

**MOAB CITY PLANNING COMMISSION MINUTES**  
**JOINT MOAB CITY COUNCIL/PLANNING COMMISSION MEETING**  
**May 23, 2019**

The Moab Planning Commission held a joint City Council/Planning Commission workshop on the above date in the Council Chambers at the Moab City Center, located at 217 East Center Street.

Joint City Council/Planning Commission Workshop for a Future Land Use Plan Update: Allison Brown convened the workshop at 5:00 PM. In attendance were Mayor Emily Niehaus, Councilmembers Karen Guzman-Newton, Kalen Jones, Rani Derasary and Tawny Knuteson-Boyd at 5:34 PM. Planning Commission members in attendance included, Kya Marienfield, and Marianne Becnel, Jeanette Kopell, Cory Shurtleff and Becky Wells were present. Brian Ballard arrived at 5:27 p.m. Staff in attendance included Planning Director Nora Shepard, City Manager Joel Linares, Recorder Sommar Johnson, Assistant Engineer Eric Johanson and Recorder/Project Specialist Eve Tallman. Thirty-three members of the public and media were present. A video recording of the workshop is archived at: <https://www.youtube.com/watch?v=JDOIYs5&t=4184>. An audio recording is archived at: <https://www.utah.gov/pmn/files/507387.mp3>

The workshop began with Allison Brown turning the meeting over to Planning Director Nora Shepard who provided a power-point presentation. The focus of the workshop was a joint City Council and City Planning Commission meeting on the Future Land Use Plan and Overnight Accommodations. The presentation included where we are in the process, and a request for the City Council and City Planning Commission to have discussion on the information and options provided by Landmark and to provide direction for Landmark to proceed.

Items on the list for discussion on this date included six topics needing direction as requested at the May 7, 2019 City/County Council meeting. Those options include: New overnight lodging is removed from all zones as a principal use; City Council will consider the creation of an overlay district in the North US 191 Corridor and in downtown Moab; City and County Councils will consider how to address existing overnight lodging uses; The County Council will need to decide if it is open to any forms of new overnight lodging in the Areas of US 191 and SR 313, Crescent Junction, Thompson Springs or Cisco; The City and County Councils Are Supportive of the Community Concept.

Planning Director's presentation included the number of existing units, number of units that are already vested, number of units under construction (or almost), and conclusions and recommendations for directions for Landmark to proceed. The directions to Landmark were to include: 1. Policy Direction-Agree or Disagree? 2. Overlay Districts-yes or no, and if so, where? 3. Direction on Existing Overnight Accommodations.

Councilmember, Jones requested clarification on the down-town edge. Is it considered part of the down-town overlay or a different overlay? Planning Director Shepard answered that there is only one overlay that is proposed right now and that the Edge might be one of those topics for follow-up to see if the zone might need to be adjusted. Jones commented that it sounds like they might need clarification. Councilmember Derasary asked Planning Director Shepard if she had a breakdown of the existing 3,800 or so overnight units. Planning Director Shepard said that the City has not gone through the exercise of calculating what they have.

Mayor Niehaus requested clarification on two points of the presentation. The first was regarding language used by Landmark in reference to future licensing versus future permit to build, and what the differences might be. Planning Director Shepard stated that licensing is connected to existing units and permits are for those that are being built or that are in the pipeline to be built. She further explained that those units that have already been built would be required to have what would essentially be a business license. The second was regarding the overlay. The whole point of the overlay is for the City to have it available if/when they were to consider allowing new overnight rental use in a particular area, and if they are not going to consider it, the overlay doesn't matter.

Commission Chair Brown stated that she thought that one of the decisions that the City Council would need to come to first, is whether the Council wants to eliminate new overnight rentals from our City Code as a permitted use. Then to decide whether they want to "open the back door" to overnight accommodation in overlay districts. Planning Director Shepard stated that they could decide to enact those changes to code now or wait and see before applying them. They could create the overlay districts so that they have them in the future.

