

# ORDINANCE NO. 1123

## AN ORDINANCE CHANGING THE ZONING DESIGNATION OF LANDS IN THE CITY OF FORT MORGAN, COLORADO, FROM MEDIUM DENSITY RESIDENTIAL (R-2) TO A PLANNED UNIT DEVELOPMENT (PUD) AND FOR SAID PURPOSE AMENDING THE ZONING CODE AND THE OFFICIAL ZONING DISTRICT MAP OF THE CITY OF FORT MORGAN, COLORADO.

**WHEREAS**, a Planned Unit Development is a land area within which lots, structures, densities and land uses may be established by the City Council in conformity with an approved plan for the entire tract or land area; and,

**WHEREAS**, a Planned Unit Development anticipates a calculated departure from conventional or traditional planning and development to provide socially desirable objectives to meet community needs for various types of land, housing, commercial, recreational and agricultural uses not otherwise feasible under conventional zoning; and,

**WHEREAS**, BN Investments, LTD; Brad Lebsock and Nicholas Erker (the "Owners") have submitted an application in accordance with the City of Fort Morgan Land Use Code to change the zoning designation of property legally described as 511 Grant Street, Lots 10 through 13, Block 2 of the Thompsons Addition Revised subdivision, Fort Morgan, Colorado (the "Property") and have requested and proposed to operate a professional office in a residential area; and,

**WHEREAS**, the Owners have proposed a modified office use and are agreeable to limited hours of operation; no exterior signs or advertising on site; and no retail sales, transfer, or storage of commodities; and,

**WHEREAS**, the City of Fort Morgan Planning and Zoning Commission considered the zoning proposal at a duly noticed public meeting held on February 13, 2012, and subsequently forwarded its favorable recommendation to City Council; and

**WHEREAS**, public notice has been properly given of such proposed zoning of the Property by publication, in *The Fort Morgan Times*, a newspaper of general circulation within the City of Fort Morgan, by posting of said Property and by mail notification of adjacent property owners in accordance with the applicable provisions of the City of Fort Morgan Land Use Code, Sec. 20-3-40; and,

**WHEREAS**, in accordance with the City of Fort Morgan Land Use Code, Sec. 20-3-40, a public hearing was held before the City Council at 110 Main Street, Fort Morgan, Colorado at which time evidence and testimony were presented to the City Council concerning said zoning proposal; and

**WHEREAS**, the administrative record for this case includes, but is not limited to, the City of Fort Morgan Land Use Code, City of Fort Morgan Comprehensive Plan, and all other applicable ordinances, resolutions and regulations, together with all City of Fort Morgan land use application processing policies that relate to the subject matter of the public hearing, reports, studies and all other submittals of the Owner, any evidence or correspondence submitted by members of the public at the public hearing, and the staff files and reports of the Community Development Department pertaining to this application; and

**WHEREAS**, City Council has determined that the proposed zoning of the Property, subject to the conditions set forth herein, furthers the public health, safety, convenience and general welfare of the community; generally conforms with the City's Comprehensive Plan, as amended and updated; is compatible with surrounding uses; and otherwise meets the applicable criteria set forth in the City of Fort Morgan Land Use Code.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF  
FORT MORGAN, COLORADO:**

**Section 1. Recitals Incorporated.** The recitals contained above are incorporated herein by reference and are adopted as findings and determinations of the City Council.

**Section 2. Initial Zoning of Property Approved.** The City Council hereby grants and approves zoning of the property from Medium Density Residential (R-2) to a Planned Unit Development (PUD).

**Section 3. Amendment of Zoning Map.** The Official Zoning Map of the City of Fort Morgan shall be amended to conform to and reflect the Property's PUD zoning district classifications. The Community Development Department is directed to make such changes to the Official Zoning Map and to make any technical corrections to the attached Zoning Plan.

**Section 4. Planned Unit Development Zone District Text.** The regulations of the PUD Zone District shall be as follows:

R-2 District. The residential uses and standards as allowed in the R-2 district shall continue in full force and effect. The Property may be used for either an office or a residential use. If the office use ceases to exist, the Property may be used for residential purposes without the need for a rezoning.

Office Use. Office use of the Property shall be restricted as follows:

- a. To accommodate no more than seven (7) employees;
- b. Exterior advertising is prohibited;
- c. Retail sales are prohibited;
- d. The storage and transfer of commodities is prohibited;

On-site Parking. Office use of the Property shall be contingent upon a parking plan sufficient for seven (7) on-site parking stalls, which have been inspected and approved by the city staff prior to the operation of the office use.

**Section 5.** The PUD shall adhere to all other applicable provisions in the City of Fort Morgan Land Use Code.

READ, PASSED ON FIRST READING AND ORDERED PUBLISHED the 6th day of March, 2012.

THE CITY COUNCIL OF THE CITY  
OF FORT MORGAN, COLORADO

[SEAL]

/s/ Terry L. McAlister  
Mayor Terry McAlister

ATTEST:

/s/ John J. Brennan  
City Clerk

PASSED, APPROVED AND ADOPTED ON FINAL READING AND ORDERED PUBLISHED the 20th day of March, 2012.

THE CITY COUNCIL OF THE CITY  
OF FORT MORGAN, COLORADO

[SEAL]

/s/ Terry L. McAlister  
Mayor Terry McAlister

ATTEST:

/s/ John J. Brennan  
City Clerk

STATE OF COLORADO            )  
COUNTY OF MORGAN            )  
CITY OF FORT MORGAN         )

**CERTIFICATE**

I, John Brennan, the duly appointed, qualified and acting Clerk of the City of Fort Morgan, Colorado, do hereby certify and attest that the foregoing **ORDINANCE NO. 1123** was, as a proposed Ordinance, duly and legally presented to the City Council of the City of Fort Morgan, Colorado, at a regular meeting on the 6th day of March, 2012. Said Ordinance, as proposed, was duly read at length at said regular meeting, and thereafter the same was, on the 9th day of March, 2012, published in the *Fort Morgan Times*, a daily newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado. Said proposed Ordinance was again taken up and read a second time, duly and legally passed, approved and adopted at a regular meeting of the City Council held on the 20th day of March, 2012. Within five (5) days after its final passage, said Ordinance was published in the *Fort Morgan Times*, a daily newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado.

/s/ John J. Brennan  
City Clerk