

INTRODUCED: February 13, 2022

AN ORDINANCE No. 2023-055

To close, to public use and travel, a portion of an alley in the block bounded by East 6th Street, Albany Avenue, East 7th Street, and Maury Street, consisting of 245± 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 13 2023 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That a portion of an alley in the block bounded by East 6th Street, Albany Avenue, East 7th Street, and Maury Street, consisting of approximately 245 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-29026A, dated January 31, 2023, and entitled “Proposed Closing to Public Use and Travel of the Residual Portion of an Alley in the Block Bounded by E. 6th Street, Albany Avenue, E. 7th Street and Maury Street,” hereinafter referred to as “the Drawing,” a copy of which drawing is attached to this ordinance.

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: MAR 13 2023 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 alley 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.

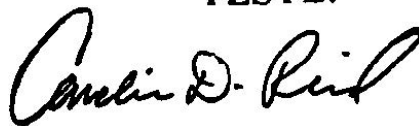
(d) The applicant pays the City the sum of \$1,741.95 for the right-of-way area to be closed. This condition is satisfied when all abutting property owners execute an agreement to purchase the right-of-way area to be closed, with such agreement being in accordance with section 15.2-2008 of the Code of 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 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 Public Works, 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 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 "Camille D. Reed", written in a cursive style.

City Clerk



CITY OF RICHMOND
Intra-City Correspondence

O&R REQUEST

DATE: January 12, 2023

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor

Handwritten signature of Levar M. Stoney.

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

Handwritten signature of J.E. Lincoln Saunders.

THROUGH: Robert Steidel, Deputy Chief Administrative Officer

Robert C Steidel

Digitally signed by Robert C Steidel
Date: 2023.01.17 15:01:48 -05'00'

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

Bobby Vincent

Digitally signed by Bobby
Vincent
Date: 2023.01.13 11:04:23
-05'00'

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

M. S. Khara, PE

Digitally signed by M. S. Khara,
PE
Date: 2023.01.13 10:51:06 -05'00'

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

Handwritten signature of Joseph Davenport.

**RE: PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF THE RESIDUAL
PORTION OF AN ALLEY IN THE BLOCK BOUNDED BY E 6TH STREET,
ALBANY STREET, E 7TH STREET AND MAURY STREET**

ORD. OR RES No. _____

PURPOSE: To close to public use and travel the residual portion of an alley in the block bounded E 6th Street, Albany Street, E 7th Street and Maury Street, consisting of 245 sq. feet as shown on DPW Drawing No. N-29026 dated 1/11/2023 and entitled "PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF THE RESIDUAL PORTION OF AN ALLEY IN THE BLOCK BOUNDED BY E 6TH STREET, ALBANY STREET, E 7TH STREET AND MAURY STREET" at the request of the applicant.

REASON: A letter of request dated October 24, 2022 from Mark A. Olinger with Realization Planning Group on behalf of Merben Properties, LLC, and the owner of all properties that are adjacent to the proposed closing area.

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 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 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.
6. The applicant(s)/owner(s)/successor(s) agrees to pay the City of Richmond for this public right-of-way, the sum of \$1,741.95.
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.

BACKGROUND:

The purpose of this right-of-way closing request is to vacate the residual portion of an alley. This small area was not included in a 1992 ordinance (no. 92-168-107) which vacated the majority of the alley. The first fifteen feet of the alley off of E 6th Street was adjoined on two sides by a strip of property running parallel and adjacent to E 6th Street and owned by CSX, which was not a party to the 1992 closing. The CSX property is now owned by Merben Properties LLC, along with all adjacent parcels, and vacating this small portion of alley will provide for a uniform site boundary.

The owner of the parcels within the block that contains this alley rezoned the properties to TOD-1 via City Council Ordinance No. 2022-028, adopted by Council on February 28, 2022. In order to deliver to any new owner a site that can be developed in a manner suitable to their business purposes and in compliance with the requirements of the TOD-1 zoning district, Merben Properties LLC is requesting this residual portion of the alley to be closed to public use and travel.

The value of the public right-of-way to be vacated (245 sf) has been determined to be \$1,741.95 (\$7.11 per square foot) and is based on the assessed land values of the immediately adjacent parcels. A fee for 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 the alley portion 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; \$1,741.95 anticipated for the value of the vacated right of way.

