
MEMORANDUM

DATE: May 14, 2009

TO: Council Members

FROM: Nick Tarbet / Janice Jardine
Land Use Policy Analyst

SUBJECT: Fred Cox, representing Thomas T. Phung, has requested an extension of the timeframe of Ordinance 24 of 2008 to satisfy the conditions listed on the ordinance. The proposed resolution extends the timeframe from May 20, 2009 to May 20, 2010

POTENTIAL MOTIONS:

1. ["I move that the Council"] Adopt the resolution extending the time period to satisfy the conditions set forth by Ordinance No. 24 of 2008 relating to the rezone of parcels 728, 732, 752, and 766 North Redwood Road from R-1/5,000 to CB.
2. ["I move that the Council"] Decline to extend the time period to satisfy the conditions set forth by Ordinance No. 24 of 2008 relating to the rezone of parcels 728, 732, 752, and 766 North Redwood Road from R-1/5,000 to CB.

NEW INFORMATION:

This is a request by Fred Cox, representing Thomas T. Phung, to extend the timeframe of Ordinance 24 of 2008 to satisfy the conditions listed on the ordinance. The proposed resolution extends the timeframe from May 20, 2009, to May 20, 2010.

On May 20, 2008 the City Council voted in favor of an ordinance to rezone the parcels at 728, 732, 752, and 766 North Redwood Road (the new address is 750 North Redwood Road) from Single Family Residential (R-1/5,000) to Community Business (CB). The proposal is to combine these four existing parcels into one parcel, demolish three residential dwellings and build a shopping center of approximately 35,000 square feet of retail and community oriented services. The project also received approval from the Planning Commission for a conditional use planned development to address frontage, and setback issues on the site.

The ordinance listed the following conditions:

1. Combine the lots located at 728, 732, 752 and 766 North Redwood Road into one legal description, as certified by the City Planning Director.
2. Execution and recording of an avigation easement acceptable to the city Airport and Planning Division.
3. Demolition of the housing may not occur until a building permit has been issued by the city.
4. Prior to issuance of a building permit for demolition of the housing, the petitioner shall donate a housing mitigation fee payable to the Housing Trust Fund.

The project drawings had received Structural, Public Utility, Planning, and UDOT approval prior to the changes in the financial market. Of the conditions listed above the developer still needs to pay for the housing mitigation and finalize the building permit.

Analysis: Due to changes in the banking industry the lender has had to change the original loan and is now pursuing a different loan for this project. The property owner anticipates that funding could be in place within 3 months, and has asked for a 5 month extension, to avoid the potential of a second extension. Planning staff recommends that the Council extend the time frame to 12 months in light of the current economic conditions.

Attached please find a formal request to the City Council from Mr. Cox, the representative for this project, the original Ordinance 24 of 2008, and a draft of a resolution prepared by the City Attorney's Office to extend the ordinance's timeframe.

The following information was provided for the Council meeting on May 6, 2008 at a Council Work session. It is provided again for your reference.

POTENTIAL MOTIONS:

1. ["I move that the Council"] Adopt an ordinance rezoning property at 728, 732, 752 and 766 North Redwood Road from Single Family Residential R-1/5,000 to Community Business CB and approve the proposed \$24,956 donation to the City's Housing Trust Fund for housing mitigation as recommended by the Administration.
2. ["I move that the Council"] Adopt an ordinance rezoning property at 728, 732, 752 and 766 North Redwood Road from Single Family Residential R-1/5,000 to Community Business CB and not require a donation to the City's Housing Trust Fund for housing mitigation as requested by the petitioner.
3. ["I move that the Council"] Not adopt the ordinance

KEY ELEMENTS:

- A. An ordinance has been prepared for Council consideration to rezone property at 728, 732, 752 and 766 North Redwood Road from Single Family Residential R-1/5,000 to Community Business CB subject to the following conditions. The City Recorder is instructed not to record the ordinance until the conditions have been met and certified by the Planning Director. If the conditions have not been met within one year the ordinance shall become null and void. The City Council may, for good cause shown, by resolution extend the time period for satisfying the conditions.
 1. Combine the lots located at 728, 732, 752 and 766 North Redwood Road into one legal description, as certified by the City Planning Director.
 2. Execution and recording of an avigation easement acceptable to the city Airport and Planning Division.
 3. Demolition of the housing may not occur until a building permit has been issued by the city.
 4. Prior to issuance of a building permit for demolition of the housing, the petitioner shall donate a housing mitigation fee payable to the Housing Trust Fund. *(The final amount to be determined by the City Council. The Administration is recommending \$24,956)*
 5. Preparation of a final plat to complete the vacation of the applicable portion of the Holmes Henderson Subdivision.
 6. Reconfiguration of interior lot lines.
- B. Actions required by the City Council include:

