

INTRODUCED: September 11, 2017

AN ORDINANCE No. 2017-178

To close, to public use and travel, a portion of East Cary Street, located on the east side of Pear Street between its intersection with East Main Street and its intersection with East Dock Street, consisting of 1,973± square feet, upon certain terms and conditions.

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

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

PUBLIC HEARING: OCT 9 2017 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That a portion of right-of-way known as East Cary Street, located on the east side of Pear Street between its intersection with East Main Street and its intersection with East Dock Street, consisting of approximately 1,973 square feet, as shown enclosed with bold lines on a drawing prepared by the Department of Public Works, designated as DPW Drawing No. N-28569A, dated June 5, 2017, and entitled “Proposed Closing to Public Use and Travel of a Stub Portion of Public R/W Know as E. Cary Street Located on the East Side of Pear Street between E. Main Street and E. Dock Street,” a copy of which drawing is attached to this ordinance is hereby closed to public use and travel as a right-of-way of the City of Richmond.

AYES:            9            NOES:            0            ABSTAIN: \_\_\_\_\_

ADOPTED:      OCT 9 2017      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 (2010), as amended, and shall become effective only when, within 24 months from the day this ordinance is adopted:

(a) 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 rights-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 rights-of-way, 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 rights-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.

(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.

(c) The applicant obtains approval by the Director of Planning and Development Review of a plan of development for construction of a multifamily residential and commercial development at the site of the right-of-way area to be closed. If the Director of Planning and Development Review disapproves of the plan of development, this ordinance shall be void.

(d) 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 (2015), 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.

(e) The applicant pays the City the sum of \$44,392.50 for the right-of-way area to be closed. This condition is satisfied when all abutting property owners execute an agreement to purchase the right-of-way area to be closed, with such agreement being in accordance with section 15.2-2008 of the Code of Virginia (1950), as amended, and approved as to form and legality by the City Attorney. If any property owner fails to make the payment for such owner's fractional portion within 730 days of the date of adoption of this ordinance, then the closing shall be null and void.

(f) The applicant agrees in a writing approved as to form by the City Attorney to remove all cobblestones, bricks, granite curbs, and other infrastructure materials from the right-of-way area to be closed and delivers all such cobblestones, bricks, granite curbs, and other infrastructure materials in an undamaged and cleaned condition to a location to be determined by the Director of Public Works.

(g) 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 area other than that expressly retained under the 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.



CITY OF RICHMOND
INTRACITY CORRESPONDENCE

O & R REQUEST
4-6891
AUG 15 2017
Office of the Chief Administrative Officer

O&R REQUEST

DATE: August 11, 2017 EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor (By Request)

Handwritten initials JS

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

Handwritten initials SCG

THROUGH: Robert Steidel, Acting Deputy Chief Administrative Officer

Handwritten signature

THROUGH: Bobby Vincent, Director Department of Public Works

Handwritten initials BV

RECEIVED

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

Handwritten signature MSK

SEP 07 2017

THROUGH: Brian Copple, Right of Way Manager Department of Public Works

Handwritten initials MWA For

OFFICE OF CITY ATTORNEY

FROM: Marvin Anderson, Surveys Supt. Department of Public Works

Handwritten initials MWA

RE: PROPOSED CLOSING OF A STUB PORTION OF PUBLIC RIGHT OF WAY KNOWN AS E. CARY STREET LOCATED EAST OF PEAR STREET BETWEEN E. DOCK STREET AND E. MAIN STREET

ORD. OR RES No. \_\_\_\_\_

PURPOSE: To close to public use and travel a portion of public right of way containing 1973 square feet for the purposes of creating a large block of property for development and as shown enclosed with bold lines and illustrated on a plan prepared by the Department of Public Works, designated as DPW Dwg. No. N-28569A dated June 5, 2017 (Project No. E-534-SC) entitled "PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF A STUB PORTION OF PUBLIC R/W KNOWN AS E. CARY STREET LOCATED ON THE EAST SIDE OF PEAR STREET BEWTEEN E. MAIN STREET AND E. DOCK STREET " at the request of the applicant/owner of the surrounding property and to transfer ownership of this closed portion of the right of way to the applicant for a fee.