Commission member, Becky Wells stated that she thinks it is also very important to address existing overnight rentals before the end of the moratorium. Discussion followed Wells wanted to make sure that existing overnight rentals would not be jeopardized and talked about people who had invested in properties that they are planning to turn into overnight rentals in the future. It was stated that getting a business license before the moratorium ends, and maintaining it, would protect those properties so that they would be "grandfathered in" and be able to use them as overnight rentals when/if they are ready. Commission member Marienfeld stated that the intent of the public is, "we don't want any more new overnight accommodations than we have now, period." Commission Chair Brown said that she thinks that there are two different classes of people in this. Those who have overnight rentals and are using them as such, and those who have a property that they think they may or may not want to turn into overnight rentals. It's the second group that will add to the number of overnight rentals, not the first group. Marienfeld said that is the purview of regulators.

Councilmember Darasay brought the meeting back to Brown's initial question. Which of Landmark's suggestions the City is interested in. She said that she would be in favor of "option 5" because she feels that as a representative of the bulk of the input that she has received from the community, after looking at the list of vested projects and the amount of projects coming at them that they didn't have the opportunity to mold it in a different direction. There are issues that people have raised in terms of water, traffic and housing. She thinks it would be beneficial for the Council and Commission to have a bit of a breather and use the time after the break of the moratorium deadline to work on some of the other issues.

A decision was made to address the options individually.

### **Direction from May 7th City/County Council Meeting:**

#### **Option 1 – New Overnight Lodging is Removed from all Zone Districts as a Principal Use**

Brown suggested that they start with item 1 and asked the Councilmembers to indicate with at thumbs up or thumbs down to see if it should be sent on to the City Council for a decision. All Councilmembers gave a "thumbs up" with some further discussion and item 1: New Overnight

Lodging is Removed from all Zone Districts as a Principal Use will be sent to the City Council for formal approval.

Councilmember Knuteson-Boyd state that she agreed with Darasary. She has heard the same sentiment from the community. Her concern is that if the Council removes new overnight rentals a use by right, where does the Council's power end?

Councilmember Jones state that he is in favor of Option 5, but as the foundation for more nuance and additional development of Option 4. He is still interested in working on Option 4, particularly with a downtown element.

After comments form the City Council, Commission Chair Brown said that she thinks that the first priority is to have the City staff and the Planning Commission begin to remove it from the current city codes. From there, once they no longer need to worry about the moratorium, they can work on all of the other things that they feel will come from that. Councilmember Knuteson-Boyd said that she would like Landmark to assist with setting standards so that the Council can have something to go back to.

Mayor Niehaus stated that they still needed to discuss some nuance that is outlined in the direction document such s existing development/redevelopment.

Commission member Marienfeld requested that, in consideration of the make-up of their audience, Option number 3 should be discussed before Option number 2, as it addresses the existing overnight rentals.

Councilmember Derasary intervened with a caveat about the need for options once the moratorium ends and property owners want options once they can no longer start nightly rentals. Commission Chair Brown said that is certainly something that the Planning Commission can start reviewing with City staff.

### **3-The City and County Councils will consider how to address existing overnight lodging uses, including hotels/motels, condos/townhomes, bed & breakfasts and campgrounds. There are three options to be worked out with each entity's Planning Commission and Council**

Mayor Niehaus asked Planning Director Shepard for clarification on "Grandfathering", with an example of someone owning a property that was used for overnight rentals, but the building burns down, can they rebuild it? City Manager Linares joined Planning Director Shepard to answer this question. He stated that "vested protected use would be allowed to be rebuilt in that scenario, as long as they don't expand it. Any time there is a vested grandfathered protected right, it would be allowed to continue in that scenario, so long as the footprint wasn't expanded. As long they brought back the exact same use, legally, it would be completely protected."

