

INTRODUCED: February 28, 2022

AN ORDINANCE No. 2022-048

To close, to public use and travel, an alley in the block bounded by Bellemeade Road, Columbia Street, Afton Avenue, and Lynhaven Avenue, consisting of 11,145± square feet, upon certain terms and conditions.

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

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

PUBLIC HEARING: MAR 28 2022 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That an alley in the block bounded by Bellemeade Road, Columbia Street, Afton Avenue, and Lynhaven Avenue, consisting of approximately 11,145 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-28981, dated January 26, 2022, and entitled “Proposed Closing to Public Use and Travel of Public Alley Located in Block Bounded by Bellemeade Road, Columbia Street, Afton Avenue, and Lynhaven Avenue,” hereinafter referred to as “the Drawing,” a copy of which drawing is attached to this ordinance.

AYES:            7            NOES:            0            ABSTAIN: \_\_\_\_\_

ADOPTED:    MAR 28 2022    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 (2020), 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 (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.

(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 pays the City the sum of \$14,614.13 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 one year of the date of adoption of this ordinance, then the closing shall be null and void.

(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 and the proposed right-of-way closure and vacation, 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 be denied or a building permit not be issued, this closure of the public right-of-way shall not go into effect.

(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.

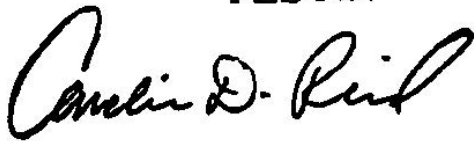
§ 3. That the City shall retain a public utility easement consisting of approximately 3,321 square feet within a portion of the alley to be closed, as shown with hatched lines on the Drawing. The Director of Public Utilities may approve the City's vacation of the easement if the Director determines that 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, at such time as this ordinance becomes effective, except as provided in section 3 of this ordinance, and notwithstanding any provision of Chapter 8, Article III of the Code of the City of Richmond (2020), as amended, to the contrary, the Chief Administrative Officer shall be authorized to execute all deeds and other documents, each of which must first be approved as to form by the City Attorney, necessary to convey to the applicant all right, title, and interest of the City in the closed right-of-way area, including any interests retained by the City by operation of law subsequent to the closing of the right-of-way area for which this ordinance provides.

§ 5. This ordinance shall be in force and effect only upon the satisfaction of the terms and conditions set out above.

**A TRUE COPY:**

**TESTE:**

A handwritten signature in black ink, appearing to read "Carolin D. Reed". The signature is written in a cursive, flowing style.

**City Clerk**




**CITY OF RICHMOND**  
**Intra-City Correspondence**

**O&R REQUEST**


**DATE:** February 1, 2022 **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 PUBLIC ALLEY  
LOCATED IN BLOCK BOUNDED BY BELLEMEADE ROAD, COLUMBIA  
STREET, AFTON AVENUE AND LYNNHAVEN AVENUE**

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

**PURPOSE:** To close to public use and travel a public alley located in the block bounded by Bellemeade Road, Columbia Street, Afton Avenue and Lynnhaven Avenue consisting of 11,145 sq. ft. as shown on DPW Dwg. No. N-28981 dated 01/26/2022 and entitled "PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF PUBLIC ALLEY LOCATED IN BLOCK BOUNDED BY BELLEMEADE ROAD, COLUMBIA STREET, AFTON AVENUE AND LYNNHAVEN AVENUE" at the request of the applicant.

**REASON:** Letter of request dated March 22, 2021 from Lory Markham of Markham Planning on behalf of their clients, 2400 Afton LLC, the owner of all properties adjacent to the proposed closing.

**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 infrastructure, installment of new utilities or infrastructure, 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 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 twelve (12)-month expiration clause shall be included whereby all conditions must be satisfied by the applicant(s)/owner(s)/successor(s) within twelve 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 twelve (12) 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. A utility easement shall be retained by the City of Richmond over a portion of the vacated alley being designated on the attached drawing by hatched lines and containing 3321 sf.
8. The applicant(s)/owner(s)/successor(s) agrees to pay the City of Richmond for this public right-of-way, the sum of \$14,614.13.
9. The applicant(s)/owner(s)/successor(s) is responsible for providing the Law Department with written evidence within twelve (12) 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.
10. If all other conditions of the ordinance are met then the City waives any reversionary rights it might have for any portion of the vacated right of way in which it is entitled, and agrees to have it transferred to the other adjacent owner(s)

