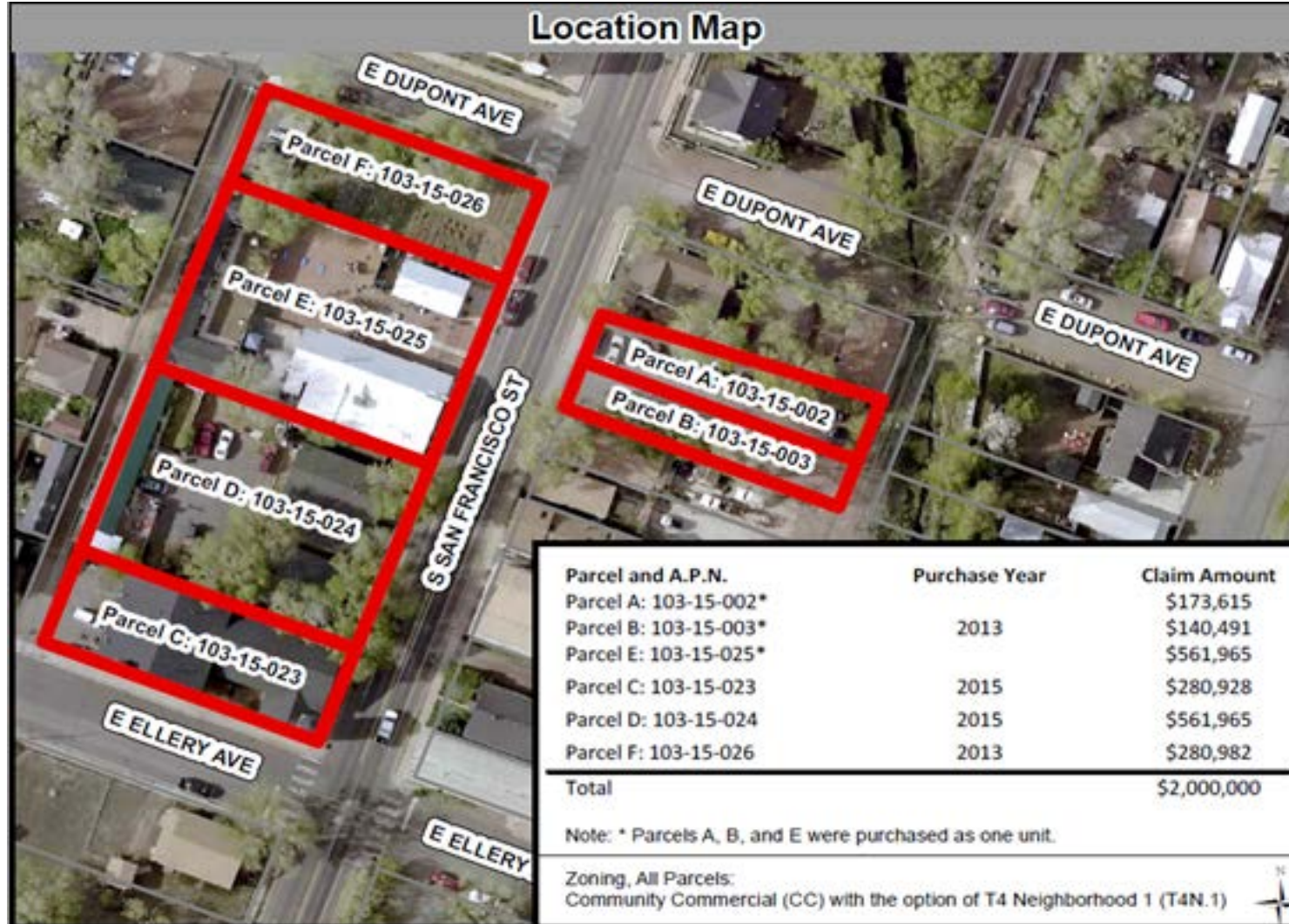
- On March 30, 2021, Northgate Holdings filed a Prop 207 claim with the City regarding six parcels of land on S. San Francisco Street in the Southside neighborhood.
- These six parcels are zoned Community Commercial with the option to elect the T4N.1 transect overlay.
- Northgate claims that, as the result of the November 2020 code amendments, its properties have lost a collective \$2 million in value.



Background



Map of Northgate Properties





Overview of Prop 207

- A.R.S. § 12-1134 (also known as Prop 207) provides that if “the existing rights to use, divide, sell or possess private real property are reduced by the enactment or applicability of any land use law enacted after the date the property is transferred to the owner and such action reduces the fair market value of the property the owner is entitled to just compensation from this state or the political subdivision of this state that enacted the land use law.”
- The landowner must make a written demand for a specific amount of just compensation.
- The city has 90 days to pay, amend the law, or permanently waive enforcement of the new land use law on the landowner’s parcel.



Overview of Prop 207

- If the city does not act, the landowner may file a claim for just compensation in superior court within three years of the date the land use law took effect.
- Just compensation for diminution in value is the reduction in fair market value for the property resulting from the land use law.
- Fair market value is the most likely price which the land would bring if exposed for sale in the open market by a purchaser who buys with knowledge of all the uses and purposes to which it is adapted and for which it is capable.



Binding Waiver of Enforcement

- If approved by Council, the City will agree and declare that the HOH Zoning Code amendments will not be enforced nor applicable to the entirety, or any portion of the Northgate properties.



Questions?



Any questions?