

INTRODUCED: April 24, 2023

AN ORDINANCE No. 2023-141

To close, to public use and travel, a portion of Jessamine Street located on the east side of Jessamine Street at the intersection of Jessamine Street with Cedar Street, consisting of 357± 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 22 2023 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That a portion of Jessamine Street located on the east side of Jessamine Street at the intersection of Jessamine Street with Cedar Street, consisting of approximately 357 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-29040, dated March 17, 2023, and entitled “Proposed Closing to Public Use and Travel of a Portion of Public Right of Way Located on the East Side of Jessamine Street at the Intersection with Cedar Street,” a copy of which drawing is attached to this ordinance.

AYES: 8 NOES: 0 ABSTAIN: _____

ADOPTED: MAY 22 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 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.

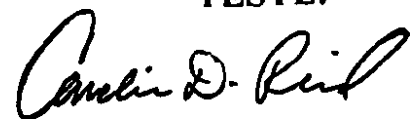
(d) The applicant pays the City the sum of \$19,656.42 for the right-of-way area to be closed. This condition is satisfied when all abutting property owners execute an agreement to purchase the right-of-way area to be closed, with such agreement being in accordance with section 15.2-2008 of the Code 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 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 "Carolin D. Reil".

City Clerk



CITY OF RICHMOND
Intra-City Correspondence

O&R REQUEST

DATE: March 24, 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: 2023.03.27 10:07:37 -04'00'

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

Bobby Vincent

Digitally signed by Bobby Vincent
Date: 2023.03.27 09:42:30 -04'00'

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

M. S. Khara, PE

Digitally signed by M. S. Khara, PE
Date: 2023.03.24 16:31:07 -04'00'

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 A PORTION OF
PUBLIC RIGHT OF WAY LOCATED ON THE EAST SIDE OF JESSAMINE
STREET AT THE INTERSECTION WITH CEDAR STREET**

ORD. OR RES No. _____

PURPOSE: To close to public use and travel of a portion of Jessamine Street right-of-way consisting of 357 sq. feet as shown on DPW Drawing No. N-29040 dated 03/17/2023 and entitled "PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF A PORTION OF PUBLIC RIGHT OF WAY LOCATED ON THE EAST SIDE OF JESSAMINE STREET AT THE INTERSECTION WITH CEDAR STREET" at the request of the applicant.

REASON: A letter of request dated November 16, 2022 from Mark R. Baker with Baker Development Resources, LLC on behalf of William P. Pearsall, Jr., Trustee, owner of property located at 2228 Cedar St, being 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. This includes installing a new cleanout for sewer line at new r/w line and thus allowing property owner to accept responsibility for all sewer line between new r/w line and house,
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 \$19,656.42.
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 existing dwelling located at 2228 Cedar Street, also identified as Tax Parcel E000-0376-010, is encroaching into the 66' +/- Public RIGHT-OF-WAY of Jessamine Street. Such encroachment occurred due to substantial discrepancy between the actual RIGHT-OF-WAY location of Jessamine Street as shown on the City's Baseline Maps and location and extent of applicant's property as shown per deeds and assessor's information.

City Baseline Maps indicate that the 66' r/w width of Jessamine Street between Cedar Street and Venable Street has encroachments from adjacent properties on both sides. But in City Ordinance approved July 16, 1878, it states that "Jessamine Street, between Pleasants and Venable streets, be opened, at present a uniform width of forty-five feet, the city not relinquishing any right to the full width of said street, sixty-six feet."

Closure of this portion of RIGHT-OF-WAY will put the building and porch within the property boundaries while keeping roadway and existing sidewalks within the right of way. More detail sidewalk and other improvements can be found on survey plat prepared by Virginia Surveys, titled "MAP SHOWING THE IMPROVEMENTS ON NO. 2228 CEDAR STREET IN THE CITY OF RICHMOND, VA" dated 01/25/2023 and last revised 02/13/2023 and provided by applicant.

The value of the right of way to be vacated (357 sf) has been determined to be \$19,656.42 (\$55.06 per square foot) and is based on the assessed land value of 2228 Cedar Street. 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. This closure is only reducing a portion of the right of way width of Jessamine Street which will not affect the roadway or sidewalks. Therefore there is no change to the State Maintenance Funds currently received and hence 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; \$19,656.42 anticipated for the value of the vacated right of way.

DESIRED EFFECTIVE DATE: Upon Adoption.

REQUESTED INTRODUCTION DATE: April 24, 2023

CITY COUNCIL PUBLIC HEARING DATE: May 22, 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.: City Ordinance dated July 16, 1878.