DESIRED EFFECTIVE DATE: Upon Adoption.

REQUESTED INTRODUCTION DATE: February 13, 2023

CITY COUNCIL PUBLIC HEARING DATE: March 13, 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.: 2022-028; 92-168-107

REQUIRED CHANGES TO WORK PROGRAM(S): None.

ATTACHMENTS: Applicant's request letter dated October 24, 2022 (Mark A. Olinger)
DPW Dwg. No. N-29026 (dated 1/11/2023)

STAFF:

Prepared for Bobby Vincent, Jr., Director DPW

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

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

Department of Public Works / 646-0435



Sent via Electronic Transmission

October 24, 2022

Mr. Bobby Vincent, Director
Dept. of Public Works
City of Richmond
900 E. Broad Street
Richmond, VA: 23219

Re: Request to Close an Alley Mouth and Request Conveyance of Right-of-Way consisting of an entrance to a former Alley Subsequently Closed by Ordinance No. 92-168-107 by Council on May 26, 1992, and accepted by the City on April 1, 1994.

Dear Mr. Vincent:

I represent Merben Properties, LLC, the owner of the properties (the "Adjoining Property") surrounding the Rights-of-Way mentioned above, who hereby requests the closing of an alley mouth on E. 6th Street (the "Alley Mouth"). The Owner of the Adjoining Property rezoned this property to TOD-1, via Ordinance No. 2022-028, adopted by Council on February 28, 2022. Merben submitted a request to close the former alley between E. 6th and E 7th (the "Alley") in connection with its rezoning action because it was unclear whether the Alley had been successfully closed despite several attempts.

Based on information recovered by Mr. Marvin Anderson, the Alley was closed by Council action on May 26, 1992, via Ordinance 92-168-107 and accepted by the City on April 1, 1994 (copies attached). Thus, Merben's 2021 application for closing the Alley was deemed unnecessary, and the Alley was rezoned as part of Merben's Adjoining Property.

The Alley Mouth onto E 6th St. was not a part of the 1992 closing. At the time of the 1992 Alley Closing, this fragment of land was subject to a CSX right-of-way. Merben purchased the CSX right-of-way adjoining their property in 2016. To deliver to any new owner a site that can be developed in a manner suitable to their business purposes and in compliance with the requirements of the TOD-1 zoning district, we are requesting closing of this small parcel, the Alley Mouth, which bisects the two parcels along E.6th St., previously owned by CSX.

Enclosed please find the following items:

1. Survey reflecting the subject streets, surrounding parcels, and areas to be closed;
2. Copy of Ordinance 92-168-107 showing the last closing of the Alley;
3. Copies of documentation of the City showing the application of acceptance dated May 26, 1993;
4. Acceptance of the closing by the Department of Public Works on April 1, 1994; and

5. Copy of the Conveyance Special Warranty Deed from CSX to Merben Properties, LLC.

Because the previous closing of the Alley was deemed unnecessary, we are assuming that the \$300 fee paid for that closing can be applied to this alley closing instead. If this assumption is incorrect, please let me know and we will promptly forward this processing fee. The boundaries of the Alley Mouth are evident in the prior surveys and historical documents, but if we need to complete a new survey of the Alley Mouth, please advise me.

Please feel free to call me directly at (608) 692-4646, or via email at mark.olinger@realizationplanninggroup.com should you have any further questions or require any additional information.