1. Rezoning the properties from Single Family Residential R-1/5,000 to Community Business CB.
 2. Approval of the proposed \$24,956 donation to the City's Housing Trust Fund as housing mitigation for the removal of three single-family dwelling units. (Please refer to the Budget Related Facts section of this staff report, pg. 4, and Attachment A for details.)
- C. Key points from the Administration's transmittal and Planning staff report are summarized below. (Please see the Administration's transmittal letter and Planning staff report dated January 23, 2008 item 5C in the transmittal packet for details.)
1. The proposed development would combine four existing properties into one parcel, demolish three residential dwellings, and build a shopping center of approximately 35,000 square feet of retail and community-oriented services.
 2. The project required the Planning Commission's approval for a conditional use planned development to address multiple buildings on the site, one of which will not have the required frontage to the street; and to reduce the required total building setback by 20 % subject to approval of the rezoning. (The CB District requires a maximum setback of 15 feet from the street for 75% of the building façade.)
 3. Land use west (across the street) and south adjacent to the project are commercial. Adjacent properties include four-plexes to the east and a condominium complex of 21 units to the north. The zoning of surrounding properties is mainly CB zoning to the south and southwest, CS zoning (across the street) to the west, and R-1/5,000 to the north and east.
 4. The development proposal requires the demolition of three residential housing units. The applicant will be required to donate \$24,956 to the City's Housing Trust Fund. (See Budget Related Facts section of this staff report, pg. 4, and Attachment A - Housing Loss Mitigation Report to the Planning Commission and Housing Mitigation Plan for details.)
- D. The Administration's transmittal notes the following in regard to the donation of funds to the City's Housing Trust Fund.
1. Since the proposed development requires the demolition of three residential housing units, the applicant is required to follow the regulations of the City Code, Chapter 18.97 Mitigation of Residential Housing Loss.
 2. This section of City Code states that any petition for a zoning change sought to accommodate an expansion of commercial uses, which includes within its boundaries residential dwelling units, may only be approved on condition that a Housing Mitigation Plan is approved by the City Council.
 3. A Housing Mitigation Plan has been submitted by the applicant.
- E. The Housing Loss Mitigation Report to the Planning Commission notes the following. (Please see attachment A - Housing Loss Mitigation Report to the Planning Commission and Housing Mitigation Plan for additional details.)
1. City Code, Chapter 18.97 Mitigation of Residential Housing Loss. Outlines three options for mitigating residential housing loss.
 - a. Replacement housing
 - b. Fee based on difference between housing value and replacement costs
 - c. Enhanced value, where deteriorated housing exists, not caused by deliberate indifference of land owner
 2. The applicant is requesting to use mitigation Option C for the 766 and 728 North Redwood Road residential dwelling units. These two units are vacant due to deterioration beyond what is economically feasible to repair. (Value for 766 N. Redwood Rd. = \$0, value for 728 N. Redwood Road = \$903)

