

INTRODUCED: September 8, 2014

AN ORDINANCE No. 2014-188-173

To close to public use and travel a portion of right-of-way known as Lewis Street, located between its intersection with Williamsburg Road and its intersection with a CSX Transportation, Inc. right-of-way and consisting of 24,300± square feet and a portion of right-of-way known as 37th Street, located between its intersection with Lewis Street and its intersection with Nicholson Street and consisting of 5,985± square feet, upon certain terms and conditions.

Patron – Mayor Jones (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: OCT 13 2014 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That a portion of right-of-way known as Lewis Street, located between its intersection with Williamsburg Road and its intersection with a CSX Transportation, Inc. right-of-way and consisting of approximately 24,300 square feet, and a portion of right-of-way known as 37th Street, located between its intersection with Lewis Street and its intersection with Nicholson Street and consisting of approximately 5,985 square feet, are hereby closed to public use and travel as rights-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-

AYES: 8 NOES: 0 ABSTAIN: _____

ADOPTED: OCT 13 2014 REJECTED: _____ STRICKEN: _____

28609, dated August 11, 2014, and entitled “Proposed Closing to Public Use and Travel of Portions of Public Rights-of-Way Known as Lewis St and 37th St Located North of Nicholson St, West and South of Williamsburg Road and East of Properties Owned by CSX,” a copy of which drawing is attached to this ordinance.

§ 2. That section 1 of this ordinance shall become effective only when, within 12 months from the day this ordinance is adopted, the following conditions set forth in this section have been satisfied:

(a) The applicants bear 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 agree in writing with the City that, for themselves, their successors and their 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 right-of-way, or any of them, on account thereof, they shall defend the City in any such suit or proceeding at its 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.

(b) The applicants make 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 applicants obtain consent to the closing from each of the owners of land, buildings or structures from whom consent is required under section 90-327 of the Code of the City of Richmond (2004), 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.

(d) The applicants pay the sum of \$13,325.40 to the City for the right-of-way 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, which 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 12 months after the day on which this ordinance is adopted, then the closing provided for in section 1 of this ordinance shall be null and void.

(e) The applicants remove all cobblestones, bricks, granite curbs, granite stones, granite blocks and other infrastructure materials from the right-of-way area to be closed and deliver all such cobblestones, bricks, granite curbs, granite stones, granite blocks and other infrastructure materials in an undamaged and cleaned condition to a location determined by the Director of Public Works.

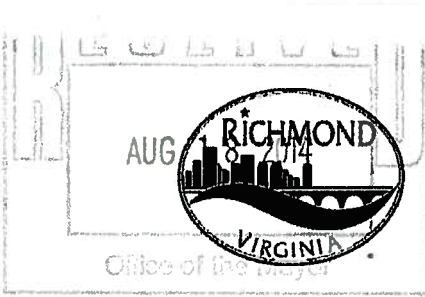
(f) The applicants obtain, in accordance with Chapter 114, Article X, Division 6 of the Code of the City of Richmond (2004), as amended, a special use permit for the proposed brewery project on the adjacent properties known as 3409 Williamsburg Avenue, 4300 Williamsburg Avenue, 116 Nicholson Street and 108 Nicholson Street for which the right-of-way are to be closed.

(g) The applicants, at their sole cost, obtain a plat, sealed by a land surveyor licensed by the Commonwealth of Virginia, showing the exact extent and dimensions of the rights-of-way to be closed and provide a copy to the Department of Public Works and the Office of the City Attorney within 12 months after the day on which this ordinance is adopted.

(h) The applicants satisfy all terms and conditions requisite for the closing of the right-of-way area to be closed by this ordinance and provide the Division of Permits and Inspections of 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 section 1 of this ordinance becomes effective, the City shall have no further right, title or interest in the closed rights-of-way 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 upon adoption.



CITY OF RICHMOND

INTRACITY CORRESPONDENCE

O & R REQUEST

AUG 13 2014

Chief Administration Office
City of Richmond

O&R REQUEST

DATE: August 11, 2014 **EDITION:** 1

TO: The Honorable Members of City Council

THROUGH: Dwight C. Jones, Mayor (By Request)

THROUGH: Byron C. Marshall, Chief Administrative Officer

THROUGH: Christopher L. Beschler, Deputy Chief Administrative Officer

THROUGH: James A. Jackson, Director
Department of Public Works

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

FROM: Doug Mawby
Department of Public Works

RECEIVED
AUG 20 2014

OFFICE OF CITY ATTORNEY

RE: PROPOSED CLOSING OF A PORTION OF PUBLIC RIGHT-OF-WAY KNOWN AS LEWIS ST., BETWEEN WILLIAMSBURG RD AND CSX PROPERTY AND TO CLOSE A PORTION OF PUBLIC RIGHT-OF-WAY KNOWN AS 37TH ST. BETWEEN LEWIS ST. AND NICHOLSON ST.

