

SALT LAKE CITY COUNCIL STAFF REPORT

DATE: August 20, 2004

SUBJECT: Petition No. 400-03-19 – A request by BFI/Burbs LLC, to close:

- a portion of Bellflower Street (3130 West) between the railroad right-of-way and 700 South, and
- a portion of 700 South Street between Fulton Street (approximately 3000 W) and Bellflower Street

STAFF REPORT BY: Janice Jardine, Land Use Policy Analyst

AFFECTED COUNCIL DISTRICTS: District 2

**ADMINISTRATIVE DEPT:
AND CONTACT PERSON:** Community and Economic Development
Jackie Gasparik, Principal Planner

NOTICE REQUIREMENTS: Newspaper advertisement and written notification to surrounding property owners 14 days prior to the Public Hearing

KEY ELEMENTS

- A. The partial street closures would facilitate construction of a solid waste transfer station to expand the petition's current refuse and recycling collection services facility operations located at 675 South Gladiola Street (3400 West). The petitioner's property and surrounding area are zoned Heavy Manufacturing M-2. (Please see the attached map.)
- B. The Planning staff reports note that in 2001, the Planning Commission and City Council approved a petition that vacated a portion of the old residential subdivision (Buena Vista Subdivision) and closed certain streets and alleys (located between Gladiola and Fulton Streets and between 700 South and the Union Pacific Railroad tracks). This action was taken to facilitate creation of a new two-lot (10 acres each) industrial subdivision and construction of the petitioner's general headquarters and recycling, waste and truck maintenance facilities. The current BFI recycling facility is located on one lot. The other lot was not developed due to the need to maintain access to another parcel of property (owned by Don Layton). BFI recently purchased Mr. Layton's property.
- C. All necessary City departments and divisions reviewed the proposal and recommended approval of the street closures subject to City standards and specific requirements. The petitioner has agreed to all conditions of the City departments and divisions and has agreed to purchase the property at fair market value. (Please see *Budget Related Facts* on pg. 5 for details relating to the purchase amount.)
1. The Transportation Division will require:
 - a. Coordination with the railroad for the proposed spur access and railroad crossing mitigation at Fulton Street (approximately 3000 West) and March Street (2935 West). (The streets are located east of the petitioner's property.)
 - b. Street improvements along Fulton Street (pavement, curb, gutter, sidewalk, etc.).
 - c. Dedication and construction of a cul-de-sac turnaround on the south end of Fulton Street.
 - d. Vehicular access to all remaining properties.
 2. Public Utilities notes that future site design and water, sewer and drainage requirements may involve utility infrastructure improvements in the area.
 3. The Fire Department notes that future development may require additional fire hydrants and fire apparatus access roads.

- D. On May 26, 2004, the Planning Commission voted to recommend approval of the street closures subject to:
1. The property being sold at fair market value as approved by the City's Property Management Division.
 2. The City retaining deed to the city-owned property until conveyed in accordance with City Code 2.58 (City-Owned Real Property).
 3. Reservation of an avigation easement for the former street property area.
 4. Dedication and construction of a cul-de-sac turnaround on the south end of Fulton Street and other Departmental recommendations.
- E. An ordinance has been prepared by the City Attorney's office. The Administration's transmittal notes that the ordinance prepared by the City Attorney's office purposefully lists the conditions of approval legally refined versus verbatim of the Planning Commission minutes. The City Recorder is instructed not to record the ordinance until the conditions have been met and certified by the Salt Lake City Property Manager.
- F. 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.

