

INTRODUCED: March 25, 2019

AN ORDINANCE No. 2019-086

To close, to public use and travel, an alley in the block bounded by T Street, North 26th Street, Nine Mile Road, and North 27th Street consisting of 3,034± square feet, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: APR 22 2019 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That a right-of-way area comprised of an alley in the block bounded by T Street, North 26th Street, Nine Mile Road, and North 27th Street, consisting of approximately 3,034 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-28852, dated December 6, 2018, and entitled “Proposed Closing to Public Use and Travel of an Alley Located in the Block Bounded by T Street, N 26th Street, Nine Mile Road and N 27th Street,” hereinafter referred to as the “Drawing,” a copy of which is attached to this ordinance.

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: APR 22 2019 REJECTED: _____ STRICKEN: _____

§ 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 pays the City the sum of \$3,762.00 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 (2015), as amended, for the construction of the improvements on the site. If the Director of Planning and Development Review disapproves the plan of development, this ordinance shall be void.

(f) 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 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.

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



CITY OF RICHMOND
INTRACITY CORRESPONDENCE

Office of the
Chief Administrative Officer

RECEIVED

O&R REQUEST

MAR 12 2019

EDITION: 1

OFFICE OF CITY ATTORNEY

DATE: February 21, 2019

TO: The Honorable Members of City Council

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

[Handwritten signature] 3/8/19

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer

THROUGH: Robert Steidel, Deputy Chief Administrative Officer

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

[Handwritten signature]

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

[Handwritten signature]

FROM: Brian Copple, Right of Way Manager
Department of Public Works

[Handwritten signature]

RE: **PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF AN ALLEY
LOCATED IN THE BLOCK BOUNDED BY T STREET, N 26TH STREET, NINE
MILE ROAD AND N 27TH STREET**

ORD. OR RES No. _____

PURPOSE: To close to public use and travel the public right of way of an alley located in the block bounded by T Street, N 26th Street, Nine Mile Road and N 27th Street containing 3,034 square feet, as shown on a plan prepared by the Department of Public Works designated as DPW Dwg. No. N-28852 dated 12/06/2018 and entitled "PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF AN ALLEY IN THE BLOCK BOUNDED BY T STREET, N 26TH STREET, NINE MILE ROAD AND N 27TH STREET" at the request of the applicant.

REASON: Letter of request dated September 17, 2018 from Charles H. Rothenberg with Hirschler Fleischer, on behalf of the adjacent property owner, Bon Secours-Richmond Community Hospital, Incorporated.

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. For this project that would include DPU streetlight and waterline facilities.
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-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 for the construction of the improvements on the site must be submitted and approved by the City. Should approval of the Plan of Development not be approved, this closure of the public right of way will not go into effect.
7. The applicant(s)/owner(s)/successor(s) agrees to pay the City of Richmond for this public right-of-way, the sum of \$ 3,762.00
8. 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.

BACKGROUND: Bon Secours-Richmond Community Hospital, Inc. desires to develop a new medical office building on the property which includes the alley and the two adjacent parcels which it bisects, as an expansion of its Richmond Community Hospital campus. This development is in furtherance of the 2013 Performance Agreement between the Economic Development Authority of the City of Richmond and Bon Secours – Richmond Community Hospital, Bon Secours – St. Mary's Hospital of Richmond & Bon Secours – Richmond Health System.

The two parcels bisected by the alley when consolidated with the alley will constitute the entire block bounded by T Street, N 26th Street, Nine Mile Road and N 27th Street. This consolidated property will encompass the development of the medical office building and its required on-site parking. The Performance Agreement has certain deadlines regarding development of the medical office building and the vacating of the alley will allow the development to move forward.

The vacation of the right of way will permit the medical office building to be developed as an integrated project, allow on-site parking requirements to be satisfied, mitigate pedestrian safety and traffic control concerns within the Property, and provide a more secure environment for the medical office building.

The value of the right of way to be vacated (3,034 sf) has been determined to be \$ 3,762.00 (\$1.24 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.

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.

REVENUE TO CITY: \$300 application and processing fee; \$ 3,762 for the value of the land

DESIRED EFFECTIVE DATE: Upon Adoption.

REQUESTED INTRODUCTION DATE: March 25, 2019

CITY COUNCIL PUBLIC HEARING DATE: April 8, 2019

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

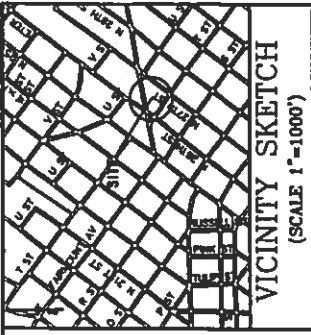
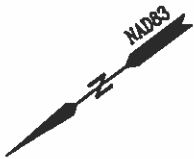
RELATIONSHIP TO EXISTING ORD. OR RES.: None

REQUIRED CHANGES TO WORK PROGRAM(S): None.

