



## Legislation Text

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**File #:** ORD. 2023-340, **Version:** 1

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To close, to public use and travel, an unimproved portion of West 20<sup>th</sup> Street located between Semmes Avenue and Sioux Falls Alley, consisting of 10,486 ± square feet, upon certain terms and conditions.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That an unimproved portion of West 20<sup>th</sup> located between Semmes Avenue and Sioux Falls Alley, consisting of approximately 10,486 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-29057, dated September 8, 2023, and entitled “Proposed Closing to Public Use and Travel of a Portion of W 20<sup>th</sup> Street Located South of Semmes Avenue and North of Sioux Falls Alley,” hereinafter referred to as “the Drawing,” a copy of which drawing is attached to this ordinance.

§ 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 of whatsoever nature and hold the City harmless therefrom.

(d) The applicant 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. All affected owners of private and public

infrastructure must provide written acknowledgement that they are satisfied with the resolution of their facilities within the proposed closing area for this Ordinance to be valid.

(e) The applicant submits and obtains approval by the Director of Planning and Development Review a plan of development pursuant to Chapter 30, Article X, Division 4 of the Code of the City of Richmond (2020), as amended, for the construction of the improvements on the site, or, if no plan of development is required, the applicant must apply for and be issued a building permit pursuant to the Virginia Uniform Statewide Building code. Should approval of the plan of development or building permit be denied, this closure of the public right of way shall not go into effect. The plan of development or the plans submitted with the application for a building permit shall provide for pedestrian connectivity through the site to Semmes Avenue; the final location, width, and boundaries of the pedestrian connectivity improvements shall be subject to the approval of the Director of Planning and Development Review in accordance with applicable laws and regulations and shall be depicted within the final approved plan of development or the final approved plans submitted with the application for the building permit.

(f) 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.

(g) The applicant shall cause the dedication of a public easement for vehicular and pedestrian cross access between Cowardin Avenue, beginning generally at the southern boundary of Tax Parcel No. S000-0301/007 and West 20th St, and crossing Tax Parcel Nos. S000-0248/002 and S000-0248/007; the final location, width and boundaries of the public easement, together with the improvements for vehicular and pedestrian travel to be constructed therein, shall all be subject to the approval of the Department of Public Works in connection with review and approval of the plan of development or the building permit application. The Chief Administrative Officer is hereby authorized to accept dedication of such easement,

provided that the easement shall be granted and conveyed by deeds satisfactory to and approved as to form by the City Attorney.

(h) The applicant pays the City the sum of \$5,000.00 for the right-of-way area to be closed; such sum may be adjusted based upon the actual area of the retained and dedicated easements to be provided to the City. 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 24 months of the date of adoption of this ordinance, then the closing shall be null and void.

(i) 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.

### **O&R REQUEST**

**DATE:** September 26, 2023

**EDITION:** 1

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

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

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

**THROUGH:** Robert Steidel, Deputy Chief Administrative Officer

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

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

**FROM:** Joseph Davenport, P.E., Right-of-Way Manager  
Department of Public Works

**RE: PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF AN UNIMPROVED PORTION OF THE W 20<sup>TH</sup> STREET RIGHT OF WAY BETWEEN SEMMES AVENUE AND SIOUX FALLS ALLEY**

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

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**PURPOSE:** To close to public use and travel an unimproved portion of the W. 20<sup>th</sup> Street right-of-way consisting of approx. 10,486 sq. ft. as shown on DPW Drawing No. N-29057 dated 9/08/2023 and entitled “PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF A PORTION OF W 20TH STREET LOCATED SOUTH OF SEMMES AVENUE AND NORTH OF SIOUX FALLS ALLEY” at the request of the applicant.

**REASON:** A letter of request dated March 15, 2023, from T. Preston Lloyd, Jr., with Williams Mullen on behalf of Manchester Town Center 2, LLC, and 1802 Semmes LLC, the only property owners adjacent to the proposed closing area.

**RECOMMENDATIONS:** The Department of Public Works offers no objections to the proposed right-of-way closing and request 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 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. All affected owners of private and public infrastructure must provide written acknowledgement that they are satisfied with the resolution of their facilities within the proposed closing area for this Ordinance to be valid.
3. The applicant(s)/owner(s)/successor(s) shall be responsible for surface storm water overflow in the area to be closed.

