

RESOLUTION NO. \_\_\_\_\_ OF 2007

A RESOLUTION EXTENDING THE TIME PERIOD  
FOR SATISFYING THE CONDITIONS SET FORTH  
IN ORDINANCE NO. 21 OF 2006, PERTAINING TO ROWLAND HALL-ST. MARK'S  
SCHOOL'S PETITION TO AMEND THE EAST BENCH MASTER PLAN AND REZONING  
OF PROPERTY GENERALLY LOCATED AT 1443 EAST SUNNYSIDE AVENUE

WHEREAS, the City Council enacted Ordinance No. 21 of 2006 on April 18, 2006; and

WHEREAS, that ordinance imposed certain conditions and required that those conditions  
be met within two years from the date that the ordinance was signed; and

WHEREAS, the ordinance also provided that the City Council may extend the time  
period for satisfying the conditions set forth in the ordinance; and

WHEREAS, the City Council finds that there is good cause to extend the deadline for  
satisfying the conditions set forth in the ordinance.

NOW, THEREFORE, be it resolved by the City Council of Salt Lake City, Utah:

SECTION 1. The deadline for satisfying the conditions set forth in Ordinance No. 21 of  
2006 shall be and hereby is extended to December 31, 2010.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Passed by the City Council of Salt Lake City, Utah, this \_\_\_\_\_ day of  
\_\_\_\_\_, 2007.

SALT LAKE CITY COUNCIL

By: \_\_\_\_\_  
CHAIRPERSON

ATTEST AND COUNTERSIGN:

\_\_\_\_\_  
CHIEF DEPUTY CITY RECORDER

APPROVED AS TO FORM:

Melanie J. Reif (Dec. 6, 2007)  
SALT LAKE CITY ATTORNEY

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## MEMORANDUM

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**DATE:** December 7, 2007

**TO:** Council Members

**FROM:** Janice Jardine, Land use Policy Analyst

**SUBJECT:** Resolution extending the time period for satisfying conditions pertaining to Mt. Olivet Cemetery Association and Rowland Hall-St. Mark's School's petition to amend the East Bench Master Plan and rezone of property generally located at 1443 East Sunnyside Avenue from Open Space OS to Institutional I

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### POTENTIAL MOTIONS:

1. **["I move that the Council"] Adopt** a resolution extending the time period for satisfying the conditions set forth in Ordinance No. 21 of 2006, pertaining to Rowland Hall-St. Mark's School's petition to amend the East Bench Master Plan and rezoning of property generally located at 1443 East Sunnyside Avenue as requested.
  2. **["I move that the Council"] Not Adopt** a resolution extending the time period for satisfying the conditions set forth in Ordinance No. 21 of 2006, pertaining to Rowland Hall-St. Mark's School's petition to amend the East Bench Master Plan and rezoning of property generally located at 1443 East Sunnyside Avenue.
  3. **Other options/motions that may be identified by Council Members.**
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- A. A resolution has been prepared for Council consideration extending the time period for satisfying the conditions pertaining to Mt. Olivet Cemetery Association and Rowland Hall-St. Mark's School's petition to amend the East Bench Master Plan and rezoning of property generally located at 1443 East Sunnyside Avenue. The deadline will be extended to December 31, 2010 as requested by Rowland Hall-St. Mark's.
- B. The City Attorney's office has indicated that Rowland Hall-St. Mark's School has withdrawn their request to amend the ordinance to remove the condition requiring removal of the reversionary clause by Congress. This is based on recent conversation with Cary Jones, legal counsel for Rowland Hall-St. Mark's School, and Lynn Pace in the City Attorney's office. At this time they are requesting the Council only consider their request for a time extension.

OCT 22 2007



**ROWLAND HALL • ST. MARK'S SCHOOL**

Julie A. Barrett, Assistant Head of School

SL  
VT  
C&J  
JS

Friday, October 19, 2007

Van Turner, Chair  
Jill Remington-Love, Vice Chair  
Salt Lake City Council  
451 South State  
Salt Lake City, UT 84111

Re: Salt Lake City Ordinance No. 21 of 2006, Request for Extension of  
Time to Fulfill Conditions

Dear Chairman Turner and Vice Chair Love:

Since the Council passed Ordinance No. 21 of 2006, on April 18, 2006, Rowland Hall-St. Mark's School and Mt. Olivet Cemetery Association have worked diligently to meet the conditions specified in Section 4 of the ordinance, which I repeat here for your convenience:

“SECTION 4. CONDITIONS. This Ordinance is conditioned upon the following:

- (a) Removal of the reversionary clause on the property by the United States Congress;
- (b) Sale of the property from Mount Olivet Cemetery to Rowland Hall-St. Mark's School and recording documentation of such sale with the Salt Lake County Recorder; and
- (c) Execution and recordation of a Development Agreement between the City and Rowland Hall-St. Mark's School substantially in the form of the draft Agreement attached hereto as Exhibit B.”

