

# **SALT LAKE CITY COUNCIL STAFF REPORT**

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**DATE:** November 2, 2004

**SUBJECT:** Petition No. 400-04-14 & 400-04-15 – A request by Garff Family, LLC, requesting the closures of Hamilton Place (extending north from 600 South between State Street and 200 East) and Hawthorn Ave (extending west from 200 East between 500 and 600 South) to declare the streets as surplus property, and to disclaim any interest the City or the public may have with these private streets.

**STAFF REPORT BY:** Jennifer Bruno, Policy Analyst

**AFFECTED COUNCIL DISTRICTS:** District 4

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

**NOTICE REQUIREMENTS:** Newspaper advertisement once a week for 4 weeks prior to the Public Hearing

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## **KEY ELEMENTS:**

- A. The Administration's transmittal notes:
1. In order to clear the chain of title for the properties, the City Attorney's Office determined that the City could not simply disclaim any interest, but that the applicant would have to apply and go through the City's street closure process to resolve any interest the City (i.e. the public may have, if at all.
  2. Hamilton Place and Hawthorne Avenue are private right-of-ways that at one time provided access for a handful of residential properties approximately 80-plus years ago.
  3. Hamilton Place has not been used for any type of public access in at least 20 years, and Hawthorne Avenue has not been used for at least 35 years.
  4. The petitioner owns every parcel on the plat between 500 and 600 South and State Street and 200 East. The disposal and acquisition of the property by the petitioner, would complete the ownership of the plat, and would reflect the reality of the usage – as the petitioner has maintained and been the sole user of the subject property for the last few decades.
- B. The petitioner's property is zoned Downtown D-2. The property immediately to the north of the petitioner's property is zoned Public Lands PL (the City and County Building). The properties immediately to the East, South, and West, are zoned Downtown D-3, D-2, and D-1, respectively.
- C. All necessary City departments and divisions reviewed the proposal and recommended approval of the street closures subject to City standards and specific requirements.
1. The Fire Department has no objections to the subject street closures, providing that emergency access lanes for the existing buildings and fire hydrants must be maintained and accessible for fire apparatus.
  2. Public Utilities has no objections to the street closures, provided that an easement is recorded to Salt Lake City Corporation for the maintenance, repair, operation, and inspection of an existing sewer main (currently owned by Public Utilities).

3. As per city ordinance, the City Property Manager has determined the value of compensation required. In this case, the Property Manager has determined that the easement (for the existing sewer main) is acceptable as payment in full, in lieu of actual cash compensation. The petitioner has agreed to these terms
- D. On September 8, 2004, the Planning Commission voted to recommend approval of the street closures, and the subject property be declared surplus and disposed of according to Salt Lake City Code, Section 2.58, subject to the following:
  1. Emergency access lanes for the existing buildings must be maintained and any existing fire hydrants must be maintained and accessible to fire apparatus.
  2. Recordation of an easement dedication to Salt Lake City Corporation for the maintenance, repair, operation and inspection of the existing sewer mains.
  3. All future developments on this block will be required to comply with the Salt Lake City Codes and Ordinances. Future lot consolidation/subdivision must comply with the requirements of Conditional Use Permit #410-644, (November 19, 2003).
- E. 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 ordinance until the conditions have been met and certified by the Planning Director and the City Property Manager.
- F. The standard Planning Commission agenda was sent to all chairs of the Community Councils, including the Central City Community Council. No questions or comments have been received to date.
- G. The Planning staff report notes the following findings of fact:
  1. The subject properties to be closed within the plat are not needed by either the city or the general public for required access.
  2. The proposed closures are consistent with the applicable City Master Plans.
  3. Easements for the existing public utilities infrastructure must be retained by the City.
  4. The private street right-of-way will remain.
  5. Public safety is adequate on site.
- H. In a related matter, a conditional use permit was granted on November 19, 2003 to the petitioner for the renovation and expansion of an existing car dealership located on the plat. Construction on this dealership is completed, and no further construction is planned. Currently there are multiple buildings on the plat which share parking and signage, resulting in an overall non-conformance to city parking and signage codes. The conditional use permit was granted so that future development may be guided in the conditions of the permit. The following are the conditions:
  1. One building per lot.
  2. One sign per lot.
  3. Further definition of parking so as to make it clear which parking is for which building.
  4. Further landscaping of the plat.
- I. 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:**

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.

## **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 purpose of the Downtown Support District D-2, is to accommodate commercial uses and associated activities that relate to and support the Central Business District, but do not require a location within the CBD. This zoning classification permits automobile dealerships as a conditional use. Development can also be less intensive than that of the Central Business District.
- C. The Central Community Development Plan, adopted by the City Council in 1974, identifies this property as a Commercial District, in support of the Central Business District, just to the north. While low-intensity uses such as car dealerships are conditional uses under the current zoning, the Central Community Development Plan intends for this district (which includes the subject property) to be specialized tourist and visitor support services, and recommends that low-intensity uses be discouraged.
- 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 not receive cash payment for the transfer of street properties, but would receive utility easements for the existing sewer mains, as acceptable payment in full, in lieu of actual cash compensation. The City-owned properties to be sold are .19 acre (Hamilton Place) and .15 acre (Hawthorn Avenue), for a total of .34 acres. Consistent with City policy, the Property Management Division recommended that the property be declared surplus and sold at fair market value. The Administration found the following:

1. Ownership interest in these two streets is minimal.
2. Therefore fair market value of the land contained in these two private streets is also minimal.
3. Property title research has determined that the City's ownership interest is limited to the City's claim through prescriptive use for sub-surface utility easements.
4. A utility easement would be necessary for the existing sewer mains.
5. The Property Manager has determined that the easements are acceptable as payment in full, in lieu of actual cash compensation.

## CHRONOLOGY:

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

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| • April 14, 2004     | Petition assigned to Planning  |
| • September 8, 2004  | Planning Commission Hearing  |
| • September 21, 2004 | Transmittal prepared and ordinance requested from the City Attorney's office |

cc: Rocky Fluhart, Sam Guevara, Chief Dinse, Chief Querry, Rick Graham, LeRoy Hooton, 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, Garff Family LLC:

- Hamilton Place (extending north from 600 South between State Street and 200 East), and
- Hawthorn Avenue (extending west from 200 East between 500 and 600 South)