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# SALT LAKE CITY COUNCIL STAFF REPORT

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**DATE:** August 10, 2010

**SUBJECT:** Petition No. 400-06-50 – A petition submitted by Utah Metal Works requesting the closure of Everett Avenue from Dexter Street to Hot Springs Street and 800 West from 1500 North to Everett

**STAFF REPORT BY:** Jennifer Bruno, Deputy Director

**AFFECTED COUNCIL DISTRICTS:** District 3

**ADMINISTRATIVE DEPT:** Community and Economic Development

**NOTICE REQUIREMENTS:** n/a – Public Hearing has already been held

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## POTENTIAL MOTIONS:

1. [**“I move that the Council”**] Adopt an ordinance closing and abandoning a portion of 800 West from approximately halfway between Everett Avenue and 1500 North, northward to 1500 North, as a public street.  
**Or**
2. [**“I move that the Council”**] Not adopt the ordinance.

## BACKGROUND

In April of 2008, the Council held a public hearing regarding this petition, which included three sections of street to be considered to be closed in the Swedetown area, to facilitate development of the petitioner’s business, Utah Metal Works (*see attached map – current section for Council consideration is in red cross-hatch*). The petitioner had worked out agreements with all abutting property owners except one adjacent to 800 West, which affected only one of the requested sections of streets. Therefore, the Council agreed to close the two uncontested sections, and leave the petition open for the third section (the remainder of 800 West) so that if the petitioner could reach a resolution with the adjacent property owner for the third section, they would not have to re-petition the City and go through the full planning process twice.

## CURRENT ISSUE BEFORE COUNCIL

The petitioner has resolved the issue with the abutting property owner by purchasing the property, and would now like the Council to re-consider the third section of the original street closure request – 800 West from approximately halfway between Everett Avenue and 1500 North, northward to 1500 North (*section in red cross-hatch, see attached map*). Staff has included the original staff report from 2008 should the Council wish to discuss the full original petition.

**The attorney’s office has prepared an ordinance for Council consideration to close this section of the original street closure request.** This matter is before the Council tonight (August 10, 2010) in the Unresolved Issues section of the formal agenda.

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

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## STAFF REPORT FROM 4/2008

## *NEW INFORMATION FOR PUBLIC HEARING*

Council Staff has spoken with the petitioner. Utah Metal Works has not progressed significantly in working out an agreement with the property owner of 800 West and 1500 North. The petitioner would be agreeable to the Council adopting Phase 1 and the Everett Avenue Portion of Phase 2, leaving the public hearing open for the 800 West portion of Phase 2. It is their hope to work out an agreement with that property owner at some point in the future (possibly after they see the improvements to the other closed streets), and come back to the Council without having to go through the full planning commission process. Making a motion to continue the public hearing to a future date would preserve this possibility for the applicant.

## **POTENTIAL MOTIONS:**

### *(TO END/CONTINUE THE PUBLIC HEARING)*

3. [**"I move that the Council"**] close the public hearing related to ordinances defined as Exhibits 2a and 2b, and continue the public hearing for Exhibit 2c to a future date – to allow the petitioner to work with an abutting property owner on a mutually agreeable solution for that section of the possible street closure.

### And

### *(TO ADDRESS STREET CLOSURES)*

4. [**"I move that the Council"**] Adopt an ordinance closing and abandoning a portion of Everett Avenue from Dexter Street eastward to a point approximately halfway between 800 West and Hot Springs Street, and a portion of 800 West from Everett Avenue northward to a point approximately halfway to 1500 North, subject to conditions outlined in the ordinance (Exhibit 2a - addressing "Phase 1" - Planning Commission Recommended)

### And/or

5. [**"I move that the Council"**] Adopt an ordinance closing and abandoning a portion of Everett Avenue from a point approximately halfway between 800 West and Hot Springs Street, eastward to Hot Springs Street, subject to conditions outlined in the ordinance (Exhibit 2b - addressing the Everett Avenue portion of "Phase 2" - Planning Commission Recommended)

