

SALT LAKE CITY COUNCIL STAFF REPORT

DATE: September 8, 2009

SUBJECT: Request for Ordinance Extension - Petition No. 400-07-24 – A request by Log Cabin Investments, LLC, that Salt Lake City close a nameless street located at 4145 West from 700 South to the Union Pacific Railroad Right of Way, and declare it surplus property.

STAFF REPORT BY: Jennifer Bruno, Budget & Policy Analyst

AFFECTED COUNCIL DISTRICTS: District 2

**ADMINISTRATIVE DEPT:
AND CONTACT PERSON:** Community & Economic Development
Katia Pace, Associate Planner

NOTICE REQUIREMENTS: n.a.

KEY ELEMENTS

- A. The petitioner has requested that ordinance no. 74 of 2008 (approved by the Council in September 2008), be revised by resolution to extend the deadline for satisfying conditions of the ordinance, relating to the closure of a nameless street located at 4145 West, 700 South ending at the Union Pacific right of way.
 - a. The current ordinance is set to expire on September 9, 2009. The Administration has prepared a resolution for Council consideration that would extend the deadline to September 10, 2010.
 - b. The applicant has stated that they have not been able to purchase the land that will become available as a result of the street closure, due to the current real estate and financial market. One of the conditions of the ordinance is payment of fair market value of the land by the applicant. The applicant states that if the extension is granted, there is a reasonable expectation that they will be able to purchase the land.
- B. Due to the date of the ordinance expiration, and due to the fact that the Council did not receive this transmittal until August 25th (after the previous Council Meeting), this matter is on the Council's formal meeting agenda for consideration tonight. Potential motions are listed in the next section. Note that if the Council does not take action at this meeting, the ordinance will expire and the petition will be required to re-submit an application and go back through the full planning process.
- C. Relevant facts from the petition are included in the information previously provided, beginning on the next page.

POTENTIAL MOTIONS:

1. [**"I move that the Council"**] Adopt a resolution extending the time period for satisfying the conditions set forth in Ordinance Number 74 of 2008 (closing a nameless street located at approximately 4145 West from 700 South to the Union Pacific Railroad Right of Way), to September 9, 2010.

-OR-

2. [“I move that the Council”] Not adopt the proposed resolution.

The following information was provided previously for the Council Work Session on August 12, 2008. It is provided again for your reference.

KEY ELEMENTS:

- A. Key points in the Administration’s transmittal are the following:
 1. The petitioner is requesting that Salt Lake City close a street, currently a nameless, unimproved right-of-way, and declare it surplus property.
 - i. The subject street is located as 4145 West from 700 South to the Union Pacific Railroad Right of way.
 - ii. The street is 630 feet long and 66 feet wide (.95 acres).
 - iii. It currently dead-ends at the Union Pacific right-of-way.
 2. The street is not planned or required for pedestrian or vehicular traffic, as it is not recognized as a collector or arterial in the Salt Lake City Transportation Master Plan (2006).
 3. The applicant controls the abutting property to the East, and has requested planned development and subdivision approval, and intends to incorporate half of the subject street into their development.
 - i. The petitioner has indicated that the planned development will consist of 11 smaller buildings with a central parking area.
 - ii. The petitioner indicated (as noted in the minutes of the Planning Commission meeting) that his intent is to sell or lease these spaces to smaller business owners that require a light manufacturing component (plumbers, handymen, landscaping companies, etc).
 - iii. A planned development process is required because the petitioner is requesting lot sizes smaller than are required in the M-1 zone.
 4. The abutting property to the West is vacant, and is owned by Hugo Neu Steel Production. The property owner was contacted and informed of his option to purchase the half of the street that abuts his property, and has informed both property management and the petitioner that he intends to purchase the western half of the street, should the Council approve the petition.
 5. The Planning staff report made the following findings:
 - i. The proposed street closure is consistent with the applicable City Master Plans, and will not impact traffic flow of the area.
 - ii. The proposed street closures and alley vacations will not deny access to adjacent properties, and the property will be sold at fair market value.
 - iii. The continued function of the property as an alley does not serve as a positive urban design element.
 - iv. The alley does not physically exist, though it is legally recorded on an applicable plat;
- B. The petitioner’s property is zoned M-1 (Light Manufacturing). The properties immediately to the North, South, East and West of the subject property are also M-1. The parcels abutting the subject property are vacant, and to the south is the Union Pacific Railroad Right-of-way.

