

# RE-ZONE REQUEST – Application of Overnight Rental Overlay to Subject Property in Spanish Valley Residential District.

Pursuant to the San Juan County Spanish Valley Development Ordinances (SVDO) and as further defined in Section 1-13 of the San Juan County Zoning Ordinance (SJCO):

***1-13 Amendments:** The number, shape, boundary, area or zone, or any regulation or any other provision of the Zoning Ordinance may be amended by the Board of County Commissioners from time to time, but any such amendment shall not be made or become effective until after thirty days notice and public hearing and unless the same shall have been proposed by or be first submitted to the Planning Commission, for its recommendation which shall be returned within thirty (30) days to the Board of County Commissioners.*

I am requesting a re-zone to highway commercial for the property located at 136 East Mount Peale Drive, Moab, Utah, 84532; lot number 25 (aka, subject property).

Pursuant to this request, under Utah State Law [17.27a.502](#) the planning commission shall:

- a. *provide notice as required by Subsection [17-27a-205\(1\)\(a\)](#) and, if applicable, Subsection [17-27a-205\(4\)](#);*
- b. *Hold a public hearing on a proposed land use regulation;*
- c. *If applicable, consider each written objection filed in accordance with Subsection [17-27a-205\(4\)](#) prior to the public hearing; and*
- d. –
  - i. *review and recommend to the legislative body a proposed land use regulation that represents the planning commission's recommendation for regulating the use and development of land within:
    - A. *all or any part of the unincorporated area of the county; or*
    - B. *for a mountainous planning district, all or any part of the area in the mountainous planning district; and**
  - ii. *forward to the legislative body all objections filed in accordance with Subsection [17-27a-205\(4\)](#).*

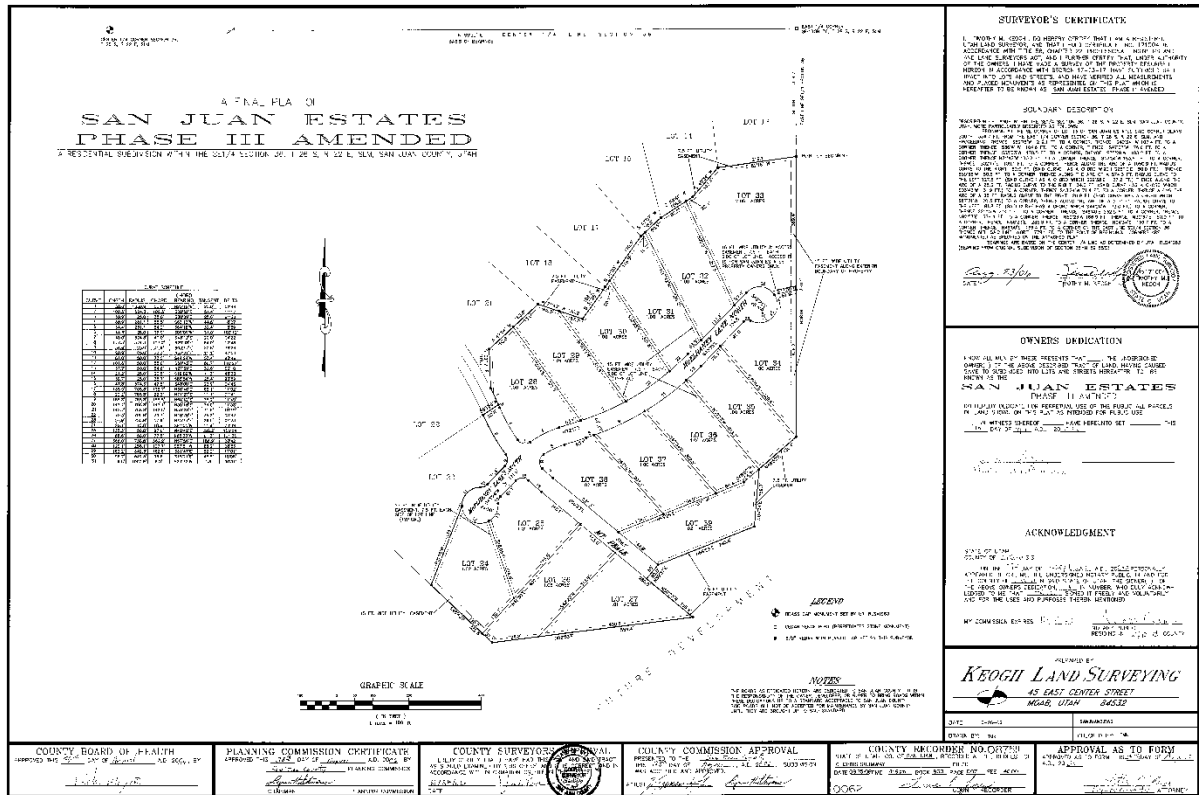
Under the state law, since the subject property under this petition is part of the unincorporated county area ([17.27a.502](#)(d).A) it should be reviewed on the merits without application of further ordinance that would apply to a properties in an incorporated area.