### And/or

6. [**"I move that the Council"**] Adopt an ordinance closing and abandoning a portion of 800 West from a point approximately halfway between Everett Avenue and 1500 North, northward to 1500 North, subject to conditions outlined in the ordinance. (Exhibit 2c - addressing the 800 West portion of "Phase 2" - NOT recommended by the Planning Commission)

### Or

7. [**"I move that the Council"**] Not adopt any of the ordinances stated above.
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*The following information was provided previously for the Council Work Session on March 13, 2008. It is provided again for your reference.*

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## **KEY ELEMENTS:**

- A. The Administration has prepared three ordinances for Council consideration, in order to allow the Council to take action on parts of the street closures and not others:
  1. Exhibit 2a (addressing "Phase 1"): closing and abandoning a portion of Everett Avenue from Dexter Street eastward to a point approximately halfway between 800 West and Hot Springs Street, and a portion of 800 West from Everett Avenue northward to a point approximately halfway to 1500 North.
  2. Exhibit 2b (addressing the Everett Avenue portion of "Phase 2"): closing and abandoning a portion of Everett Avenue from a point approximately halfway between 800 West and Hot Springs Street, eastward to Hot Springs Street.

3. Exhibit 2c (addressing the 800 West portion of “Phase 2”): closing and abandoning a portion of 800 West from a point approximately halfway between Everett Avenue and 1500 North, northward to 1500 North.
  4. All three ordinances are subject to the conditions of approval identified by the Planning Commission (see item #B.5).
  5. The City Recorder is instructed not to record the ordinance(s) until the conditions have been met and certified by the Planning Director and the City Property Manager.
  6. The petitioner has one year after adoption to meet all conditions outlined in the ordinance, after which point the ordinance becomes null and void.
- B. Key points in the Administration’s transmittal are the following:
1. The petitioner is requesting that Salt Lake City close Everett Avenue between Dexter St and Hot Springs Street, and 800 West between Everett and 1500 North. The petitioner would pave these surfaces to allow for better road conditions for their heavy trucks, as well as flexibility in staging these trucks and other materials. The petitioner has separated these requests into two “Phases” in order to allow flexibility to address property and access issues (**see attached map**):
    - i. *Phase 1* – Everett Avenue between Dexter Street and halfway between 800 West and Hot Springs Street & 800 West between Everett Avenue and halfway between Everett Avenue and 1500 North.
    - ii. *Phase 2* – Everett Avenue, from halfway between 800 West and Hot Springs Street, eastward to Hot Springs Street & 800 West, from halfway between Everett Avenue 1500 North, northward to 1500 North.
  2. The subject portion of Everett Avenue is 850 feet long and 66 feet wide (56,100 square feet). The subject portion of 800 West is 264 feet long and 66 feet wide (17,424 square feet). The total acreage is 1.81 acres. Both subject streets are partially improved rights-of-way, but are not currently maintained and have been heavily damaged by the truck traffic common in the M-2 (Heavy Manufacturing) Zoning District.
    - i. At this time the petitioner is only requesting the portion identified as “Phase 1” be closed (see attached map). There are still property ownership and access issues that the petitioner would like to resolve before closing “Phase 2” (see #A.3.)
    - ii. The Planning Commission voted to forward a recommendation to close the entirety of Everett Avenue between Dexter and Hot Springs Street (“Phase 1” and part of “Phase 2”). The Planning Commission recommended not closing the northern half portion of 800 West (the 800 West part of “Phase 2”). *See key element #H for a further discussion of Planning Commission action.*
    - iii. If the closures are approved, the petitioner would work with the City’s Property Management Division to determine fair market value.
  3. The petitioner owns abutting property to the South, North, East and West of Phase 1 of the Street Closure. With regard to Phase 2, the petitioner abuts the proposed street closures along with Union Pacific (in negotiations to sell to Rocky Mountain Power) on Everett Avenue, as well as Kristina Nielson on 800 West (owner of the property at 1475 North 800 West).
    - i. The petitioner is currently in negotiations with Rocky Mountain Power to provide an access easement or find another property/access resolution.
    - ii. The petitioner has attempted to negotiate access and easements with the property owner at 1475 North 800 West. However, these attempts have not been successful, and the property owner is not willing to grant approval at this time to the 800 West portion of Phase 2 of the closure, even with an easement.