- C. Applicable City Departments reviewed the petition and provided the following comments:
 - 1. The Airport indicated that this property is in Airport Influence Zone B. Therefore the City will require an avigation easement for new development on this property (this requirement will be dealt with as a part of the Planned Development approval).
 - 2. Building Services and Licensing noted that it appears that the southern portion of the property is within a seismic study overlay, and therefore future development will require a geotechnical and surface fault rupture report to address the issue (this requirement will be dealt with as a part of the Planned Development approval).
 - 3. Transportation, Engineering, Fire and Public Utilities all indicated that they have no concerns and recommend the street be closed.
 - 4. No Comments were received from Police or Property Management.
- D. The Poplar Grove was notified of the street closure request on October 2, 2007, but did not provide comment.
- E. On February 13, 2008, the Planning Commission voted to recommend approval of the proposed street closure. There were no comments received from the public at this hearing.
- F. An ordinance has been prepared by the City Attorney's office subject to conditions of approval identified by the Planning Commission. The City Recorder is instructed not to record the ordinances until the conditions have been met and certified by the Planning Director and the City Property Manager.
- G. As noted by the Administration, both the Utah Code and local ordinances regulate review and approval of street closure applications and the disposition of surplus property. The Planning Commission must consider and make a recommendation to the Mayor regarding the disposition of the surplus property. According to Salt Lake City Code, the City shall retain title to the surplus property until the land is sold at fair market value or other acceptable compensation is provided. In addition, this section of the Code requires that the City Council be offered an opportunity to request a public hearing prior to the final disposition of the surplus property by the Mayor. The Council has the authority to close public streets. The declaration of the property as surplus is a function of the Mayor, and requires Planning Commission action.

MASTER PLAN AND POLICY CONSIDERATIONS:

- A. The Council's street closure policy includes the following:
 - 1. It is Council policy to close public streets and sell the underlying property. The Council does not close streets when that action would deny all access to other property.
 - 2. The general policy when closing a street is to obtain fair market value for the land, whether the abutting property is residential or commercial.
 - 3. There are instances where the City has negotiated with private parties to allow the parties to make public improvements in lieu of a cash payment. The Council and the Administration consider these issues on a case-by-case basis.
 - 4. There should be sufficient public policy reasons that justify the sale and/or closure of a public street, and it should be sufficiently demonstrated by the petitioner that the sale and/or closure of the street would accomplish the stated public policy reasons.

5. The City Council should determine whether the stated public policy reasons outweigh alternatives to the sale or closure of the street.
- B. The West Salt Lake Master Plan (1995) identifies the subject street as within the “West Salt Lake Industrial District.” The plan indicates that the pattern of land utilization is “not well organized and poorly interrelated.” The plan calls for decisions and influences “that will result in an improved urban pattern.”
 - C. The Salt Lake City Transportation Master Plan (2006) does not identify this street as an arterial or a collector street.
 - D. Purpose Statement: The purpose of the M-1 light manufacturing district is to provide an environment for light industrial uses that produce no appreciable impact on adjacent properties and desire a clean attractive industrial setting.
 - E. The Council’s adopted growth policy states: It is the policy of the Salt Lake City Council that growth in Salt Lake City will be deemed the most desirable if it meets the following criteria:
 1. is aesthetically pleasing;
 2. contributes to a livable community environment;
 3. yields no negative net fiscal impact unless an overriding public purpose is served; and
 4. Forestalls negative impacts associated with inactivity.

BUDGET RELATED FACTS:

- A. The Administration’s transmittal notes that the applicant has stated an intent to purchase the property at fair market value in order to secure the property. It is the responsibility of the applicant to obtain an appraisal report and work with Property Management. The adjacent property owner has also stated an intent to purchase a portion of the property.