The subject property may be legally described under existing planning and zoning plats as Lot number 25 of the San Juan Valley Estates Phase III. The property is bordered to the north and west by the west section of McElhaney Lane South and to the East by Mount Please Drive as shown in [Figure 1](#), county recorder number 087511<sup>1</sup>. The lot is 1.01 acres and is currently zoned Spanish Valley Residential under the SVDO.

---

<sup>1</sup> There have been multiple amendments to this platt however the amended drawings are not available on the internet.

Figure 1: Plat Map for Lot 25



Per the SVDO, this area is incorrectly classified on the zoning map (see Figure 2) as Spanish Valley Residential and per the Staff Report dated March 11, 2021, the SVDO does not permit the use of Short-Term rentals within this 'residential' area. However, the density of legally existing overnight rental properties already existing prior to enactment of the SVDO on December 5, 2019 in the area immediately surrounding the subject property (see Figure 3) demonstrates that the subject property was not residential and should have been correctly classified in the map as an established overnight accommodation area per Section 10 subsection 2 with a correct zoning of highway commercial or highway flex with an overnight accommodation overlay.

Figure 2: Zoning Map from the SVDO

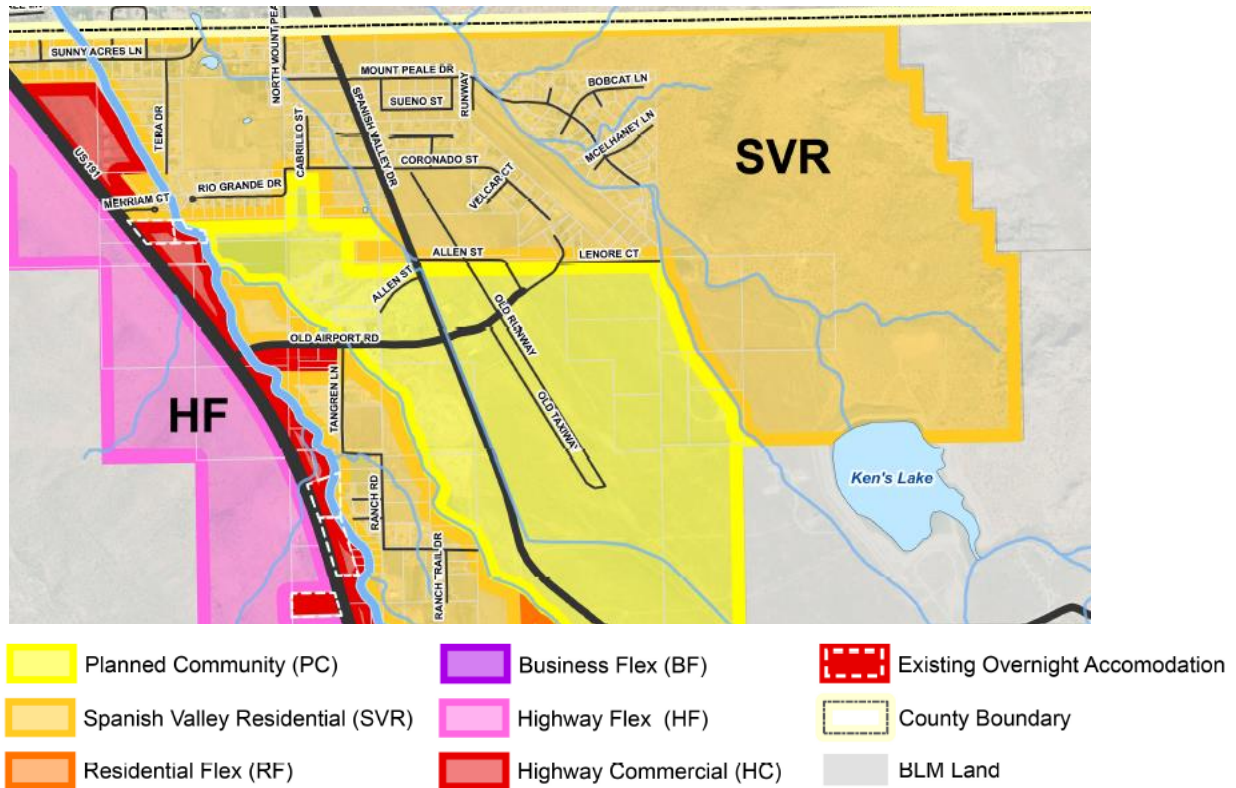
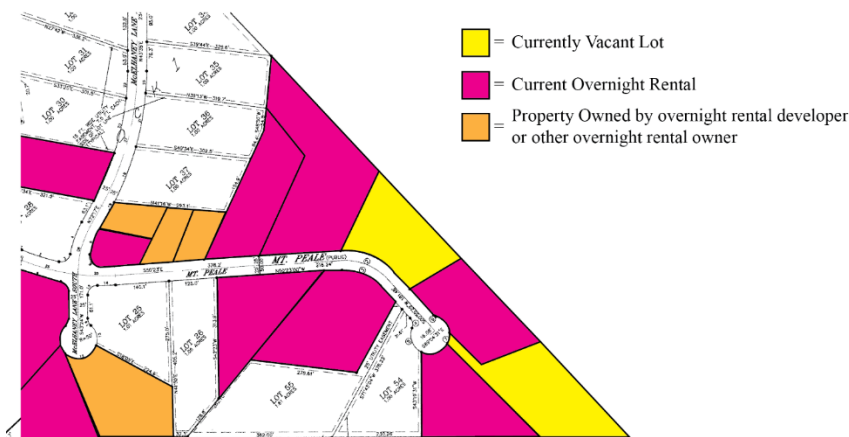


