

INTRODUCED: March 11, 2024

AN ORDINANCE No. 2024-091

To close to public use and travel a portion of public right-of-way located on the west side of Pear Street at its intersection with East Cary Street, consisting of 842 ± square feet, upon certain terms and conditions.

\_\_\_\_\_  
Patron – Mayor Stoney (By Request)

\_\_\_\_\_  
Approved as to form and legality  
by the City Attorney  
\_\_\_\_\_

PUBLIC HEARING: APR 8 2024 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That a portion of the west side of Pear Street located at its intersection with East Cary Street, consisting of approximately 842 square feet, is hereby closed to public use and travel as a right-of-way of the City of Richmond, as shown enclosed with bold lines on a drawing prepared by the Department of Public Works, designated as DPW Drawing No. N-29091, dated January 22, 2024, and entitled “Proposed Closing to Public Use and Travel of a Portion of Public Right of Way Located on the West Side of Pear Street at the Intersection with East Cary Street,” hereinafter referred to as “the Drawing,” a copy of which drawing is attached to this ordinance.

AYES: 8 NOES: 0 ABSTAIN: \_\_\_\_\_

ADOPTED: APRIL 8 2024 REJECTED: \_\_\_\_\_ STRICKEN: \_\_\_\_\_

§ 2. That this ordinance, as to the closing of the right-of-way identified above, shall be in force as provided in section 4.09 of the Charter of the City of Richmond (2020), as amended, and shall become effective only when, within 24 months from the day this ordinance is adopted:

(a) The applicant obtains consent to the closing from each of the owners of land, buildings or structures from whom consent is required under section 24-314 of the Code of the City of Richmond (2020), as amended, which consents shall be in writing, approved as to form by the City Attorney, and filed in the office of the City Clerk.

(b) The applicant makes arrangements satisfactory to public utility or public service corporations whose properties or facilities are in the right-of-way area to be closed either for the removal, relocation or abandonment thereof or for the construction, reconstruction, maintenance and repair thereof, evidence of which shall be in writing, approved as to form by the City Attorney, and filed in the office of the City Clerk. If the applicant submits to the Chief Administrative Officer a writing indicating the applicant's decision not to relocate the utilities in the right-of-way area to be closed, the applicant shall grant to the City an easement over the subject area, which easement shall be defined on a plat provided by the applicant and approved by the Director of Public Works. In such case, the Chief Administrative Officer shall be authorized to accept the dedication of such easement, provided that the easement shall be approved as to form by the City Attorney.

(c) The applicant bears all costs associated with the closing, including, but not limited to, realignment, relocation or removal of utilities or infrastructure, installation of new utilities or infrastructure, new or revised street name or directional signs, streetlights, and similar infrastructure, as required by City agencies, and agrees in writing with the City that, for itself, its successors and its assigns, they shall indemnify, reimburse, and keep and hold the City free and harmless from liability on account of injury or damage to persons, firms, corporations or property,

which may result directly or indirectly from the closing of the right-of-way to public use and travel by this ordinance and from the interference with the drainage, flow or overflow of surface or subsurface water resulting directly or indirectly therefrom; and in the event that any suit or proceeding is brought against the City at law or in equity, either independently or jointly with the owner or owners of all the property abutting the aforesaid alleys, or any of them, on account thereof, they shall defend the City in any such suit or proceeding at their cost; and in the event of a final judgment or decree being obtained against the City, either independently or jointly with the property owner or owners granting consent for the aforesaid right-of-way to be closed to public use and travel, they shall pay such judgment or comply with such decree including payment of all costs and expenses or whatsoever nature and hold the City harmless therefrom.

(d) The City retains the public easement for pedestrian access of approximately 54 square feet, as shown cross-hatched on the Drawing, over the northern-most portion of the right-of-way area to be closed and, additionally, the applicant causes the dedication of the public easement for pedestrian access of approximately 825 square feet, as shown hatched on the Drawing, generally along the entire length of the northern boundary of the property located at 2723 East Cary Street, and identified as Tax Parcel No. E000-0443/001 in the 2024 records of the City Assessor, each with improvements for pedestrian travel to be constructed therein, at the cost and expense of the applicant, subject to the approval of the Director of the Department of Public Works, or designee. The Chief Administrative Officer is hereby authorized to accept dedication of such easement or easements so long as the easement or easements shall be granted and conveyed by deed or deeds satisfactory to and approved as to form by the City Attorney.