**REASON:** Letter of request dated May 8, 2017 from H. Louis Salomonsky of Rocketts View SCP, L.P. requesting the closure of noted residual stub of right of way known as E. Cary Street for the purposes of development.

**RECOMMENDATIONS:** The Department of Public Works offers no objections to the proposed right-of-way closing, and requests that any approvals be subject to, and including without limitation, the following terms and conditions:

1. The applicant(s)/owner(s)/successor(s) shall agree in writing to be responsible for any and all costs associated with the proposed closing, including without limitation, realignment, relocation, or removal of utilities or infrastructures, installment of new utilities or infrastructures, new or revised street name or directional signs, streetlights, etc., as required or directed by City Agencies.
2. The applicant(s)/owner(s)/successor(s) shall agree in writing to identify and protect the rights of any public and/or private owners of utilities who may have a vested interest or facilities in subject right-of-way.
3. The Plan of Development for the construction of the site must be approved by the City. Should approval of the Plan of Development be denied, this closure of the public right of way will not go into effect.
4. A twenty-four (24) month expiration clause shall be included whereby all conditions must be satisfied by the applicant(s)/owner(s)/successor(s) within twenty-four (24) months of the ordinance adoption date, and approved by the City before the ordinance can go into effect.
5. The applicant(s)/owner(s)/successor(s) shall agree in writing to be responsible for storm water runoff in the area to be closed.
6. The applicant(s)/owner(s)/successor(s) shall be responsible for obtaining the written consent of all abutting landowners to the closing. This condition shall not apply if the applicant is the only adjacent land owner at the time of formal acceptance of conditions.
7. The cost of the right of way to be vacated has been determined to be \$44,392.50. This must be paid to the City by the applicant.
8. The applicant(s)/owner(s)/successor(s) shall agree in writing to be responsible for assuring that any City infrastructure components that may be located within the section of E. Cary Street which is proposed to be closed will be carefully collected, securely stored and transported to a City facility (specific location to be determined when the move it to occur). This includes, but is not limited to, cobblestones, bricks and granite curb.
9. The applicant(s)/owner(s)/successor(s) is responsible for providing the Law Department with written evidence that all conditions of the ordinance have been satisfied. Should this written evidence not be submitted to the said offices prior to the expiration date, twenty-four (24) after final approval of the ordinance, the ordinance will become null and void automatically.

**BACKGROUND:** The applicant owns the entire parcel which surrounds this portion of right of way proposed for closure. Applicant is in the design process for their development that will include multi-family use and commercial use. This right of way stub extends into the proposed project area and would prohibit design options for the site. Closure will facilitate the overall design of the entire parcel owned by the applicant.

This proposed right of way closure does not serve the public interest as it is unimproved. The City does not have a need for this right of way for future capital projects. By closing this right of way, City maintenance will be reduced and the safety liability to the traveling public will be reduced.

For these reasons, the Department of Public Works does not object to the closure and transfer of the property to the applicant.

The value of the 1,973 sq. ft. of right of way to be closed has been determined by evaluating the assessed value of the adjacent properties. A \$22.50/square foot cost was set to determine the total cost of the right of way closed of \$44,392.50, which will need to be paid by the applicant.

Other reviewing administrative agencies offered no objections to the closing request.

**FISCAL IMPACT/COST:** None anticipated.

**FISCAL IMPLICATIONS:** None anticipated.

**BUDGET AMENDMENT NECESSARY:** No amendment necessary at this time.

**REVENUE TO CITY:** \$300 application & processing fee; and \$44,392.50 in revenue from vacated right of way.

**DESIRED EFFECTIVE DATE:** Upon Adoption.

**REQUESTED INTRODUCTION DATE:** September 11, 2017

**CITY COUNCIL PUBLIC HEARING DATE:** October 9, 2017.

**REQUESTED AGENDA:** Consent Agenda.

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** Planning Commission

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

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

**REQUIRED CHANGES TO WORK PROGRAM(S):** None.

**ATTACHMENTS:** Applicant's request letter, DPW Dwg. No. N-28569A

**STAFF:**

Prepared for Bobby Vincent

Prepared by Marvin Anderson

Research and Drawing Coordinated By: Marvin Anderson and James Flannery

Department of Public Works

646-0435

**Rocketts View SCP L.L.C.**  
**1553 East Main Street**  
**Richmond, VA 23219**  
**(804) 782-6802 Fax (804) 782-6810**