In addition, the Ordinance states that if the conditions are not met within two years of the Ordinance's adoption, then the Ordinance becomes null and void.

However, in Section 6, the Ordinance states:

"The City Council may, by resolution, for good cause shown, extend the time period for satisfying the conditions identified herein".

RHSM and its architects have worked with city officials and prepared a development agreement which is ready for execution at the appropriate time. RHSM has also identified contributors and funding sources which would enable the school to complete the purchase of the thirteen acres on Sunnyside Avenue from Mt. Olivet on very short notice.

RHSM and Mt. Olivet have not yet obtained Congressional permission to use the thirteen acres for educational or recreational purposes, but we believe that such approval is highly likely in one of two forms. First, the reversion could be entirely removed or modified to allow RHSM's intended use of the property. This approach may require a valuation of the reversion. The value of the reversion is difficult to determine but it is expected to be a minor amount. The legislation would direct that the value of the reversion be paid to the government. An appraisal is being prepared at this time. Second, also under consideration would be authorizing an exception to the reversion for a very long period, such as ninety-nine years.

The Mt. Olivet bill, H.R. 1319, is presently in the House of Representatives Natural Resources Subcommittee on Natural Parks Forests and Public Lands, Rep. Raul Grijalva, Chairman.

After Ordinance No. 21 of 2006 was passed, RHSM immediately initiated the legislative process. In June 2006 a group of five representatives of RHSM and Mr. Olivet met with the entire Utah congressional delegation, as well as numerous members of their staff, in Salt Lake City and in Washington, D.C. Congressman Matheson agreed to carry our bill, which was filed on March 5, 2007. As the Bureau of Land Management owns twenty-five acres in the cemetery and holds oversight authority over the cemetery association itself, we met twice with the principals of the Utah office of the BLM to obtain their support. Earlier this month we met with the

BLM in Washington, D.C., along with the counsel to the Subcommittee in advance of the anticipated Subcommittee hearing.

Unfortunately, the process is taking longer than expected. Therefore, we come to you to request an amendment to Ordinance 21 of 2006 to restate the conditions to be that a) RHSM consummate the transaction according to the terms of its contract with Mt. Olivet, and any extensions thereto; b) the reversionary interest be removed or modified as appropriate to facilitate RHSM's acquisition and use of the property, c) the execution and recording of the development agreement between the City and RHSM substantially in the form of the agreement attached to the ordinance as passed in 2006, and d) an extension of the sunset provision to allow RHSM and Mt. Olivet adequate time to accomplish the foregoing. In other words, we ask for the removal of the two year time limit for the satisfaction of the conditions, and the deletion of the condition requiring the "removal" of the reversionary clause so that RHSM could occupy the thirteen acres under a long term lease, were the congress to deem that more suitable than the complete elimination of the reversion. More specifically, we suggest that Section 4 and the sunset provision of the Ordinance be amended to read:

"SECTION 4. CONDITIONS. This Ordinance is conditioned upon the following:

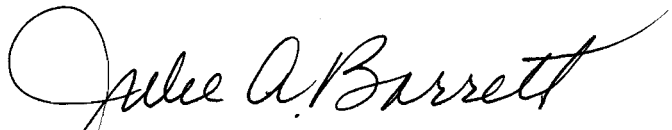
- (a) Removal, termination, amendment, or modification of, or other exemption from, the reversionary clause on the property by the United States Congress, to allow use of the property as contemplated under the Development Agreement referenced below;
- (b) Consummation of the sale, conveyance or other occupancy of the property from Mount Olivet Cemetery to Rowland Hall-St. Mark's School, and recording documentation of such sale, conveyance or other occupancy with the Salt Lake County Recorder;
- (c) Execution and recordation of a Development Agreement between the City and Rowland Hall-St. Mark's School substantially in the form of the draft Agreement attached hereto as Exhibit B."

(d) If the foregoing conditions are not met by December 31, 2010, then, subject to Section 6, below, this Ordinance shall become null and void.”

If, for some reason, the City Council is unable to so amend the Ordinance, we respectfully request that, pursuant to the express terms of the Ordinance, the City Council at least extend the time period in Section 5 through December 31, 2010, being the end of a legislative session, to allow RHSM sufficient time to continue its efforts to remove the reversionary clause.

We ask that you consider this request at the earliest opportunity.

Very truly yours,

A handwritten signature in black ink, reading "Julie A. Barrett". The signature is fluid and cursive, with a large initial "J" and "A".

Julie Barrett  
Assistant Head of School  
Rowland Hall-St. Mark's School

cc. William Adams