REQUIRED CHANGES TO WORK PROGRAM(S): None.

ATTACHMENTS: Applicant's request letter dated November 16, 2022 (Mark R. Baker)
DPW Dwg. No. N-29040 (dated 03/17/2023)
Virginia Surveys plat last revised 02/13/2023

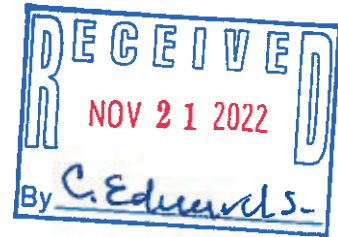
STAFF:

Prepared for Bobby Vincent, Jr., Director DPW

Prepared by Shenouda Guergues, Engineering Specialist, DPW

Research and Drawing Coordinated By: Shenouda Guergues, Engineering Specialist, DPW

Department of Public Works / 646-0435



November 16th, 2022

Bobby Vincent, Jr.,
Director of Public Works
Department of Public Works, City Hall, Room 701
900 East Broad Street
Richmond, Virginia 23219

RE: Right-of-Way Vacation Request: 2228 Cedar Street (E000-0376/010)

Dear Mr. Vincent,

I represent the Property owner in their application for a Right-of-Way Vacation Request for the property known as 2228 Cedar Street, identified as Tax Parcel E000-0376/010. 2228 Cedar Street (the "Property") is occupied by a two-story multi-family dwelling built in the early 1900's. The Property is generally located at the northeast corner of Jessamine and Cedar Streets. This request is for a Right-of-Way Closing/Vacation in order to authorize the vacation of portions of the right-of-way (ROW) of Jessamine Street that encompass the structure at 2228 Cedar Street.

During the review of a recent Survey of the Property, it was revealed that there is a substantial discrepancy between the actual location of the ROW as shown on the City's Baseline Map and where the Property's deed history/legal description, assessor's information, existing improvements, and historic Sanborn maps suggest the ROW should be. According to the baseline map, the existing building and accessory building on the site encroaches into the right-of-way (ROW) of Jessamine Street. The encroachment, totaling 165 square feet within the ROW, is depicted on the attached plat, titled "Map Showing The Improvements On No.2228 Cedar Street," prepared by Virginia Surveys, dated October 26, 2022 and revised November 16, 2022. As a result of discussion and evaluation of this discrepancy with DPW staff it was determined that, in order to authorize the location of the building in relation to the ROW, the best course of action was for the applicant to request to vacate the portion of the ROW on which the building encroaches.

Thank you in advance for your assistance. Should you have any questions after reviewing this request, please feel free to contact me at 874-6275.

Sincerely,

Mark R. Baker
Baker Development Resources, LLC

REFERENCES: B/L 9NE

Engineering Specialist: Shenouda Guerques

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

Min W. Asher

Miss W. Andrews **FOR**

DEPARTMENT OF PUBLIC WORKS
CITY OF RICHMOND, VIRGINIA

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



PROPOSED CLOSING TO PUBLIC USE AND TRAVEL
OF A PORTION OF PUBLIC RIGHT OF WAY
LOCATED ON THE EAST SIDE OF JESSAMINE STREET
AT THE INTERSECTION WITH CEDAR STREET

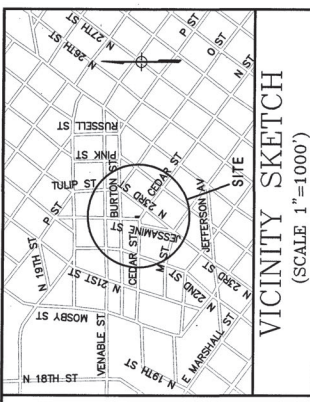
REQUESTED BY: BAKER DEVELOPMENT RESOURCES ON BEHALF OF PROPERTY OWNER, 11/16/2022

FIELD NOTE	SCALE 1"=20'
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DRAWING NO.
N-29040