ATTACHMENTS: Applicant's request letter
DPW Dwg. No. N-28852

STAFF:

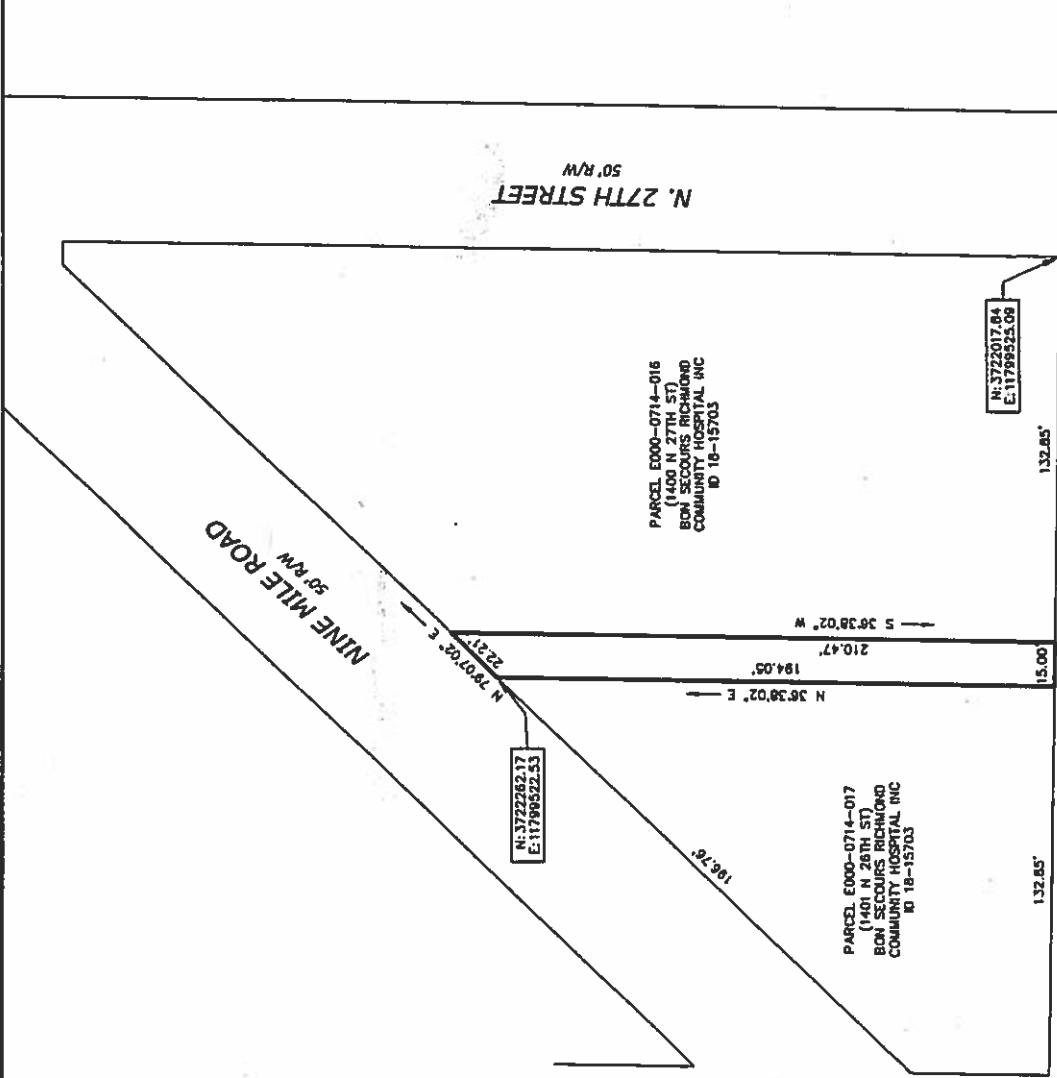
Prepared for Bobby Vincent, Jr., Director – DPW
Prepared by Marvin Anderson, Surveys Supt. – DPW
Research and Drawing Coordinated by James Flannery – DPW
Department of Public Works
646-0435



VICINITY SKETCH
(SCALE 1"=1000')

NOTES

1. THE R/W FOR 15' ALLEY THAT IS PROPOSED TO BE CLOSED TO PUBLIC USE AND TRAVEL IS SHOWN ENCLOSED BY BOLD LINES 3,034 SF
2. THIS DRAWING IS BASED ON A COMPILATION OF DATA FROM RECORD SOURCES AND A PLAT BY TIMMONS GROUP, DATED 06/01/2018 AND TITLED "PLAT SHOWING A 15' ALLEY TO BE VACATED WITHIN THE LIMITS OF NORTH 26TH STREET, NINE MILE ROAD, NORTH 27TH STREET AND T STREET, CITY OF RICHMOND, VIRGINIA."