**BACKGROUND:** The owner of the properties adjacent to this proposed vacation have begun predevelopment activities for these adjoining properties and are in the preliminary planning stage for an infill development. These predevelopment activities include a rezoning request of the properties from the R-53 to the B-5 zoning district. The closure of this paper alley would make for a more practical and useable site for the design of the development. While the development is still in the early preliminary stages, the B-5 district requires a Plan of Development for any project with 10 or more units. Should the rezoning and the alley closure be approved, a Plan of Development will be submitted prior to the submission for building permits. This unimproved alley proposed for vacation does not benefit any properties other than those owned by the requesting parties.

The value of the right of way to be vacated (11,145 sf) has been determined to be \$16,048.80 (\$1.44 per square foot) and is based on assessed values of adjacent parcels. This cost is customarily paid to the City by the owners of the properties that will receive the closed right of way. In this case the fee paid to the City has been reduced by \$1,434.67 due to retainage of a utility easement over 3321 sf of the vacated right of way. The actual fee due to the City is \$14,614.13.

A fee for this amount is due to the City as a condition of this ordinance.

The closing of this right of way will not negatively impact the local City transportation network. 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 and processing fee; \$14,614.13 for the value of the land.

**DESIRED EFFECTIVE DATE:** Upon Adoption

**REQUESTED INTRODUCTION DATE:** February 28, 2022

**CITY COUNCIL PUBLIC HEARING DATE:** March 28, 2022

**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:** Right Of Way Closure Request letter (Lory Markham)  
DPW Dwg. No. N-28981 (dated 01/26/2022)

**STAFF:**

Prepared for Bobby Vincent, Jr., Director, DPW

Prepared by Marvin Anderson, Program & Operations Manager for Surveys, DPW

Research and Drawing Coordinated by Shenouda Guergues, DPW

Department of Public Works / 646-0435



March 22, 2021

Bobby Vincent, Director  
Department of Public Works  
900 East Broad Street, Room 701  
Richmond, VA 23219  
bobby.vincent@richmondgov.com

RE: Closing of a paper alley adjacent to 2400-2420 Afton Avenue

Dear Mr. Vincent,

On behalf of 2400 Afton Avenue LLC, I am writing to formally request the closure of the paper alley in the block bound by Afton Ave and Bellemeade Rd to the north and south, and Columbia St and Lynnhaven Ave to the east and west. This +/- 22 feet wide alley runs east to west and shares common boundaries with 2400 and 2420 Afton Ave (S0080237007, S0080237001) and does not benefit or serve any properties other than those that are owned by the entity requesting the closure.

2400 Afton Avenue LLC has started pre-development activities for these adjoining properties in the preliminary planning stage for infill. These activities include a rezoning request of the properties from the R-53 to the B-5 zoning district. The closure of this paper alley would make for a more practical and useable site for the design of the development. While the development is still in the early preliminary stages, the B-5 district requires a Plan of Development for any project with 10 or more units. Should the rezoning and the alley closure be approved, a Plan of Development will be submitted prior to the submission for building permits.

I have enclosed the following items in accordance with the Guidelines for Initiating a Right of Way Closing:

- a) This letter will serve as the letter of request.
- b) \$300 application fee will be mailed to Division of Surveys in Room 600 City Hall, 900 E. Broad Street.
- a) The surveyor's plat, dated February 16, 2021 and prepared by Timmons Group, is enclosed.
- b) Residual right-of-way from the state. This is not applicable.
- c) Adjoining landowner consent.  
2400 Afton Avenue LLC owns adjoining parcels and is the entity requesting the closure. A letter of consent is enclosed.



- d) Primary ingress and/or egress.  
The portion of the alley does not act as ingress or egress for anyone other than the entity requesting the closure. It is an unimproved paper alley.
- e) Adjoining landowner consent from owners prior to ordinance introduction.  
2400 Afton Avenue LLC owns the adjoining parcels and is the entity requesting the closure.
- f) Adjoining landowner consent from owners at any time through the closing process.  
2400 Afton Avenue LLC owns the adjoining parcels and is the entity requesting the closure.

Thank you for your consideration of this request. Please feel free to contact me at lory@markhamplanning.com or (804) 248-2561 if you have any questions or require additional materials to process the request.

