

Mill Town

Development Agreement

2nd Amendment

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Senior Planner





Development Agreement

Development Agreement:

- **On 4/17/18, Flagstaff City Council approved the rezoning of approximately 18 acres of land owned by Vintage Partners, LLC.**
- **The rezoning was part of a public-private partnership (P3) between the City, Vintage, and ADOT that relocated the Harkins theater to the east side of Flagstaff, relocated the local ADOT offices to the old Harkins site, delivered transportation improvements to Beulah and University (including the pedestrian underpass) and opened the Mill Town property for residential and commercial development by Vintage.**
- **The rezoning ordinance contains multiple conditions, one of which is that the Mill Town property must be developed in accordance with the approved site plan (PZ-16-00239-01).**



Development Agreement



2. Entitlements. Vintage hereby agrees to be subject to all the terms, conditions, and stipulations of the Rezoning Ordinance for PZ-16-00239-02 (City Ordinance No. 2018-13), Site Plan (PZ-16-00239-01), and preliminary plat (PZ-16-00239-03) (collectively, the “Entitlements”). The City acknowledges and agrees that the development rights granted by the Rezoning Ordinance are vested for a term of five (5) years from the Effective Date of this Agreement (the “Vested Rights”) and that Vintage shall have a right to develop the Mill Town Property consistent with the Vested Rights, subject to the Applicable Rules (as defined in Section 3, below) and any changes to the Rules as permitted by this Agreement. Further, the City acknowledges that the recordation of the final plat for the Mill Town Property (“Final Plat”) will occur only after (i) the New ADOT Facilities have been constructed on the Vintage Property pursuant to the Implementation Agreement, (ii) the City has conveyed the City Property to ADOT pursuant to the IGA, and (iii)

the Mill Town Property has been conveyed to Vintage by ADOT in exchange for the conveyance by Vintage to ADOT of the Vintage Property with the New ADOT Facilities constructed thereon pursuant to the Implementation Agreement. As a result, the parties agree that the preliminary plat approval will remain valid for three (3) years from the Effective Date to allow sufficient time for the transactions contemplated by clauses (i) through (iii) to be completed.



Development Agreement

Development Agreement:

- **The City agreed that that the development rights granted by the rezoning ordinance would be vested for five years.**
- **The City also agreed that the development of Vintage's approved site plan would be governed by the Zoning Code in existence as of the effective date of the development agreement.**
- **This is not an uncommon practice in development agreements, as they provide certainty for the developer to recognize the development process can take years.**



Development Agreement



3. Development Standards. The development of the Mill Town Property, as well as the standards for off-site and on-site public improvements, will be governed by the City's codes, ordinances, regulations, rules, guidelines, and policies controlling permitted uses of the Mill Town Property, design review guidelines, the density and intensity of uses, the maximum height and size of the buildings within the Mill Town Property in existence as of the Effective Date of this Agreement (for purposes of the Zoning Code [Title 10 of the Flagstaff City Code], the version in place as of May 5, 2017 will apply), except as modified herein or otherwise agreed to, in writing, by Vintage and the City (collectively, the "Applicable Rules" or "Rules"); provided, however, that if Vintage fails to apply for any Construction Permits for development of the Mill Town Property within five (5) years following the Effective Date of this Agreement, and thereafter diligently proceeds with construction pursuant to those Construction Permits, then development of the Mill Town Property will be subject to the City's codes, ordinances, regulations, rules, guidelines, and policies in effect at the time Vintage applies for such Construction Permits. "Construction Permits" shall mean any permit issued by the City or other jurisdiction that is required in order to begin construction of any on-site or off-site improvements related to development of the Mill Town Property, including but not limited to public improvements, grading, electrical, gas, plumbing, mechanical, or structural.



Development Agreement

1st Amendment:

- **On 10/22/21 the City and Vintage entered into the first amendment to the Mill Town development agreement to do the following:**
 - 1. Allow the City to assume responsibility for administering design and construction of the transportation improvements**
 - 2. Define Vintage's contribution towards the transportation improvements and method of payment.**
 - 3. Extend Vintage's right to develop the Mill Town property in accordance with the rezoning ordinance and approved site plan for an additional two years (seven total).**



Development Agreement



1. Administration of Combined Roadway Project. The Parties agree that (i) the City shall be responsible for administering the remaining design of the Combined Roadway Project and the construction of the Combined Roadway Project, and (ii) the City will be responsible for all of the remaining costs to complete the design of the Combined Roadway Project and all of the costs of constructing the Combined Roadway Project, except for the Vintage Contribution (as defined below). In furtherance of the foregoing, the City and Vintage agree as follows:

