

CITY OF MOAB RESOLUTION NO. 22-2024

A RESOLUTION APPROVING THE PHASING AMENDMENT TO THE APPROVED LIONSBACK RESORT, MASTER PLANNED DEVELOPMENT (MPD), FOR PROPERTY LOCATED AT 1353 SAND FLATS ROAD, MOAB, UT 84532

WHEREAS, The following describes the intent and purpose of this resolution:

Applicant, Jon Dwight, has submitted sufficient documentation and materials to propose a Phasing Amendment (“Phasing Amendment”) to the approved Lionsback Resort Preliminary and Phase I Master Planned Development (MPD) to be memorialized in the attached First Amendment to Subdivision Improvement Agreement; and

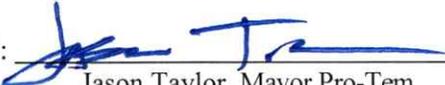
- a. The Applicant submitted to the City of Moab the appropriate documents for review and approval of the Phasing Amendment, as required in the Moab Municipal Code (MMC) Chapter 17.65; and
- b. LB Moab Owner, LLC is the developer that has partnered with the School and Institutional Trust Lands (SITLA) to develop the Lionsback MPD that was approved in 2008 and 2009; and
- c. The Property located in the SAR – Sensitive Area Resort Zone, which requires that projects must be developed through the Master Planned Development Process as set forth in MMC Section 17.65; and
- d. The Phasing Amendment can comply with the approved Preliminary MPD and Phase I Final MPD; and
- e. The Phasing Amendment will not significantly affect the overall design or intent of the Lionsback MPD and will not change the character, basic design, building density and intensity, open space, and other such conditions of the Lionsback MPD, and therefore does not require Planning Commission Approval under Section 17.65.130.
- f. Staff have referred the Phasing Amendment to the City Council to determine whether the change qualifies as a “minor change” that can be approved administratively or a “major change” that must be approved by the Moab City Council under Section 17.65.130.
- g. The Moab City Council is the land use authority for MPD amendments under Section 17.65.130 of the MMC and has reviewed the Phasing Amendment and considered the Staff recommendations in a public meeting held on September 10, 2024; and
- h. Following the consideration of the technical aspects of the pertinent code sections, the Moab City Council, pursuant to City Resolution 22-2024, hereby finds, that the Phasing Amendment can meet or exceed the pertinent code requirements.
- i. The Moab City Council elects to approve the proposed Amendment as a “major change” under Section 17.65.130.B of the MMC, which authorizes the City Council to approve changes in “project phasing” for an approved MPD.

NOW, THEREFORE, BE IT RESOLVED BY THE MOAB CITY COUNCIL effective immediately:

1. The Phasing Amendment to the Lionsback Resort Preliminary and Phase I Final MPD is hereby **APPROVED**.
2. The attached First Amendment to Subdivision Improvement Agreement is hereby **APPROVED**, and the Mayor is authorized to execute the same.

3. Staff are authorized and directed to implement this resolution.

PASSED AND APPROVED in open City Council by a majority vote of the Governing Body of Moab City Council on September 10, 2024.

SIGNED:  _____
Jason Taylor, Mayor Pro-Tem

ATTEST:  _____
Sommar Johnson, Recorder



Moab City Council Agenda Item
Lionsback Resort MPD Phasing Amendment
Meeting Date: September 10, 2024

Title: Consideration of Adoption of Resolution 22-2024, A Resolution Approving the Phasing Amendment to the approved Lionsback Resort, Master Planned Development (MPD), for the Property Located at 1353 Sand Flats Road, Moab, Utah 84532.

Disposition: Briefing and possible action

Staff Presenter: Cory P. Shurtleff, Planning Director

Attachment(s):

- Exhibit 1: Draft Moab City Resolution 22-2024
- Exhibit 2: LB Phase I Final MPD Resolution 13-2021
- Exhibit 3: Narrative for LB Amendment 091024
- Exhibit 4: Draft Sales Center Permit Plan Set 091024
- Exhibit 5: LB Phase I SIA Final Recorded 113022
- Exhibit 6: Draft Amendment to LB Phase I SIA 091024
- Exhibit 7: Amendment to Phasing Plan and Plat 091024
- Exhibit 8: Owner Agent Agreement 091024

Options:

1. Approve Resolution 22-2024, with or without modifications; or
2. Continue or table item and give specific direction to the applicant and City Staff as to additional information needed to make a decision; or
3. Deny Resolution 22-2024, giving specific findings for the decision.

Recommended Motion: I move that the Moab City Council approve Resolution 22-2024, A Resolution Approving the Phasing Amendment to the approved Lionsback Resort, Master Planned Development, for Property Located at 1353 Sand Flats Road, Moab, Utah 84532.