MATTERS AT ISSUE /POTENTIAL QUESTIONS FOR ADMINISTRATION:

- A. Council Members may wish to discuss with the Administration in further detail the petitioner's proposal to use the 900 South rail line for shipment of materials from the recycling and waste transfer facility. (Please see the attached letters from Union Pacific and BFI, the May 26, 2004 Planning Commission minutes and the Planning staff report dated May 26, 2004 for details.)
1. On May 26, 2004, in addition to the street closure requests, the Planning Commission approved a conditional use for the waste transfer station as designed and reflected in the proposed site and elevation drawings subject to Departmental conditions and an additional condition that the conditional use shall not have a negative impact on the 900 South rail line.
 2. The Planning staff report notes that as part of the site development plan, a private railroad spur will be constructed (across lots 1 & 2 of the Vista Industrial Subdivision) to ship material from the recycling center and the waste transfer station. Upon recommendation from Planning staff, BFI has provided a letter and also a letter from the railroad stating that the materials would not be shipped on the 900 South rail line through the City.
 3. The letter from BFI notes:
 - a. In response to comments from the Community Council and DJ Baxter from the Mayor's office, this letter is being provided to assure the City that BFI will not allow any material from the proposed recycle and transfer station to be shipped via rail along the 900 South line.
 - b. Should Union Pacific change their approach at any time in the future, BFI agrees that an alternative form of shipping will be employed.
 - c. The site and building are being designed to accommodate both semi trucks and trains.
 4. The letter from Union Pacific notes:
 - a. There will be no effect on the "900 South Line" east of MP 780.25 near Delong Street (2150 West).
 - b. The new business generated by BFI will be handled by the Utah Railway via the Small Arms Industrial Lead (which enters the Passenger Main at MP 780.25) to Roper Yard.

- B. Council Members may wish to discuss with the Administration in further detail the steps taken to address:
1. Complications due to the need to preserve street access to all property owners in the area. As previously noted, in 2001, the Planning Commission and City Council approved a petition that vacated a portion of the old residential subdivision (Buena Vista Subdivision) and closed certain streets and alleys. This action was taken to facilitate creation of a new, two-lot industrial subdivision and construction of the petitioner's facilities. At that time, the City Attorney's office emphasized the necessity to ensure that no person would be materially injured by the subdivision alteration, vacation and/or change. The City Attorney's office identified three possible solutions for the Planning Commission to consider before sending a recommendation on to the City Council (summarized below).
 - An agreement with affected property owners
 - Alternative access for abutting property owners
 - Judicial action to invalidate allegedly illegal lot
 2. The Administration's transmittal notes that at the September 10, 2003 Planning Commission hearing, the Commission reviewed and then tabled action on the petition. The main issue was that Mr. David Brundle objected to closing a portion of 700 South claiming that to do so would deny him all access to his property. The Commission tabled action until the dispute was settled or until Planning staff could provide more information. Since that hearing, the applicant, (Burbs LLC) has purchased the Brundle property and a copy of the recorded deed has been provided to Planning Staff. On May 26, 2004, the Planning Commission re-opened the petition, held a public hearing and voted to forward a favorable recommendation to the City Council.
 3. The Planning staff report notes that there are two parcels in the 700 South right-of-way that were created by tax/Sheriff's deeds. The City does not recognize the lots as legal buildable lots because they were not created as part of an approved subdivision and do not meet the minimum zoning requirements in the Heavy Manufacturing M-2 zoning district. The owners of the property may object to the closure of a portion of 700 South. The City would normally recommend closure of this section of 700 South but, since the property is privately owned this area will remain open until combined with abutting property for development. The applicant has made purchase offers through the years but, the offers have not led to any sale.
- C. Council Members may wish to consider adjusting the Council's street closure policy to ensure a consistent policy direction with streets and alleys. (Please refer to the next section for the Council's street closure policy.) Planning staff has indicated to Council staff that the current street closure procedure does not require Community Council notification and review. (Currently, the Planning Commission agenda is mailed to Community Council Chairs. A Planning Commission hearing notice is mailed to property owners within a 300-foot radius of a proposed street closure.) During the Council's alley policy discussions, Council Members adopted the following modifications for alley closures or vacations:
1. Shift the focus to consideration of a proposed request with demonstrated public benefit rather than supporting closure/vacation whenever possible.
 2. Require an evaluation and documented demonstration of public interest versus private interest. The standard should be to demonstrate an over-riding public purpose, rather than an over-riding private interest.
 3. Include neighborhood and community council review and comment as part of the public process prior to the Administration formalizing their recommendation to the City Council.
- D. The Administration's analysis addresses the Buena Vista Master Plan. The Council has previously expressed concern when draft master plans (not adopted by the Council) are cited as policy in analysis. The Buena Vista Master Plan was approved by the Planning Commission in 1985, but was not approved by the Council, according to official records. A mitigating factor is that key elements of the Buena Vista Plan were adopted as part of the West Salt Lake Community Master Plan in 1995.