4. Everett Avenue and 800 West are both identified as local streets in the Salt Lake City Major Street Plan (2006).
    - i. Planning staff notes that the traffic pattern of this area is incompatible because of the close proximity of heavy manufacturing uses and single-family residential uses. Traffic serving heavy manufacturing uses substantially deteriorates the roadways used by single family residential traffic.
    - ii. The Capitol Hill Master Plan recommends that the street layout should be improved to better serve existing and proposed land uses (*see Master Plan Considerations item #B for a further discussion of the Capitol Hill Master Plan*).
    - iii. The proposed street closures, if approved, would re-route residential traffic down Hot Springs Street to 1500 North.
    - iv. The Administration's transmittal notes that residents currently avoid this portion of Everett Avenue (even though it is in some cases the most direct route) because of the poor condition of the roadway.
    - v. There are no plans by the City to improve or upgrade 800 West or Everett Avenue at this time.
  5. The petitioner is planning to re-pave the purchased streets, and use them for better circulation between the properties owned by Utah Metal Works, particularly in the winter months. The ordinances require the execution of a development agreement in order for the petitioner to take ownership of the streets, providing for the following:
    - i. Installation of gates at Everett Avenue and Hot Springs and Dexter Street, with access at all times for emergency services. If Phase 2 (800 West) is approved a fence will be required there as well.
    - ii. If Phase 1 is approved and not Phase 2, a hammerhead will be required to be constructed along Everett Avenue to allow fire access turnaround in the area.
    - iii. Installation of a solid wall or fence between 7 and 10 feet high. Any outdoor storage shall be stacked lower than the enclosing wall or fence.
    - iv. Landscaping of the first 25 feet of front yard and 15 feet of corner side yards.
    - v. Easements for the various public utilities.
    - vi. Frontage improvements, at the expense of the petitioner, shall be made along Hot Springs Street and 1500 North.
    - vii. Documentation must be provided to the Planning Division that this is not a Brownfield site.
  6. The Planning staff report notes the following findings:
    - i. Closing the Phase 1 portions of Everett and 800 West would not deny access to adjacent property owners. Phase 2 would not commence until consent has been given by the two adjacent property owners who depend on these areas for access.
    - ii. The applicant is willing to purchase the property at fair market value.
    - iii. Hard surfacing of the proposed property will provide room for parking and staging for business-related activities of the petitioner. As a result, trailers will be stored on-site instead of along public rights-of-way. This will provide relief to the poor condition of some of the roads in Swedetown, and decrease interactions between incompatible traffic.
    - iv. Planning Staff finds that the public policy reasons for closure outweigh the alternatives to closure, outlined in their staff report to the Planning Commission.
- C. The petitioner's property is zoned M-2 (Heavy Manufacturing). The properties immediately to the North, South, East and West of the petitioner's property are also zoned M-2 (Heavy Manufacturing). Properties located East of Hot Springs Street are zoned M-1 (Light Manufacturing). The surrounding land uses in all directions but North are industrial. The

land uses to the North (along 1500 North) are residential, and are legal with nonconforming status. Residential uses are no longer permitted in the M-2 zone.