(e) The applicant agrees in a writing approved as to form by the City Attorney that, if the applicant removes any cobblestones from the right-of-way area to be closed, the

applicant shall deliver all such cobblestones in an undamaged and cleaned condition to a location to be determined by the Director of Public Works.

(f) The applicant satisfies all terms and conditions requisite for the closing of the right-of-way area to be closed by this ordinance and provides the Department of Planning and Development Review, the Office of the City Attorney, and the Office of the City Clerk with written evidence that all terms and conditions of this ordinance have been satisfied.

§ 3. That, at such time as this ordinance becomes effective, the City shall have no further right, title or interest in the closed right-of-way areas other than that expressly retained under provisions of this ordinance or granted to satisfy the terms and conditions set out in this ordinance.

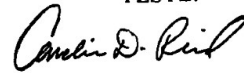
§ 4. This ordinance shall be in force and effect only upon the satisfaction of the terms and conditions set out above.

APPROVED AS TO FORM:

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City Attorney's Office

A TRUE COPY:  
TESTE:



City Clerk



# City of Richmond

900 East Broad Street  
2nd Floor of City Hall  
Richmond, VA 23219  
www.rva.gov

## Master

File Number: Admin-2024-0091

File ID: Admin-2024-0091      Type: Request for Ordinance or Resolution      Status: Regular Agenda

Version: 2      Reference:      In Control: City Clerk Waiting Room

Department:      Cost:      File Created: 01/30/2024

Subject:      Final Action:

Title:

Internal Notes:

Code Sections:      Agenda Date: 03/11/2024

Indexes:      Agenda Number:

Patron(s):      Enactment Date:

Attachments: ADMIN-2024-0091 DPW DRWG No N-29091,  
ADMIN-2024-0091 ROW Closure Request Ltr,  
ADMIN-2024-0091 Ordinance\_RW Closing\_Pear  
St\_Final\_AATF      Enactment Number:

Contact:      Introduction Date:

Drafter: Joseph.DavenportJr@rva.gov      Effective Date:

Related Files:

Approval History

| Version | Seq # | Action Date | Approver               | Action         | Due Date  |
|---------|-------|-------------|------------------------|----------------|-----------|
| 2       | 1     | 2/16/2024   | M.S. Khara             | Approve        | 2/19/2024 |
| 2       | 2     | 2/16/2024   | Joseph Davenport - FYI | Notified - FYI |           |
| 2       | 3     | 2/20/2024   | Bobby Vincent          | Approve        | 2/19/2024 |
| 2       | 4     | 2/20/2024   | Joseph Davenport - FYI | Notified - FYI |           |
| 2       | 5     | 2/20/2024   | Robert Steidel         | Approve        | 2/21/2024 |
| 2       | 6     | 2/20/2024   | Joseph Davenport - FYI | Notified - FYI |           |
| 2       | 7     | 2/22/2024   | Jeff Gray              | Approve        | 2/21/2024 |
| 2       | 8     | 2/22/2024   | Joseph Davenport - FYI | Notified - FYI |           |
| 2       | 9     | 2/23/2024   | Lincoln Saunders       | Approve        | 3/4/2024  |
| 2       | 10    | 2/23/2024   | Joseph Davenport - FYI | Notified - FYI |           |
| 2       | 11    | 2/29/2024   | Mayor Stoney           | Approve        | 3/14/2024 |
| 2       | 12    | 2/29/2024   | Joseph Davenport - FYI | Notified - FYI |           |

## History of Legislative File

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| Ver-<br>sion: | Acting Body: | Date: | Action: | Sent To: | Due Date: | Return<br>Date: | Result: |
|---------------|--------------|-------|---------|----------|-----------|-----------------|---------|
|---------------|--------------|-------|---------|----------|-----------|-----------------|---------|