- E. A small portion of the petitioner's property, along the east side of Gladiola Avenue, relates to the Open Space Master Plan. The Open Space Master Plan shows an open space corridor for pedestrian/bicycle access running north/south along Gladiola Avenue (3400 West) from Indiana Avenue (900 South) to 500 South. The Plan notes that this is a potential corridor loop to 500 South and back to the regional sports park site at 1900 West. The streets in the closure request are not designated in the City's master plans for mid-block walkways.

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 Community Master Plan Update, adopted by the City Council on March 21, 1995, identifies this area as part of the West Salt Lake Industrial District. The West Salt Lake Industrial District includes the area between Interstate 80 south to 2100 South and from Redwood Road west to Bangeter Highway (4000 West). This area is defined as an appropriate growth center for future industrial land uses. Recommendations for industrial land uses are summarized below:
1. The area west of Redwood Road should be devoted exclusively to industrial development and related uses.
 2. Encourage high quality industrial park type of planned developments wherever possible.
 3. Rezone heavy industrial areas that are located near residential areas for more compatible commercial and light industrial uses.
 4. Provide a greater portion of urban services and public infrastructure in high priority growth areas.
 5. Future street development based on the City Transportation Master Plan provides a coherent, organized pattern of roads that will improve access to the area and encourage logical development of land uses.
 6. Environmental constraints such as the high water table, liquefaction potential, poor soil suitability and airport noise will influence future land use and may require mitigation of geologic and hydrologic features including wetlands and wildlife habitats.
 7. Develop a "Good Neighbor Industry Award" program to recognize industries that demonstrate awareness and concern for the quality of life in the West Salt Lake area.
- C. Council policy statements contained in the City's Transportation Master Plan are summarized below:
1. Focus on ways to transport people, not on moving vehicles at the expense of neighborhoods.
 2. Support transportation decisions that increase the quality of life, not necessarily the quantity of development.
 3. Support the creation of linkages (provisions and incentives) to foster appropriate growth in currently defined growth centers.
 4. Support considering impacts on neighborhoods on an equal basis with impacts on transportation systems.
 5. Support giving all neighborhoods equal consideration in transportation decisions.

- D. 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.
- E. 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.

BUDGET RELATED FACTS:

The Administration’s transmittal notes that the City would receive approximately \$110,100 for the sale of the street properties. The City-owned property to be sold is 1.506 acres. Consistent with City policy, the Property Management Division recommended that the property be declared surplus and sold at fair market value.

CHRONOLOGY:

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

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| • July 15, 2003 | Petition delivered to Planning |
| • July 22, 2003 | Petition sent to departments for review |
| • September 10, 2003 | Planning Commission Hearing |
| • May 26, 2004 | Planning Commission Hearing |
| • June 1, 2004 | Transmittal prepared and ordinance requested from the City Attorney’s office |

cc: Rocky Fluhart, Guevara, Sam, Chief Dinse, Chief Querry, Rick Graham, LeRoy Hooton, Lee Martinez, David Dobbins, Tim Harpst, Max Peterson, Louis Zunguze, Brent Wilde, Doug Wheelwright, Jackie Gasparik, Esham, Barry, Marge Harvey

File Location: Community and Economic Development Dept., Planning Division, Street Closures, BFI/Burbs LLC,

- o a portion of Bellflower Street (3130 W) between the railroad right-of-way and 700 South, and
- o a portion of 700 South Street between Fulton Street (approximately 3000 W) and Bellflower Street (3130 W)