

INTRODUCED: April 11, 2022

AN ORDINANCE No. 2022-124

To close, to public use and travel, two portions of public right-of-way located on the south line of West Marshall Street between Highpoint Avenue and Mactavish Avenue, consisting of 1.4± square feet, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: MAY 9 2022 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That two portions of public right-of-way located on the south line of West Marshall Street between Highpoint Avenue and Mactavish Avenue, consisting of approximately 1.4 square feet, are hereby closed to public use and travel as a right-of-way of the City of Richmond, as shown enclosed with bold lines within circular features labeled “Detail 1” and “Detail 2” on a drawing prepared by the Department of Public Works, designated as DPW Drawing No. N-28987, dated March 11, 2022, and entitled “Proposed Closing to Public Use and Travel of Two (2) Portions of Public Right of Way Located on the South Line of W Marshall Street Between Highpoint Avenue

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: MAY 9 2022 REJECTED: _____ STRICKEN: _____

and Mactavish Avenue,” 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 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 \$67.66 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.

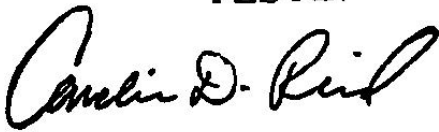
(e) The applicant agrees in a writing approved as to form by the City Attorney that, should the precast columns in the portion of right-of-way proposed for closing to public use and travel either be demolished or removed for any reason, the closure of the public right of way shall be null and void and the right of way closed by this ordinance will revert to the City as public right-of-way, without cost to the City, and that, should any building or structure be reconstructed after being demolished or removed, it shall be reconstructed within the boundaries of the original property line as it existed prior to the effective date of this ordinance, and no portion of the building or structure shall be constructed or reconstructed within the public right-of-way.

(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 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.

**A TRUE COPY:
TESTE:**

A handwritten signature in black ink, appearing to read "Carlin D. Reil". The signature is written in a cursive style with a large initial 'C'.

City Clerk



CITY OF RICHMOND
Intra-City Correspondence

O&R REQUEST

DATE: March 11, 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 TWO (2) PORTIONS OF PUBLIC RIGHT OF WAY LOCATED ON THE SOUTH LINE OF W MARSHALL STREET BETWEEN HIGHPOINT AVENUE AND MACTAVISH AVENUE**

ORD. OR RES No. _____

PURPOSE: To close to public use and travel two (2) portions of public right of way located on the south line of W Marshall Street between Highpoint Avenue and Mactavish Avenue totaling 1.4 sq. ft. as shown on DPW Dwg. No. N-28987 dated 03/11/2022 and entitled "PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF TWO (2) PORTIONS OF PUBLIC RIGHT OF WAY LOCATED ON THE SOUTH LINE OF W MARSHALL STREET BETWEEN HIGHPOINT AVENUE AND MACTAVISH AVENUE" at the request of the applicant.

REASON: Letter of request dated January 31, 2022 from Mark J. Kronenthal with Roth Jackson Gibbons Condlin, PLC on behalf of their client, 3200 Broad 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. The applicant(s)/owner(s)/successor(s) agrees to pay the City of Richmond for this public right-of-way, the sum of \$67.66.
7. 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.
8. Should the precast columns in the portion of right-of-way proposed for closing to public use and travel either be demolished or removed for any reason, the closure of the public right of way shall be null and void and the right of way closed by this ordinance will automatically revert to the City as public right-of-way, without cost to the City. Should any building or structure be reconstructed after being demolished or removed, it shall be reconstructed within the original property line (prior to this proposed closing) with no portion of the building or structure within the public right-of-way.

BACKGROUND: The owner of the property adjacent to these proposed vacations has completed construction of a multi-story pre-cast concrete parking garage on the property. During construction there was a structural design modification to enlarge two (2) columns situated along the south line of W Marshall Street. The face of the original columns were to be immediately adjacent to the right of way line but the new design enlarged the columns from the center out, causing the columns to encroach into the right of way.