CHRONOLOGY:

Please refer to the Administration’s transmittal for a complete chronology of events relating to the proposed street closure:

- | | |
|---------------------|--|
| • September 5, 2007 | Petition submitted |
| • October 2, 2007 | Notification sent to Poplar Grove CC |
| • February 13, 2008 | Planning Commission Hearing |
| • April 28, 2008 | Transmittal received from Administration |

cc: David Everitt, Lyn Creswell, Esther Hunter, Ed Rutan, Lynn Pace, Melanie Reif, Orion Goff, Larry Butcher, Rick Graham, Jeff Neirmeyer, Tim Harpst, Max Peterson, Mary De La Mare Schaefer, Cheri Coffey, Nick Britton, Karen Hale, Sylvia Richards, Quin Card, Nick Tarbet, Barbara Mellen, Janice Jardine, Sarah Church

File Location: Community and Economic Development Dept., Planning Division, Alley Closures, Log Cabin Investments, Nameless street at 4145 West between 700 South and Union Pacific Railroad Right of Way

SALT LAKE CITY CORPORATION

FRANK B. GRAY
DIRECTOR

DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT
OFFICE OF THE DIRECTOR

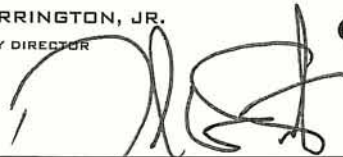
RALPH BECKER
MAYOR

MARY DE LA MARE-SCHAEFER
DEPUTY DIRECTOR

ROBERT FARRINGTON, JR.
DEPUTY DIRECTOR

CITY COUNCIL TRANSMITTAL





David Everitt, Chief of Staff

Date Received:

Date Sent to City Council: 08/22/2009

TO: Salt Lake City Council
Carlton Christensen, Chair

DATE: August 24, 2009

FROM: Frank Gray, Community & Economic
Development Department Director

RE: Petition 400-07-24: Resolution extending the time period to satisfy the conditions set forth by Ordinance No. 74 of 2008 relating to the closing and abandoning of a portion of 4145 West from 700 South to the Union Pacific right-of-way

STAFF CONTACTS: Katia Pace, Associate Planner, at 801-535-6354 or
katia.pace@slcgov.com

RECOMMENDATION: That the City Council consider adopting the resolution

DOCUMENT TYPE: Resolution

BUDGET IMPACT: The Property Management Division must determine the value of the subject street. The applicant and another abutting property owner have agreed to purchase the street from Salt Lake City for fair-market value.

DISCUSSION:

Issue Origin: This is a request by Kevin Towle, representing Log Cabin Investments, LLC, to extend the timeframe of Ordinance 74 of 2008 relating to a street closure request to satisfy the condition listed on the ordinance. The proposed resolution extends the timeframe from September 9, 2009, to September 9, 2010.

Due to the current real estate market the applicant is not able to purchase the land that would become available with the road closure. The applicant is requesting a year extension on the deadline of the condition on the ordinance.

Attached please find a formal request to the City Council from Mr. Towle, a copy of Ordinance 74 of 2008, and a draft of a resolution prepared by the City Attorney's Office to extend the ordinance's timeframe.

Analysis: On September 9, 2008, the City Council voted in favor of an ordinance to close and abandon a portion of 4145 West from 700 South to the Union Pacific right-of-way. The ordinance states that "this street closure is conditioned upon payment to the City of fair market value of the portion of the street, or its equivalent, and title to the portion of the street shall remain with the City until sale for fair market value, or the receipt of equivalent value, in accordance with Salt Lake City Code Chapter 2.58."

The purpose of the street closure was to facilitate a development by the applicant. The applicant has simultaneously received approval for a planned development and associated subdivision on the property abutting the east of the subject street at 4095 West 700 South. The applicant would like to purchase the eastern half of the subject street which abuts his property and incorporate the property into his project. The abutting property owner at 4221 W. 700 South, Hugo New Steel Production, is interested in purchasing the western half of the subject street.

Master Plan Considerations: None

PUBLIC PROCESS:

None

RELEVANT ORDINANCES:

Ordinance 74 of 2008, Section 5, says: "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 condition identified above."

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**1. RESOLUTION EXTENDING TIMEFRAME
FOR ORDINANCE 74 OF 2008**

RESOLUTION NO. _____ OF 2009

A resolution extending the time period for satisfying
the condition set forth in Ordinance No. 74 of 2008.
(A portion of property located at 4145 West from
700 South to the Union Pacific right of way)

WHEREAS, the City Council enacted Ordinance No. 74 of 2008 on September 9, 2008,
which would close and abandon a portion of 4145 West from 700 South to the Union Pacific
right of way, provided that the City receive fair market value for the sale of such land within one
(1) year from the date that the ordinance was enacted; and

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

WHEREAS, current economic conditions have presented financing challenges for the
applicant of said 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. 74 of 2008 shall be
and hereby is extended to September 9, 2010 for the applicant to satisfy the condition set forth in
Section 3 of that ordinance, and said ordinance shall become null and void on that date if the
condition established therein is not satisfied.