Figure 3 Adjacent Property Usage and Ownership



The three properties on the north and east side may at any point be rented out to a maximum of 58 occupants. Additionally, since San Juan County does not have ordinances prohibit the usage of recreational vehicles (e.g., 4x4s, side-by-sides, Rhinos, etc.) in residential areas tenants either bring or rent many additional recreational vehicles from commercial vehicle renters from Grand County. The resulting number of vehicles then exceeds the parking available on the rental properties leading to

spillover parking streetside (see [Figure 4](#), Figure 5, and Figure 6) occupying street frontage for nearby residences and resulting in traffic congestion causing the neighborhood to be unsafe.

Figure 4: Parking Overflow North Side of Lot 25



Figure 5: Parking Overflow Northwest side of Lot 25



Figure 6 Parking Overflow North and West side of Lot 38



For the subject property this situation is exacerbated by the density of short-term rental locations further south on Mt. Peale.

Therefore, the applicant is requesting the planning and zoning board rezone the subject property as Highway-Flex consistent with the majority of uses in the contiguous area. Once zoned Highway Flex the property would be subsequently eligible to apply for an overnight accommodation overlay as described in Section 10 of the SVDO.

Planning and Zoning and the Board of commissioners should consider as part of this request:

1. Literal enforcement of the existing “residential” ordinance causes an unreasonable hardship to the owner of the home. The current owner feels as if their residence is located in a hotel parking lot. Code enforcement, including parking and street use, is non-existent and will continue to be non-existent until the county funds and allocates resources for this activity. There has been no indication the county is considering addressing this. The residents are unwilling to sell their property to an unsuspecting new resident who will likewise be inured in untenable living conditions that are inconsistent with the county’s zoning designation.
2. The resident is unable to exercise a right other property holders in their area are not only reasonably expected to use but have already availed themselves of to operate their personal residences for overnight rental use.
3. The requested zoning change will not result in undue hardship to other residences in the neighborhood because they are already subject to an area that is preponderantly occupied by overnight rentals. Additionally, considering rezoning the subject property, with future consideration given to permitting the same zoning for the other four primary residences in this area will increase property values which reverses the decrease in property values the residents have already experienced given the density of existing overnight rentals.

This is a decision that should be weighed by the planning commission and board of commissioners on a case by case, neighborhood by neighborhood basis.