An Administrative Encroachment has been approved for these columns but the owner's lender has deemed that it is insufficient for commercial financing purposes. Accordingly the owner is requesting vacation of two (2) minor portions of public right-of-way. One condition of the closure will stipulate that this ordinance shall become null and void and the right of way to automatically revert to the City if the columns are ever demolished or removed.

The value of the right of way to be vacated (1.4 sf) has been determined to be \$67.66 (\$48.33 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.

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; \$67.66 for the value of the land.

DESIRED EFFECTIVE DATE: Upon Adoption

REQUESTED INTRODUCTION DATE: April 11, 2022

CITY COUNCIL PUBLIC HEARING DATE: May 9, 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

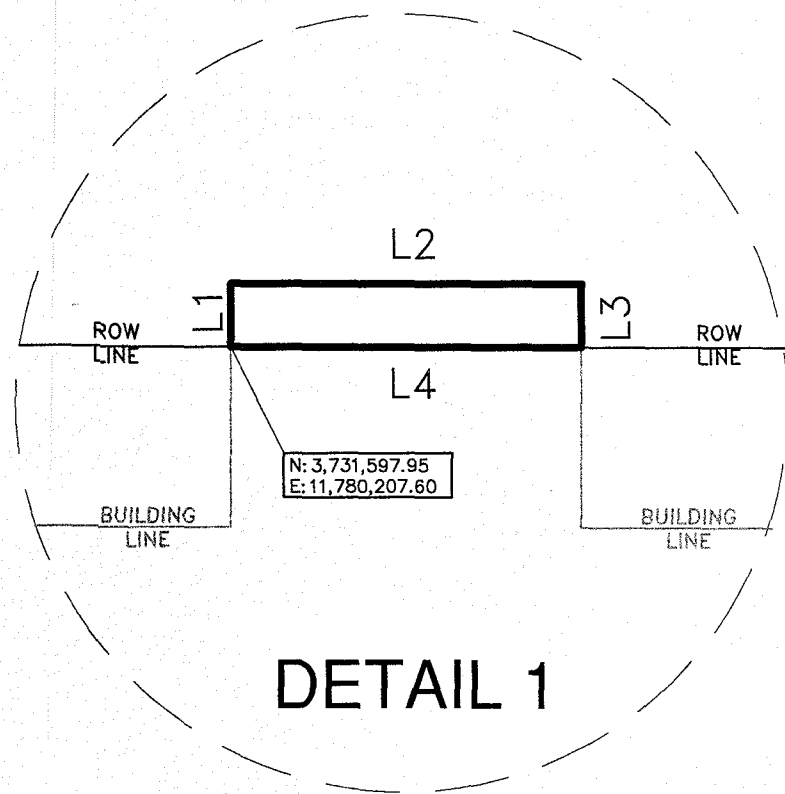
RELATIONSHIP TO EXISTING ORD. OR RES.: None

