

INTRODUCED: April 22, 2019

AN ORDINANCE No. 2019-117

To close, to public use and travel, a portion of West Marshall Street located between the west line of Hermitage Road and the eastern boundary of the property known as 2220 West Broad Street consisting of 41,468± square feet, but retaining portions as utility easements and access easements, upon certain terms and conditions, and to authorize the Chief Administrative Officer to accept the dedication of a public access easement, consisting of 60,011± square feet, over certain parcels adjacent to the closed portion of West Marshall Street, in connection with vehicular and pedestrian access to a proposed mixed-use development in the area.

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Patron – Mayor Stoney (By Request)

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

PUBLIC HEARING: MAY 13 2019 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That a right-of-way area consisting of approximately 41,468 square feet, comprised of a portion of West Marshall Street located between the west line of Hermitage Road and the eastern boundary of the property known as 2220 West Broad Street and identified as Tax Parcel No. N000-1396/014 in the 2019 records of the City Assessor, 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 sheet 1 of a drawing prepared by the Department of Public Works, designated as DPW Drawing No. N-

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

ADOPTED:      MAY 13 2019      REJECTED: \_\_\_\_\_    STRICKEN: \_\_\_\_\_

28775A, dated March 21, 2019, and entitled “Proposed Closing to Public Use and Travel of W. Marshall Street between the West Line of Hermitage Road and Parcel #N000-1396-014 and Retainage and Conveyances of Utility and Public Access Easements,” hereinafter referred to as the “Drawing,” a copy of which is attached to this ordinance.

§ 2. That this ordinance, as to the closing of the right-of-way area identified in section 1 above, shall be in force as provided in section 4.09 of the Charter of the City of Richmond (2018), as amended, and shall become effective only when, within 12 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 (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.

(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 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 of whatsoever nature and hold the City harmless therefrom.

(d) The applicant dedicates or causes the dedication of the portions of 830 Hermitage Road, 840 Hermitage Road, 844 Hermitage Road, 850 Hermitage Road, 2010 West Marshall Street, 2014 West Marshall Street, and 2024 West Broad Street, with Tax Parcel Nos. N000-1098/013, N000-1098/010, N000-1098/009, N000-1098/006, N000-1098/016, N000-1098/019, and N000-1095/005, respectively, in the 2019 records of the City Assessor, consisting of approximately 60,011 square feet, as shown hatched on sheet 3 of the Drawing, to the City for right-of-way purposes, with such dedication being by deed approved as to form by the City Attorney.

(e) 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.

(f) The applicant receives “Work in Streets and Alley” permits issued by the Department of Public Works for the construction proposed in connection with an approved plan of development with Plan Number POD-013290-2017.

§ 3. That the City shall retain utility easements within the right-of-way area to be closed. The maximum extent of the easements is shown hatched between dashed lines on sheet 1 of the Drawing. The Director of Public Utilities may approve the retention of an easement over a smaller area than that shown on the Drawing if the Director determines that a smaller area will satisfy the requirements of the Department of Public Utilities. The Director of Public Utilities may approve the City’s vacation of the easement if the Director determines that the easement is no longer necessary to satisfy the requirements of the Department of Public Utilities. The retention of the easement and any vacation thereof shall be only by deed approved as to form by the City Attorney.

§ 4. That the City shall retain public access easements within the right-of-way area to be closed. The maximum extent of the easements is shown hatched between bold and dashed lines on sheet 2 of the Drawing. The Director of Public Works may approve the retention of an easement over a smaller area than that shown on the Drawing if the Director determines that a smaller area will satisfy the requirements of the Department of Public Works. The Director of Public Works may approve the City’s vacation of the easement if the Director determines that the easement is no longer necessary to satisfy the requirements of the Department of Public Works. The retention of the easement and any vacation thereof shall be only by deed approved as to form by the City Attorney.

§ 5. That the Chief Administrative Officer, for and on behalf of the City of Richmond, is hereby authorized to accept the dedication described in subsection (d) of section 2 of this ordinance.

§ 6. 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.

§ 7. This ordinance shall be in force and effect upon adoption.