

INTRODUCED: July 24, 2023

AN ORDINANCE No. 2023-236

To close, to public use and travel, an alley in the block bounded by Richmond Highway, Afton Avenue, Columbia Street, and Bellemeade Road, consisting of 2,450± square feet, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: SEPT 11 2023 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That an alley in the block bounded by Richmond Highway, Afton Avenue, Columbia Street, and Bellemeade Road, consisting of approximately 2,450 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-28947, dated December 16, 2021, and entitled “Proposed Closing to Public Use and Travel of an Alley in the Block Bounded by Richmond Highway, Afton Avenue, Columbia Street, and Bellemeade Road,” a copy of which drawing is attached to this ordinance.

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: OCT 10 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 \$12,176.50 for the right-of-way area to be closed if the City does not retain a full width utility easement over the vacated alley or \$8,117.67 if the City does retain a full width utility easement over the vacated alley. 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 or building permit be denied, this closure of the public right-of-way shall not go into effect.

(f) The applicant provides written evidence satisfactory to and approved as to form by the City Attorney that all facilities of the Department of Public Utilities in the right-of-way area to be closed have been removed or relocated from the right-of-way area to be closed in such a manner

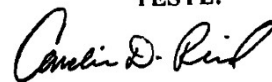
satisfactory to the Director of Public Works, provided that the Chief Administrative Officer, for an on behalf of the City, is hereby authorized to retain a full width utility easement for the portion of the right-of-way area to be closed and to execute all documents necessary to consummate such easement upon the failure of the applicant to provide the written evidence required by this subsection in accordance with this ordinance.

(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 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 cursive script, appearing to read "Carolin D. Reed".

City Clerk



City of Richmond

900 East Broad Street
2nd Floor of City Hall
Richmond, VA 23219
www.rva.gov

Master

File Number: Admin-2023-0759

File ID: Admin-2023-0759

Type: Request for Ordinance or Resolution

Status: Regular Agenda

Version: 1

Reference:

In Control: City Clerk Waiting Room

Department:

Cost:

File Created: 06/22/2023

Subject:

Final Action:

Title:

Internal Notes:

Code Sections:

Agenda Date: 07/24/2023

Indexes:

Agenda Number:

Patron(s):

Enactment Date:

Attachments: ADMIN-2023-0759_Appl R-W Closure Request
Ltr_6-20-2023, ADMIN-2023-0759_DPW DRWG
N28947

Enactment Number:

Contact:

Introduction Date:

Drafter: Joseph.DavenportJr@rva.gov

Effective Date:

Approval History

Version	Seq #	Action Date	Approver	Action	Due Date
1	1	6/23/2023	M.S. Khara	Approve	6/23/2023
1	2	6/23/2023	Joseph Davenport - FYI	Notified - FYI	
1	3	6/26/2023	Bobby Vincent	Approve	6/26/2023
1	4	6/26/2023	Joseph Davenport - FYI	Notified - FYI	
1	5	6/26/2023	Robert Steidel	Approve	6/27/2023
1	6	6/26/2023	Joseph Davenport - FYI	Notified - FYI	
1	7	7/7/2023	Lincoln Saunders	Approve	7/5/2023
1	8	7/7/2023	Joseph Davenport - FYI	Notified - FYI	
1	9	7/19/2023	Mayor Stoney	Approve	7/27/2023
1	10	7/19/2023	Joseph Davenport - FYI	Notified - FYI	

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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Text of Legislative File Admin-2023-0759

O&R REQUEST

DATE: June 22, 2023 **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 PUBLIC
RIGHT-OF-WAY FOR AN ALLEY IN THE BLOCK BOUNDED BY
RICHMOND HIGHWAY, AFTON AVENUE, COLUMBIA STREET AND
BELLEMEADE ROAD**

ORD. OR RES No.

—

PURPOSE: To close to public use and travel the public right-of-way for an alley in the block bounded by Richmond Highway, Afton Avenue, Columbia Street and Bellemeade Road consisting of 2450 sq. ft. as shown on DPW Dwg. No. N-28947 dated 12/16/2021 and entitled “PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF AN ALLEY IN THE BLOCK BOUNDED BY RICHMOND HIGHWAY, AFTON AVENUE, COLUMBIA STREET AND BELLEMEADE STREET” at the request of the applicant.

REASON: This ordinance will supersede Ordinance No. 2022-041, adopted March 14, 2022, which has expired. Ordinance No. 2022-041 was to become effective only upon satisfaction of all listed conditions within twelve (12) months of adoption; however, several conditions were not satisfied within the designated timeframe. A new letter of request dated June 20, 2023, has been received from C. Jay

Robbins, IV, Attorney at Law on behalf of his client, Solo Property Investment, Inc., 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 request that any approvals be subject to, and including without limitation, the following terms and conditions:

- 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.
- 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.
- The applicant(s)/owner(s)/successor(s) shall be responsible for surface storm water overflow in the area to be closed.
- 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.
- 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.
- A Plan of Development (POD) for the construction of the improvements on the site, or, if no POD is required, a building permit, must be submitted and approved by the City within twelve (12) months of ordinance adoption. Should approval of the Plan of Development, or building permit, be denied, this closure of the public right of way will not go into effect.
- The applicant(s)/owner(s)/successor(s) shall be responsible for providing written evidence satisfactory to the City Attorney that all DPU facilities have been removed or relocated from the subject alley and in a manner satisfactory to the Department of Public Utilities; otherwise a full width utility easement shall be retained over the entire width of the vacated alley.
- The applicant(s)/owner(s)/successor(s) agrees to pay the City of Richmond for this public right-of-way, the sum of \$12,176.50 if the City does not retain a full width utility easement or \$8,117.67 if the City does retain a full width utility easement over the vacated alley.
- 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: This ordinance will supersede Ordinance No. 2022-041, adopted March 14, 2022, which has expired. Ordinance No. 2022-041 was to become effective only upon satisfaction of all listed conditions within twelve (12) months of adoption; however, several conditions were not

satisfied within the designated timeframe. A new letter of request dated June 20, 2023, has been received from C. Jay Robbins, IV, Attorney at Law on behalf of his client, Solo Property Investment, Inc., the owner of all properties adjacent to the proposed closing.