REQUIRED CHANGES TO WORK PROGRAM(S): None

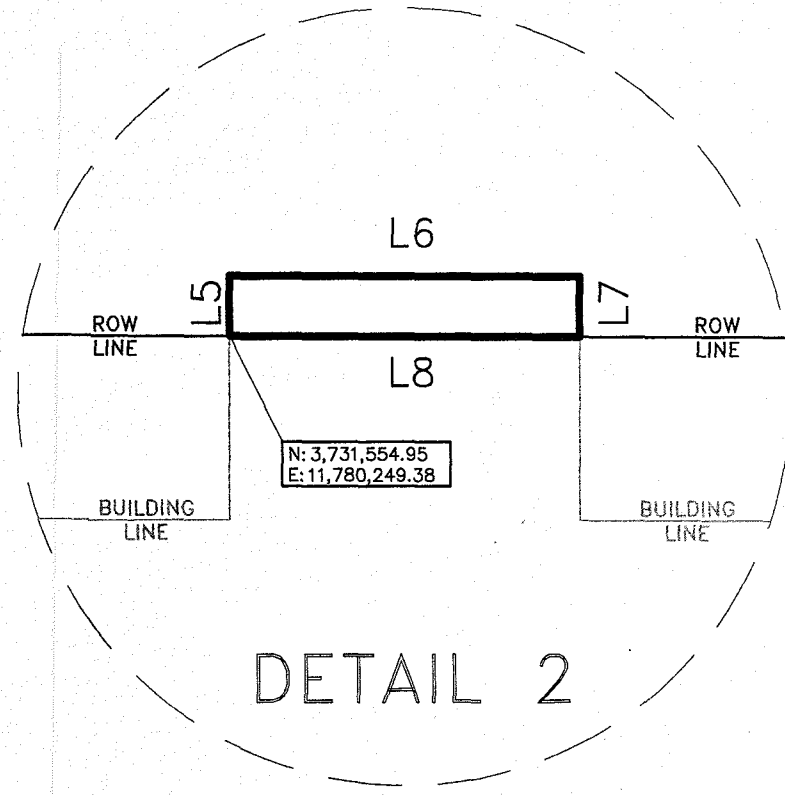
ATTACHMENTS: Right Of Way Closure Request letter (Mark J. Kronenthal)
DPW Dwg. No. N-28987 (dated 03/11/2022)

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



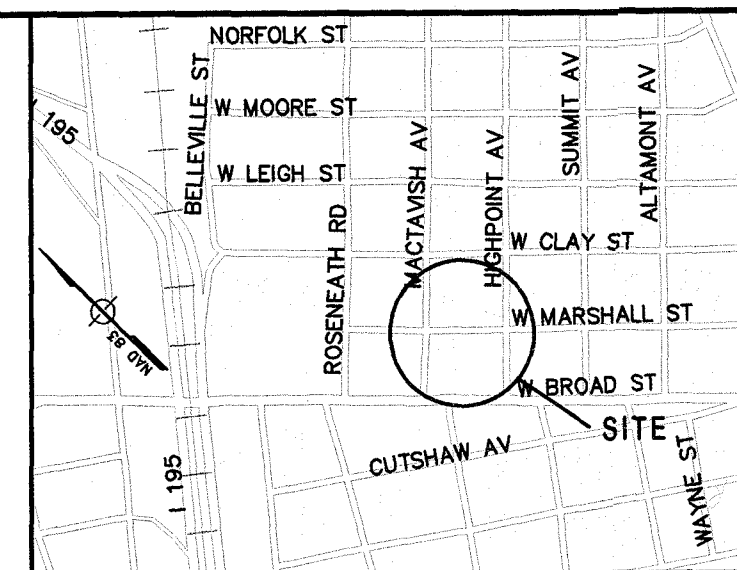
LINE TABLE - DETAIL 1		
L1	N45°48'36"E	0.34'
L2	S44°10'23"E	2.00'
L3	S45°48'36"W	0.34'
L4	N44°10'23"W	2.00'