Very Truly Yours,



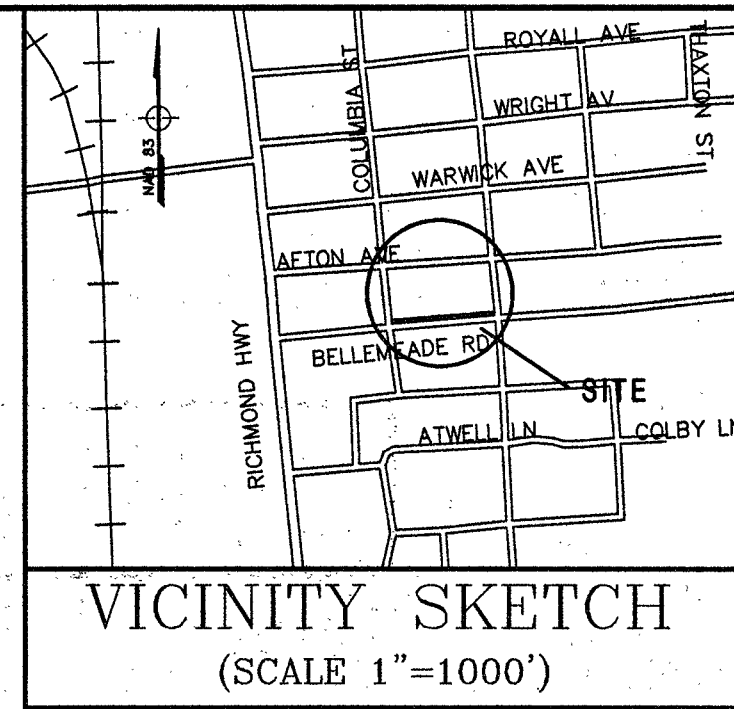
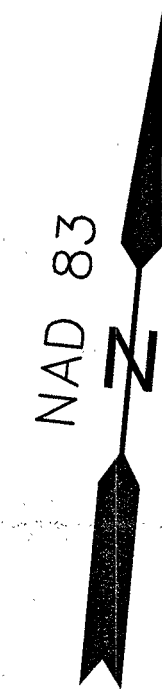
Lory Markham  
Markham Planning

Enclosures

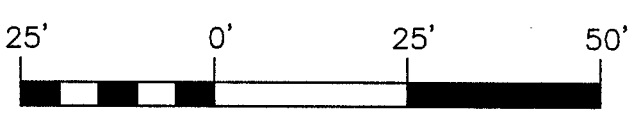
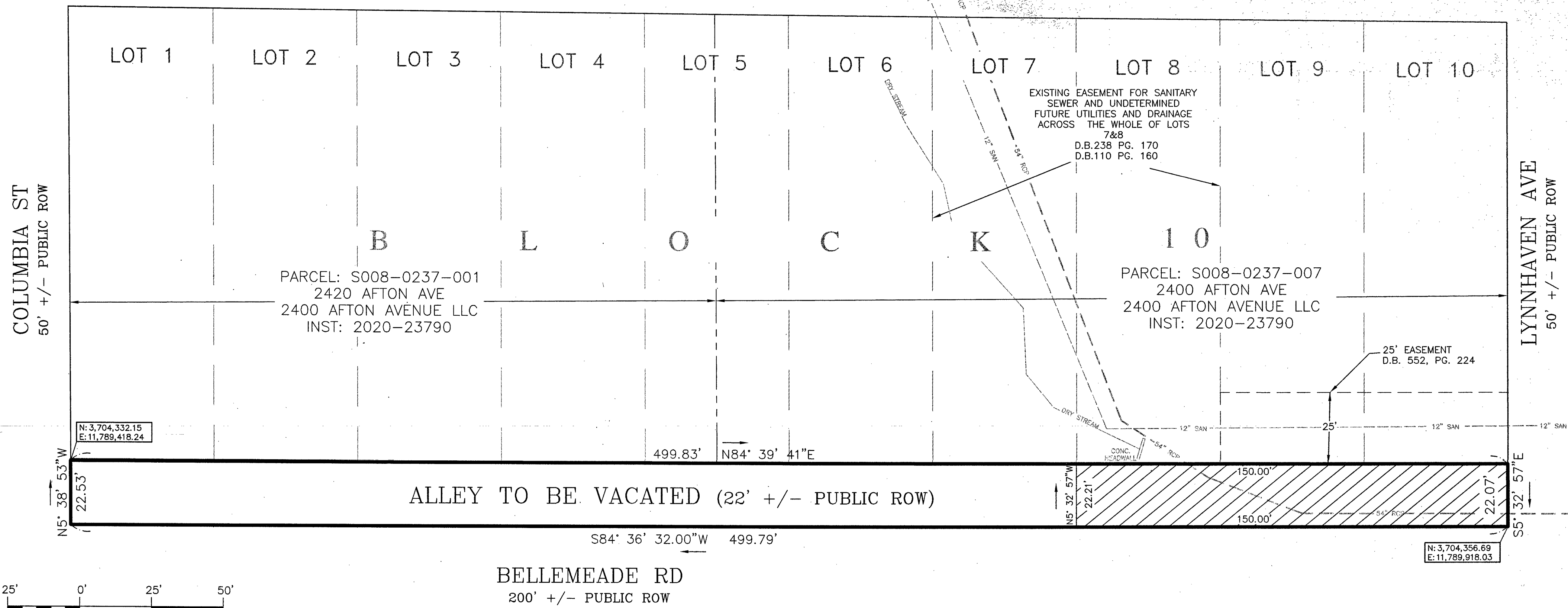
cc: The Honorable Reva M. Trammell  
Marvin Anderson, DPW Surveys  
Matthew Ebinger, Secretary to the City Planning Commission

