

**CITY OF MOAB
PLANNING COMMISSION
PUBLIC HEARING
PROPOSED ZONE CHANGE APPLICATION**

The City of Moab Planning Commission will hold a Public Hearing on Thursday, April 28, 2016 at approximately 7:00 p.m. in the Council Chambers of the Moab City Offices at 217 East Center Street, Moab, Utah.

The purpose of this Public Hearing is to solicit public input on a proposed zone change on a parcel with split zoning of I-1 Industrial and R-4 Manufactured Housing Residential. The proposed zone change application is to rezone the entire parcel to R-4 Manufactured Housing Residential. The zone change application is for approximately 0.17 acres located at 939 West 400 North as requested by SPAH Family Ltd.

The proposed zone change application is available for public review at the Moab City Planning Office located at 217 East Center Street and on the website at www.moabcity.org. Written public comment may be directed to the Planning Department at the listed address. To ensure that the Planning Commission has the opportunity to review written comments prior to the meeting, written comments will only be accepted until 5 pm the day prior to the public hearing.

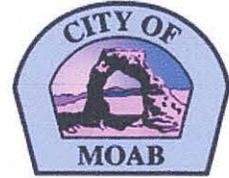
In compliance with the Americans with Disabilities Act, individuals needing special accommodations during this meeting should notify the Planning Office at 217 East Center Street, Moab, Utah 84532; or phone (435) 259-5129 at least three (3) working days prior to the meeting.

/s/ Sommar Johnson
Zoning Administrator

Published in the Times Independent, April 14, 2016 and April 21, 2016

DEVELOPMENT CODE AMENDMENT APPLICATION

2 PAGES - FORM MUST BE COMPLETED IN INK



DATE STAMP FOR CITY USE ONLY	TO BE FILLED OUT BY APPLICANT
	PROJECT NAME (if any): 939 W. 400 N.
	PROJECT STREET ADDRESS OR ACCESS STREET: 939 W. 400 N.
	FOR CITY USE ONLY
	APPLICATION NUMBER: 16-010
DATE RECEIVED: 3-17-2016	
APPLICATION FEE: \$350.00	
TREASURER'S RECEIPT NUMBER: 173341	

All applications are subject to review by city staff for completeness. Staff will notify the applicant of deficiencies or completeness within fifteen days.

A pre-application conference with city planning staff is encouraged prior to application submittal.

I. APPLICANT

Name: SPAH Family LTD

Mailing Address: [REDACTED]

Moab, UT 84532

Phone #: [REDACTED] Fax #: [REDACTED] E-mail [REDACTED]

II. TYPE OF APPLICATION

- Text Amendment
- Zone Change

III. DESCRIPTION OF AMENDMENT

Re-zone parcel # 01-0002-0017 (939 w. 400 n) from split zone (I-1 / R-4) to R-4. Most surrounding land is R-4. We do not see any code conflicts. This re-zone will not create any impacts by the proposed use that would require mitigation. We believe that the proposed re-zone is in conformance with surrounding uses and in compliance with the land use code and general plan.



PLANNING AND ZONING COMMISSION MEETING
April 28, 2016

PL-16-57

TECHNICAL REVIEW

Review of an Application Requesting a Rezone of Property Located at 939 West 400 North in the I-1 Zone

For Presentation: April 28, 2016, Meeting of the Moab Planning Commission
Date Prepared: April 11, 2016
Prepared By: Jeff Reinhart, AICP
Planning Director
Subdivision: N/A

Name and Address of the Owner(s) of Record:
SPAH Family LTD
1460 Overlook Road
Moab, Utah 84532