The discussion of requiring a business license for all overnight rentals came back around and Commission Chair Brown asked for the City Council to, by giving a "thumbs up or thumbs down", express what they thought of the idea of requiring a business license. Commission member Becnel stated that they could still have floating districts on these C-2 zones, such as an overlay, and "one of the conditions of getting those can be that they have an existing business license, which was purchased before the moratorium is over. The benefit of that, for tax revenue for the City, would be that as a condition of applying the overlay district to their property, in an

instance like where they would want to sell it and increase the value, so they want that floating zone.

Commission member Brown requested a show of thumbs up or thumbs down by the City Council on the idea of requiring a business license. Thumbs up Councilmembers Guzman-Newton, Derasary and Jones. Councilmember Derasary did so with a statement that she wanted a little more time to think about it. Jones said that he would like the staff to advise them on what the best mechanism would be to achieve this. Planning Director Shepard said that was a good idea and that there are different ways to do it. They will gob ad and look at ways that it can be done.

Councilmember Guzman-Newton mentioned the tax break that is offered by the County if a long-term rental has a business license. Derasary addressed Planning Director Shepard and Linares and asked them to think through the scenario of the pros and cons of a long-term rental changing to a nightly rental and what incentives could be offered to people for the long-term option.

**2. The City Council will consider the creation of an overlay district in the north US 191 corridor and in downtown Moab. The overlay boundaries will dictate which properties are eligible to have the overlay applied in order to have the right to develop new overnight lodging.**

- The County Council could decide to extend this overlay, if created, to include the parcels just north of the Colorado River (e.g. between the Springhill Suites and DOE UMTRA site).
- Landmark will draft preliminary standards for the development of new overnight lodging in these potential overlay districts (if applied to eligible properties), including mandatory mixed-use, water and energy efficiency, and size/scale/form-based elements. These preliminary standards can be shared with the County as well. While there seems to be consensus that no new overnight lodging should be allowed until the community has reestablished a sense of balance, there may be some areas/nodes in the southern US 191 corridor that could actually be appropriate for new lodging units if integrated as part of missed use developments that meet the new standards.

Planning Director Shepard asked if the Council and Commission wanted to create overlays at, if they do, do they want to apply them anywhere? Commission Chair Brown said that was her question also. With the amount of money they are spending on Landmark they might as well have them make the overlays. Mayor Niehaus said that she would like to have drafted overlays for consideration. Council Chair Brown asked, if they have an overlay district, how do they say no if those applying meet all the criteria? Planning Director Shepard said the Council would have to decide whether want to allow it to be applied to specific piece of property. They would have to come up with some findings in order to make that decision. When the project gets to the Planning Commission, it becomes administrative if they meet all the performance criteria set. Mayor Niehaus suggested that what they should consider is to potentially have an overlay that would be administrative. There was discussion of the legality involved with that and Planning Director Shepard said that the Council would have to set the zone legislatively but once an overlay zone is set, anywhere within it, a person can apply for overnight accommodations under the conditions that are outlined in the overlay area. That would skip the second legislative action. Niehaus said that is what she is recommending. There was some confusion and Planning Director Shepard was asked if she could explain/clarify what was being proposed. Planning Director Shepard said, “what we have been talking about is, on the map, we’d have these overlay

zones and in the direction we have been going, individual parcels would have to come in to the City Council and say, I'm in the overlay and I want it specifically applied to my parcel. Legislative action, like a re-zone would be required. If the Council approved it, then the parcel owner would go through the administrative process with the Planning Commission for the project itself. There is another way to do it, which is the way most overlays work. It is basically just an additional layer of rules that apply to overlay areas". Councilmember Marienfeld said that it seems that the one that Landmark is proposing is the former and Mayor Niehaus said that she is suggesting that they go with the latter. Commission Chair Brown said that is why she would like Landmark to make them and then just not apply them, at least not at this time. Councilmember Jones asked a question about the 3 step process that was outlined in the ordinance draft. He said, step 2 sounds like contract zoning which is illegal in Utah. Planning Director Shepard said that she couldn't call it contract zoning, but it can be using an overlay and requiring an extra legislative step. Councilmember Marienfeld said that is what the County is doing with their High-density overlay. So, there is a precedent for it here in Grand County. Mayor Niehaus asked for the group to clarify that if they have Landmark draft the overlays, does anyone see using them right away, or taking a break? There was further discussion, but the majority agreed that they wanted to take a break. Councilmember Derasary wanted to know if Landmark could make the overlay zone more flexible, to include housing and other things. Commission member Marienfeld said that overlays prepared by Landmark could be used as a framework tool to be used by the Council at a later date. Further discussion followed.