3. Effective Date; Extension of Entitlements. The Parties acknowledge and agree that the Effective Date of the Agreement is December 14, 2018. The City agrees to extend the right to develop the Mill Town Property in accordance with the Entitlements set forth in the Development Agreement for an additional two (2) years, for a total of seven (7) years from the Effective Date. If, however, the Fixed Payment is not made when due, and such failure is not cured within five (5) business days following written notice from the City to Vintage, then there will be no extension and the Entitlements will terminate on December 13, 2023. In the event that the City fails to diligently pursue the construction of the Combined Roadway Project to completion and Vintage exercises its right to assume responsibility for administering the construction of the Combined Roadway Project, then the Entitlements will terminate on December 13, 2025.



Development Agreement



2nd Amendment:

- **In 2024, Vintage informed planning staff that it had found a partner to develop the residential component of the Mill Town property.**
- **Rezone was conditioned on development in accordance with the original site plan, so amendment to the development agreement required.**
- **Additionally, the two-year extension of the right to develop effectuated by the first amendment to the development agreement was specific to the approved site plan, which was not going to be amended.**



Development Agreement



Entitlements. Vintage hereby agrees to be subject to all the terms, conditions, and stipulations of the Rezoning Ordinance for PZ-16-00239-

02 (City Ordinance No. 2018-13), Site Plan (PZ-16-00239-01), and preliminary plat (PZ-16-00239-03), **AS MAY BE AMENDED OR REPLACED WITH CITY COUNCIL APPROVAL** (collectively, the “Entitlements”). The City acknowledges and agrees that the development rights granted by the **ENTITLEMENTS**, are vested for a term of ~~five~~ **NINE (9)** years ~~from~~ **AFTER** the Effective Date of this Agreement (the “Vested Rights”) and that Vintage shall have a right to develop the Mill Town Property consistent with the Vested Rights, subject to the Applicable Rules (as defined in Section 3, below) and any changes to the Rules as permitted by this Agreement. Further, the City acknowledges that the recordation of the final plat for the Mill Town Property (“Final Plat”) will occur only after (i) the New ADOT Facilities have been constructed on the Vintage Property pursuant to the Implementation Agreement, (ii) the City has conveyed the City Property to ADOT pursuant to the IGA, and (iii) the Mill Town Property has been conveyed to Vintage by ADOT in exchange for the conveyance by Vintage to ADOT of the Vintage Property with the New ADOT Facilities constructed thereon pursuant to the Implementation Agreement. As a result, the parties agree that the preliminary plat approval will remain valid for three (3) years from the Effective Date to allow sufficient time for the transactions contemplated by clauses (i) through (iii) to be completed.



Development Agreement



~~Development Standards. The development of Mill Town Property, as well as standards for off-site and on-site public improvements will be governed by the City's codes, ordinances, regulations, rules, guidelines, and policies controlling permitted uses of the Mill Town Property, design review guidelines, the density and intensity of uses, the maximum height and size of buildings within the Mill Town Property in existence as of the Effective Date of this Agreement (for purposes~~ **CURRENT CITY ENGINEERING STANDARDS, BUILDING CODE, FIRE CODE, REGULATIONS, RULES, GUIDELINES, AND OTHER CODE PROVISIONS SHALL APPLY TO DEVELOPMENT OF THE MILL TOWN PROPERTY, EXCEPT THAT THE MILL TOWN PROPERTY MAY BE DEVELOPED UNDER THE PROVISIONS** of the Zoning Code [Title 10 of the Flagstaff City Code] **IN EFFECT ON MAY 5, 2017** ~~the version in place as of May 5, 2017 will apply);~~ **FOR A PERIOD OF NINE (9) YEARS AFTER THE EFFECTIVE DATE.** ~~except as modified herein or otherwise agreed to, in writing, by Vintage and the City (collectively, the "Applicable Rules" or "Rules");~~ **IF, HOWEVER, THE MILL TOWN PROPERTY IS DEVELOPED IN CONFORMANCE WITH REZONING ORDINANCE FOR PZ-16-00239-02 (CITY ORDINANCE NO. 2018-13), SITE PLAN (PZ-16-**