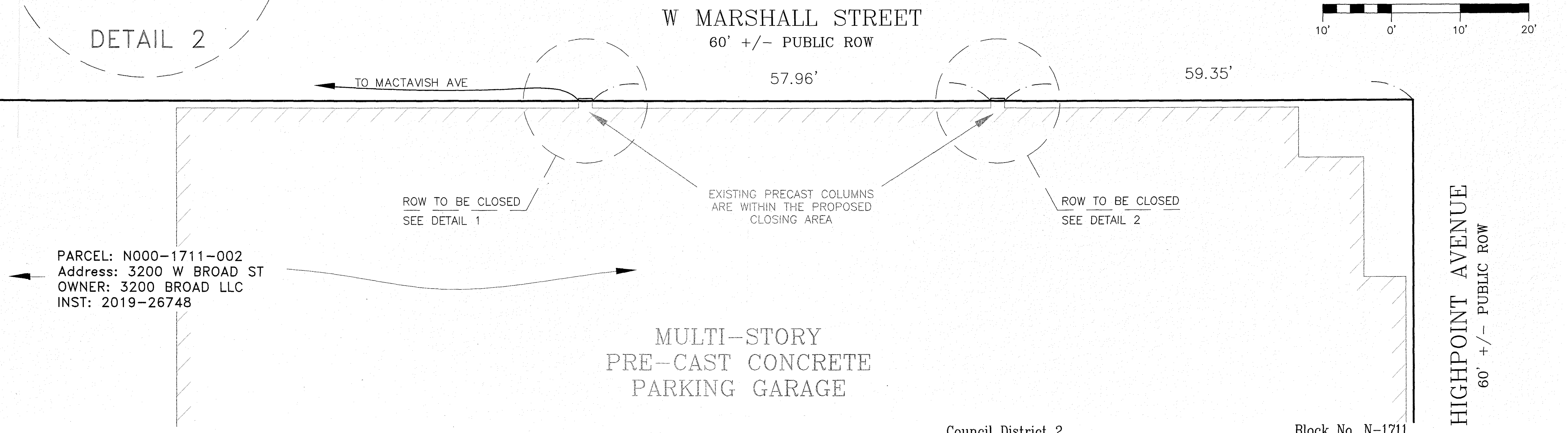
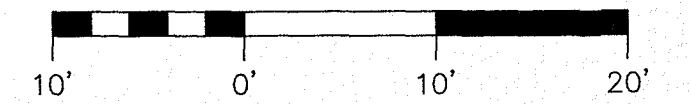
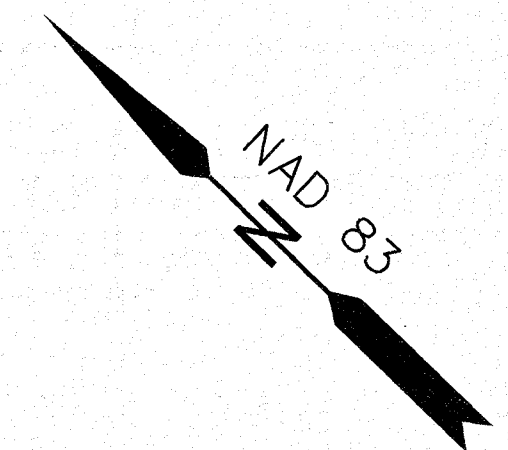
LINE TABLE - DETAIL 2		
L5	N45°48'36"E	0.36'
L6	S44°10'23"E	2.00'
L7	S45°48'36"W	0.36'
L8	N44°10'23"W	2.00'

NOTES:

1. THIS DRAWING IS BASED ON A COMPILATION OF DATA FROM RECORD SOURCES AND SURVEY PLAT PREPARED BY AUSTIN BROOKENBROUGH, TITLED "PLAT OF VACATION. PLAT SHOWING 1.4 SQUARE FEET OF LAND TO BE VACATED ON THE SOUTH SIDE OF WEST MARSHALL STREET BETWEEN MACTAVISH AVENUE AND HIGHPOINT AVENUE" DATED 02/21/2022 REVISED 02/23/2022.
2. THE PORTION OF RIGHT OF WAY PROPOSED TO BE CLOSED TO PUBLIC USE & TRAVEL IS ENCLOSED IN BOLD LINES : 1.40 S.F.
3. LOCATION AND EXTENT OF EXISTING STRUCTURE IS APPROXIMATE, BEING TRACED FROM THE AFOREMENTIONED PLAT.
4. THIS R/W CLOSING IS BEING PROPOSED DUE TO PORTIONS OF TWO EXISTING PRECAST CONCRETE COLUMNS ENCROACHING INTO R/W. THE ORDINANCE FOR THIS CLOSING SHALL CONTAIN A PROVISION THAT IF THESE TWO COLUMNS ARE EVER DEMOLISHED OR DESTROYED, THE VACATED R/W WILL AUTOMATICALLY REVERT TO CITY AT NO COST TO CITY AND ANY NEW CONSTRUCTION MUST BE WITHIN THE LIMITS OF THE ORIGINAL R/W LINES



VICINITY SKETCH
(SCALE 1"=1000')



NOTES

1. Property owners correct as of 03/11/2022
2. Ordinance _____
3. Adopted _____
4. Accepted _____

REFERENCES: B/L 17NW, 17NE, 17SE, 17SW.