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

<p>APPROVED AS TO FORM Salt Lake City Attorney's Office</p> <p>Date: <u>August 25, 2009</u></p> <p>By: <u>Paul C. Nielson</u> Paul C. Nielson, Senior City Attorney</p>
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2. LETTER FROM KEVIN TOWLE

Pace, Katia

From: Kevin Towle [kevin@wwaminc.com]
Sent: Monday, August 10, 2009 8:56 PM
To: Pace, Katia
Subject: RE: Street Closure

Categories: Other

Katia,

Thanks for your call today. I had not realized that it has been almost a year.

Due to the current real estate market we are not in a position to be able to purchase the land that would become available with the road closure. When the market recovers and there is a demand for our proposed project we would have intent to purchase the property from the City. Of course, we have no idea when this might be, but ask for a 1 year extension for this approval for us to try and put something together.

Please let me know if this would be acceptable.

Kevin M. Towle

Log Cabin Investments, LLC

4120 Douglas Blvd. #306-353

Granite Bay, CA 95746

Cell 916-799-6464

Ph. 916-366-6500

Fax 916-366-6556

From: Pace, Katia [mailto:Katia.Pace@slcgov.com]

Sent: Monday, August 10, 2009 12:24 PM

To: Kevin Towle

Cc: Jardine, Janice

Subject: Street Closure

Kevin,

The ordinance below has a condition that if the property is not purchased within a year from the date it was published it will become void. In order to keep this from happening, I would like to suggest that you request an extension to the City Council as soon as possible explaining your situation and the reason for an extension.

It can be a letter or an e-mail addressed to the City Council but sent to me. If you have any question, please feel free to call me.

Katia Pace
Associate Planner
SLC Planning Division nbm
PO Box 145489
Salt Lake City, UT 84114
Office: (801) 535-6354
Fax: (801) 535-6174

SALT LAKE CITY ORDINANCE

3. COPY OF ORDINANCE 74 OF 2008

SALT LAKE CITY ORDINANCE

No. 74 of 2008

(Closing and abandoning a portion of 4145 West from 700 South to the Union Pacific right-of-way, with a condition)

AN ORDINANCE CLOSING AND ABANDONING A PORTION OF 4145 WEST FROM 700 SOUTH TO THE UNION PACIFIC RIGHT-OF-WAY, PURSUANT TO PETITION NO. 400-07-24.

WHEREAS, the City Council of Salt Lake City, Utah, finds after public hearings that the City's interest in the portion of the street described below is not necessary for use by the public as a street and that closure and abandonment of the portion of the street will not be adverse to the general public's interest; and

WHEREAS, the title to the closed portion of the street shall remain with the City until sale for fair market value or its equivalent.

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

SECTION 1. Closing and Abandoning Street. A portion of 4145 West from 700 South to the Union Pacific right-of-way, which is more particularly described on Exhibit "A" attached hereto, and the same hereby is, closed and abandoned and declared no longer needed or available for use as a street.

SECTION 2. Reservations and Disclaimers. The above closure and abandonment is expressly made subject to all existing rights-of-way and easements of all public utilities of any and every description now located on and under or over the confines of this property, and also subject to the rights of entry thereon for the purposes of maintaining, altering, repairing, removing or rerouting said utilities, including the City's water and sewer facilities. Said closure and abandonment is also subject to any existing rights-of-way or easements of private third parties.

SECTION 3. Condition. This street closure is conditioned upon payment to the City of fair market value of the portion of the street, or its equivalent, and title to the portion of the street shall remain with the City until sale for fair market value, or the receipt of equivalent value, in accordance with Salt Lake City Code Chapter 2.58.

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 condition identified above has been met, as certified by the Salt Lake City Property Manager.

SECTION 5. Time. If the condition identified above has 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 condition identified above.

Passed by the City Council of Salt Lake City, Utah this 9th day of September, 2008.

Bill No. 74 of 2008.

Published: has conditions.