Name and Address of Representatives:
Sunnie Sheff
Moab, Utah 84532

Address of Subject Property:
939 West 400 North
Moab, Utah 84532

Summary of Significant Issues

1. The Planning Commission (Commission) and subsequently, the City Council (Council), must determine if the Zoning Map amendment satisfies the following requirements of Moab Municipal Code (MMC) Sections 17.04.050 Map amendment policy declaration:
 - A. For the purpose of establishing and maintaining sound, stable and desirable development within the city of Moab, zoning map amendments are to be discouraged. Zoning map amendments shall only be approved if the applicant establishes that one or more of the following standards apply to the subject real property:
 1. The land to be zoned was zoned in error and, as presently zoned, is inconsistent with the policies and goals of the city's general plan.
 2. The area for which a map amendment is requested has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area.
 3. The proposed map amendment is necessary in order to provide land for a use which was not anticipated at the time of the adoption of the city's general plan, and that such change will be consistent with the policies and goals of the plan. Special consideration shall be given to existing conditions on and around the area in question, including the changing nature of the area, land uses, densities, and the height and scale of both existing and proposed structures;
 4. The Commission and Council must determine if the application satisfies the General Plan; and
 5. The applicant must satisfy the review criteria established in MMC Section 17.04.060, *Map amendment approval criteria*.

(Applicable code sections are included for your convenience.)

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Description of Subject Property

The property is a .17-acre (7,405 square feet) lot in the I-1, Industrial Zone and is located on the south side of W 400 North and approximately 1740 linear feet from the intersection of 400 North with 500 West. It is undeveloped but appears that a masonry business had been storing block on the property. 400 North serves as access to the property.

Application Summary

The applicant is requesting to amend the Official Zoning Map with the change in the I-1, Industrial Zone designation on the property to R-4 Manufactured Housing Residential Zone. The proposal is to provide long term rentals on the property. (Short term rentals are not an allowed use in the R-4 Zone.)

The property is located in the I-1, Industrial Zone, but is surrounded by R-4 on the west and east. To the northwest there is an area zoned R-2. The county jurisdictional boundary is directly to the north of the subject property, and is developed with residential uses. Directly to the south is a small area of I-1 that effectively split zones the larger lot to the west. An attempt to contact this owner to see if they would be interested in joining the application produced no results. In past rezoning of property adjacent to this lot, the owner has not been interested in participating.

Code Review

The governing Moab Municipal Code (MMC) section is 17.04, *Zoning map amendments and text amendments*. As per MMC Section, 17.04.010, *Initiation of zoning change*, "Any person having a proprietary interest in any real property may submit an application for a zoning map amendment..."

This application has been submitted to the city by the Owner(s), SPAH Family, LTD.

As noted above, the Map Amendment Policy Declaration in MMC Section 17.04.050 contains three elements one of which must be met to obtain an approval of an application to rezone property. 17.04.050, states,

- A. The land to be zoned was zoned in error and, as presently zoned, is inconsistent with the policies and goals of the city's general plan.
Not applicable.
- B. The area for which a map amendment is requested has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area.
Applies.
- C. The proposed map amendment is necessary in order to provide land for a use which was not anticipated at the time of the adoption of the city's general plan, and that such change will be consistent with the policies and goals of the plan. Special consideration shall be given to existing conditions on and around the area in question, including the changing nature of the area, land uses, densities, and the height and scale of both existing and proposed structures.
Applies.

MMC Section 17.04.060, *Map amendment approval criteria*, establishes the review criteria that the planning commission and city council must consider when reviewing a proposed map amendment:

- A. Was the existing zone for the property adopted in error? It is not readily identifiable if the I-1 Zone was adopted in error.
At some point in the past, the area may have been more industrial than is currently the case. Other lots are of a sufficient size that they could have been used in an industrial manner and this area would have been more "out of town" than the current growth trends indicate. Moab Bit and Tool is located approximately 400 feet to the west of the subject property. North, on River Sands Road, there are located two large areas

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owned and operated by World Wide River Expeditions. As mentioned, the subject property has also been used to store masonry blocks for another business. Certainly the zoning is appropriate for the proximity to the current and future sites of the Waste Water Treatment Plant.

- B. Has there been a change of character in the area including, but not limited to: the installation of public facilities or new utilities; other approved zone changes; new growth trends; deterioration of existing development; or the need for development transitions?