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Text of Legislative File Admin-2024-0091

# City of Richmond

## Intracity Correspondence

### O&R Transmittal

**DATE:** February 16, 2024

**TO:** The Honorable Members of City Council

**THROUGH:** The Honorable Levar M. Stoney, Mayor

**THROUGH:** J.E. Lincoln Saunders, Chief Administrative Officer

**THROUGH:** Bobby Vincent Jr., Director, Department of Public Works

**FROM:** M.S. Khara, P.E., City Engineer, Department of Public Works

**RE:** **PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF A PORTION  
OF PUBLIC RIGHT OF WAY LOCATED ON THE WEST SIDE OF PEAR  
STREET AT THE INTERSECTION WITH EAST CARY STREET**

### ORD. OR RES. No.

**PURPOSE:** To close to public use and travel of a portion of Pear Street right-of-way consisting of approx. 842 sq. feet as shown on DPW Drawing No. N-29091 dated 01/22/2024 and entitled “PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF A PORTION OF PUBLIC RIGHT OF WAY LOCATED ON THE WEST SIDE OF PEAR STREET AT THE INTERSECTION WITH EAST CARY STREET” at the request of the applicant.

**BACKGROUND:** 2723 East Cary Street (Parcel No. E0000443001) is generally located at the southwest corner of East Cary Street and Pear Street and is currently vacant. This request would authorize the vacation of a portion of the Pear Street right-of-way (r/w) in exchange for the granting of a public pedestrian easement to the City along the southside of East Cary Street.

The property owner is proposing to construct a single-family attached dwelling development on the property. The development would include five (5) dwellings which would front East Cary Street. During pre-development discussions, City staff indicated they were desirous of continuing the East Cary Street streetscape improvements, matching those to the west, across the front of the property. However, the property, as currently configured, extends further north along the r/w than properties to the west, making the streetscape improvements impractical within the existing r/w. The concept of providing a public pedestrian easement to the City in this area for the installation of streetscape improvements was discussed as a solution. As the property is already constrained by the flood plain to the south, in order

to offset the loss of usable lot area being granted as an easement, the acquisition of a portion of the abutting Pear Street r/w was proposed.

Consistent with the discussions with City staff, the property owner is proposing an approx. 8.27' wide public pedestrian easement along the southside of East Cary Street (approx. 825 sq. ft.), extending along the entire property frontage, shown hatched on the drawing, within which future streetscape improvements would be installed at the expense of the property owner. In return, the property owner is requesting an approx. 7' wide (variable width) strip of existing Pear Street r/w along the eastside of the property (approx. 842 sq. ft.). The City will retain a public easement for pedestrian access of approximately 54 sq. ft., shown cross-hatched on the drawing, over the northern most portion of the right-of-way area to be closed.

The Pear Street r/w closing area is shown on DPW Drawing No. N-29091 dated 01/22/2024 and entitled "PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF A PORTION OF PUBLIC RIGHT OF WAY LOCATED ON THE WEST SIDE OF PEAR STREET AT THE INTERSECTION WITH EAST CARY STREET."

Considering the comparable size of the right of way to be vacated (approx. 842 sq. ft.) and the easement to be granted to the City (approx. 825 sq. ft.), as well as the applicant's intent to construct streetscape improvements as part of their project along E Cary St and Pear St, no acquisition fee is due to the City as a result of this Ordinance.

The proposed right-of-way closing will not negatively impact the local City transportation network. The approx. 7' wide strip of right-of-way to be closed is beyond the limits of the existing paved surface of Pear Street and currently unimproved. It is anticipated that at the time of the subdivision construction, the property owner will construct pedestrian improvements within the limits of the remaining Pear Street public right-of-way.

Other reviewing administrative agencies were contacted regarding this closing request and offered no objections.

The ordinance conditions will have to be satisfied in accordance with the City Attorney Office's review and acceptance of follow-up information provided by the applicant.

**COMMUNITY ENGAGEMENT:** After introduction, the proposed Ordinance will be referred to a future Planning Commission meeting for discussion, public encouraged to attend and provide comment; subsequent to Planning Commission recommendation to City Council, Council to hold a public hearing regarding the proposed Ordinance.