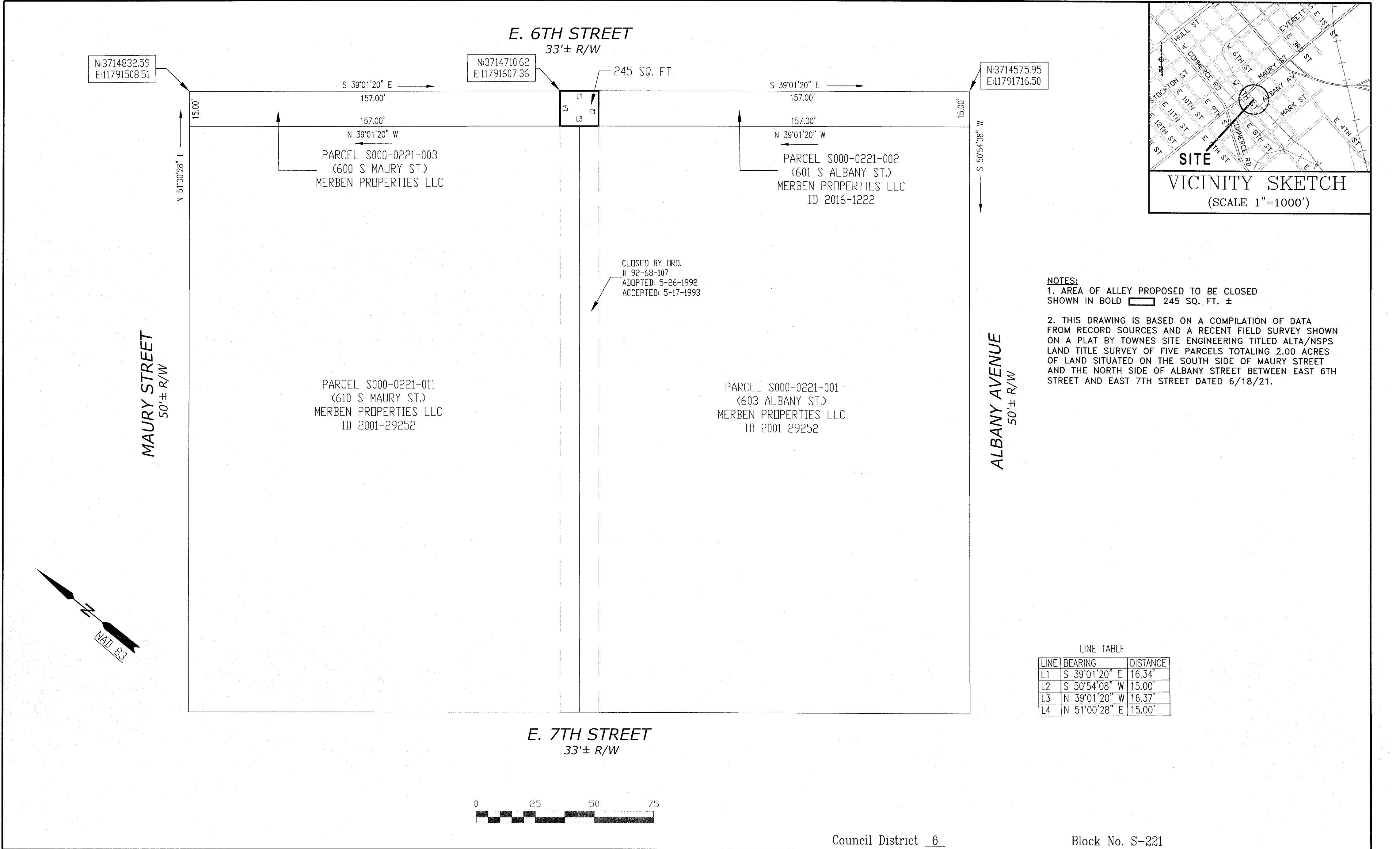
Sincerely,


A handwritten signature in black ink, appearing to read 'Mark A. Olinger', with a stylized flourish extending to the right.

Mark A. Olinger
Principal Member

encl

c: Daniel K. Slone. Vertical Vision



NOTES 1. Property owners correct as of JAN 31, 2023 2. Ordinance No: _____ 3. Adopted: _____ 4. Accepted: _____		Engineering Specialist: <i>[Signature]</i> Ops Mgr For Surveys: <i>[Signature]</i> Right Of Way Manager: <i>[Signature]</i>	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 THE RESIDUAL PORTION OF AN ALLEY IN THE BLOCK BOUNDED BY E. 6TH STREET, ALBANY AVENUE, E. 7TH STREET AND MAURY STREET Requested By: Mark A. Olinger On Behalf Of Merben Properties, LLC			
REFERENCES: BL 11SE, N-22031A	REVISIONS		DRAWN BY: J.F. CHECKED BY: M.W.A.	FIELD NOTE	SCALE 1"=25'	DATE 1/31/2023	PROJECT S-221-AC	DRAWING NO. N-29026A