ORD. OR RES No. _____

PURPOSE: To close to public use and travel a portion of public right-of-way known as Lewis Street containing approximately 24,300 square feet and to close a portion of public right-of-way known as 37th Street containing approximately 5,985 square feet as shown enclosed with bold lines and illustrated on a schematic map prepared by the Department of Public Works, designated as DPW Dwg. No. N-28609 dated August 11, 2014 (Project No. E-1128-SC), entitled "PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF PORTIONS OF PUBLIC RIGHTS-OF-WAY KNOWN AS LEWIS ST AND 37TH ST LOCATED NORTH OF NICHOLSON ST., WEST AND SOUTH OF WILLIAMSBURG ROAD AND EAST OF PROPERTIES OWNED BY CSX" at the request of the Richmond Redevelopment and Housing Authority as well as Titan Virginia Ready-Mix, Inc. and to transfer ownership of this closed portion of the unused right-of-ways to the adjacent owners in order to combine with the adjacent parcels and create a larger economic development parcel.

REASON: Per letters of request from the owners of the properties known as 3409 Williamsburg Avenue, 4300 Williamsburg Avenue, and 116 Nicholson Street and 108 Nicholson Street, intent to consolidate their properties with that of the right of way and use such properties for a larger economic development project.

201408009

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 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 identify and protect the rights of any public and/or private owners or utilities who may have a vested interest or facilities in subject right-of-way.
3. A twelve-month expiration clause shall be included whereby all conditions must be satisfied by the applicant(s)/owner(s)/successor(s) within twelve (12) months of the ordinance adoption date, unless a different timeframe is explicitly noted for a particular condition, and approved by the City before the ordinance can go into effect.
4. The applicant(s)/owner(s)/successor(s) shall be responsible for storm water runoff in the area to be closed.
5. The applicant(s)/owner(s)/successor(s) shall be responsible for obtaining the written consent of all abutting landowners to the closing.
6. Any City infrastructure components that may be located within the right-of-way to be closed shall 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.
7. Companion papers to approve an SUP for the proposed uses on 3409 Williamsburg Avenue, 4300 Williamsburg Avenue, 116 Nicholson Street and 108 Nicholson Street which will be consolidated with these rights of way must be adopted; if it is not, this closure shall be null and void.
8. The applicant(s)/owner(s)/successor(s) shall be responsible for providing to DPW and the City Attorney's Office a licensed professional land surveyor's plat showing the exact extent and dimensions of the right-of-ways which are proposed to be closed. This will be due prior to the twelve month ordinance expiration date.
9. The value of the closed rights of way, \$13,325.40 (or as determined based on the survey required above) shall be paid to the City prior to issuance of any permits for land disturbance or building construction upon the parcel created by this closing.
10. 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, twelve months after final approval of the ordinance, the ordinance will become null and void automatically.

BACKGROUND: The applicant requests the closure of these rights of way in order to create a large tract on which to develop an economically beneficial project. The applicants have requested that the City close the two noted undeveloped rights of way and turn them over to the adjacent property owners (as is customary for vacated right-of-way): the Richmond Redevelopment and Housing Authority and Titan Virginia Ready-Mix. Companion papers were introduced on August 5, 2014, to approve a Special Use Permit to allow the prospective business entity to use the subject parcels for economic development purposes. These companion papers must be adopted or the closing will become null and void.

Other reviewing administrative agencies offered no objections to the closing request. As this is an economic development project promulgated by the City of Richmond, the application fee of \$300.00 will be waived.

The value of the right-of-way to be vacated, approximately 30,285 sf, has been determined by performing an appraisal of the value of the adjacent properties: \$0.40 to \$0.48 per square foot. It has been set at an average of \$0.44 per square foot for a total of \$13,325.40. Once the final survey is provided with exact square footage, the final dollar value may change. This total is to be paid to the City by the applicants prior to commencing work on any development on the larger combined parcel.

FISCAL IMPACT/COST: None anticipated.

FISCAL IMPLICATIONS: None anticipated.

BUDGET AMENDMENT NECESSARY: No amendment necessary at this time.

REVENUE TO CITY: \$13,325.40

DESIRED EFFECTIVE DATE: Upon Adoption.

REQUESTED INTRODUCTION DATE: September 8, 2014

CITY COUNCIL PUBLIC HEARING DATE: October 13, 2014

REQUESTED AGENDA: Consent Agenda.

RECOMMENDED COUNCIL COMMITTEE: Land Use Housing and Transportation Standing Committee

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: Planning Commission

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

RELATIONSHIP TO EXISTING ORD. OR RES.: None

REQUIRED CHANGES TO WORK PROGRAM(S): None.