The discussion moved to overlays with mixed use and housing zones. Do they really want changes in the RC, or someplace else that shouldn't be an overlay district code change? Planning Director Shepard said that you can change what's allowed in the RC zone. One that has different mixed-use zones that anticipates overnight accommodation and one that doesn't. Brown said that she thinks the Commission needs direction from Council regarding changes to the RC zones. More discussion ensued regarding what is allowed in each zone. Brown would like to see what Council would like to see in the overlays, if and when, they decide to use them. She would also like to know what the Council would like to see a code change in current zones that do not apply to overnight rentals. Further discussion followed regarding mixed use with a possible overlay to allow some overnight rentals. Councilmember Guzman-Newton said that she is still concerned with the RC zone being drawn down to where it is right now. She would like to see it go back to where it was before. The group decided that they would like to direct Landmark to extend the proposed Downtown overlay zone up to where the RC zone currently is in the City's official zoning.

Commission Chair Brown said that maybe Council could come up with a wish list of things that they would like to see in the overlay zone for the three areas. Commission member Marienfeld said that they don't want it to be rejected when it goes to City Council, so they would like a recommendation to come from the Planning Commission. Commission Chair Brown reminded everyone, that it is just a wish list of things that they would like to see in the overlay zone so that Landmark can develop it so that those ideas are mixed in to start.

#### **4. City and County Councils need to determine how to address redevelopment of existing uses:**

Discussion ensued on that constitutes vested properties and re-development projects that may want to increase the number of units involved. It was decided that redevelopment of vested properties that would increase the number overnight rental units involved, would go against the decision not to allow any new overnight rentals. It may be that they will want to allow that as some sort of incentive for property owners/developers to provide "mixed use" housing in the

future and will have Landmark see if that could be included in the overlay zones. For now, however, there will be no new overnight rentals allowed

**5. The County Council will need to decide if it is open to any forms of new overnight lodging in the areas of US 191 and SR313, Crescent Junction, Thompson Springs or Cisco.**

Councilmember Derasary said that the impression that she got from the County Council's meeting was that they had opted to so to being open to any forms of new overnight rentals. The County Council also took public input and that input was in favor of no new overnight rentals, at least for a while.

**6. The City and County Councils are supportive of the community node concept (neighborhood scale mixed use development). Landmark will provide a map and description of the potential community node locations for consideration and action as a follow-up task.**

Community nodes incorporating the neighborhood commercial uses was mentioned as being farther out on the timeline with no overnight accommodations allowed. Mayor Niehaus asked if an existing commercial campground could be developed as a hotel and the answer was no. More discussion regarding the development rights of new campgrounds followed. Commission member Becnel brought up the purchase or transfer of development rights. Councilmember Jones asked about the list of new units exempt from the moratorium and Planning Director Shepard confirmed that they could be 6,200 overnight accommodations at buildout. Dialogue arose about the implications of the General Plan regarding a vision for the future of tourism impacts, such as noise and crowding. Councilmember Derasary suggested participation of federal agencies regarding campground development.

**Adjournment:** Commission member Marienfeld moved to adjourn the meeting. Commission member Becnel seconded the motion. The carried 7-0. Mayor Niehaus adjourned the meeting at 7:06 pm.