3. The third dwelling unit, 732 North Redwood Road is still part of the housing stock. The applicant is requesting to use mitigation Option B for the loss of that unit. (Value for 732 N. Redwood Rd. = \$24,053)
 4. The Acting Community Development Department Director has determined the applicant would be required to donate \$24,956 to the City's Housing Trust Fund and recommend the Planning Commission accept this fee as appropriate mitigation for the proposed loss of housing.
- F. The purpose of the Single-Family Residential R-1/5,000 District is to provide for conventional single-family residential neighborhoods on lots not less than five thousand square feet in size.
- G. The purpose of the Community Business District is to provide for the close integration of moderately sized commercial areas with adjacent residential neighborhoods. The design guidelines are intended to facilitate retail that is pedestrian in its orientation and scale, while also acknowledging the importance of transit and automobile access to the site.
- H. The public process included presentations to four affected Community Councils, Rose Park, Jordan Meadows, Westpointe, and Fairpark, a public hearing before the Planning Commission and written notification of the Planning Commission public hearing to property owners within a 450 foot radius of the subject property. . The Planning staff report notes:
1. All four community councils agreed that the existing residential units are an eyesore in the community and were in favor of demolishing the houses and replacing it with something else.
 2. The Rose Park Community Council reviewed the request on November 7, 2007. In general the community council supported the project but had concerns with the type of retail proposed.
 3. The Jordan Meadows Community Council reviewed the request on November 14, 2007. The community council was in favor of the project. They expressed preference for the type of businesses occupying the project to be community oriented and noted that medical services are needed in the area.
 4. The Westpointe Community Council reviewed the request on November 21, 2007. The community council voted unanimously in favor of the project. They suggested using Crime Prevention Through Environmental Design (CPTED) principles as part of the development. They also asked the applicant to preserve as many trees as possible as part of the project.
 5. The Fairpark Community Council reviewed the request on November 29, 2007. The community council was in favor of the project. They expressed preference for the type of businesses occupying the project to be community oriented, and to be complementary of each other. They also suggested that the buildings should be certified as "Green Buildings."
- I. The Planning staff report provides findings for the Zoning Ordinance Section 21A.50.050 - Standards for General Amendments. The standards were evaluated in the Planning staff report and considered by the Planning Commission. (Discussion and findings for the standards are found on pages 5-9 of the Planning staff report dated January 23, 2008. Please refer to item 5C in the transmittal packet.)
- J. The project has been reviewed by the appropriate City Departments/Divisions. The development proposal will be required to meet Utah Department of Transportation UDOT and City standards and demonstrate that there are adequate services to meet the needs of the project. The property is located within an existing developed area. There is no evidence that the rezone and subsequent expansion of commercial development as proposed will dramatically increase the amount of traffic in the neighborhood or require additional public facilities that are not already present at the site.
- K. On January 23, 2008, the Planning Commission held a public hearing and voted to forward a positive recommendation to the City Council to rezone the properties subject to the conditions identified by the Planning Commission. In addition, the Planning Commission approved a conditional use planned development. Issues discussed focused on zoning requirements and design elements of the proposed commercial project. The Planning Commission motions are provided below to provide context.

1. The Planning Commission approved a motion to transmit a favorable recommendation to the City Council for the rezoning of the subject properties from Residential R-1/5,000 to Commercial business CB according to the following findings:
 - a. That the Northwest Community Master Plan Amendment states that commercial expansion on 700 North and Redwood Road is appropriate.
 - b. That the Planning Commission accepts the Housing Mitigation Report.
 - c. Prior to issuance of a building permit the applicant will donate to the Housing Trust Fund.
 - d. That all conditions be met before the zoning amendment is finalized.
2. In addition, the Planning Commission approved the conditional use planned development with the following conditions:
 - a. That the Planning Commission approves a modified building frontage as shown on the site plan submitted by the applicant without the two smallest buildings.
 - b. That the lots be combined with one legal description.
 - c. That an avigation easement be provided.
 - d. The demolition of the housing should not occur until a building permit has been issued.
 - e. The Planning Commission delegates final authority for the site design, landscape plan, lighting plan, and signage agreement to the Planning Director and ensures it meet requirements and incorporates the CPTED principles where applicable.
 - f. The planned development is conditioned on approval of the rezoning petition by the City Council.

RECEIVED MAY 12 2009

FRANK B. GRAY
DIRECTOR

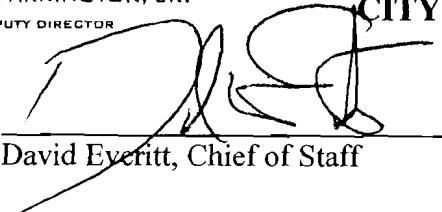
SALT LAKE CITY CORPORATION
DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT
OFFICE OF THE DIRECTOR

RALPH BECKER
MAYOR

MARY DE LA MARE-SCHAEFER
DEPUTY DIRECTOR

ROBERT FARRINGTON, JR.
DEPUTY DIRECTOR

CITY COUNCIL TRANSMITTAL


David Everitt, Chief of Staff

Date Received: 5-12-09

Date Sent to City Council: 5-12-09

TO: Salt Lake City Council
Carlton Christensen, Chair

DATE: May 12, 2009

FROM: Frank Gray, Community & Economic
Development Department Director

RE: Petition 400-07-26: Resolution extending the time period to satisfy the conditions set forth by Ordinance No. 24 of 2008 relating to the rezone of parcels 728, 732, 752, and 766 North Redwood Road from R-1/5,000 to CB.

STAFF CONTACTS: Katia Pace, Associate Planner, at 535-6354 or
katia.pace@slcgov.com

RECOMMENDATION: That the City Council consider adopting the resolution.

DOCUMENT TYPE: Resolution

BUDGET IMPACT: The applicant will donate \$24,956 to the City's Housing Trust Fund.