Applicant: Jon Dwight, Authorized Agent of Ownership

Background:

Moab City Resolution 13-2021 Approving the Final MPD and Phase One Plat for the Lionsback Development Located and Accessed from Sand Flats Road, was approved June 8, 2021. Following approval and partial construction of Phase I, and proposed Phase II in review for possible approval, the applicant has determined that aspects of the resort/hotel element (sales and property management office) are necessary for current operation within Phase I. The applicant has proposed a phasing amendment to the approved uses of the MPD and a related First Amendment to Subdivision Improvement Agreement, that would allow the applicant to infill construction of a temporary office space within Lot 2 (garage space) of approved Phase I. The temporary operations of space are consistent with the preliminarily approved resort/hotel phase use for sales and property management offices. This proposed phasing amendment aligns with compliant phasing mechanisms for staging approved uses within the construction of the preliminarily approved MPD. The uses being proposed through this phasing amendment have already been approved through the preliminary MPD approval, but the phasing of these uses in

phasing order and location are now being adjusted to allow elements of operation in construction phasing. Upon completion of the future hotel phase, this temporary use would be relocated into the originally approved phase and use area; returning the space within Lot 2 back into a residential use. The proposed amendment complies or can comply with all MPD and development criteria.

The phasing amendment will not significantly affect the overall design or intent of the Lionsback MPD and will not change the character, basic design, building density and intensity, open space, and other such conditions of the Lionsback MPD, and therefore does not require Planning Commission approval under Section 17.65.130 of the Moab Municipal Code (MMC).

With respect to the process needed to approve the phasing amendment, Section 17.65.130.A allows “minor changes in the location and placement of buildings” to be approved administratively. However, Section 17.65.130.B states that changes in “project phasing” for an approved MPD are “major changes” that require the approval of the City Council as the land use authority for MPD amendments (see Section 17.72.100.A of the MMC). Staff believe the phasing amendment could qualify as a minor or major change. Given this uncertainty, staff have referred the matter to the City Council and recommend that the City Council approve the phasing change as a “major change” to err on the side of caution.

Project Summary:

Location: 1353 Sand Flats Road, Moab, Utah 84532
Property Owner: LB Moab Owner Phase I, LLC
Zoning: SAR

Process:

MMC Section 17.65.130 allows for amendments to approved MPD plans and plats as follows:

“17.65.130

Amendment procedures.

An approved MPD, or subsequent revision thereto, shall be binding as to the general intent and apportionment of land for buildings, sewage disposal, storm water management, sensitive area protection, stipulated use, circulation pattern, domestic water and landscaping. Amendments that change the character, basic design, building density and intensity, open space or any other requirements and conditions contained in the MPD shall not be permitted without prior review and approval by the Planning Commission. If approved, amendments shall be clearly depicted as a revision to approved plans.

A. Minor Changes. Minor changes in the location and placement of buildings may be authorized by the Moab City planning department staff where unforeseen circumstances, such as engineering requirements, dictate such change. When in question, the Moab City planning staff may determine whether the changes shall be classified as minor or major, or may refer the question to the land use authority, if deemed necessary.

B. Major Changes. Major changes, such as alterations in structural types, in the shapes and arrangements of multiple lots and blocks, in the allocation of open space or other land uses which increase density and/or intensity of the project, in project phasing, and all other changes which significantly affect the overall design or intent of the project shall be referred to the land use authority, after which the authority shall consider and shall either approve or deny the changes in the final development plan. If such changes are authorized, the developer shall submit a revised plan showing the authorized changes. (Ord. 15-04 (part), 2015: Ord. 06-17 (part), 2006)”

17.65.080

MPD review procedures.

The master planned development review process is intended to provide a means of consolidating various reviews for large scale projects into a single master plan application and review. A master planned development that has an approved preliminary development plan shall only be required to complete a final plat or site plan review for individual phases or portions of the development. Any master planned development without phasing shall complete a final development plan review.