May 8, 2017

Mr. Bobby Vincent, Acting Director  
Department of Public Works  
900 E. Broad Street, Room 701  
Richmond, VA 23219

Re: Right-of-way Closure Request  
Cary Street and Pear Street  
Parcel No. E000-0534/002

Dear Mr. Vincent:

By this letter, I would like to request the closure of an extension of East Cary Street, as it enters property I own fronting the corner of E. Main Street and Pear Street (Parcel No. E0000534002 – see attached survey). The reason for my request is that I intend to build a condominium building on the referenced property. The current right-of-way extends into my proposed entry drive and lobby and elevator core. Without closure of this right-of-way, the proposed project could not be built. This is a “paper street” right-of-way and is not improved. I own all of the property surrounding this requested right-of-way closure. There are no other impacted property owners.

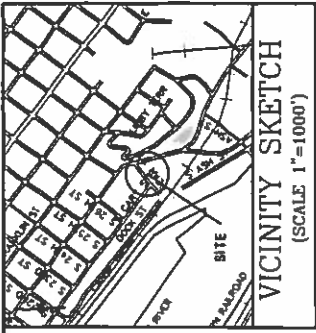
Sincerely,

Rocketts View SCP L.L.C.

By 

H. Louis Salomonsky  
Manager of its Manager





PARCEL E000-0442-036  
(2700' E. CARY ST.)  
POWER PLANT AT LUCKY STRIKE LLC  
ID 07-34248

**E. CARY STREET**  
42'± R/W

**PEAR STREET**  
50'± R/W

PARCEL E000-0444-001  
(2723' E. CARY ST.)  
PEAR ST LLC  
ID 12-19315

WOODED AREA

PARCEL E000-0534-002  
(101' PEAR ST.)  
ROCKETTS VIEW BCP LP  
ID 01-33675

PARCEL E000-0534-016  
(111' PEAR ST.)  
NORFOLK SOUTHERN RAILWAY CO.  
ID 06424-0808

**NOTE:**

1. PORTION OF E. CARY STREET R/W THAT IS PROPOSED TO BE CLOSED TO PUBLIC USE AND TRAVEL IS SHOWN IN BOLD LINES. [ ] 1973 SQ. FT.
2. THIS DRAWING IS BASED ON A COMPILATION OF DATA FROM RECORD SURVEYS AND SURVEYS BY CHIC MATESON AND ASSOCIATES AS SHOWN ON PLAT TITLED "PLAT SHOWING AN UNIMPROVED PORTION OF EAST CARY STREET TO BE VACATED SOUTHWEST OF PEAR STREET", DATED 12/02/13.



Block No. E-534

Council District 7



DRAWN BY: J.P.  
CHECKED BY: M.T.A.

PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF A STUB PORTION OF PUBLIC R/W KNOWN AS E. CARY STREET LOCATED ON THE EAST SIDE OF PEAR STREET BETWEEN E. MAIN STREET AND E. DOCK STREET.

Requested By: JEFFREY MAYER, MAY 8, 2017 - LOUIS LUMBERMEN

FIELD NOTE SCALE 1"=20'  
DATE 6/5/2017  
PROJECT E-534-SC  
DRAWING NO. N-285669A

**NOTES**

1. Property owners correct as of JUNE 6, 2017.
2. Ordinance \_\_\_\_\_
3. Adopted \_\_\_\_\_
4. Accepted \_\_\_\_\_

REFERENCES: BL 10 NE

Drafting Technician *[Signature]*  
Surveys Superintendent *[Signature]*  
Right of Way Manager *[Signature]*

Surveys Division, Room 600 City Hall  
900 E. Broad Street, Richmond, Va. 23219  
DEPARTMENT OF PUBLIC WORKS  
RICHMOND, VIRGINIA

REVISIONS