- D. All necessary City departments and divisions reviewed the proposal and recommended approval of the street closure subject to City standards and specific requirements outlined in the ordinance.
1. The petitioner will have to secure an avigation easement from the Department of Airports if any new development is pursued on the site, as it is located in Airport Influence Zone H.
  2. The petitioner will have to provide Public Utilities and to the Fire Department a means for accessing the interior of the site for emergency response issues, as well as the utilities which run under the proposed street closures.
- E. The Capitol Hill Community Council was notified of the proposed street closure but did provide comment.
- F. On March 8, 2007, the Planning Division held an open house regarding the proposed street closure. 10 people attended, including the applicant. All that attended were generally supportive of the closures. Comments received were the following:
1. Those attending wanted to see fences in-between Utah Metal Works' property and the residential uses;
  2. Those attending wanted to see a stoplight on Beck Street at Everett Avenue (*staff note: this would be an action undertaken by the Utah Department of Transportation*);
  3. Those attending supported trucks and trailers being taken off Hot Springs Street.
- G. Subsequent to the open house, the property owner at 1475 North 800 West (the parcel that abuts the "Phase 2" portion of 800 West) indicated that she does not want her access via 800 West taken away. She voiced no objections to "Phase 1" of the closure, but did not support Utah Metal Works obtaining the portion of the street abutting her property. This property owner also testified at the Planning Commission public hearing.
- H. On September 26, 2007, the Planning Commission voted 7-1 to recommend approval of the proposed street closure (Phase 1 and the Everett Ave portion of Phase 2 only), and the subject property be declared surplus. The Planning Commission included the Everett portion of Phase 2, as the applicant has been working through access issues with this property owner, and this property owner has not objected to the closure. Other items discussed included:
1. Because of objections raised by the property owner at 1475 North 800 West, Planning Staff changed their recommendation to the Commission that the City approve Phase 1 and the Everett portion of Phase 2 only. Their previous recommendation had been to approve both Phases, subject to successful access negotiations.
  2. One property owner in the area voiced support for the entire petition, while one other property owner and one resident voiced opposition for the 800 West portion of Phase 2.
  3. Questions were raised relating to the environmental status of the site - this was included as a part of the Planning Commission motion, and incorporated into the Development Agreement referenced in item A.5.

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

1. The Council may wish to consider the phasing of the street closure requests. It is Council Staff's understanding that if the Council adopts the ordinance dealing with the Phase 1 street closure, and not the Phase 2 street closures, the petitioner would have to re-submit an

application if they were able to resolve their property/access issues at some point in the future. The Council may wish to clarify options with the City Attorney's office.

2. The Council may wish to request an update from the Administration regarding the status of the Utah Metal Works' negotiations with Rocky Mountain Power, and the status of the transaction between Rocky Mountain Power and Union Pacific property.
3. The Council may wish to ask the Administration to provide an update on the status of the development agreement, considering that there is a one year time frame with which to complete the development agreement.
4. 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. In this case, though, the Community Council did review the issue. (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:
  - a. Shift the focus to consideration of a proposed request with demonstrated public benefit rather than supporting closure/vacation whenever possible.
  - b. 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.
  - c. 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 Capitol Hill Master Plan (2001) identifies the subject property for "Business Park" zoning in the future land use map, but recognizes in the narrative that the area west of 300 West, north of 900 north, is currently, and will likely stay industrial. The following are stated policies for this area:
  - a. Continue regulations which require improved visual appearances of industrial properties.
  - b. Encourage improvements to the visual appearance of new and existing industrial sites and areas, including the continuance of requiring landscaping of industrially-zoned properties.
  - c. Prohibit new industrial development or the expansion of existing industrial uses from diminishing the amount of wetlands in the immediate vicinity, especially along Beck Street.

- d. Ensure adequate enforcement of regulations on industrial properties relating to screening, buffers and maintenance.

The subject street closure request is the southernmost border of “Swedetown.” The following are policy statements and action steps stated in the Capitol Hill Master Plan related to Swedetown:

Policy Statements

- Initiate redevelopment of Swedetown in the non-residential area first.
- Ensure the new interchange at 1800 North enhances access to Swedetown.
- Ensure that any vacations/street closures in this area do not eliminate important buffer areas between land uses.

Action Steps

- Develop a small area master plan to address issues including the redevelopment of Swedetown as an industrial park.
- Take actions to maintain and enhance the appearance of existing industrial redevelopment including zoning changes from industrial to business park to encourage redevelopment in the Swedetown area.
- Encourage the Utah Department of Transportation to place a stop light at Beck Street and Everett Avenue.
- Provide sewer, water and other general infrastructure improvements.

