

ORDINANCE NO. 2023-06

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF ZONING MAP TO REZONE APPROXIMATELY 17.0842 ACRES OF REAL PROPERTY GENERALLY LOCATED AT 2950 EAST BUTLER AVE FROM THE RURAL RESIDENTIAL (RR) AND MEDIUM-DENSITY RESIDENTIAL (MR) ZONES TO THE HIGHWAY COMMERCIAL (HC) ZONE WITH CONDITIONS; PROVIDING FOR SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE

RECITALS:

WHEREAS, MICM Butler Lofts Project LP (“the Applicant”), has applied for a Direct to Ordinance Zoning Map Amendment to rezone approximately 17.0842 acres of real property located within the City of Flagstaff, a legal description of which is provided in Exhibit A attached hereto and incorporated by this reference (“the Property”), from Rural Residential (RR) and Medium Density Residential (MR) zones to the Highway Commercial (HC) zone for purposes of developing a mixed-use commercial retail and multi-family residential project; and

WHEREAS, the Applicant proposes to develop the Property pursuant to the terms and conditions of this Ordinance and a Development Agreement between Applicant and the City (“Agreement”), which will be presented to the City Council through a proposed resolution at the second reading of this Ordinance; and

WHEREAS, the Applicant conducted two (2) neighborhood meetings on October 3, 2022 and October 6, 2022 to discuss the proposed Zoning Map Amendment with the surrounding community, as required by Section 10-20.50.040 of the Flagstaff Zoning Code; and

WHEREAS, the Planning and Zoning Commission has formally considered the proposed Direct to Ordinance Zoning Map Amendment application, following proper notice and one (1) hearing on March 8, 2023, and has recommended approval of the requested Zoning Map Amendment application, subject to the Applicant’s compliance with certain conditions set forth below; and

WHEREAS, the Council finds that the applicant has complied with all application requirements set forth in Chapter 10-20 of the Flagstaff Zoning Code; and

WHEREAS, staff have recommended approval of the Direct to Ordinance Zoning Map Amendment application, subject to the conditions proposed by the Planning and Zoning Commission, and the Council has considered each of the conditions and has found each condition to be appropriate for the Property and necessary for the proposed development; and

WHEREAS, the Council has read and considered the staff reports prepared by the current Planning Division staff and all attachments to those reports, the Applicant’s application, the narrative provided by the Applicant, and all statements made by the Applicant and its representatives or agents during the presentation to Council, and the Council finds that the proposed Direct to Ordinance Zoning Map Amendment, subject to the conditions set forth below, meets the findings required by Section 10-20.50.040(F)(1)(a) of the Flagstaff Zoning Code.

ENACTMENTS:**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:**

SECTION 1. The foregoing recitals are incorporated as if fully set forth herein.

SECTION 2. The amendment requested in the application is consistent with and conforms to the goals of the Regional Plan.

SECTION 3. The amendment requested in the application will not be detrimental to the public interest, health, safety, convenience, or welfare of the City, and will add to the public good as described in the General Plan.

SECTION 4. The affected site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle access and public services and utilities to ensure that the amendment requested in the application will not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

SECTION 5. The Zoning Map designation for the Property is hereby amended from Rural Residential (RR) and Medium Density Residential (MR) zones to the Highway Commercial (HC) zone as set forth in "Exhibit B", attached hereto and incorporated by reference.

SECTION 6. That the Zoning Map Amendment be contingent on approval of the Development Agreement between the City of Flagstaff and the Applicant, approved by the City Council through Resolution No. 2023-14 on April 4, 2023.

SECTION 7. That the Zoning Map Amendment be further conditioned upon the Applicant's satisfaction of the following conditions proposed by the Planning and Zoning Commission:

CONDITIONS:

1. The subject property must be developed in accordance with the approved Site Plan and the conditions of approval dated February 2, 2023. Modifications (other than minor modifications) to the approved site plan will require an amendment to this Direct to Ordinance Zoning Map Amendment request.
2. All other requirements of the Zoning Code and other City codes, ordinances, and regulations, shall be met by the proposed development.
3. All terms, conditions, and restrictions detailed within the "DEVELOPMENT AGREEMENT between THE CITY OF FLAGSTAFF and **MICM BUTLER LOFTS PROJECT LP/SIERRA VISTA NO 6 L.L.C./BROOKSTONE VENTURES L.C.** ~~MIRAMONTE ACQUISITIONS, LLC~~ for THE LOFTS ON BUTLER" must be fully satisfied.
4. The **APPLICANT'S** Developer's failure to obtain certificate of occupancy for the entirety of the Project within five (5) years of the effective date of the rezoning ordinance shall entitle the City, in its sole discretion, to conduct a public hearing for the purpose of reverting the Highway Commercial (HC) zoning on the Property to its former zoning classification of Medium Density Residential (MR) and Rural Residential (RR), in accordance with Arizona Revised Statutes § 9-462.01.
5. All parcel reconfigurations must be completed prior to the issuance of the first Building Permit.

SECTION 8. That City staff is hereby authorized to take such other and further measures and actions as are necessary and appropriate to carry out the terms, provisions, and intents of this Ordinance.

SECTION 9. If any section, subsection, sentence, clause, phrase, or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 10. Effective Date

This Ordinance shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 4th day of April, 2023.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibits:
Legal Description
Zoning Map(s)