All master planned developments shall be required to follow the following approval process:

A. Steps to Approval. There are four required review steps to a master planned development approval:

1. *MPD Pre-application Meeting.* A pre-application conference shall be held with the planning staff and/or Planning Commission in order for the applicant to generally describe the proposed development concept and receive professional recommendation based upon the City's requirements, and to become acquainted with the master planned development procedures and related requirements;

2. *Concept MPD review;*

3. *Preliminary MPD review;*

4. *Final MPD review, or site plan review.*

Master Planned Developments, Approval Process and Authority

Step	Task	Advisory	Approval	Public Hearing	Appeal
1	Pre-Application Meeting(s)	Staff	Staff	* ..	*
2	Complete Application, Fees	Staff	Staff	* ..	*
3	Concept MPD	Staff	Staff	* ..	*
4	Preliminary MPD	Planning Commission	City Council	Planning Commission ¹	**
5	Final MPD	Planning Commission	City Council	* ..	**

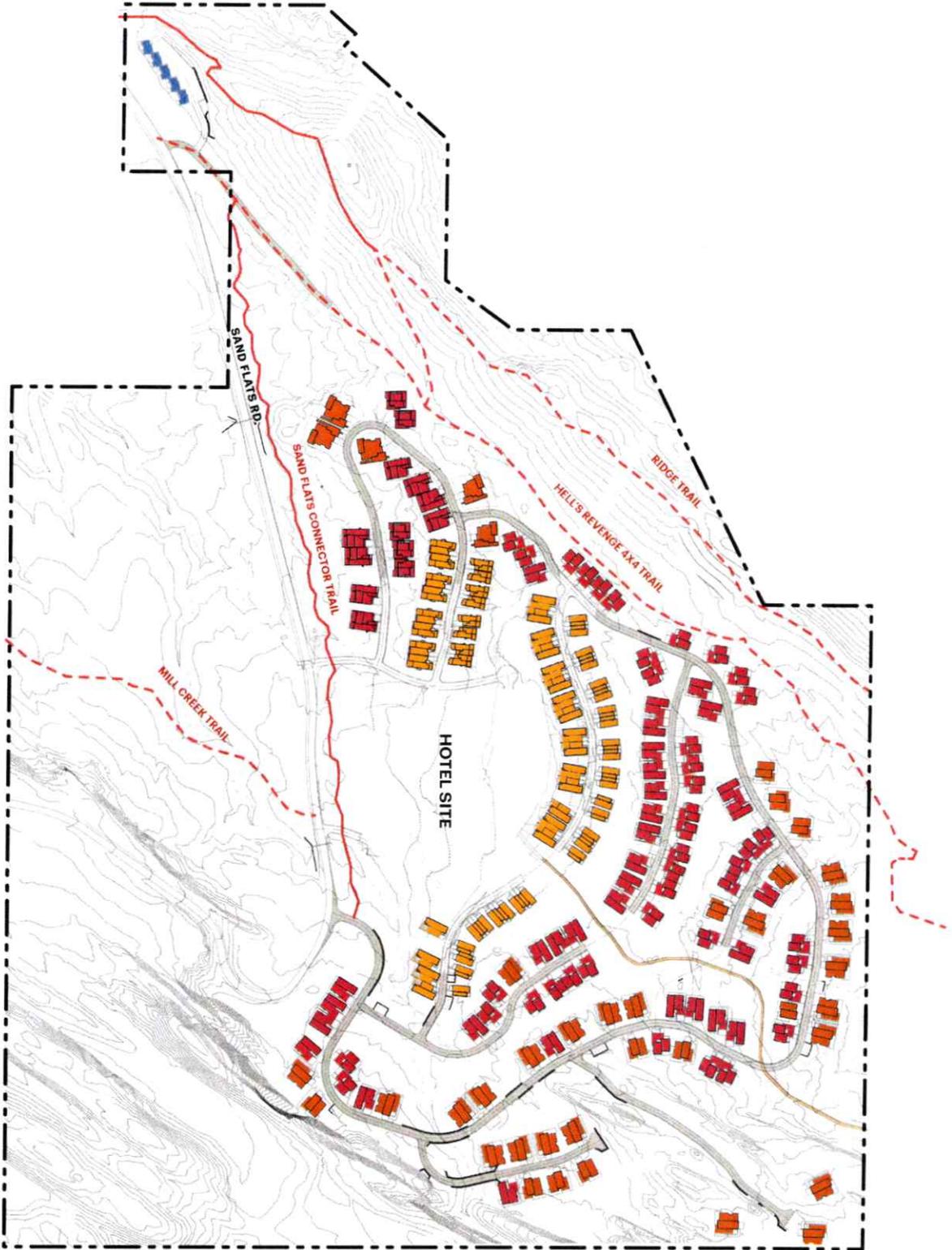
**Not required*

***Appeals authority*

1 If a plat is required by state law.

B. Appeal Procedure. Any person who is a party to the application, the applicant, or the owner may appeal to the appeal authority by filing a notice of appeal with the City Recorder within fifteen days from the date of the administrative decision in issue. In any appeal, the complaining party shall have the burden of proof, and the appeal body shall not overturn the decision unless it was clearly erroneous under applicable law. The appeal authority decision shall be issued in writing.

