INTRODUCED: December 11, 2017

AN ORDINANCE No. 2017-244

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, upon certain terms and conditions, and to authorize the Chief Administrative Officer to accept a dedication of a public access easement, consisting of 60,074± 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.

Patron – Mayor Stoney (By Request)

Approved as to form and legality by the City Attorney

PUBLIC HEARING: JAN 8 2018 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 2017 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:	JAN 8 2018	REJECTED:		STRICKEN:	

28775, dated November 14, 2017, 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 (2010), 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 or 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 2017 records of the City Assessor, consisting of approximately 60,074 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.

RÎCHMOND

CITY OF RICHMOND

Office of the Chief Administrative Officer

NOV 1 4 2017

O & R REQUEST

4-7238

INTRACITY CORRESPONDENCE

O&R REQUEST

DATE:

November 13, 2017

EDITION:

1

TO:

The Honorable Members of City Council

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

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

THROUGH: Robert Steidel, Deputy Chief Administrative Officer - Operation

THROUGH: Bobby Vincent, Director

Department of Public Works

THROUGH: M.S. Khara, P.E., City Engineer

Department of Public Works

THROUGH: Brian Copple, Right of Way Mar

Department of Public Works

FROM: Marvin Anderson, Surveys Supt.

Department of Public Works

MWA

RE:

PROPOSED CLOSING OF W. MARSHALL STREET BETWEEN THE

WEST LINE OF HERMITAGE ROAD AND PARCEL #N000-1396-014

ORD. OR RES No.

<u>PURPOSE</u>: To close a portion of public right of way (consisting of 41,468 sq. ft.) shown enclosed with bold lines and hatched on a plan prepared by the Department of Public Works designated as DPW Dwg. No. N-28775 (Sheet 1 of 3) dated November 13, 2017 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" at such time that the City issues Work in Street Permits for the proposed construction of the Whole Foods Grocery Store.

REASON: Letter of request dated February 21, 2017, from Bradford Sauer, to close the portion of W. Marshall Street between Hermitage Road and Sauer Properties. Sauer Properties has submitted and received approval for a Plan of Development for the Whole Foods Grocery Store.

Improvements (in addition to the approximately 40,000 sq. ft. building) will include bicycle and pedestrian access pathways, new pavement, lighting and landscaping.

RECOMMENDATIONS: The Department of Public Works supports this proposed right-of-way closing to public use and travel, and requests that upon adoption by City Council, the closing to public use and travel will take effect upon the City's issuance of Work in Streets Permits for the construction of the Whole Foods Grocery Store.

- 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 provide evidence that they have identified any public or private utilities that may have a vested interest in or facilities located within the subject right of way and worked out arrangements with the owners of any such utilities to protect the owner's rights.
- 3. The applicant(s)/owner(s)/successor(s) shall dedicate a new public access easement to provide pedestrian and vehicular access as shown on Drawing #N-28775 Sheet 3 of 3.
- 4. The applicant(s)/owner(s)/successor(s) shall be responsible for surface storm water overflow 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. At this time the Applicants have a controlling interest in all adjacent properties. This condition is considered null and void if that is still true at the date of the acceptance of the terms and conditions.
- 6. A twelve (12) 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 and approved by the City before the ordinance can go into effect.
- 7. 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 after final approval of the ordinance, the ordinance will become null and void automatically.

The ordinance shall also mandate that the closure and transfer of the portion of W. Marshall Street be subject to the following:

- 1. Retainage of utility easement (19,562 sq. ft) as shown on Drawing #N-28775 (Sheet 1 of 3).
- 2. Retainage of public access easement (31,474 sq, ft.) as shown on Drawing #N-28775 (Sheet 2 of 3).

BACKGROUND:

As part of the mixed-use development consisting of new and historic buildings on W. Broad Street and Hermitage, The C.F. Sauer Companies proposes to construct an approximately 40,000 square foot building that will be the Whole Foods Grocery Store. Whole Foods will be the cornerstone of the urban mixed-use development being proposed. The former Pleasant's Hardware, located at 2024 W. Broad Street will be razed to allow the construction to occur.

This proposed 40,000 sq. ft. grocery store would include approximately \$25 million in private investment, and when in full operation, would hire approximately 35-40 full-time equivalent (FTE) employees.

There is a proposed future mixed-use development for the other parcels (N0001396014 and N0001098020) that are both owned by Sauer Properties.

In order to fulfill the parking requirements for the proposed Whole Foods as well as to promote the vibrant livability the overall proposed developments will have on this section of Broad Street, the Department supports the applicants' request for closure of portions of W. Marshall Street right of way while retaining public access and utility easements.

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

FISCAL IMPACT/COST: By closing portion of W. Marshall Street right-of-way, City will lose 0.12 moving lane miles of street inventory. This will result in a loss of State Maintenance Funds in the amount of \$ 1,484 per year, based upon FY18 State Maintenance Reimbursement of \$ 12,365 per moving lane mile. However, the City will no longer be required to perform maintenance of closed portion of W. Marshall Street. Maintenance will be the sole responsibility of the Owner.