DISCUSSION:

Issue Origin: This is a request by Fred Cox, representing Thomas T. Phung, to extend the timeframe of Ordinance 24 of 2008 to satisfy the conditions listed on the ordinance. The proposed resolution extends the timeframe from May 20, 2009, to May 20, 2010.

On May 20, 2008 the City Council voted in favor of an ordinance to rezone the parcels at 728, 732, 752, and 766 North Redwood Road (the new address is 750 North Redwood Road) from Single Family Residential (R-1/5,000) to Community Business (CB). The proposal is to combine these four existing parcels into one parcel, demolish three residential dwellings and build a shopping center of approximately 35,000 square feet of retail and community oriented services. The project also received approval from the Planning Commission for a conditional use planned development to address frontage, and setback issues on the site.

The ordinance listed the following conditions:

1. Combine the lots located at 728, 732, 752 and 766 North Redwood Road into one legal description, as certified by the City Planning Director.
2. Execution and recording of an avigation easement acceptable to the city Airport and Planning Division.
3. Demolition of the housing may not occur until a building permit has been issued by the city.
4. Prior to issuance of a building permit for demolition of the housing, the petitioner shall donate a housing mitigation fee payable to the Housing Trust Fund.

The project drawings had received Structural, Public Utility, Planning, and UDOT approval prior to the changes in the financial market. Of the conditions listed above the developer still needs to pay for the housing mitigation and finalize the building permit.

Analysis: Due to changes in the banking industry the lender has had to change the original loan and is now pursuing a different loan for this project. The property owner anticipates that funding could be in place within 3 months, and has asked for a 5 month extension, to avoid the potential of a second extension. Planning staff recommends that the Council extend the time frame to 12 months in light of the current economic conditions.

Attached please find a formal request to the City Council from Mr. Cox, the representative for this project, the original Ordinance 24 of 2008, and a draft of a resolution prepared by the City Attorney's Office to extend the ordinance's timeframe.

Master Plan Considerations: None.

PUBLIC PROCESS:

None.

RELEVANT ORDINANCES:

Ordinance 24 of 2008, Section 5, says: "If the conditions identified above have not been met with one year after adoption, this ordinance shall become null and void. The City Council may, for good cause shown, by resolution, extend the time period for satisfying the conditions identified above."

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**1. RESOLUTION EXTENDING TIMEFRAME
FOR ORDINANCE 24 OF 2008**

RESOLUTION NO. _____ OF 2009

A resolution extending the time period for satisfying
the conditions set forth in Ordinance No. 24 of 2008.
(Property located at 728, 732, 752 and 766 North Redwood Road)

WHEREAS, the City Council enacted Ordinance No. 24 of 2008 on May 20, 2008; and

WHEREAS, that ordinance imposed certain conditions and required that those conditions
be met within one (1) year from the date that the ordinance was approved; 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 in the
ordinance;

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

SECTION 1. The deadline set forth in Section 5 of Ordinance No. 24 of 2008 shall be
and hereby is extended from May 20, 2009, to May 20, 2010 for the applicant to satisfy the
conditions set forth in Section 3 of that ordinance.

DATED this _____ day of _____, 2009.

Passed by the City Council of Salt Lake City, Utah, this ____ day of
_____, 2009.

SALT LAKE CITY COUNCIL

By: _____
CHAIRPERSON

ATTEST AND COUNTERSIGN:

CITY RECORDER

APPROVED AS TO FORM Salt Lake City Attorney's Office Date: <u>MAY 12, 2009</u> By: <u>Paul C. Nielson</u> Paul C. Nielson, Senior City Attorney
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HB_ATTYY-#8501-v1-Resolution_Extending_Ordinance_24_of_2008

2. LETTER FROM FRED COX

Pace, Katia

From: Fred C. Cox [fcc@fredccox.com]
Sent: Monday, May 11, 2009 10:23 AM
To: Pace, Katia
Subject: Ordinance extension, Community Plaza, 750 N. Redwood Road..

Salt Lake City Council,

Re: Community Plaza, 750 N. Redwood Road, Salt Lake City, UT

I have personally met with the bankers that had said they would provide funding last fall. Based on changes to the banking industry, they had asked Mr. Phung to provide additional capital for the loan to be approved.

Since that time, Mr. Phung has sought an additional partner, or different funding. With recent changes to the banking industry, the previous lender is now actively pursuing a different loan for this project.