ATTACHMENTS: Applicant's request letter, DPW Dwg. No. N-28609

STAFF:

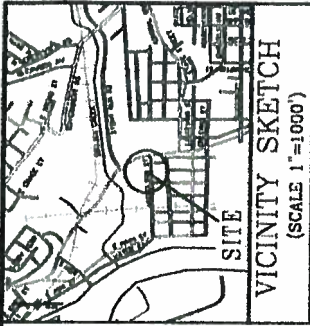
Prepared for James Jackson

Prepared by Doug Mawby

Research and Drawing Coordinated By: Marvin Anderson and James Flannery

Department of Public Works

646-0435



PARCEL E000-1428-003
(3409 WILLIAMSBURG AVE.)
RRHA

WILLIAMSBURG AVENUE
100'± R/W

PARCEL E000-1430-030
(4300 WILLIAMSBURG AVE.)
RRHA
DB 678 PG A0600

37TH STREET
30'± WIDE UNDEVELOPED R/W



30'± WIDE UNDEVELOPED R/W

LEWIS STREET

PARCEL
E000-1128-001
(116 NICHOLSON ST.)
RRHA
DB 698 PG A0110

NICHOLSON STREET
50'± R/W

PARCEL E000-1128-060
(108 NICHOLSON ST.)
TAN VIRGINIA
READY-MIX LLC
D 2000-25076

(104 LEWIS ST.)
CSX TRANSPORTATION INC

LEWIS STREET
30' R/W ±

PARCEL E000-1127-019
(104 NICHOLSON ST.)
CSX TRANSPORTATION INC



1. THE PURPOSE OF THIS PLAN IS TO ILLUSTRATE THE LOCATION OF R/W TO BE CLOSED IT DOESN'T REPRESENT A SURVEY OF THE R/W OR ADJACENT PROPERTIES
2. THE APPLICANT(S)/OWNER(S)/SUCCESSOR(S) SHALL BE RESPONSIBLE FOR PROVING TO DPW AND THE CITY ATTORNEY'S OFFICE A LICENSED PROFESSIONAL LAND SURVEYOR'S PLAN SHOWING THE EXACT EXTENT AND DIMENSIONS OF THE RIGHT-OF-WAYS WHICH ARE PROPOSED TO BE CLOSED. THIS WILL BE DUE PRIOR TO THE TWELVE MONTH ORDINANCE EXPIRATION DATE.
3. PORTION OF LEWIS STREET R/W THAT IS PROPOSED TO BE CLOSED TO PUBLIC USE AND TRAVEL IS SHOWN IN BOLD LINES [] AND IS APPROXIMATELY 24,300 SQUARE FEET.
4. PORTION OF 37TH STREET R/W THAT IS PROPOSED TO BE CLOSED TO PUBLIC USE AND TRAVEL IS SHOWN IN BOLD LINES [] AND IS APPROXIMATELY 5,985 SQUARE FEET.
5. ANY UTILITIES WHICH MAY BE IN R/W ARE NOT SHOWN ON DRAWING

Council District 7

Block No. E-1128, E-1428, E-1430

PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF PORTIONS OF PUBLIC RIGHTS-OF-WAY KNOWN AS LEWIS ST AND 37TH ST LOCATED NORTH OF NICHOLSON ST, WEST AND SOUTH OF WILLIAMSBURG ROAD AND EAST OF PROPERTIES OWNED BY CSX



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

SCALE
1" = 50'

DATE
8/11/2014

PROJECT
E-1128-SC

DRAWING NO.
N-28609

NOTES

1. Property owners correct as of August 11 2014.
2. Ordinance
3. Adopted
4. Accepted

REFERENCES: BL 10 SE, 26SW, M-21081

Drafting Technician
Survey Superintendent
Right Of Way Manager

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

REVISIONS

Titan Virginia Ready-Mix

Titan Virginia Ready-Mix
Real Estate Manager
1151 Azalea Garden Road
Norfolk, VA 23502
Phone: (757) 858-6514
Fax: (757) 858-6493
kwade@titanamerica.com

August 14, 2014

Mr. Doug Mawby
Engineer II: Right-Of-Way
Department of Public Works
900 East Broad Street, Room 601
Richmond, VA 23219

Dear Mr. Mawby,

This letter serves as our request to close to public use and travel of the portions of public rights-of-way known as Lewis Street and 37th Street, located north of Nicholson Street, west and south of Williamsburg Road, and east of properties owned by CSX. As the current property owner of 108 Nicholson Street, we wish to consolidate these smaller parcels in order to create a larger parcel for an economic development use.

This request correlates with our recent SUP submittal for additional brewery capacity on these sites in the already designated M1 zoning district. The SUP has been introduced through a special Council session.

Please feel free to contact me if you have any questions or concerns.

Sincerely,



Kim Wade
Real Estate Manager
Titan Virginia Ready-Mix LLC