The area has seen some changes toward increases in the residential uses of the area. An application to rezone from I-1 to R-4 was approved in 2010 to provide for an expansion of housing on the adjacent property to the west. An annexation in 2009 led to the construction by the Housing Authority under the Self Help Program of six housing units in the Deer Trail Subdivision just east of the subject property. The residential development, Portal Vista, provided over thirty homes for local residents.

- C. Is there a need for the proposed zoning within the area or community?

Yes, there is always a need for more area to develop housing. Rentals are in short supply, and many persons in our community cannot qualify to buy a home because of the price of real estate.

- D. Is the proposed zoning classification compatible with the surrounding area or uses; will there be adverse impacts; and/or can any adverse impacts be mitigated?

As previously noted, the subject property is in an area that has developed primarily with residential uses and it is anticipated that this trend will continue. Logistically speaking, some of the "industrial uses" would be better served by relocating near a main roadway preferably in a C-4 Zone adjacent to HWY 191. The dirt road that extends past this property to the west will be developed at a later date with the construction of the new Waste Water Treatment Plant.

- E. Will benefits be derived by the community or area by granting the proposed zoning?

The rezoning of the property will allow the owners to construct dwellings on the land. All housing, whether rental units or for ownership, benefits the community by providing residents a place to stay.

- F. Are adequate facilities available to serve development for the type and scope of development suggested by the proposed zoning classification? If utilities are not available, can they be reasonably extended?

Utilities are located nearby and in the street. They are readily available to serve the proposed residential development.

- G. Does the application conform to the provisions of the Moab general plan, the land development regulations of the Code, and applicable agreements with affected governmental entities?

The application conforms to the General Plan in that this rezone complies with the Vision by utilizing more compact development to minimize sprawl, and improve the quality of living through what will be attainable housing for someone in the community.

The rezone will help in addressing the housing element of providing housing in terms of quality and quantity and meeting the needs of current residents. It also satisfies the goal of encouraging a mixed variety of housing types. The rezone and subsequent development of the lot will help to maintain the integrity of residential areas with compatible types of housing and development.

It also serves "to provide or make available affordable housing for all Moab residents..." and "Encourage in-fill development [with] affordable housing."

Allowed Uses in the R-4 Zone

A. One-family dwellings and the following accessory buildings and structures: private garages and/or carport for the storage of automobiles owned by persons residing on the premises; greenhouses for private use only; private swimming pools; pergolas and arbors
B. Planned unit developments subject to the requirements and conditions set forth in Chapter 17.66 of this title
C. Fences, walls, and hedges which do not exceed seven feet in height provided that no fence, wall or hedge shall exceed four feet in height within the required front or side yard that fronts on a street
D. Customary household pets, including but not limited to cats, dogs, and canaries; but not including the breeding of dogs and cats for sale
E. Public schools, public libraries, public parks, playgrounds, recreation buildings and churches but not temporary revival tents or buildings
F. Agriculture
G. Temporary buildings and yards for the storage of materials and equipment incidental to the construction of dwellings and other permitted uses; provided, however, that a permit for such temporary building shall not be effective for more than one year
H. Home occupations
I. Two-family dwellings
J. Child day care centers and foster family care homes
K. Apartment houses and other multiple dwellings
L. Court apartments
M. Boarding and rooming houses
N. Clubs and lodges (nonprofit) not including those carried on primarily as a business
O. Mobile home parks and mobile home subdivisions subject to the regulations as set forth in Title 15 of this code
P. Publicly owned athletic fields and schools
Q. Boys' schools and correctional institutions
R. Pasturing of animals
S. Plant nurseries
T. Radio and television towers
U. Secondary dwelling units as per Chapter 17.69

Chapter 17.04

ZONING MAP AMENDMENTS AND TEXT AMENDMENTS

17.04.010 Initiation of zoning change.

Any person having a proprietary interest in any real property may submit an application for a zoning map amendment or a zoning text amendment, or the planning commission can, on its own motion or on request from the city council, propose, study, and recommend changes to the official zoning map or the text of the Land Use Code. All costs associated with publication and notification requirements are the responsibility of the applicant.