Development Agreement



00239-01), AND PRELIMINARY PLAT (PZ-16-00239-03), WITHOUT ANY MODIFICATION EXCEPT FOR MINOR MODIFICATIONS PERMITTED UNDER CITY CODE, THEN CITY ENGINEERING STANDARDS, BUILDING CODE, FIRE CODE, REGULATIONS, RULES, GUIDELINES, AND OTHER CODE PROVISIONS IN EXISTENCE ON MAY 5, 2017, INCLUDING THE ZONING CODE, SHALL APPLY. provided, however, that ~~if~~ **I**f Vintage fails to apply for any Construction Permits for development of the Mill Town Property within ~~five~~ **NINE** (9) years following the Effective Date of this Agreement, (and thereafter diligently proceeds with construction pursuant to those Construction Permits), then development of the Mill Town Property ~~will~~ **SHALL** be subject to the City's codes, ordinances, regulations, rules, guidelines, and policies in effect at the time Vintage applies for Construction Permits. "Construction Permits" ~~shall mean~~ **S** any permit issued by the City or other jurisdiction that is required in order to begin construction of any on-site or off-site improvements related to development of the Mill Town Property, including but not limited to public improvements, grading, electrical, gas, plumbing, mechanical, or structural.



High Occupancy Housing (HOH)

High Occupancy Code Update (Section 10-40.60.170): Adopted 11/17/2020 by Ordinance 2020-28, amended 12/5/2023 by ordinance 2023-28:

All requirements can be found in code, a few highlights include:

- **HOHD or MHOHD with four dwelling units or more shall be located inside a pedestrian shed of an activity center**
- **HOHD or MHOHD with four dwelling units or more, and that has more than 29 dwelling units per acre or more than 72.5 bedrooms per acre shall have:**
 - **Minimum of 20% of bedrooms contained in studio or one bedroom dwelling units**
 - **Maximum of 30% of bedrooms contained in dwelling units with four bedrooms or more**



High Occupancy Housing (HOH)

High Occupancy Code Update (Section 10-40.60.170): Adopted 11/17/2020 by Ordinance 2020-28, amended 12/5/2023 by ordinance 2023-28:

- **MHOHD shall be on a lot or parcel that abuts a street classified as a commercial corridor.**
- **HOHD or MHOHD must have a building footprint no larger than 22,000 square feet.**
- **Requires the property maintain compliance with the Flagstaff Police Department's Crime Free Multi-Housing Program.**
- **A Conditional Use Permit is required for all HOHD and MHOHD and requires adequate transit service available to the development site that meets distance requirements of roughly ¼ mile.**



Milltown



Milltown:

- **Approved for a Direct to Ordinance Zoning Map Amendment, Preliminary Plat, and Development agreement in 2018 as part of a public-private-partnership.**
- **The approved site plan consisted of 3 commercial pads along Milton as well as a large housing development on the property.**
 - **The housing component contained 340 units and 1221 bedrooms, this would have triggered HOH regulations if the site were to gain entitlements after the HOH code was passed.**



Milltown



Milltown:

- **The City adopted HOH code (Ordinance 2020-28) on 11/17/2020, effective 3/1/2021.**
- **The timeframe for Prop 207 claims is 3 years, closing the window 3/1/2024.**
- **Vintage could not bring a claim for Milltown because they were grandfathered in and continue to be grandfathered into what they can develop – as long as it is tied to the site plan that was approved with the rezone.**
- **The original DA was effective 12/14/18 with entitlements expiring on 12/13/23.**



Milltown



Milltown:

- **1st DA amendment, entered into late 2021, extended the expiration date for another 2 years, with entitlements expiring around 12/14/2025.**
- **This new DA amendment will avoid HOH provisions.**
- **The applicant did request for a Prop 207 claim, cannot submit a claim because they are not allowed to build except what is already approved and they are already allowed to build it without HOH. Their claim wouldn't have been allowed until late 2025.**
- **This project will still come through the public hearing process for a revision to the Direct to Ordinance Zoning Map amendment in which a more complete picture of the development site will be presented.**



Timeline



Timeline	Mill Town	HOH History
2018	Mill Town Approved in April 2018 Development Agreement was entered into in June 2018	HOH Specific Plan adopted by Council in February 2018
2019		
2020		HOH Zoning Code Update adopted on 11/17/2020 with an effective date of 3/1/2021
2021	Mill Town 1 st DA Amendment Adopted on 10/22/21	
2022		
2023	Initial Mill Town DA Expiration Date	
2024		
2025	Mill Town DA expiration Date from 1 st DA Amendment in December 2025	



Code Comparison – HOH

May 2016 Zoning Code

- No Zoning Code Requirements for High Occupancy Housing
- Developed as mixed-use multi-family housing

2025 Zoning Code

10-40.60.170 High Occupancy Housing Developments and Mixed-Use High Occupancy Housing Developments