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

REVISIONS:

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

DEPARTMENT OF PUBLIC WORKS
RICHMOND, VIRGINIA

RICHMOND VIRGINIA

DRAWN BY: SG
CHECKED BY: MWA

PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF TWO (2) PORTIONS OF PUBLIC RIGHT OF WAY LOCATED ON THE SOUTH LINE OF W MARSHALL STREET BETWEEN HIGHPOINT AVENUE AND MACTAVISH AVENUE.

REQUESTED BY: ROTH JACKSON GIBBONS CONDLIN PLC ON BEHALF OF 3200 BROAD LLC 01/31/2022

FIELD NOTE	SCALE 1"=10'	DATE 03/11/2022	PROJECT N-1711-SC	DRAWING NO. N-28987
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Council District 2

Block No. N-1711

January 31, 2022

By Email:
Mr. Bobby Vincent, Jr.
Director of Public Works
Department of Public Works, City Hall
900 East Broad Street, Room 701
Richmond, Virginia 23219
Bobby.Vincent@richmondgov.com

Mark K. Kronenthal, Esq.
Richmond Office
(804) 441-8603 (direct)
mkronenthal@rothjackson.com

RE: 3200 West Broad Street; Right-of-Way Vacation/Closure Request: 4" Wide Sidewalk Area (Adjacent Tax ID Number: N0001711002)

Dear Mr. Vincent:

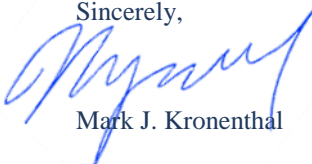
As you know, this firm represents 3200 Broad LLC ("Owner"), the owner of the above parcel (the "Property"), in this request for a proposed vacation of a 4 inches wide area of the sidewalk right of way abutting the northern boundary of the Property (the "Vacation"). The Property is located on the southern side of **West Marshall Street** between MacTavish Avenue and Highpoint Avenue. The Vacation is proposed within the same boundaries of a previously City-approved encroachment No. 099472-2021 area (the "Encroachment") in order to allow for the now-existing structural support columns of a building located both on the Property and in the approved Encroachment to remain in place. The Owner's lender has deemed that the existing approved Encroachment is insufficient for commercial financing purposes. Accordingly, the Owner is making this request.

The portion of the sidewalk subject to the Vacation is de minimis in total area – only 0.6 square feet – and is generally shown in the attached plat entitled "DRAWING SHOWING THE LOCATION OF THE EXISTING BUILDINGS LOCATED ON THE NORTH SIDE OF BROAD STREET, BETWEEN MACTAVISH AVENUE AND HIGHPOINT AVENUE" performed by Austin Brockenbrough and dated September 2, 2021, a copy of which I enclose with the Encroachment. The Owner will separately provide a check for the \$300.00 application and processing fee.

The physical conditions on the Property and in the Vacation area of the right of way will remain the same as they are now. There will be no new physical changes to the City right of way based on the approval of this request.

Thank you in advance for your assistance. Please feel free to contact me at (804) 441-8603 if you have any questions after reviewing this request.

Sincerely,



Mark J. Kronenthal

Enclosures

cc: Joe Davenport (by email)

{01373909;v1}

RICHMOND

1519 Summit Avenue, Suite 102, Richmond, VA 23230

P: 804-441-8440 F: 804-441-8438

TYSONS CORNER

8200 Greensboro Drive, Suite 820, McLean, VA 22102

P: 703-485-3535 F: 703-485-3525