C. The Salt Lake City Major Streets Plan (2006) identifies both 800 West and Everett Avenues as local streets, and does not anticipate them developing into anything more than local streets in the future.

D. The purpose of the Heavy Manufacturing District (M-2) is to provide an environment for larger and more intensive industrial uses that do not require, and may not be appropriate, for a nuisance free environment.

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.

**CHRONOLOGY:**

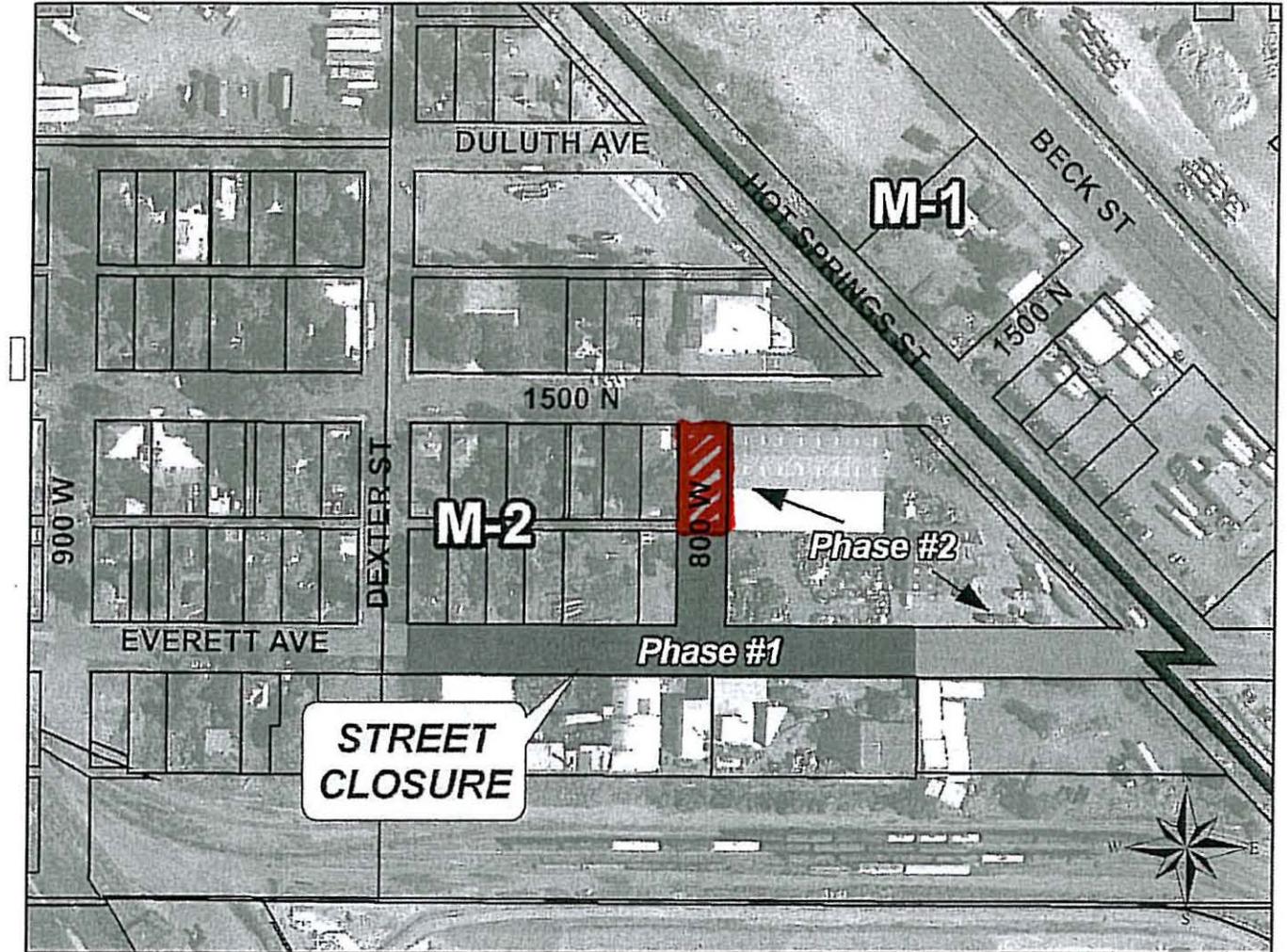
Please refer to the Administration’s transmittal for a complete chronology of events relating to the proposed text amendment.