C. Exhaustion of Remedies. No person may challenge in district court any decision under this chapter until that person has exhausted all administrative remedies and a final decision is issued by the appeal body. Any such action shall be commenced no later than thirty days from the date of the final appeal decision. (Ord. 15-04 (part), 2015; Ord. 13-11, 2013; Ord. 10-06 (part), 2010; Ord. 08-30, 2008; Ord. 06-17 (part), 2006)



UNIT TYPE	QUANTITY	TOTAL SQUARE FEET	TOTAL NUMBER OF RESIDENTIAL UNITS
1-BED CONDO	18	1,200	18
2-BED CONDO	13	2,200	13
3-BED CONDO	27	4,200	27
4-BED CONDO	48	7,200	48
5-BED CONDO	40	8,000	40
6-BED CONDO	35	9,000	35
7-BED CONDO	27	10,800	27
TOTAL	206	42,800	206

- EXISTING TRAILS (PUBLIC ACCESS)
- PROPOSED TRAILS (PUBLIC ACCESS)
- PROPERTY BOUNDARY (APPROXIMATE)

OWNER
 LB MOAB OWNER, LLC
 3858 WALNUT STREET,
 SUITE 104
 DENVER, CO. 80205



LIONSBACK RESORT FINAL MPD PHASE 1 SUBMITTAL

DATE: March 31, 2021
 PROJECT: Overall Resort Site Plan Exhibit
 SHEET NO.: A.101



UNITS	
16	BAR/CHALET CASITA TWO STORY (2010)
11	MULTI-LEVEL CASITA TWO STORY (2010) 2700 - 3100SQF
27	MULTI-LEVEL CASITA ONE STORY (2010) 2700 - 3100SQF
46	VILLAGE CASITA TWO STORY (2010) 1800 - 2100SQF
40	VILLAGE CASITA ONE STORY (2010) 1800 - 2100SQF
35	CLUB CASITA TWO STORY (2010) 1200 - 1500SQF
27	CLUB CASITA ONE STORY (2010) 1200 - 1500SQF
206	TOTAL NUMBER OF RESIDENTIAL UNITS

- EXISTING TRAILS (PUBLIC ACCESS)
- PROPOSED TRAILS (PUBLIC ACCESS)
- PROPERTY BOUNDARY (APPROXIMATE)

DATE: March 31, 2021
 SHEET TITLE: Overall Site Plan Phasing Exhibit A.102

LIONSBACK RESORT FINAL MPD PHASE 1 SUBMITTAL

OWNER
 LB MOAB OWNER, LLC
 3858 WALNUT STREET,
 SUITE 104
 DENVER, CO. 80205

HKS
 James & Douglas
 Architecture
CONFLUENCE



Plan Type	Description	Parking Tabulation		
		Castles and Home Sites Subtotal	Garage Spaces	Driveway Spaces
1	Club Castle, 1-story	8	8	8
2	Club Castle, 2-story	8	8	8
3	Village Castle, 1-story	9	16	16
4	Village Castle 2-story	5	10	10
C	Herick Castle	5	10	10
Total Castles and Home Sites		34		
Total Parking Spaces		104	52	52

DATE: 0 DU/ EK
 SHEET TITLE: LIONSBACK RESORT
 SHEET NO.: 8

LIONSBACK RESORT FINAL MPD PHASE 1 SUBMITTAL

2 : 115
 LB MOAB OWNER, LLC
 3838 VALMONT STREET
 DENVER, CO 80205

HKS
 James A. Dandridge
 Engineering

CONFLUENCE

**FIRST AMENDMENT TO
SUBDIVISION IMPROVEMENT AGREEMENT**

(Lionsback Resort – Phase 1)

THIS FIRST AMENDMENT TO SUBDIVISION IMPROVEMENT AGREEMENT (“First Amendment”) is made and entered effective as of the ___ day of _____, 2024 (“**Effective Date**”), by and between the City of Moab, a Utah municipal corporation, acting through its City Council (“**City**”); LB Moab Owner, LLC, a Delaware limited liability company (“**Developer**”), as successor in interest to LB Moab Land Company, LLC; and LB Moab Owner Phase 1, LLC, a Delaware limited liability company (“**Owner**”). City, Developer, and Owner are individually referred to herein as a “**Party**” and collectively as the “**Parties.**”

RECITALS

A. Developer is developing a mixed-use resort project known as the Lionsback Resort (the “**Project**”) pursuant to City development approvals (the “**Prior Approvals**”), which include:

- i. City of Moab Ordinance No. 2008-20 (the “**Annexation Ordinance**”) dated December 9, 2008 and recorded on February 23, 2009 in Book 744, Page 407-423, Reception No. 490726 with the Clerk and Recorder for Grand County, Utah (“**Official Records**”);
- ii. Pre-Annexation Agreement dated October 28, 2008 and recorded on December 11, 2008 at Book 741, Page 749 in the Official Records (the “**Pre-Annexation Agreement**”); and
- iii. Annexation Map recorded on February 23, 2009 in Book 744, Page 424, Reception No. 490727 in the Official Records (the “**Annexation Map**”).