**STRATEGIC INITIATIVES AND OTHER GOVERNMENTAL:** Richmond 300 Master Plan (Goal 14: Housing); City Council Resolution No. 2023-R019 (Declare a housing crisis).

**FISCAL IMPACT:** \$300 application and processing fee.

**DESIRED EFFECTIVE DATE:** Upon adoption

**REQUESTED INTRODUCTION DATE:** March 11, 2024

**CITY COUNCIL PUBLIC HEARING DATE:** April 8, 2024

**REQUESTED AGENDA:** Consent Agenda

**RECOMMENDED COUNCIL COMMITTEE:** Planning Commission

**AFFECTED AGENCIES:** Public Works; City Attorney; Planning & Development Review; Public Utilities; Assessor; Finance; Budget and Strategic Planning; Fire Department; Police Department, Mayor's Office, and CAO's Office

**RELATIONSHIP TO EXISTING ORD. OR RES.:** None.

**ATTACHMENTS:** DPW Dwg. No. N-29091  
Applicant's request letter (Mark Baker, Baker Development)

**STAFF:**

Prepared for Bobby Vincent, Jr., Director, DPW  
Prepared by M.S. Khara, City Engineer, DPW  
Research and Drawing Coordinated By: DPW Staff

PARCEL: E000-0443-002  
ADDRESS: 2301 E Cary St  
OWNER: FC CONSOLIDATED LESSOR LLC FOREST CITY RESIDENTIAL GROUP  
INST:  
2002-13767


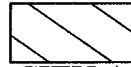

PARCEL: E000-0443-001  
ADDRESS: 2723 E CARY ST  
OWNER: SHIPLOCK LLC  
INST: 2021-35509

N: 3,717,209.58  
E: 11,796,050.83

NAD 83

STREET  
CARY  
PUBLIC ROW  
E  
CARY  
S, +/-

NOTES:

1. THIS DRAWING IS BASED ON A COMPILATION OF DATA FROM RECORD SOURCES AND SURVEY PLAT PREPARED BY SHADRACH & ASSOCIATES LLC, TITLED "SURVEY EXHIBIT SHOWING RIGHT OF WAY ACQUISITION & 8' PUBLIC PEDESTRIAN EASEMENT AT #2723 EAST CARY STREET" DATED 11/13/2023.
2.  THE PORTION OF RIGHT OF WAY PROPOSED TO BE CLOSED IS ENCLOSED IN BOLD LINES. AREA = 842 SQ FT.
3.  AREA HATCHED TO BE DEDICATED TO THE CITY AS 8 FT WIDE PUBLIC PEDESTRIAN EASEMENT. AREA = 825 SQ FT.
4.  AREA CROSSHATCHED TO BE RETAINED BY THE CITY AS 8 FT WIDE PUBLIC PEDESTRIAN EASEMENT. AREA = 54 SQ FT

| LINE TABLE |             |      |
|------------|-------------|------|
| L1         | N42°41'53"W | 7.38 |
| L2         | S51°28'18"W | 8.27 |
| L3         | S53°05'38"E | 6.86 |
| L4         | N50°39'25"E | 8.24 |
| L5         | N53°05'38"W | 6.74 |
| L6         | N51°31'52"E | 8.27 |

A horizontal graphic scale bar with four vertical tick marks. Above the first tick mark is the label "10'", above the second is "0'", above the third is "10'", and above the fourth is "20'". The bar is divided into three segments: the first segment (from 10' to 0') is black, the second segment (from 0' to 10') is white, and the third segment (from 10' to 20') is black.