17.04.030 Zoning map amendments.

Purpose. The purpose of a zoning map amendment shall be to alter, enlarge, or reduce the geographic extent of any zoning district, or to enact a new zoning designation for any particular tract of real property.

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17.04.040 Application for zoning map amendment or text amendment.

- A. Any person having a proprietary interest in any real property within the corporate limits of the city may request a map amendment or text amendment by filing three copies of the application for such change or amendment with the zoning administrator. The application shall, at a minimum, include the following information:
1. The name, address, and telephone number of the applicant;
 2. A description of the requested change or amendment and a description of the property to be affected by such request by a metes and bounds legal description;
 3. A title certificate or report from a licensed title company or attorney listing the name of the property owner(s) and all liens, easements, judgments, and encumbrances of record that affect the title to the subject property;
 4. A statement from the county treasurer showing payment in full of all real property taxes due on such parcel;
 5. A boundary survey of the land area to be rezoned, which shall include a depiction of existing zoning district boundaries, real property boundaries, existing structures, and public roads existing within three hundred feet in all directions of the subject property boundary;
 6. A list of surrounding property owners and their legal mailing addresses for all properties within three hundred feet of the exterior boundary of the parcel proposed for a zoning map amendment;
 7. A statement by the applicant explaining the rationale for the zoning request relative to the standards imposed by this chapter;
 8. A filing fee in accordance with the fee schedule adopted by resolution of the city council; and
 9. A narrative or concept plan describing why this property is suited for the intended purposes and stating what development and/or construction is planned by the applicant.
- B. Pre-Application Conference. Prior to the filing of an application for a map amendment or zoning text amendment, the applicant shall meet with the planning department to discuss the proposed application. At the pre-application meeting the application contents, review procedures, use and area standards, and the general character of the development may be discussed. At the pre-application conference, the applicant may be represented by a land planner, engineer or surveyor. Applicants are encouraged to submit a conceptual site plan at the pre-application stage.
- C. Modifications of Submittals. City staff shall be authorized to waive or modify application submittal requirements as reasonable necessary to address the attributes of a specific application.

17.04.050 Map amendment policy declaration.

For the purpose of establishing and maintaining sound, stable and desirable development within the city of Moab, zoning map amendments are to be discouraged. Zoning map amendments shall only be approved if the applicant establishes that one or more of the following standards apply to the subject real property:

- A. The land to be zoned was zoned in error and, as presently zoned, is inconsistent with the policies and goals of the city's general plan.
- B. The area for which a map amendment is requested has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area.
- C. The proposed map amendment is necessary in order to provide land for a use which was not anticipated at the time of the adoption of the city's general plan, and that such change will be consistent with the policies and goals of the plan. Special consideration shall be given to existing conditions on and around the area in question, including the changing nature of the area, land uses, densities, and the height and scale of both existing and proposed structures.

17.04.060 Map amendment approval criteria.

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The planning commission and city council shall consider the following criteria in reviewing a proposed map amendment:

- A. Was the existing zone for the property adopted in error?
- B. Has there been a change of character in the area including, but not limited to: the installation of public facilities or new utilities; other approved zone changes; new growth trends; deterioration of existing development; or the need for development transitions?
- C. Is there a need for the proposed zoning within the area or community?
- D. Is the proposed zoning classification compatible with the surrounding area or uses; will there be adverse impacts; and/or can any adverse impacts be mitigated?
- E. Will benefits be derived by the community or area by granting the proposed zoning?
- F. Are adequate facilities available to serve development for the type and scope of development suggested by the proposed zoning classification? If utilities are not available, can they be reasonably extended?
- G. Does the application conform to the provisions of the Moab general plan, the Land Use Code, and applicable agreements with affected governmental entities?