B. Pursuant to the Pre-Annexation Agreement, Developer and City subsequently entered into that certain Development and Phasing Agreement made effective as of July 28, 2009 (the “**Development and Phasing Agreement**”).

C. The Pre-Annexation Agreement and the Development and Phasing Agreement each contemplate that City and Developer would enter into separate subdivision improvement agreements for each phase of development of the Project, which govern subdivision improvements and modifications to the original phasing plan deemed necessary and desirable by the Parties as the Project progresses.

D. City, Developer, and Owner (as fee owner of Phase 1) entered into a Subdivision Improvement Agreement for Phase 1 of the Project on November 21, 2022, which was recorded in the Official Records of Grand County on November 30, 2022 as Entry No. 548156 in Book 943, Page 913 (the “**Phase 1 SIA**”). The Phase 1 SIA, among other provisions, modified the existing phasing plan established by the Development and Phasing Agreement.

E. The Parties desire to enter into this First Amendment to the Phase 1 SIA to further modify the phasing and development plan for the Project, as permitted by the Development and Phasing Agreement, to permit a change in use for Lot 2 of the approved Phase 1 plat from residential use to a commercial sales center and property management office for the Project, with such use to be continued until the completion of the hotel facility contemplated for a subsequent phase of the Project.

F. Moab Municipal Code (“MMC”) 17.65.130.A permits the City planning staff to refer to the land use authority the issue of whether changes of this nature to the phasing plan should be considered minor or major under MMC 17.65.130, and MMC 17.65.130.B permits the land use authority to approve such changes after such referral.

AGREEMENT

NOW, THEREFORE, in consideration of the recitals cited hereinabove and the mutual covenants and promises contained herein, the sufficiency of which is acknowledged, the Parties hereto agree as follows:

1. Amendment to Amended Phasing Table. The Amended Phasing Table for the Phase 1 Casitas contained in Exhibit B to the Phase 1 SIA is hereby amended to include the notation in Row 1, Column 2, that the Casita located on Lot 2 may be used as a sales center and property management office for the Project until completion of replacement facilities in the hotel phase of the Project. The location of the sales center and property management office is depicted on the recorded plat map and phasing plan attached hereto as Exhibit A and incorporated by reference.
2. Building Regulations; Operations. Developer and Owner will comply with all applicable building regulations in connection with the construction and operation of the sales center and property management office. No other commercial activities beyond a sales center and property management office for the Project will be conducted from the site.
3. Effect. The Prior Approvals, the Development and Phasing Agreement, the Phase 1 SIA, and all related City approvals, remain in full force and effect as modified by this First Amendment, and are hereby ratified by the Parties.

IN WITNESS WHEREOF, this Agreement has been executed by the City of Moab, acting by and through the Moab City Council, which has duly authorized execution, and by a duly authorized representative of Developer and Owner, as of the Effective Date.

{Signatures and Acknowledgments on Following Pages}

CITY:

CITY OF MOAB,
a Utah municipal corporation

Joette Langianese, Mayor

ATTEST:

_____, City Recorder

Approved as to form:

_____, City Attorney

ACKNOWLEDGMENT

STATE OF UTAH)
): ss.
County of)

On this ____ day of _____, 2024, before the undersigned notary public in and for the said state, personally appeared Joette Langianese, known or identified to me to be the Mayor of the City of Moab, who executed the foregoing instrument on behalf of said City and acknowledged to me that said City executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

Notary Public for Utah

[Signatures Continue on Following Pages]

DEVELOPER:

LB Moab Owner, LLC,
a Delaware limited liability company

By: _____
Name: Jon W. Dwight
Its: Authorized Signatory

ACKNOWLEDGMENT

STATE OF UTAH)
): ss.
County of)

On this ____ day of _____, 2024, before the undersigned notary public in and for the said state, personally appeared _____, known or identified to me to be the _____ of LB Moab Owner, LLC, a Delaware limited liability company, who executed the foregoing instrument on behalf of said company and acknowledged to me that said company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

Notary Public for Utah

EXHIBIT A

(Plat Map and Phasing Plan Showing Location of Sales Center)