Council District 7

Block No. E-376

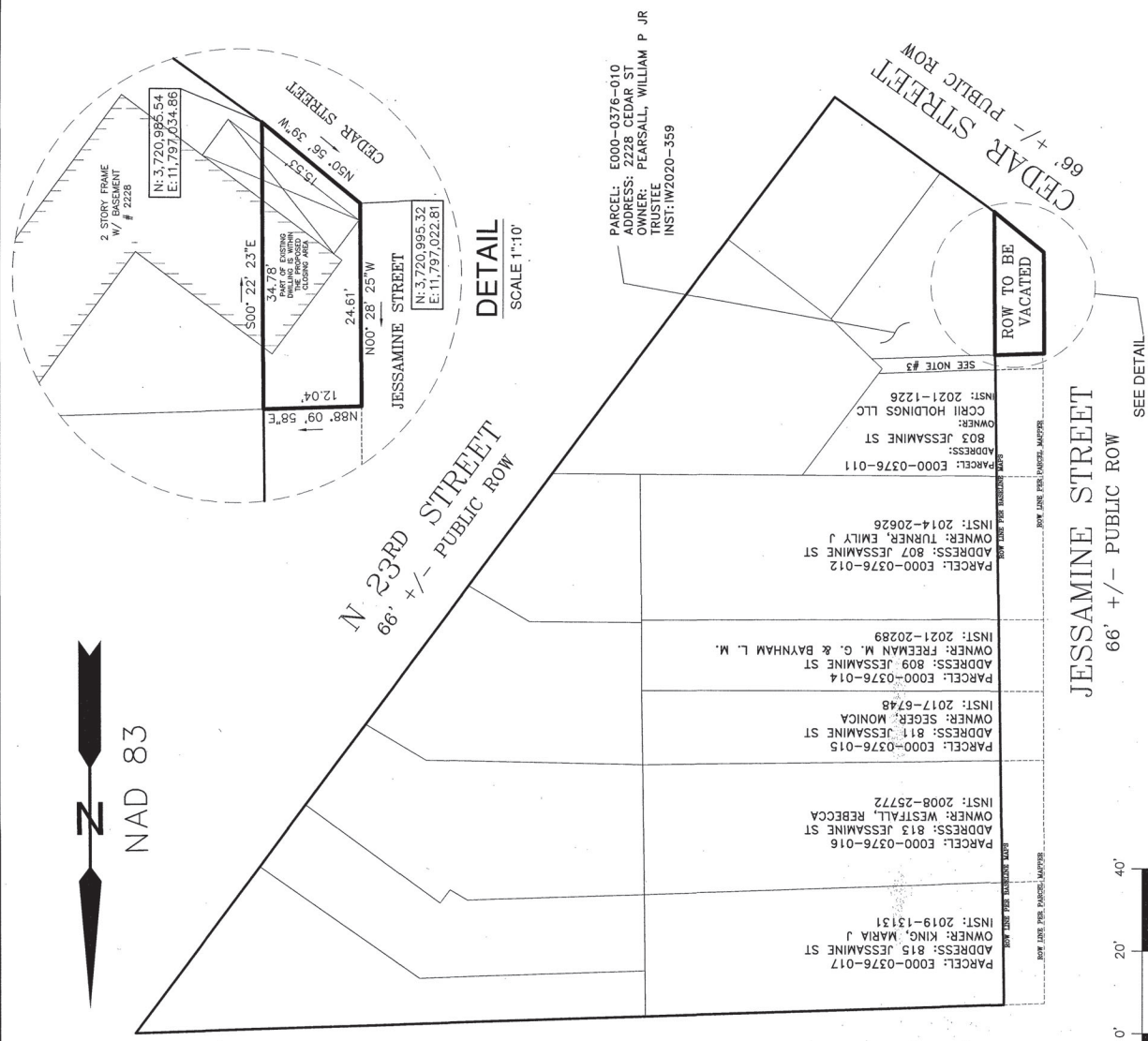


VICINITY SKETCH

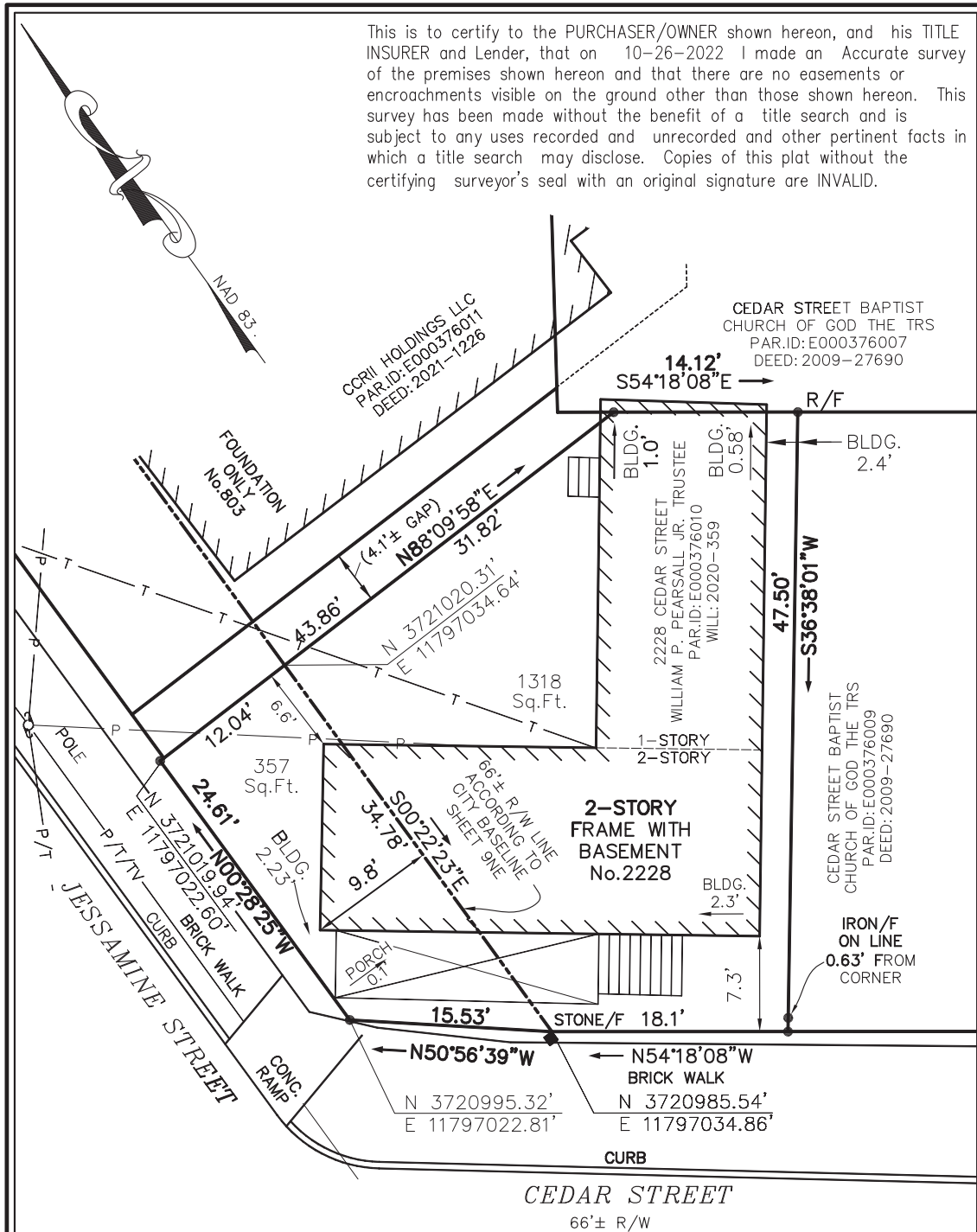
(SCALE 1"=1000')

NOTES:

1. THIS DRAWING IS BASED ON A COMPILATION OF DATA FROM RECORD SOURCES AND SURVEY PLAT PREPARED BY VIRGINIA SURVEYS, TITLED "MAP SHOWING THE IMPROVEMENTS ON NO. 2228 CEDAR STREET IN THE CITY OF RICHMOND, VA" DATED 01/25/2023 AND LAST REVISED 02/13/2023 .
2. THE PORTION OF RIGHT OF WAY PROPOSED TO BE CLOSED TO PUBLIC USE & TRAVEL IS ENCLOSED IN BOLD LINES : 357 S.F.
3. AREA IS DESCRIBED AS "4.1' +/- GAP" ON AFOREMENTIONED PLAT PROVIDED BY APPLICANT DUE TO DISCREPANCIES BETWEEN DISTANCES FROM DEEDS AND DISTANCES FROM BLOCK DIMENSIONS ON BASELINE MAPS.



This is to certify to the PURCHASER/OWNER shown hereon, and his TITLE INSURER and Lender, that on 10-26-2022 I made an Accurate survey of the premises shown hereon and that there are no easements or encroachments visible on the ground other than those shown hereon. This survey has been made without the benefit of a title search and is subject to any uses recorded and unrecorded and other pertinent facts in which a title search may disclose. Copies of this plat without the certifying surveyor's seal with an original signature are INVALID.



MAP SHOWING THE IMPROVEMENTS ON
No. 2228 CEDAR STREET
IN THE CITY OF RICHMOND, VA.



Virginia Surveys
P.O. BOX 118
CHESTERFIELD, VA 23832
(804) 748-9481
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REVISED: 2-13-2023
REVISED: 2-7-2023
DATE: 1-25-2023

CERTIFIED BY JEFFREY K. FLOYD

VIRGINIA CERTIFICATE NO. 001905

SCALE: 1"=10'

JOB NO. 210814474