A. General Requirements.

1. The applicant of an HOHD or MHOHD with four dwelling units or more shall submit typical floor plans or a typical residential unit study that illustrates how the residential units of an HOHD or MHOHD could be converted to a residential unit that is no longer an HOHD or MHOHD with minimal structural or minimal plumbing modifications. The required study shall be designed and sealed by an Arizona registrant.
2. An HOHD or MHOHD with four or more dwelling units shall be located inside of a pedestrian shed of an activity center delineated in the General Plan or applicable Specific Plan.
3. An HOHD or MHOHD with four dwelling units or more, and that has more than 29 dwelling units per acre or more than 72.5 bedrooms per acre shall have:
 - a. A minimum of 20 percent of the bedrooms contained in studio and/or one-bedroom dwelling units; and
 - b. A maximum of 30 percent of bedrooms contained in dwelling units with four bedrooms or more.
4. An HOHD or MHOHD with four dwelling units or more, and that has 29 dwelling units per acre or less or 72.5 bedrooms per acre or less shall not exceed a Bedroom-to-Dwelling Unit Ratio greater than 3.5.
5. The maximum number of bedrooms in a two-unit HOHD or MHOHD: 10.
6. The maximum number of bedrooms in a three-unit HOHD or MHOHD: 12.
7. Inside of a pedestrian shed of a Regional Activity Center, an HOHD or MHOHD in a commercial zone may contain more than 50 dwelling units per acre and/or 125 bedrooms per acre.
8. An HOHD in a Commercial Zone shall be:
 - a. On a lot or parcel that is setback at least 300 feet from the centerline of a street classified as a Commercial Corridor identified on the General Plan; and
 - b. There shall be an existing primary mixed-use development or commercial use(s), excluding primary transportation and infrastructure uses, on the lot(s) or parcel(s) between the HOHD and the Commercial Corridor street.



Code Comparison – HOH

May 2016 Zoning Code

- No Zoning Code Requirements for High Occupancy Housing
- Developed as mixed-use multi-family housing

2025 Zoning Code

9. An MHOHD shall comply with the mixed-use development standards of Section [10-40.60.260](#).

10. Prior to the final approval of a land division that creates one or more lots or parcels with a development that conforms to the definition of an HOHD or MHOHD, the property owner shall obtain approval of a Conditional Use Permit for the Development Site that will contain the HOHD or MHOHD.

11. An MHOHD shall be on a lot or parcel that abuts a street classified as a commercial corridor shown on the General Plan.

B. Building Footprint¹ Sizes and Separation Requirements.

1. Maximum building footprint¹ inside a pedestrian shed of a Historic Activity Center delineated in the General Plan or applicable Specific Plan, excluding properties zoned Commercial Business (CB): Equal to, or less than, 5,000 square feet.

2. Maximum building footprint¹ inside a pedestrian shed of a Historic Activity Center delineated in the General Plan or applicable Specific

Plan, and on a property zoned Commercial Business (CB): Equal to, or less than, 22,000 square feet.

3. Maximum building footprint¹ inside a pedestrian shed of a Regional Activity Center delineated in the General Plan or applicable Specific Plan: No Maximum.

4. Maximum building footprint¹ inside a pedestrian shed of an activity center in all other areas not described in subsections B.1., B.2., and B.3. of this section: Equal to, or less than, 22,000 square feet.

5. Excluding the Commercial Business (CB) zone, the minimum separation between the building footprints of structures on the same lot or parcel, and structures on an abutting lot or parcel, shall be separated by a distance that is the greater of 10 feet, or one-third the height of the taller structure.

6. Where the area of a pedestrian shed of an activity center intersects with the area of a pedestrian shed of another activity center, the pedestrian shed with the more restrictive maximum building footprint requirement shall govern the intersecting area. The locations of the pedestrian sheds of the activity centers are identified in the General Plan, including any applicable Specific Plans.



Code Comparison – HOH

May 2016 Zoning Code

- No Zoning Code Requirements for High Occupancy Housing
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2025 Zoning Code

Note 1: For the purpose of the requirements of subsection B. of this section, the maximum allowable building footprint is equal to the largest floor plate of a structure, including interior courtyards, abutting and interior, or partial interior, podium and above ground parking structure(s), and structures connected with a continuous roof.