17.04.070 Text amendment approval criteria.

It is the burden of the applicant to provide "good cause" to support a proposed text amendment. For the purpose of establishing and maintaining sound, stable and desirable development within the city of Moab, amendments to the Land Use Code are committed to the sound discretion of the city council based upon the following nonexclusive list of criteria:

- A. Is the proposed use substantially similar to other authorized uses permitted within the subject zoning district?
- B. Is the proposed use a relatively new use type or development concept that was not anticipated at the time of the adoption of the city's general plan?
- C. Is the amendment consistent with the policies and goals of the general plan?
- D. Will the amendment create significant adverse impacts upon neighboring properties within or adjacent to the zoning districts which would be affected by the change?
- E. Is it in the public interest to approve the proposed amendment?
- F. Is the amendment likely to lead to a positive redevelopment of a specific area or zone?
- G. Will the amendment provide a variety of options for residents in terms of economic development, affordable housing, or other benefits?
- H. Is the amendment appropriate considering the existing conditions in the zoning district, the established relationships between zoning districts, existing land uses and densities, and the scale of both existing and proposed development?

17.04.080 Public hearing required.

- A. Upon receipt of a complete application under this chapter city staff shall promptly schedule a public hearing before the planning commission.
- B. Within thirty days following the closing of the public hearing, the planning commission shall either recommend approval, approval with modifications, or disapproval of the application to the city council. The recommendation of the planning commission shall be transmitted to the city council and to the applicant within ten days of the recommendation.
- C. City staff may provide a staff report, which shall be provided to the applicant no later than three days prior to the public hearing or public meeting before city council. (Ord. 08-03 (part), 2008)

17.04.090 Notification requirements for planning commission public hearing.

- A. The city shall provide notice with respect to the planning commission public hearing describing the real property subject to the application order under this chapter; the present and proposed zoning; and the time, date, and location of the hearing as follows:
 - 1. By publication in a newspaper of general circulation within the city at least fifteen days prior to the hearing;

