Moab City Council Agenda Item
Meeting Date: March 23, 2021

Item: Ordinance No. 2021-05 - An Ordinance Defining the Point in Time at Which the City of Moab Formally Initiates Proceedings to Amend Its Land Use Regulations

Staff Presenters: Laurie Simonson, City Attorney
Nora Shepard, Planning Director
Cory Shurtleff, Assistant Planning Director

Attachment:
- Attachment 1: Ordinance No. 2021-05 - An Ordinance Defining the Point in Time at Which the City of Moab Formally Initiates Proceedings to Amend Its Land Use Regulations

Options:

1. Approve Ordinance 2021-05, with or without modifications; or
2. Continue or table action to a later meeting with specific direction to City staff as to additional information needed to make a decision; or
3. Deny Ordinance 2021-05, giving specific findings for that decision.

Proposed Motion to Approve: “I move to approve Ordinance No. 2021-05 - An Ordinance Defining the Point in Time at Which the City of Moab Formally Initiates Proceedings to Amend Its Land Use Regulations.”

Background:

State law requires a local government to review an applicant’s land use application under the local ordinance in existence at the time the applicant submits a complete application, unless the local government can show that an exception to the rule applies. (Utah Code Annotated §10-9a-509). This rule is known as the “vested rights” rule. See Western Land Equities v. Logan City, 617 P.2d 388 (Utah 1980) (“[A]n applicant is entitled to [land use application approval] if his proposed development meets the zoning requirements in existence at the time of his application...”).
Utah Code §10-9a-509 permits a municipality to deny approval of a complete land use application submitted within a 180-day period after a municipality “formally initiates” proceedings to amend applicable land use regulations in a manner that would prohibit approval of the application as submitted.

The City of Moab currently does not have in its Municipal Code a definition of the point in time at which the City “formally initiates” proceedings to amend its land use regulations. In other words, the City has not defined the manner of formal initiation of land use regulation by ordinance. Doing so may protect the City from land use application approvals being processed under old rules while new ones are being developed, without the necessity of using a Temporary Land Use Regulation (TLUR).

This Ordinance would create such a definition as follows:

1. Adds a definition to Moab Municipal Code Section 17.06.020 for “Formally Initiates;”

2. Adds Moab Municipal Code Section 17.12.190 to include the following language:

   Formally Initiates as set forth by Utah Code §10-91-509 means the earliest of:

   a) Publication of a City Planning Commission or City Council agenda in which the amendment to the land use regulations is the subject of an agenda item, and/or public hearing, or

   b) The effective date of a resolution by the City Council stating that the City has formally initiated an amendment to the land use regulations and the proposed language of the amendment(s).

The Planning Commission held a public hearing on the above proposed text amendment on March 11, 2021 which was duly noticed and included public notice being published in the February 25, 2021 and March 4, 2021 issues of the Times Independent. At that meeting, the Planning Commission reviewed the proposed text amendment and forwarded a positive recommendation to the City Council. There was no public input.