## NOTES

1. Property owners correct as of 01/22/2024  
2. Ordinance \_\_\_\_\_  
3. Adopted \_\_\_\_\_  
4. Accepted \_\_\_\_\_

REFERENCES: B/L 10NE-10NW

Engineering Specialist: Shepouda Guergues

Engineering Specialist: Shenouda Guergues  
Shenouda Guergues

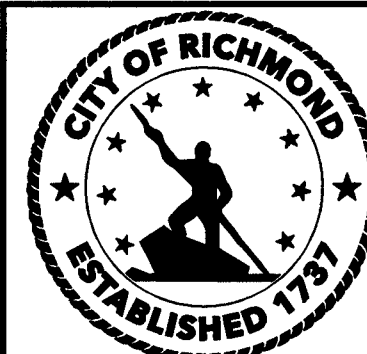
Op. Mgr. For Surveys: Marvin W. Anderson, CLS

ROW Manager: Joseph L. Davenport Jr, P.E.

REVISIONS:

DEPARTMENT OF PUBLIC WORKS  
CITY OF RICHMOND, VIRGINIA

Surveys Division, Room 600 City Hall  
900 E. Broad Street, Richmond, Va. 23219



DRAWN BY: SG  
CHECKED BY: MWA

Council District 7

Block No. E443

PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF A  
PORTION OF PUBLIC RIGHT OF WAY LOCATED ON THE  
WEST SIDE OF PEAR STREET AT THE INTERSECTION  
WITH EAST CARY STREET

FIELD NOTE

SCALE  
1"=10'

DATE  
01/22/2024

PROJECT  
E443-SC

DRAWING NO.  
N-29091



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November 30, 2023

Bobby Vincent, Jr.,  
Director of Public Works  
Department of Public Works, City Hall, Room 701  
900 East Broad Street  
Richmond, Virginia 23219

**RE: Right-of-Way Vacation Request: 2723 E Cary Street (E000-0443/001)**

Dear Mr. Vincent,

I represent the Property owner in their application for a Right-of-Way Vacation Request for the property known as 2723 E Cary Street, identified as Tax Parcel E000-0443/001. 2723 E Cary Street (the "Property") is generally located at the southwest corner of E Cary and Pear Streets and is currently vacant. This request would authorize the vacation of a portion of the Pear Street right-of-way (ROW) in exchange for the granting of a public easement to the City along E Cary Street.

The property owner is proposing to construct a single-family attached dwelling development on the Property. The development would include five dwellings which would front East Cary Street. During pre-development discussions, Planning and Public Works Right-of-Way Administration staff indicated they were desirous of continuing streetscape improvements, matching those to the west, across the front of the Property. However, the Property, as currently configured, extends further north along the ROW than properties to the west making those improvements impractical within the existing ROW. The concept of providing a public easement to the City in this area for the installation of streetscape improvements was discussed as a solution. The Property is already constrained by the flood plain to the south. In order to offset the loss of usable lot area, the acquisition of an excess portion of the abutting Pear Street ROW was discussed in exchange for the easement.

Consistent with our discussions with DPW Right-of-Way Administration staff the property owner is proposing an 8' public easement along the E Cary Street frontage, within which future streetscape improvements would be installed. In return, the owner is requesting a strip of approximately 840.84 square feet along the western line of the Pear Street ROW. The acquisition area, extending 7.38' feet into the ROW, is depicted on the attached plat, titled "Showing Right Of Way Acquisition & 8' Public Pedestrian Easement At #2723 East Cary Street City Of Richmond, Virginia," prepared by Shadrach & Associates LLC, dated November 13, 2023.

Per an email by Joeseeph Davenport, dated April 18, 2023, this conveyance was considered agreeable in concept, if the easement and ROW vacation ordinance(s) were conditioned upon Plan of Development approval

for the proposed development. The proposed development would not require a Plan of Development approval. However, it would require a Subdivision approval, which we are submitting to the Planning Department concurrent with this request (attached). As a result, the ROW vacation, should it be approved, could instead be conditioned upon Subdivision approval. If acceptable, approval of the ROW vacation ordinance and easement and subsequent approval of the Subdivision would facilitate an equitable exchange between the City and the Property owner as well as ensuring a high-quality development with appropriate pedestrian improvements.

Thank you in advance for your assistance. Should you have any questions after reviewing this request, please feel free to contact me at 874-6275.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark R. Baker', with a stylized, cursive script.

Mark R. Baker  
Baker Development Resources, LLC