C. Waste Management Plan.

1. The property owner of an HOHD or MHOHD with four dwelling units or more shall obtain approval of a waste management plan from the City's Public Works Director, or designee, prior to the approval of the site plan.
2. Prior to the issuance of any building permit, the property owner shall incorporate into the construction documents the improvements required to comply with the approved waste management plan.
3. If a Certificate of Occupancy is not required, the property owner shall provide all necessary apparatus, equipment, and improvements within 182 days from the date of the approval of the CUP, or another date specified in the conditions of approval for the CUP.
 - a. The Director may approve a one-time 91-day extension, for no more than 273 days from the date of the CUP approval, to allow the property owner to complete the improvements. The property owner shall request an extension at least 14 days prior to the date indicated in subsection C.3. of this section.
4. The HOHD or MHOHD shall be maintained in compliance with the approved Waste Management Plan.

D. Crime Free Multi-Housing Program.

1. The property owner of an HOHD or MHOHD shall maintain compliance with the Flagstaff Police Department's Crime Free Multi-Housing Program, unless exempted by the Police Department's Crime Free Multi-Housing Program representative.
2. Prior to the issuance of the Conditional Certificate of Occupancy, or Certificate of Occupancy, whichever is first, or within 63 days of the approval of the Conditional Use Permit if a Certificate of Occupancy is not required, the property owner of a HOHD or MHOHD shall enter into an agreement with the City to comply with the Flagstaff Police Department's Crime Free Multi-Housing Program.



Code Comparison – HOH

May 2016 Zoning Code

- No Zoning Code Requirements for High Occupancy Housing
- Developed as mixed-use multi-family housing

2025 Zoning Code

3. The property owner, or agent, shall:
 - a. Utilize a Crime Free Lease Addendum, or an alternative approved by the Flagstaff Police Department's representative as part of each tenant lease;
 - b. Obtain written verification as part of a tenant lease that each tenant has received and agreed to the Crime Free Lease Addendum or the approved alternative; and
 - c. Have completed the Flagstaff Police Department's Crime Free Multi-Housing Program required training within the Program's required time frames.
 4. Within 182 days from the date of the agreement, the property owner, or managing agent, shall have completed the first phase requirements of the Flagstaff Police Department's Crime Free Multi-Housing Program.
 5. A new Flagstaff Police Department's Crime Free Multi-Housing Program first phase training and related requirements shall be completed within 182 days from the date of a change of ownership, management company, or a site manager of an existing HOHD or MHOHD.
 6. Every two years from the date of the agreement, the property owner, or managing agent, shall complete the required training that complies with the Flagstaff Police Department's Crime Free Multi-Housing Program.
- E. **Additional Conditional Use Permit Criteria.** In addition to the criteria of Section 10-20.40.050.E., the Planning and Zoning Commission shall not approve a Conditional Use Permit unless:
1. For the properties subject to Division [10-30.30](#), Heritage Preservation, the City's Historic Preservation Officer or the Heritage Preservation Commission has made a determination that the proposed HOHD or MHOHD has no adverse effect or has appropriately mitigated its effects on the historic cultural resource.
 2. Adequate transit service is available to the Development Site containing four dwelling units or more. Adequate transit service from a Development Site to a permanent transit stop is:
 - a. Less than or equal to 1,320 feet; or
 - b. A distance greater than 1,320 feet when the Planning and Zoning Commission finds that the route to the permanent transit stop has adequate nighttime lighting and does not have a significant grade change, and the distance does not impede reasonable access to transit.
- The distance between the permanent transit stop to the Development Site shall be measured following a continuously improved sidewalk and/or public paved trail.



Code Comparison – Parking



May 2016 Zoning Code

2025 Zoning Code

Market Rate (all dwelling classifications)		High Occupancy Housing Development	
Studio	1.25	a. Single-Family – Attached and Detached, Duplex, and Development Sites with three units or less	1 space per bedroom
1 Bedroom	1.5	b. Developments Sites with four units or more	The sum of: 1 to 75 bedrooms = 1 space per bedroom, plus 76 to 325 bedrooms = 0.90 spaces per bedroom, plus 326 to 650 bedrooms = 0.80 spaces per bedroom, plus Greater than 650 bedrooms = 0.70 spaces per bedroom
2+ Bedroom	2.0		
Guest Spaces for Multi-Family Dwelling (Includes boats and RVs)	0.25 per each 2+ bedroom unit		



Council Options

1. Approve the Second Amendment of the Mill Town Development Agreement as presented.
2. Approve the Second Amendment of the Mill Town Development Agreement with additional, modified, or deleted terms.
3. Remand the Second Amendment of the Mill Town Development Agreement back to staff for additional negotiations with the owner.
4. Deny the Second Amendment of the Mill Town Development Agreement.