

# SALT LAKE CITY COUNCIL STAFF REPORT

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**DATE:** September 27, 2002

**SUBJECT:** Petition No. 400-01-04 – Joan and Ryan Williams request to close a portion of March Street (2935 West) between 500 South and approximately 570 South

**STAFF REPORT BY:** Marge Harvey, Constituent Liaison/Policy and Research Analyst

Document Type	Budget-Related Facts	Policy-Related Facts	Miscellaneous Facts
Ordinance	The Administration’s transmittal notes that the petitioner will be required to purchase the property at fair market value. Salt Lake City Code 2.58 states that the City shall retain title until the land is sold at fair market value.	The proposal is presented as a new ordinance. State law requires public hearings before both the Planning Commission and the City Council to consider the potential impact of losing the public benefit of the street. (Please refer to the Master Plan and Policy Considerations section for Council’s street closure policy.)	The Administration has clearly stated the positive aspects of the proposal. All necessary City departments and divisions have reviewed the proposal and recommended approval of the petition to close a portion of March Street. The applicant has agreed to all conditions of the City departments and divisions and has agreed to purchase the property at fair market value.

## OPTIONS AND MOTIONS:

1. [“I move that the Council”] Adopt an ordinance closing a portion of March Street (2935 West) between 500 and 570 South.
2. [“I move that the Council”] Not adopt an ordinance closing a portion of March Street (2935 West) between 500 and 570 South.

## NEW INFORMATION:

1. During the Sept. 3<sup>rd</sup> briefing, it was noted that current Council Street Closure Policy does not require the same burden of proof as the Council Alley Closure Policy which requires a demonstration that the requested closure satisfies one of four policy considerations: lack of use, public safety, urban design and community purpose. The Public Safety consideration includes documentation that the property is contributing to crime, unlawful activity or unsafe conditions. Although not required, as the petitioners indicate criminal activity is the main reason for the street closure petition, crime statistics for the 500 South to 570 South portion of March Street from 1995 to mid 2002 are attached.
2. Council indicated an interest in clarifying the Council Street Closure Policy to make it consistent with the Council Alley Closure Policy. A comparison of the two policies is attached. If the Council wishes to discuss this, a briefing can be scheduled.

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### KEY ELEMENTS:

1. The property is located in a Heavy Manufacturing “M-2” zoning district. The petitioners state that vandalism, trespassing and theft are a problem in the area and are the main reasons for the street closure petition. Mr. Williams, the petitioner, would like the road closed to stop the theft and vandalism of his property and to incorporate the portion of March Street into his property for future expansion. Mr. Harris of Turner Gas, an abutting property owner, would like the street closed to prevent theft and vandalism. He would prefer not to install a 15-foot landscape buffer, curb and gutter improvements along the March Street frontage as required for a recent expansion of his business. He has indicated that the March Street property is not used regularly or needed by his business.
2. City departments and divisions involved in the review of the proposed street closure have recommended approval of the request and identified specific requirements including easements for existing public utility infrastructure. The petitioner has agreed to all conditions of the City departments and divisions and has agreed to purchase the property at fair market value. Public Utilities will require an easement for unrestricted access to maintain existing sewer and water mains in the street. Consistent with City policy, the Property Management Division recommended that the property be declared surplus and sold at fair market value. The petitioner will be responsible for reimbursing the City for the cost of an independent appraisal of the value of the property.
3. At the June 7, 2001 Planning Commission hearing, Mr. Steven Evans, an abutting property owner spoke against the closure stating that he needs the 500/570 South portion of March Street for access to his auto salvage business. Mr. Evans would like to have March Street improved and maintained for his access needs. Doug Wheelwright, Planning Division, stated that “the preservation of third party access interests are always included in street closures, and therefore Mr. Evans would be able to use the street for occasional access.” Mark Harris, representing Turner Gas Company, the other abutting property owner, spoke in favor of the closure. The Planning Commission voted to forward to the City Council a favorable recommendation that March Street be closed between 500/570 South and to declare this portion of the street as surplus property.
4. On July 15, 2001, City staff met with all three parties, Rodger Tsclamy, attorney for Steven Evans, Mark Harris of Turner Gas, and the petitioner, Ryan Williams. Mr. Williams and Mr. Harris disputed Mr. Evan’s claim that he requires access from March Street (see letters in the Administration’s paperwork for details). Mr. Tsclamy stated he would have a site plan prepared to verify his client’s claim. After reviewing the site plan, Mr. Williams hired Olympus Aerial Survey, Inc. to take aerial photos of the area. Please refer to the attached maps for details.
5. After the meeting, staff consulted with Deputy City Attorney, Lynn Pace, regarding third party rights which were clarified as follows: “a third party right pertains to access right that utilize the subject property for **purposes other than a public street**”, (utility easements for underground lines are an example). It was determined that if the Planning Commission’s motion to approve the street closure was based on the understanding that Mr. Evans would still be able to use March Street for vehicle access to his property, then this should be corrected. In light of this possible miss-communication and because of the new information (site plans and aerial photos), Planning staff elected to take the petition back to the Planning Commission for a rehearing.
6. On October 4, 2001, the Planning Commission reheard the petition and again voted to forward to the City Council a favorable recommendation that March Street be closed between 500/570 South and to declare this portion of the street as surplus property. The street closure is conditioned upon the following:

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- a. Payment to the City of the fair market value of the street property, consistent with Chapter 2.58 of the City Code.
  - b. Execution of an easement agreement between the applicant and the City Public Utilities Department.
  - c. Certification and inspection by the Public Utilities Department that the applicant has obtained all necessary City approvals to install any required improvements (grading and landscaping).
7. The petitioner indicated that he has not had further contact with Mr. Evans since the second Planning Commission hearing. The petitioners have told Mr. Evans that they will make March Street accessible to him if this portion of March Street is closed and purchased by them. The petitioner's tenants have not had contact with Mr. Evans and state that he has not used this portion of March Street since the Planning Commission hearing. The petitioners and their tenants affirm that vandalism, trespassing and theft continue to be a problem in the area. Council Members may wish to discuss with the Administration access issues relating to Mr. Evan's business.
8. 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 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, the ordinance requires that the City Council be offered an opportunity to request an additional public hearing.

## **MATTERS AT ISSUE /POTENTIAL QUESTIONS FOR ADMINISTRATION:**

1. The Administration's transmittal notes that at the Planning Commission hearing, Mr. Steven Evans, an abutting property owner spoke against the closure stating that he needs the 500/570 South portion of March Street as access to his auto salvage business. Council Members may wish to discuss with the Administration access issues relating to Mr. Evan's business. Please refer to the Administration's paperwork for details. Key points include:
  - a. Administrative staff believes that Mr. Evans has sufficient access to his property from Fulton Street (3000 West), an improved city street, unlike March Street which is a dirt street that is a dead-end.
  - b. In 1998, the City closed and sold to Mr. Evans the portion of March Street that abuts his property. The property is not a stand-alone lot and does not have access rights by itself. It cannot be built on or used for storage of materials or vehicles due to a public utility easement.
  - c. The petitioners have informed Mr. Evans that they will make March Street accessible to him if this portion of the street is closed and purchased by them.
  - d. Planning staff indicated that during the Planning Commission field trip to view the property, it was apparent that the property is fenced and a large amount of material is stored on the property blocking access to March Street from Mr. Evan's property.

## **MASTER PLAN AND POLICY CONSIDERATIONS:**

1. The Council's street closure policy includes the following:
  - a. 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.

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- b. The general policy when closing a street is to obtain fair market value for the land, whether the abutting property is residential or commercial.
  - c. 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.
  - d. 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.
  - e. The City Council should determine whether the stated public policy reasons outweigh alternatives to the sale or closure of the street.
2. Council policy statements contained in the City's Transportation Master Plan are summarized below:
- a. Focus on ways to transport people, not on moving vehicles at the expense of neighborhoods.
  - b. Support transportation decisions that increase the quality of life, not necessarily the quantity of development.
  - c. Support the creation of linkages (provisions and incentives) to foster appropriate growth in currently defined growth centers.
  - d. Support considering impacts on neighborhoods on an equal basis with impacts on transportation systems.
  - e. Support giving all neighborhoods equal consideration in transportation decisions.
3. 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:
- a. is aesthetically pleasing;
  - b. contributes to a livable community environment;
  - c. yields no negative net fiscal impact unless an overriding public purpose is served; and
  - d. forestalls negative impacts associated with inactivity.
4. The City's Strategic Plan and the Futures Commission Report contain statements that support creating attractive conditions for business expansion including retention and attraction of large and small businesses, but not at the expense of minimizing environmental stewardship or neighborhood vitality. The documents express concepts such as maintaining a prominent sustainable city, ensuring the City is designed to the highest aesthetic standards and is pedestrian friendly, convenient, and inviting.
5. This portion of March Street is not designated in the City's master plans as a potential component of the bicycle or trail system or as a mid-block walkway.

## CHRONOLOGY:

Please refer to the Administration's transmittal for a complete chronology of events relating to the proposed text amendment.

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| • February 13, 2001      | Petition delivered to Planning  |
| • June 7, 2001           | 1 <sup>st</sup> Planning Commission Hearing   |
| • June 15, 2001          | Meeting with Planning staff, applicant and abutting property owners.                              |
| • October 4, 2001        | 2 <sup>nd</sup> Planning Commission Hearing.  |
| • October 23, 2001       | Received Ordinance from City Attorney   |
| • November 2001-May 2002 | Planning staff diverted for Olympic related petition processing, Planning Commission support, and |

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- May 31, 2002
  - June, 2002
- dealing with backlog of projects and transmittals due to Olympic related workload.  
Additional contact with applicant as to any private discussions or settlements with objecting property owner  
Planning staff updated property owner mailing list, documented police statistics on alleged crime problems related to public access to March Street, and requested revised ordinance from City Attorney to add necessary technical language for street closure.

cc: Rocky Fluhart, David Nimkin, Chief Dinse, Chief Querry, LeRoy Hooton, Margaret Hunt, Rick Graham, David Dobbins, Tim Harpst, Max Peterson, Stephen Goldsmith, Brent Wilde, Doug Wheelwright, Jackie Gasparik, Annette Daley, Janice Jardine

File Location: Community and Economic Development Dept., Planning Division, Street Closures, March Street (2935 West)