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| • December 13, 2006  | Petition assigned to Planning                   |
| • March 8, 2007      | Open House held                                 |
| • September 26, 2007 | Planning Commission Hearing                     |
| • October 2, 2007    | Ordinance requested from City Attorney’s Office |
| • January 7, 2007    | Ordinance received from City Attorney’s Office  |
| • February 15, 2008  | Transmittal received in Council Office          |

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, Street Closures, Utah Metal Works, Everett Avenue (between Dexter and Hot Springs Street), 800 West from 1500 North to Everett

Vicinity Map



SALT LAKE CITY ORDINANCE  
No. \_\_\_\_\_ of 2010  
(Closing and abandoning a portion of 800 West as a public street)

An ordinance closing and abandoning a portion of 800 West Street from the alleyway between Everett Avenue and 1500 North Street northward to 1500 North Street as a public street, pursuant to Petition No. 400-06-50.

WHEREAS, the Salt Lake City Planning Commission (“Planning Commission”) held a public hearing on September 26, 2007 to consider a request made by Utah Metal Works (Petition No. 400-06-50) to close portions of City-owned right-of-way located at 800 West Street and Everett Avenue and to declare same as surplus property; and

WHEREAS, at its September 26, 2007 hearing, the Planning Commission voted in favor of forwarding a positive recommendation on portions of said petition to the Salt Lake City Council (“City Council”), but expressed concerns regarding closing a portion of 800 West Street; and

WHEREAS, the City Council held a public hearing on April 1, 2008 to consider the aforementioned application of Utah Metal Works and the Planning Commission’s input thereon, and voted to close the portions of 800 West Street and Everett Avenue identified as “Phase 1” and a portion of the proposal identified as “Phase 2(a)”; and

WHEREAS, the City Council voted at its April 1, 2008 meeting to continue the public hearing on closing the portion of 800 West Street, referred to as “Phase 2(b)”, to allow the Applicant an opportunity to address concerns of a neighboring property owner; and

WHEREAS, the Applicant has addressed such concerns to the satisfaction of the City Council; and

WHEREAS, the Applicant has already submitted payment to the City for all property identified in Petition No. 400-06-50; and

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.

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

SECTION 1. Closing and Abandoning Street. A portion of 800 West Street from the alleyway between Everett Avenue and 1500 North Street northward to 1500 North Street, which is the part of Petition No. 400-06-50 known as "Phase 2(b)", and which is more particularly described on Exhibit "A" attached hereto, 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. Conditions. These street closures are conditioned upon the following:

a. Confirmation by the City's Property Manager that the City has received payment from the Applicant of fair market value of those portions of the street. Title to those portions of

this portion of 800 West 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;

b. Confirmation by the City's Planning Director that the Applicant has complied with the requirements of a development agreement entered into between Utah Metal Works and the City, which development agreement was required by Ordinance 12 of 2008.

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 Property Manager, and 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 \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
CHAIRPERSON

ATTEST:

\_\_\_\_\_  
CITY RECORDER

Transmitted to Mayor on \_\_\_\_\_.

Mayor's Action: \_\_\_\_\_ Approved. \_\_\_\_\_ Vetoed.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY RECORDER

<b>APPROVED AS TO FORM</b> Salt Lake City Attorney's Office Date: <u>August 4, 2010</u> By: <u>Paul Nielsen</u> Paul C. Nielson, Senior City Attorney
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(SEAL)

Bill No. \_\_\_\_\_ of 2010.

Published: \_\_\_\_\_.

HB\_ATT'Y-#13126-v2-Ordinance\_closing\_a\_portion\_of\_Everett\_Avenue\_-\_UMW\_.DOC