

**ORDINANCE # 2010-08**

**AN ORDINANCE VACATING IN PART PHASE ONE OF THE SUBDIVISION PLAT FOR THE HACIENDAS SUBDIVISION**

**WHEREAS**, the City of Moab approved the Haciendas Subdivision and an Official Plat for Phase One and said plat was recorded on January 9, 2008 at Book 717, Page 544 (“Plat”) of the Grand County land records; and

**WHEREAS**, the City of Moab (City) and Jared Rasmussen (“Developer”) entered into a Subdivision Improvements Agreement (“SIA”), dated January 8, 2008, providing for the construction of certain improvements pursuant to the approval of the Haciendas Subdivision; and

**WHEREAS**, the Developer has failed or refused to construct or complete all of the improvements specified in the SIA and development approvals, constituting a default under the SIA and the conditions of approval, and has failed to cure same after delivery of written notice; and

**WHEREAS**, U.C.A. § 10-9a-608 authorizes a municipality to institute proceedings to vacate a subdivision plat, and the SIA specifically authorizes plat vacation as a remedy upon breach by the Developer; and

**WHEREAS**, Resolution #06-2010, approved by the City Council on February 23, 2010, declared the developer to be in default of the Subdivision Improvements Agreement; and

**WHEREAS**, the City has provided notice to interested parties, received the recommendations of City Staff, and is fully advised; and

**WHEREAS**, the City finds that the public interest will be served by the partial vacation of the plat as specified herein, and that no party will be unfairly prejudiced; and

**WHEREAS**, in accordance with UCA 10-9a-609, the City may approve the vacation, alteration, or amendment by signing a plat showing the vacation, alteration, or amendment if no public street, right-of-way, or easement has been vacated or altered; and

**WHEREAS**, in accordance with UCA 10-9a-609.5, a public hearing in accordance with Section 10-9a-208 is required to be held only if a plat amendment contains a vacation of some or all of a street, right-of-way, or easement; and,

**WHEREAS**, the partial vacation as specified herein does not contain a vacation of all or some of a street, right-of-way and so a public hearing is not required; and

**WHEREAS**, the City of Moab, in its discretion, has the authority to construct all or a selected portion of the required improvements to satisfy the completed development in Phase One; and

**WHEREAS**, the extension of the utility services will be obstructed by an existing structure that partially lies within the dedicated right-of-way of Bonita Street; and

**WHEREAS**, the developer and all affected property owners are in unanimous agreement that this partial vacation is in the best interests of all parties as evidenced by the attached signed affidavit.

**THEREFORE, THE CITY OF MOAB ENACTS AS FOLLOWS:**

1. The City hereby vacates in part, Phase One of the Subdivision Plat for The Haciendas Subdivision according to the attached plat called "The Haciendas Subdivision Phase 1, Amended". Phase one shall be vacated with the exception of Lots 1A and 1B and the dedicated rights-of-way for Bonita Street and Mill Creek Drive. The vacation (the "Vacated Tract") is described as follows:

BEGINNING AT A CORNER WHICH BEARS N79°46'00"W 1667.34 FT., THENCE N61°03'00"E 388.84 FT. FROM THE EAST ¼ CORNER OF SECTION 7, T 26 S, R 22 E, SLM, AND PROCEEDING THENCE N61°03'00"E 213.83 FT., THENCE S28°32'00"E 87.75 FT., THENCE S28°11'39"W 12.44FT., THENCE S61°03'00"W 202.72 FT., THENCE N28°57'30"W 94.50 FT. TO THE POINT OF BEGINNING,  
ALSO: BEGINNING AT THE NW CORNER OF LOT 15A OF THE HACIENDAS SUBDIVISION, PHASE ONE, SAID CORNER BEARS N74°34'43"W 1299.76 FT. FROM THE EAST ¼ CORNER OF SECTION 7, T 26 S, R 22 E, SLM, AND PROCEEDING THENCE N61°03'00"E 227.41 FT., THENCE S84°46'20"E.13.11 FT., THENCE S28°32'00"E 125.25 FT., THENCE S65°49'00"W 245.88 FT., THENCE S23°33'00"E 131.89 FT., THENCE S66°25'16"W 112.79 FT., THENCE ALONG THE ARC OF A 50.00 FT. RADIUS CURVE TO THE LEFT 15.06 FT. (SAID CURVE HAS A CHORD WHICH BEARS N76°08'17"W 15.00 FT.), THENCE N13°51'43"E 55.06 FT., THENCE N28°57'30"W 87.68 FT., THENCE N61°03'00"E 106.00 FT., THENCE N28°57'30"W 94.60 FT., TO THE POINT OF BEGINNING.

2. All prior land use approvals, plat designations, and other development entitlements with respect to the Vacated Tract are terminated and deemed void. The preliminary plat dated June 14, 2007 is void and of no further effect.
3. To clarify the extent of the plat vacation and the construction costs of the proposed improvements the following attached exhibits are hereby approved and accepted for recording.
  - a. An Amended Plat which excludes the Vacated Tract is accepted for recording, as set forth in Exhibit A.
  - b. A description of the improvements as set forth in Exhibit B.
  - c. A description of the improvements as set forth in Exhibit C.
  - d. A cost worksheet description of the improvements as set forth in Exhibit D.
4. The City of Moab, Public Works Director shall issue an Encroachment Permit for the existing structure situated within the public right-of-way of Bonita Street that shall expire upon removal of the structure or in a period of time not to exceed three (3) years from the date of approval of Ordinance 2010-08, whichever is less. One extension may be granted at the Director's discretion for a period of not more than one (1) year.

5. This ordinance shall take effect immediately and be recorded in the Grand County land records. It shall continue in effect until repealed, and shall be binding upon the Developer, its successors, and assigns.

Passed and adopted by the City Council upon the affirmative vote of a majority of the Council in open session on April 13, 2010.

Signed:

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Mayor David Sakrison

Attest:

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Rachel Ellison, City Recorder

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Date