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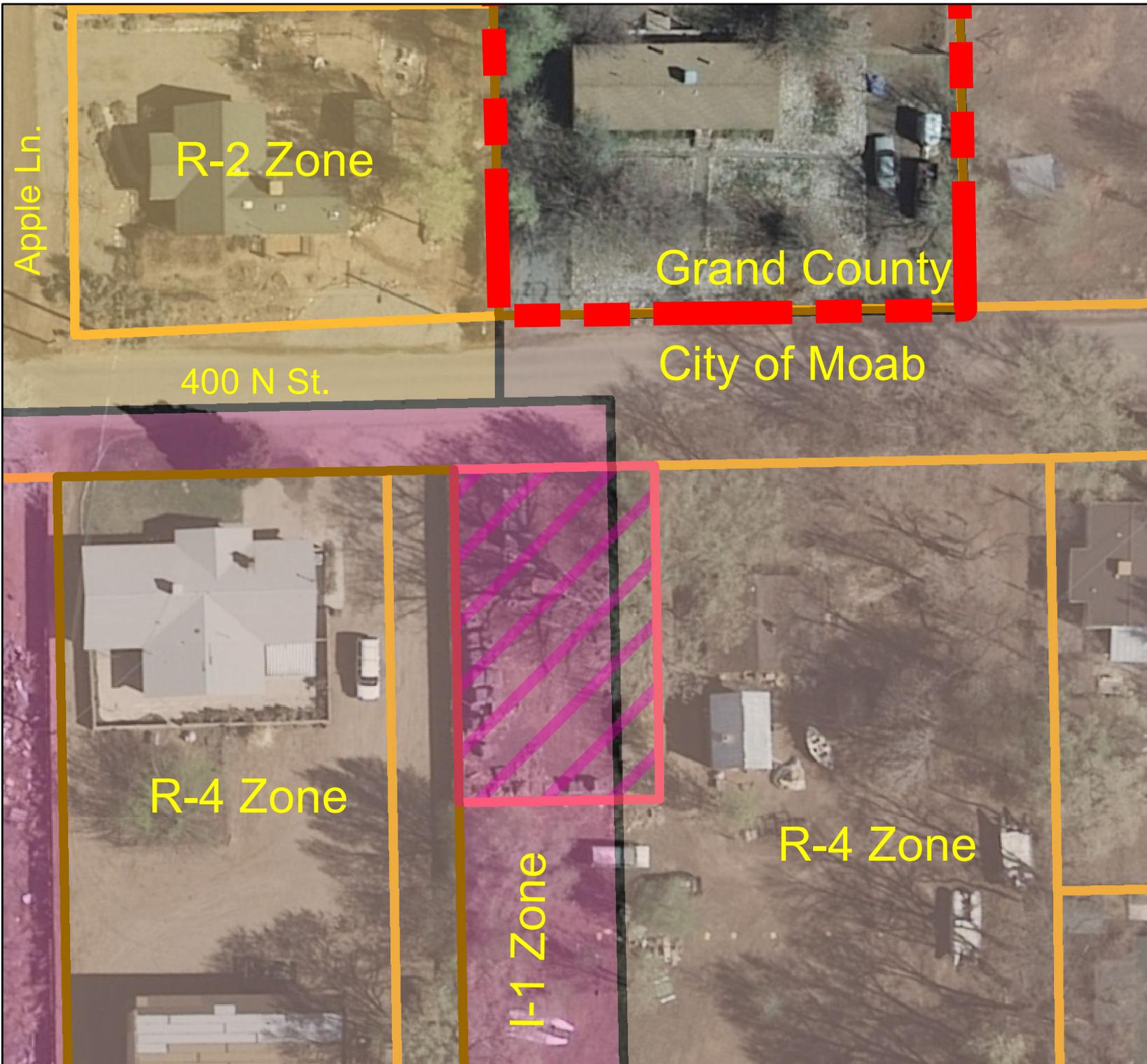
2. By mailing to the applicant, affected entities, and real property owners abutting or located within three hundred feet of the subject property at least ten days prior to the hearing; and
 3. By posting on the city's official website and in at least one public place within the city, which notice shall also include a map showing the land area proposed for rezoning.
- B. Property Posting. In addition to the notifications by the city, the applicant shall post signs, in a form acceptable to the city, noticing the public hearing in at least one location every five hundred feet along the perimeter of the land area proposed for map amendment at least three days prior to the hearing. Such notice shall include the present and proposed rezoning; the time, date, and place of the public hearing; and contact information for the zoning administrator.
- C. Exception for General Amendments. When a zoning map amendment or text amendment is incidental to, or part of a general revision of the official zoning map or the text of this Land Use Code, whether such revision is made by repeal of the existing zoning and/or land use regulations and enactment of a new zoning and/or land use regulations, or otherwise, posting notice on the land area subject to the amendment or mailing to affected property owners or adjoining property owners is not required. (Ord. 08-03 (part), 2008)

17.04.100 Action by city council.

- A. The city council may authorize any zoning map amendment or text amendment by ordinance adopted at a public meeting, which shall be held promptly following receipt of the planning commission recommendation.
- B. Notice of the public meeting shall be given to the applicant and by posting in at least one place within the city and by posting on the city's official website at least twenty-four hours prior to the meeting.
- C. In its discretion, the council may elect to receive testimony or evidence from the applicant, city staff, and the public prior to taking final action on the ordinance.
- D. The approval of a zoning map amendment or text amendment is a legislative decision, which is committed to the discretion and judgment of the city council. (Ord. 08-03 (part), 2008)

17.04.110 Appeals.

- A. Any person adversely affected by the final decision of the city council pursuant to this chapter may appeal that decision to the Grand County district court.
- B. An appeal or any other judicial action arising from, or seeking review of, a decision by the city council under this chapter must be filed no later than thirty days from the date of the final decision or action that is the subject of the action or legal claim. Any action commenced beyond that time is barred and shall be subject to summary dismissal.
- C. Review of any zoning map amendment or text amendment application shall be based upon the record of proceedings before the city council. Upon the commencement of a judicial appeal challenging any decision under this chapter, the city shall transmit to the district court true and correct copies of all submittals, testimony, orders, and file documents comprising the record pertaining to the application, including any transcript or tape recordings of proceedings.



939 W 400 N St.



1 inch = 40 feet