T STREET
50' R/W



DRAWN BY: J.J.
CHECKED BY: M.V.A.

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

Drafting Technician
Surveys Superintendent
Right of Way Manager
EXTENDING

NOTES
1. Property owners correct as of NOV 5TH 2018.
2. Ordinance _____
3. Adopted _____
4. Accepted _____

REFERENCES: BL 23 SW

| | | | |
|--|--------|-----------|------------------------|
| FIELD NOTE | SCALE | DATE | PROJECT |
| | 1"=50' | 12/6/2018 | E-714-AC |
| Council District <u>7</u> | | | Block No. <u>E-714</u> |
| PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF AN ALLEY LOCATED IN THE BLOCK BOUNDED BY T STREET, N 26TH STREET, NINE MILE ROAD AND N 27TH STREET | | | |
| APPROVED BY LETTER FROM CHAIRMAN & SUPERVISOR SUPERSEEDING THE RECORDS - EXISTING CONTRACT SERIALS, INC. | | | DRAWING NO. |
| | | | N-28852 |

**HIRSCHLER
FLEISCHER**
ATTORNEYS AT LAW

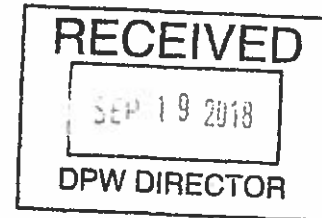
Charles H. Rothenberg
d. 804.771.9503 | crothenberg@hf-law.com

2100 E. Cary Street
Richmond, Virginia 23223
t. 804.771.9500 | f. 804.644.0957
www.hf-law.com

September 17, 2018

VIA UPS OVERNIGHT

City of Richmond
Department of Public Works
900 East Broad Street
Room 700
Richmond, Virginia 23219



Re: Request to Close/Vacate Alley Abutting T Street and Nine Mile Road (the "ROW"), and Consolidate Two Parcels Bounded by N. 27th Street, Nine Mile Road, N. 26th Street and T Street Known As Tax Parcel Nos. E-0000714-017 and E-0000714-016 (collectively, the "Parcels") (collectively, the ROW and the Parcels are the "Property") All of Which Are Located In Church Hill to Allow for a New Medical Office Building

Dear Sir or Madame:

This firm represents Bon Secours–Richmond Community Hospital, Incorporated, a Virginia non-stock, not-for-profit corporation ("BSRCH"), which is the owner of the Parcels. BSRCH hereby requests the closure of the above-referenced ROW located in the City of Richmond as shown in the attached Timmons Group drawing enclosed with this letter (see attached Exhibit A).

BSRCH desires to develop a new medical office building ("MOB") on the Property as an expansion of its Richmond Community Hospital campus. This development is in furtherance of the 2013 Performance Agreement (the "Performance Agreement") between the Economic Development Authority of the City of Richmond ("EDA") and BSRCH, Bon Secours – St. Mary's Hospital of Richmond, Inc. and Bon Secours - Richmond Health System.

The Parcels constitute the entire block bounded by N. 27th Street, Nine Mile Road, N. 26th Street and T Street. BSRCH is requesting the consolidation to allow the development of the MOB and its required on-site parking. The ROW which needs to be vacated is the hatched area shown on Exhibit A. The Performance Agreement has certain deadlines regarding development of the MOB, and this vacation and consolidation must be achieved before BSRCH can obtain final approval of the necessary site plan for the development of the MOB.

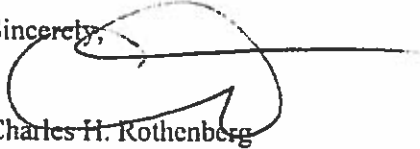
Vacation of the ROW and conveyance of the land within the ROW to BSRCH will permit the MOB to be developed as an integrated project, allow on-site parking requirements to be satisfied, mitigate pedestrian

September 17, 2018
Page 2

safety and traffic control concerns within the Property, and provide a more secure environment for the MOB.

BSRCH hereby petitions the City to convey the ROW depicted in Exhibit A to BSRCH, which is the owner of all of the property adjacent to the ROW.

Sincerely,



Charles H. Rothenberg

cc: Rhodes Ritenour (by email)
Amanda Marth (by email)

9991525.4 020005 03398