

Moab City Council Agenda Item
Meeting Date: June 23, 2020

Title: Ordinance #2020-08: AN ORDINANCE OF THE CITY COUNCIL OF MOAB ANNEXING THE LIONS BACK HOLDINGS, LLC, PROPERTY LOCATED AT 938 AND 940 SOUTH HIGHWAY 191 TO THE CITY OF MOAB AND ASSIGNING THE ZONE OF C-4 GENERAL COMMERCIAL TO THE PARCEL.

Disposition: Discussion and possible approval of the LHB Annexation

Staff Presenter: Nora Shepard, AICP. Planning Director

Attachment(s):

Exhibit 1: Proposed City Council Ordinance #2020-08

Exhibit 2: Annexation Petition and Map

Exhibit 3: Pre-Annexation Agreement

Exhibit 4: Moab Municipal Code (MMC) Section 1.32

Exhibit 5: Utah State Code Sections C10-2-S401.5 Annexation Policy Plan and C10-2-5402 Annexation Limitations

Exhibit 6: Minutes of January 28, 2020 City Council meeting relating to the pre-annexation agreement approval.

Exhibit 7: Zoning Analysis for LBH Properties

Exhibit 8: Planning Commission Resolution 04-2020 and Draft minutes from the Planning Commission meeting of 5.14.2020

Recommended Motion:

I move to approve Ordinance #2020-08: An ordinance of the City Council of Moab annexing the Lions Back Holdings, LLC Property located at 938 and 940 South Highway 191 (Main Street) to the City of Moab and assigning the zone of C-4 General Commercial to the parcel.

Summary of Request:

On February 5, 2020, the City received an Annexation Petition from Lions Back Holdings (LBH) LLC for property located just south of the City, at 938 and 940 So. Main Street. See Exhibit 2 for the Annexation Petition and Annexation Plat. The property is 3.21 acres and is currently in Grand County and is zoned General Business and is identified as a potential area to apply for the "OAO Hotel/Motel." The property is configured so that it is, in effect, a flag lot with most of the development parcel being set back about 200 feet from the highway.

The City and the LBH entered into a pre-annexation agreement (Exhibit 3) that specifies that, if the parcel is annexed, it will be zoned C-4 General Commercial. The agreement

further restricts the property to the development of a lodging use, with specific development standards that are generally consistent, or exceed, the development standards the City has drafted to allow new Overnight Accommodations. An annexation is a discretionary action by the City Council. As a part of any annexation, the property owner and the City may enter into an Annexation Agreement, or Pre-Annexation agreement that allows for specific development standards or terms of development.

Annexation Process

Annexation Policy Plan

Annexation is a process that is defined by Utah State Law, and further defined by local “Annexation Policy Plans.” Moab’s Annexation Policy Plan is described in Moab Municipal Code (MMC) § 1.32.030 Annexation Policy Plan (Exhibit 4). Before properties can be annexed into the City, there must be an Annexation Policy Plan. According to our code:

“Municipalities in Utah are created to provide urban governmental services essential for sound urban development and for the protection of public health and welfare...”

The Policy Plan sets forth standards and criteria guiding the annexation of additional property into City limits as the community grows. The local policy plan is required to be consistent with Utah State Law (See Exhibit 5). The Moab Annexation Policy Plan and Map was prepared in consultation with Grand County.

Annexation Process

Since the City has an adopted Annexation Policy Plan, petitions for Annexation can be considered. State Law sets forth a specific process for review of Annexation Petitions. Briefly, the process is as follows:

1. Property Owner submits a petition to annex to the City.
2. The City Recorder places the petition on a City Council for a determination as to whether the City Council will entertain the petition.
3. Once the City Council agrees to accept the petition for review, the City Recorder is required to review the petition for completeness and compliance with applicable law. If the petition complies, the City Recorder shall certify the petition and provide notice to the City Council.
4. Within 10 days of receipt of the certification, notification of the proposed annexation shall be published in a newspaper of general circulation for 3 consecutive weeks.
5. Within 20 days of receipt of the certification, notification of affected entities, including service providers, the County, and others as specified in MMC 1.32.030 is required.
6. The Planning Commission may review the request according to the policy plan for a recommendation with respect to the appropriate zoning.
7. There is a protest period of 30 days from the date of certification. If there is a protest, there are specific procedures set forth that may include formation and

review by a Boundary Commission. If there is no protest filed, the City Council may approve the annexation at a public hearing.