**NOTES:**

- THIS DRAWING IS BASED ON A COMPILATION OF DATA FROM RECORD SOURCES AND SURVEY PLAT PREPARED BY TIMMONS GROUP, TITLED "PLAT SHOWING ± 22' ALLEY RIGHT-OF-WAY TO BE VACATED" DATED 02/16/2021
- THE PORTION OF RIGHT OF WAY PROPOSED TO BE CLOSED TO PUBLIC USE & TRAVEL IS ENCLOSED IN BOLD LINES:  11,145 S.F.
- PROPOSED UTILITY EASEMENT TO BE RETAINED BY CITY OF RICHMOND SHOWN AS HATCHED AREA  3321 S.F.
- LOCATION AND EXTENT OF DRAINAGE AND UTILITY LINES AND STRUCTURES ARE APPROXIMATE, BEING TRACED FROM A PLAT PREPARED BY TIMMONS GROUP AND TITLED "ALTA/NSPS LAND TITLE SURVEY SHOWING TWO PARCELS TOTALING 1.801 ACRES OF LAND BOUNDED BY AFTON AVENUE, COLUMBIA STREET, LYNHAVEN AVENUE, AND A PUBLIC ALLEY, LOCATED IN THE CITY OF RICHMOND, VIRGINIA" DATED 08/21/2020.
- FOR INFORMATION REGARDING LOTS 1 THROUGH 10 - BLOCK 10, REFER TO SUBDIVISION PLAT OF MELROSE PB1 PG 322, 323 (CCC).



AFTON AVE  
60' +/- PUBLIC ROW



Council District 8

Block No. S8-237

<b>NOTES</b>
1. Property owners correct as of 01/26/2022
2. Ordinance _____
3. Adopted _____
4. Accepted _____

**Engineering Specialist:**  
Shenouda Guergues *Shenouda Guergues*

**Op. Mgr. For Surveys:**  
Marvin W. Anderson, CLS *Marvin W. Anderson*

**ROW Manager:**  
Joseph L. Davenport Jr, P.E. *Joseph L. Davenport Jr*

Surveys Division, Room 600 City Hall  
900 E. Broad Street, Richmond, Va. 23219

**DEPARTMENT OF PUBLIC WORKS**  
RICHMOND, VIRGINIA



PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF PUBLIC ALLEY LOCATED IN BLOCK BOUNDED BY BELLEMEADE ROAD, COLUMBIA STREET, AFTON AVENUE, AND LYNHAVEN AVENUE

REQUESTED BY: MARKHAM PLANNING ON BEHALF OF 2400 AFTON AVENUE LLC 03/22/2021

FIELD NOTE	SCALE 1"=25'	DATE 01/26/2022	PROJECT S8-237-AC	DRAWING NO. N-28981
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**REFERENCES:** B/L 86NW, N21460-A, M13261, S11300, W11152, PB1,PG322,323(CCC).

**REVISIONS:**