Since the current City Ordinance expires May 20, 2009, I have been trying to speed the process along, but I have confirmed that the loan will not be completed prior to that date. We anticipate that funding could be in place within 3 months, but would ask for a 5 month extension, until October 20, 2009 to avoid the potential of a 2nd extension request.

The drawings had received Structural, Public Utility, Planning, and UDOT approval prior to the focus shifting back to financing.

We look forward to the project moving again, and we respectfully request the City Council grant an extension at this time.

Fred C. Cox, Architect
4466 Early Duke St.
West Valley City, UT 84120

801-968-3733

3. COPY OF ORDINANCE 24 OF 2008

SALT LAKE CITY ORDINANCE

No. 24 of 2008

(Rezoning Properties Located at 728, 732, 752, and 766 North Redwood Road,
and Amending the Zoning Map, with conditions and time limitation)

AN ORDINANCE REZONING PROPERTIES LOCATED AT 728, 732, 752,
AND 766 NORTH REDWOOD ROAD, AND AMENDING THE ZONING MAP,
WITH CONDITIONS AND TIME LIMITATION, PURSUANT TO PETITION NO.
400-07-26.

WHEREAS, after hearings before the Planning Commission and the Salt Lake
City Council, the City Council has determined that the following ordinance is in the best
interest of the City.

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

SECTION 1. Rezoning of properties. The properties located at 728, 732,
752, and 766 North Redwood Road, which are more particularly identified on
Exhibit "A" attached hereto, shall be and hereby are rezoned from Single Family
Residential (R-1/5,000) to Community Business (CB).

SECTION 2. Amending zoning map. The Salt Lake City zoning map, as
adopted by the Salt Lake City Code, relating to the fixing of boundaries and
zoning districts, shall be and hereby is amended consistent with the rezoning
identified above.

SECTION 3. Conditions. This rezoning is conditioned upon the following:

- a. Combination of the lots located at 728, 732, 752, and 766 North Redwood
Road into one legal description, as certified by the City's Planning Director;
- b. Execution and recording of an avigation easement acceptable to the City
Airport and Planning Division;

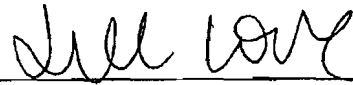
c. Demolition of the housing may not occur until a building permit has been issued by the City; and

d. Prior to issuance of a building permit for demolition of the housing referenced above, the petitioner herein shall donate a housing mitigation fee in the amount of \$ _____.00 [to be determined by the City Council] payable to the Housing Trust Fund.

SECTION 4. Effective Date. This ordinance shall become effective on the date of its first publication and shall be recorded with the Salt Lake County Recorder. The City Recorder is instructed not to publish or record this ordinance until the conditions identified above have been met, as certified by the Salt Lake City Planning Director.

SECTION 5. Time. If the conditions identified above have not been met within one year after adoption, this ordinance shall become null and void. The City Council may, for good cause shown, by resolution, extend the time period for satisfying the conditions identified above.

Passed by the City Council of Salt Lake City, Utah, this 20 day of May, 2008.


CHAIRPERSON

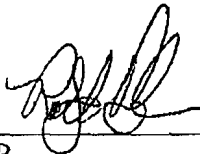
ATTEST AND COUNTERSIGN:


CHIEF DEPUTY CITY RECORDER



Transmitted to Mayor on May 24, 2008.

Mayor's Action: XXX Approved. Vetoed.



MAYOR


CHIEF DEPUTY CITY RECORDER

(SEAL)

Bill No. 24 of 2008.
Published: _____.

APPROVED AS TO FORM
Salt Lake City Attorney's Office
Date March 5, 2008
By Melanie Pief

HB_ATTYY-#3358-v1-Rezoning_properties_located_at_728_732_752_and_766_North_Redwood_Road.DOC

Exhibit "A"

Affected Sidwell Numbers:

08-27-452-006
08-27-452-007
08-27-452-008
08-27-452-009

Legal Description:

Beginning at a point North 216.07 feet, and East 52.19 feet from the Brass Cap Monument found at the intersection of 700 North Street and Redwood Road, said monument being North 266.52 feet and West 94.33 feet from the South Quarter Corner of Section 27 Township 1 North, Range 1 West Salt Lake Meridian; thence North 299.33 feet to the Southwest corner of the Irving Circle Condominiums; thence East 330.41 feet to the Westerly line of the Whitehead Plat "C" Subdivision; thence South 299.29 feet to the Southwest corner of the said subdivision; thence 330.45 feet to the point of beginning.

KP

TRANSMITTED

MAY 12 2009

TO MAYOR'S OFFICE