The City will be receiving a new 60,074 sq. ft. vehicular and pedestrian access easement as shown on DPW Drawing # N-28775 Sheet 3 of 3. The City will not be required to maintain this easement as the Owner will be responsible.

FISCAL IMPLICATIONS: None anticipated.

BUDGET AMENDMENT NECESSARY: No amendment necessary at this time.

REVENUE TO CITY: \$300 application fee. The value of the right of way to be closed (41,468 sq. ft.) has been calculated at \$705,785. The City will be retaining a utility easement (19,562 sq. ft.) valued at \$166,472. Net remaining value to the City is \$539,313. However, the City is retaining public access easements (31,474 sq. ft.) for vehicular and pedestrian access over the closed portion of W. Marshall Street (Sheet 2 of 3) and receiving an additional new easement (60,074 sq. ft.) for vehicular and pedestrian access along the entrance into the property off of Broad Street to the north property boundary (Parcel N000-1096-006) as shown on Sheet 3 of 3 (attached drawings). This value of retained and new public access easements is equivalent or greater to the net remaining value. DPW recommends waiving the net remaining value to the City based upon the fact that the City will receive this new access easement and retain an access easement. Combined together (91,548 sq. ft.) the amount of public access easement the City is receiving is considerably greater than the amount of right-of-way the City is closing (41,468 sq. ft.). In addition, this proposed development initiative will have a positive impact by increasing the tax base, sales tax, and payroll tax.

DESIRED EFFECTIVE DATE: Upon Adoption.

REQUESTED INTRODUCTION DATE: December 11, 2017

CITY COUNCIL PUBLIC HEARING DATE: January 8, 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; Public Utilities; Economic and Community Development; 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,

Landowner consent letter

DPW Dwg. No. N-28775 (Sheet 1 of 3) DPW Dwg. No. N-28775 (Sheet 2 of 3) DPW Dwg. No. N-28775 (Sheet 3 of 3)

STAFF:

Prepared for Bobby Vincent, Director DPW
Prepared by Brian Copple, RW Manager – DPW
Research and Drawing Coordinated By: James Flannery
Department of Public Works
646-0435

2000 WEST BROAD STREET RICHMOND, VIRGINIA 23220 (804) 359-5786

February 21, 2017

Director of Public Works City of Richmond Public Works City Hall, Room 701 900 E. Broad Street Richmond, Virginia 23219

RE: THE SAUER CENTER

Dear Sir:

We would like to request the closing of West Marshall Street between our property, parcel N0001396014, on the west end of Marshall Street, to the right-of-way of Hermitage Road, containing 0.952 acres and 634 LF of roadway. Marshall Street dead ends into our property and we own both sides of the right-of—way with the exception of 20 feet which is owned by Long Term Investments, Inc. (Lee's Chicken).

We are making this request for the following reasons:

- We have submitted a POD for The Sauer Center and this ROW is needed for parking, walkways and landscaping.
- 2. We also need to regrade this area to provide ADA access to parcels on the north side of West Marshall Street and other site amenities.
- 3. We are acquiring the 20 ft. ROW from Lee's Chicken which will make us the only property owners served by this section of West Marshall Street.
- 4. This will relieve the City of any road maintenance and will allow us to maintain the proposed walks, pavements, lighting and landscaping.
- 5. This 0.952 acres will then be taxable real estate.

We hope you will look favorably upon this request. Should you have any questions please do not hesitate to call.

Very truly yours,

The C. F. Sauer Company

Bradford B. Sauer

Executive Vice President

Sauer Properties, Inc.

Bradford B. Sauer

Vice President

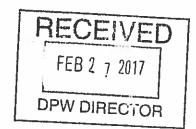
Enclosure

c.: Mr. Monte Lewis

Phone: (804)285-3948 Fax: (804)282-1280 e-mail: monte@edlewis-assoc.com



February 22, 2017



Director of Public Works City of Richmond City Hall, Room 701 900 E. Broad Street Richmond, VA 23219

RE: THE SAUER CENTER

Dear Sir:

Please find enclosed two (2) letters from the landowners consenting to the closure of West Marshall Street. Also enclosed are a plat and a check for \$300.00 to the City of Richmond for the closure of W. Marshall Street for The Sauer Center.

Should you have any questions, please do not hesitate to call me.

Sincerely,

E. D. LEWIS & ASSOCIATES, P.C.

Monte Lewis, P.E.

EDL, Jr/rew

Enclosures

c: Mr. Shane Parr

Mr. Leigh Kelley w/copy of enclosures

Mr. Brian Copple

February 16, 2017

Mr. Brian Copple City of Richmond Right-of-Way Management 900 E. Broad St., Suite 600 Richmond, VA 23219

Re:

Closure of West Marshall Street

Dear Mr. Copple:

Long Term Investments, LLC is the owner of a parcel of land adjacent to West Marshall Street. Our parcel is identified on the enclosed plat by E. D. Lewis & Associates, P.C. as "NO. 2200 Long Term Investments Inc. Tax Parcel N0001095012". Long Term Investments, LLC consents to the closure of West Marshall Street as shown on the enclosed plat.

Sincerely,

LONG TERM INVESTMENTS, LLC

By: 90

Richard W. Call

Manager

