

Excerpt from the Approved Moab City Council Minutes January 28, 2020
Review and approval of the Pre-Annexation Agreement between LBH LLC and the City of Moab

Proposed Pre—Annexation Agreement Among Lions Back Holding, LLC and the City of Moab, Located at Approximately 938 and 940 South Main, Moab, Utah 84532:

Discussion: City Manager Linares displayed a map showing the parcels. He indicated this agreement was proposed by Lions Back Holdings, LLC who currently have an application with Grand County to construct a hotel in the County bordering the City limit boundary. They have approached the City about petitioning to annex into the City. Linares spoke with the County Attorney and received a letter from the Chair of the County Council indicating they are in support of the annexation and support the action before the Council for consideration.

Councilmember Derasary requested verification of the location of the parcel. Linares showed her exactly where the parcel was located and told Council the proposed project would have approximately 120 rooms. He explained that the application is currently with the County and if Council chose not to approve the annexation, the project would be built in the County. He indicated that if the project is built in the City it would not adversely affect the County's revenue. If the project is annexed into the City, it would allow the City to collect TRT revenue from it as well.

City Manager Linares stated this project falls within a grey area of the vested projects before the overnight accommodation moratorium was put in place. He said there are several projects that fall in that category, but this is the first that has come forward with a claim that they are vested despite not having an application filed prior to February 12, 2018. Moving forward as though this project was fully vested could settle a potential lawsuit claim against the City or County in the future. There was discussion regarding the pre-annexation agreement, the possible need for a public hearing, the pros and cons of approving it, what it would legally obligate the City to and what zoning would be assigned to the parcel.

Linares explained that if Council approved the pre-annexation agreement, the project would still need to follow the public procedure for annexation including public noticing and public hearing. The City does not have a property tax but when the City annexes a commercial property, they can collect sales tax and potentially TRT tax. The parcel is directly adjacent to the City boundary and annexing the property obligates the City to provide services including law enforcement and snow removal. He explained Council has final authority as to what zoning is applied to the property. Mayor Niehaus noted that the parcel falls within the City's General Plan's future annexation boundaries so accepting this petition is in the City's General Plan. Linares explained that according to the City's General Plan and Annexation Plan accepting this application is exactly what the City is supposed to be doing.

Councilmember Derasary requested clarification of the section of the agreement that talks about reserved legislative powers. Linares explained that section is saying that if somewhere in the agreement the City has limited themselves in a way that is illegal that was unintentional, they would reserve that authority.

Councilmember Derasary said that she would like to table this until she can look at the surrounding zoning. She stated, in her opinion, we have made the mistake before of annexing without looking at neighboring zoning. Linares indicated that he went with the C-4 zone because it was a match to the surrounding properties and historic uses. Councilmember Derasary expressed concerns about putting

the C-4 zone next to Rural Residential. City Manager Linares explained that the surrounding uses are not rural, they are industrial or something as one of them is a shop.

Motion and vote: Councilmember Knuteson-Boyd moved to approve the Pre-Annexation Agreement between Lions Back Holding, LLC ("Property Owner") and the City of Moab, located at approximately 938 and 940 South Main, Moab, Utah. Councilmember Guzman-Newton seconded the motion. The motion tied with Councilmembers Knuteson-Boyd and Guzman-Newton voting aye and Councilmembers Derasary and Duncan voting nay. Mayor Niehaus cast the tie breaking vote and a roll call vote was requested. The motion passed 3-2 with Councilmembers Knuteson-Boyd, GuzmanNewton and Mayor Niehaus voting aye and Councilmembers Derasary and Duncan voting nay.