The LBH petition was certified on March 25, 2020. The 30-day protest period has passed and no protests have been filed. For this application, the City and LBH have negotiated a pre-annexation agreement, that sets forth specific standards for development for this property (Exhibit 3). The pre-annexation does not approve the annexation, but rather sets forth the terms of the annexation, should the City Council choose to annex. The minutes of the portion of the City Council meeting on January 28, 2020 are attached as Exhibit 6.

Planning Commission's Role

As previously discussed, the role of the Planning Commission is to:

*“MMC 1.30.020 Annexation Procedure Section B
Upon certification by the City Recorder the petition or application may be submitted to the Planning Commission for analysis and review according to the annexation policy plan and for recommendations with respect to the appropriate zoning.”*

The Planning Commission reviewed the annexation and forwarded a positive recommendation to the City Council by the approval of Planning Commission Resolution 04-2020. A copy of that resolution and draft minutes are attached as Exhibit 8.

Zoning and Annexation Criteria Analysis

General Plan Consistency

The Moab General Plan shows this parcel as “future commercial.” This annexation request is consistent with the General Plan.

Zoning

The property is in Grand County and is Zoned RR Rural Residential and GB General Business. The Zoning proposed and requested is C-4 General Commercial.

The adjacent properties are in the City Limits and are zoned C-4 General Commercial. There is some R-2 Single and Two Household Dwellings that is kitty corner with the parcel.

Exhibit 7 provides a zoning analysis for your information.

Annexation Policy Plan Criteria

MMC §1.32.030 C lists the criteria that must be met for City acceptance of an annexation as follows (with commentary added):

1. *The City endorses the intent of the Utah Annexation Act, U.C.A. [10-2-401](#), et seq., as amended. Criteria for annexation of property to the City are as follows:*

- a. *The property must be contiguous to the boundaries of the City.* The property is contiguous with the City boundaries.
- b. *The property must lie within the area projected for the City municipal expansion.* The property is within the area projected for municipal expansion.
- c. *The property must not be included within the boundaries of another incorporated municipality.* The property is not included within the boundaries of another incorporated municipality.
- d. *The annexation must not create unincorporated islands within the boundaries of the City.* This annexation will actually reduce the size of an unincorporated peninsula.
- e. *The property proposed to be annexed hereunder will not be annexed for the sole purpose of acquiring municipal revenue or for retarding the capacity of any other municipality to annex into the same or related area.* This finding is most appropriately made by the City Council.

City Council Action:

As discussed, the Planning Commission reviewed the proposed annexation and forwarded a positive recommendation to the City Council. The City Council may:

Option 1: Approve the Annexation by approving Ordinance #2020-08, which includes reference to the approved pre-annexation agreement conditions, with or without additional conditions and based on the findings listed below.

Option 2: Continue Action and direct staff to provide additional information necessary to make a decision.

Option 3: Deny Ordinance #2020-08 thereby not approving the annexation. This option requires that findings be made that support the denial based on the criteria set forth in local and state law as follows:

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 - b. *The property must lie within the area projected for the City municipal expansion.*
 - c. *The property must not be included within the boundaries of another incorporated municipality.*
 - d. *The annexation must not create unincorporated islands within the boundaries of the City.*
 - e. *The property proposed to be annexed hereunder will not be annexed for the sole purpose of acquiring municipal revenue or for retarding the capacity of any other municipality to annex into the same or related area.*

2. The City will evaluate the following for each annexation:
 - a. *Compliance with all requirements of appropriate state code provisions.*
 - b. *The current and potential population of the area, and the current residential densities.*
 - c. *Land uses proposed in addition to those presently existing.*
 - d. *The assessed valuation of the current properties or proposed uses.*
 - e. *The potential demand for various municipal services, especially those requiring capital improvements.*
 - f. *Recommendations of other local government jurisdictions regarding the proposal and potential impact of the annexation.*
 - g. *How the proposed area, and/or its potential land uses would contribute to the achievement of the goals and policies of the City.*
 - h. *Identification of any special districts or county departments that are currently providing services. If the proposed area is receiving services that are to be assumed by the City, a statement should be included indicating that steps can be taken to assure an effective transition in the delivery of services. A timetable for extending services should be included if the City is unable to provide services immediately. If the proposed area is receiving services that are not going to be assumed by the City a statement to that effect will be included in the annexation agreement.*
 - i. *If an application for annexation includes a specific proposal for urban development, an understanding as to the provision of improvements should be concluded between the City and the applicant.*
 - j. *New annexations should create areas in which services can be provided efficiently. The annexation should not create geographically isolated areas, areas for which the provision of services would be costly or difficult, or an area in which surface water runoff would create multi-jurisdictional problems.*
 - k. *The tax consequences for affected entities should be addressed.*