4. The applicant(s)/owner(s)/successor(s) shall be responsible for obtaining the written consent of all abutting landowners to the closing and other property owners within the block affected by the closing.
5. 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.
6. A Plan of Development (POD) for the construction of the improvements on the site, or, if no POD is required, a building permit, must be submitted and approved by the City within twenty-four (24) months of ordinance adoption. Should approval of the Plan of Development, or building permit, be denied, this closure of the public right of way will not go into effect.
7. The Plan of Development, or building permit plans, shall provide for pedestrian connectivity through the site to Semmes Avenue; the final location, width and boundaries of the pedestrian connectivity improvements to be as approved by the Director of Planning and Development Review and depicted within the final approved Plan of Development, or building permit plans.
8. The Applicant shall cause the dedication of a public easement for vehicular and pedestrian cross access between Cowardin Ave, beginning generally at the southern boundary of Parcel No. S0000301007 and W. 20th St, and crossing Parcel Nos. S0000248002 and S0000248007; the final location, width and boundaries of the public easement, together with the improvements for vehicular and pedestrian travel to be constructed therein, shall all be as approved by the Department of Public Works in connection with review and approval of the Plan of Development, or building permit application; the Chief Administrative Officer is hereby authorized to accept dedication of such easement so long as the easement shall be granted and conveyed by deeds satisfactory to and approved as to form by the City Attorney.
9. If any existing utility is located within the proposed closing area, the applicant has the option to relocate the utility as directed by and approved by the appropriate City agency; or, the City will retain an easement over the subject area which shall be defined on a plat provided by the applicant and approved by the Department of Public Works; the Chief Administrative Officer is hereby authorized to accept dedication of such easement so long as the easement shall be granted and conveyed by deeds satisfactory to and approved as to form by the City Attorney.
10. The applicant(s)/owner(s)/successor(s) of the property must agree to preserve any existing cobblestones within the vacated right-of-way; or, should any found cobblestones be removed at a future date, the applicant(s)/owner(s)/successor(s) shall agree to return the cobblestones to the City at a location designated by the Department of Public Works.
11. The applicant(s)/owner(s)/successor(s) agrees to pay the City of Richmond for this public right-of-way vacation the sum of \$5,000.00.
12. The applicant(s)/owner(s)/successor(s) is responsible for providing the Law Department with written evidence within twenty-four (24) months of the ordinance adoption 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.

### **BACKGROUND:**

The subject property is a currently vacant, former manufacturing and distribution/warehouse site. The present zoning of B-6 Mixed-Use Business District contemplates urban residential and commercial uses, including multifamily, retail, personal service, and institutional uses. The owner is requesting the vacation of the unimproved portion of the W. 20<sup>th</sup> St public right-of-way to allow greater flexibility in accommodating the future design of a higher-density development consistent with the spirit and intent of the previously approved Belle Heights Special Use Permit (Ordinance No. 2019-013). This may include multifamily buildings and

accompanying surface parking with appropriate amenities.

Moreover, the applicant has proposed the dedication of a public access easement that will provide vehicle and pedestrian access from W 20<sup>th</sup> St to Cowardin Ave. The exchange of the unimproved portion of W 20<sup>th</sup> St right-of-way being vacated with the proposed public access easement will improve circulation through the existing Belle Heights subdivision and the future property development, all to the benefit of the public.

The value of the right of way to be vacated (approx. 10,486 sq. ft.) has been determined to be \$74,563 (\$7.1107/sq. ft.) and is based on the assessed land values of the immediately adjacent parcels. The value of the right-of-way being vacated is fully offset by the public access easement area to be dedicated (approx. 22,100 sq. ft.) as a condition of the right-of-way vacation. While the value of the right-of-way to be vacated is fully offset by the easement dedication, the applicant has agreed to pay a fee of \$5,000 for the City administrative burden to facilitate the right-of-way vacation. This amount is due to the City as a condition of this ordinance.

The proposed right-of-way closing will not negatively impact the local City transportation network. Other reviewing administrative agencies offered no objections to the right-of-way closing request.

**FISCAL IMPACT/COST:** None; the City is not currently receiving State Maintenance Funds for the unimproved portion of W 20th Street that is being proposed to be closed; therefore, no fiscal impact/cost to City.

**FISCAL IMPLICATIONS:** None anticipated.

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

**REVENUE TO CITY:** \$300 application and processing fee; \$5,000 administrative fee.

**DESIRED EFFECTIVE DATE:** Upon Adoption.

**REQUESTED INTRODUCTION DATE:** November 13, 2023

**CITY COUNCIL PUBLIC HEARING DATE:** December 11, 2023

**REQUESTED AGENDA:** Consent Agenda

**RECOMMENDED COUNCIL COMMITTEE:** None

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

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

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

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

**ATTACHMENTS:** Applicant's request letter dated March 15, 2023 (Williams Mullen)

DPW Dwg. No. N-29057 (dated 9/08/2023)

**STAFF:**

Prepared for Bobby Vincent, Jr., Director DPW

Prepared by Joseph Davenport, Right-of-Way Manager, DPW

Research and Drawing Coordinated By: James Flannery, Engineering Specialist, DPW

Department of Public Works / 646-0435