

INTRODUCED: April 24, 2023

AN ORDINANCE No. 2023-142

To close, to public use and travel, an alley in the block bounded by West Commerce Road, McDonough Street, West 7<sup>th</sup> Street, and Perry Street, consisting of 3,299± 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 an alley in the block bounded by West Commerce Road, McDonough Street, West 7<sup>th</sup> Street, and Perry Street, consisting of approximately 3,299 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-29023, dated March 23, 2023, and entitled “Proposed Closing to Public Use and Travel of an Alley in the Block Bounded by West Commerce Road, Perry Street, W 7<sup>th</sup> Street and McDonough Street,” hereinafter referred to as “the Drawing,” 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 \$105,633.98. 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.

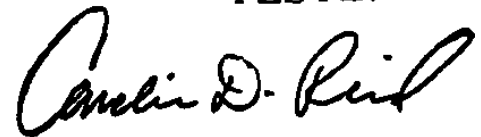
(f) The applicant agrees in a writing approved as to form by the City Attorney that, should the applicant remove any cobblestones from the right-of-way to be closed, the applicant shall deliver all such cobblestones in an undamaged and cleaned condition to a location determined by the Director of Public works.

(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, 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, reading "Camelin D. Reid". The signature is written in a cursive, flowing style.

**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 08:56:17 -04'00'

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

Bobby Vincent

Digitally signed by Bobby Vincent  
Date: 2023.03.27 08:19:56 -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 16:09:06 -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 AN ALLEY IN THE BLOCK BOUNDED BY WEST COMMERCE ROAD, MCDONOUGH STREET, W 7<sup>TH</sup> STREET AND PERRY STREET**

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

**PURPOSE:** To close to public use and travel an alley in the block bounded by West Commerce Road, McDonough Street, W 7<sup>th</sup> Street and Perry Street, consisting of 3299 sq. feet as shown in bold lines on DPW Drawing No. N-29023, dated 03/23/2023 and entitled "PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF AN ALLEY IN THE BLOCK BOUNDED BY WEST COMMERCE ROAD, PERRY STREET, W 7<sup>TH</sup> STREET AND PERRY STREET" at the request of the applicant.

**REASON:** A letter of request dated October 13, 2022 from the Timmons Group on behalf of The Beach Company, owner (via an affiliated entity) 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. It has been indicated that exist sewer lateral abandonment and removal of streetlight facilities within the alley will be addressed in POD.
3. A Plan of Development (POD) for the construction of the improvements on the site must be submitted and approved by the City within twelve (12) months of ordinance adoption. Should approval of the Plan of Development be denied, this closure of the public right of way will not go into effect.
4. The applicant(s)/owner(s)/successor(s) shall be responsible for surface storm water overflow in the area to be closed.
5. 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.
6. 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.
7. The applicant(s)/owner(s)/successor(s) agrees to pay the City of Richmond for this public right-of-way, the sum of \$105,633.98.
8. The applicant(s)/owner(s)/successor(s) of the property must agree in writing to preserve any existing cobblestones within the vacated rights-of-way; and, should any cobblestones be removed at a future date, the applicant(s)/owner(s)/successor(s) shall return the cobblestones in an undamaged and clean condition to the City at a location designated by the Department of Public Works.
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.

### **BACKGROUND:**

The Beach Company, via an affiliated entity, is in the process of redeveloping the entire block in which this alley is located with the purpose of constructing a mixed-use apartment building. To enable the construction of the building they are requesting the vacation of this alley.

The building will be a mixed-use apartment building with retail on a portion of the ground floor, approximately 263 residential units and 313 parking spaces. A POD is currently under review by various City agencies for this project; approval of the POD by the City is a condition of this closure ordinance becoming effective.

The value of the public right-of-way to be vacated (3299 sf) has been determined to be \$105,633.98 (\$32.02 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 alley 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; \$105,633.98 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.:** None

**REQUIRED CHANGES TO WORK PROGRAM(S):** None.

**ATTACHMENTS:** Applicant's request letter dated October 13, 2022 (Timmons Group)  
DPW Dwg. No. N-29023 (dated 3/23/2023)

**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



October 13, 2022

Mr. Bobby Vincent  
Director of Public Works  
City Hall, Room 701  
900 East Broad Street  
Richmond, VA 23219

RE: Alley Right-of-Way Closing/Vacation Request, related to:  
Planned 326 W. 7<sup>th</sup> Street Mixed-Use Apartment Building

Dear Mr. Vincent,

The Beach Company, via an affiliated entity, is in the process of redeveloping the block bound by McDonough Street, W 7<sup>th</sup> Street, Perry Street, and Commerce Street with the purpose of constructing a mixed-use apartment building.

The project is entering the POD process at the same time as initiating the alley vacation requested with this letter. A POD routing number will be shared with DPW staff as soon as it is available. The building will be a mixed-use apartment building with retail on a portion of the ground floor, and roughly 263 units & 313 parking spaces.

To enable the construction of the building described above, we are requesting the abandonment of the 3,299 SF (0.076 acre) unimproved public alley as shown on the attached "Alley Closure Between Perry Street and McDonough Street" by Timmons Group dated 9/14/22.

Two City of Richmond owned utility poles are located within the public alley, as well as one private sewer lateral and overhead telecom lines. The POD includes a demolition plan that calls for the removal of all public and private utilities within the public alley.

At the date of this letter, five of the six the properties on this block are owned by Thurston Spring Service LLC. The sixth property is owned by Three Twenty Six West Seventh Street. The Beach Company, via an affiliated entity, is under contract to purchase all six properties which comprise the city block. It is anticipated that the land transfers will be completed in December 2022.

The Beach Company and Timmons Group have been working with Joe Davenport on this request.

It is anticipated that the required \$300 application and processing fee will be paid online when invoiced. Timmons Group can also deliver or mail a check made out to "City of Richmond" if that is preferred.

Should you have any questions or comments, please feel free to contact me at 804-200-6489.

Sincerely,

Sam Castonguay, PE  
Timmons Group

**The Beach Company**  
320 Broad Street, Suite 300  
Charleston, SC 29401

**TIMMONS GROUP**  
1001 Boulders Parkway, Suite 300  
Richmond, VA 23225