The owner of the properties adjacent to this proposed vacation are in the planning stages of a development that will use the vacated alley for additional parking or for expansion of buildings on either one or both of the parcels. The alley to be vacated connects Afton Avenue to a 22' alley which runs adjacent to and parallel with Bellemeade Road and does not benefit any properties other than those owned by the requesting parties.

The value of the right of way to be vacated (2450 sf) has been determined to be \$12,176.50 (\$4.97 per square foot) and is based on assessed values of adjacent parcels. At this time it has not been determined if the DPU facilities within the alley will be removed/relocated or remain. A condition of the ordinance will require the applicant provide evidence that the utilities have been removed to DPU satisfaction to the City Attorney. If not accomplished the alley can still be vacated with the City retaining a full width utility easement and this fact will be included in the City's quit claim deed of the alleys to the property owners. If easement is retained the fee paid to the City will be reduced by \$4,058.83 and the actual fee due to the City is \$8,117.67.

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 prior 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; \$12,176.50 for the value of the land if the City will not retain a full width utility easement or \$8,117.67 for the value of the land if the City will retain a full width utility easement over the vacated alley.

DESIRED EFFECTIVE DATE: Upon Adoption

REQUESTED INTRODUCTION DATE: July 24, 2023

CITY COUNCIL PUBLIC HEARING DATE: September 11, 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

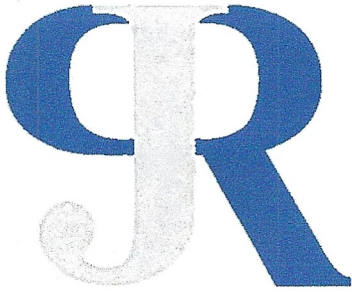
RELATIONSHIP TO EXISTING ORD. OR RES.: Ord. No. 2022-041 (expired March 13, 2023)

REQUIRED CHANGES TO WORK PROGRAM(S): None

ATTACHMENTS: Right Of Way Closure Request letter (C. Jay Robbins, IV)
DPW Dwg. No. N-28947 (dated 12/16/2021)

STAFF:

Prepared for Bobby Vincent, Jr., Director, DPW
Prepared by Joseph Davenport, ROW Manager, DPW
Department of Public Works / 646-0435



C. Jay Robbins, IV
Attorney at Law

Where Strong Cases Are Built

June 20, 2023

Bobby Vincent, Jr.
Director of Public Works
Right of Way Closure Request
City Hall, Room 701
900 E. Broad Street
Richmond, Virginia, 23219

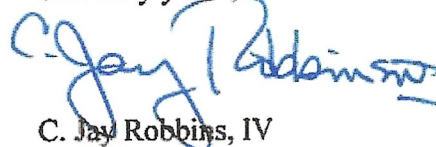
RIGHT OF WAY CLOSURE REQUEST
2512 Afton Ave Parcel ID: S0080236006
2201 Richmond Hwy Parcel ID: S0080236001

Dear Mr. Vincent:

On behalf of my client, Solo Property Investment Inc., I request the closure of the alleyway between the two properties referenced above. Solo Property owns both parcels and there are no other contiguous landowners. The purpose of the closure is to permit use of the alleyway for additional parking or for expansion of buildings on either one or both of the parcels owned by Solo Property.

The application fee of \$300 has been paid and noted received.

Sincerely yours,

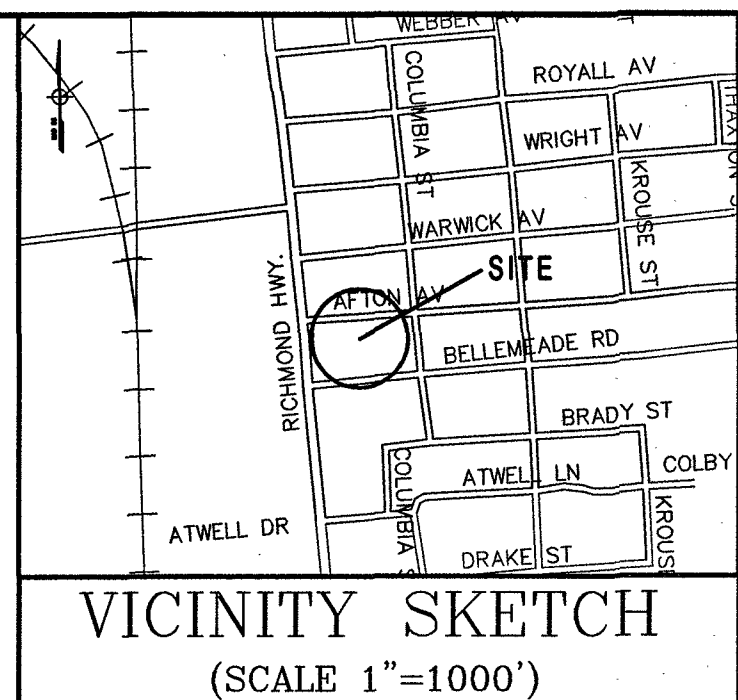


C. Jay Robbins, IV

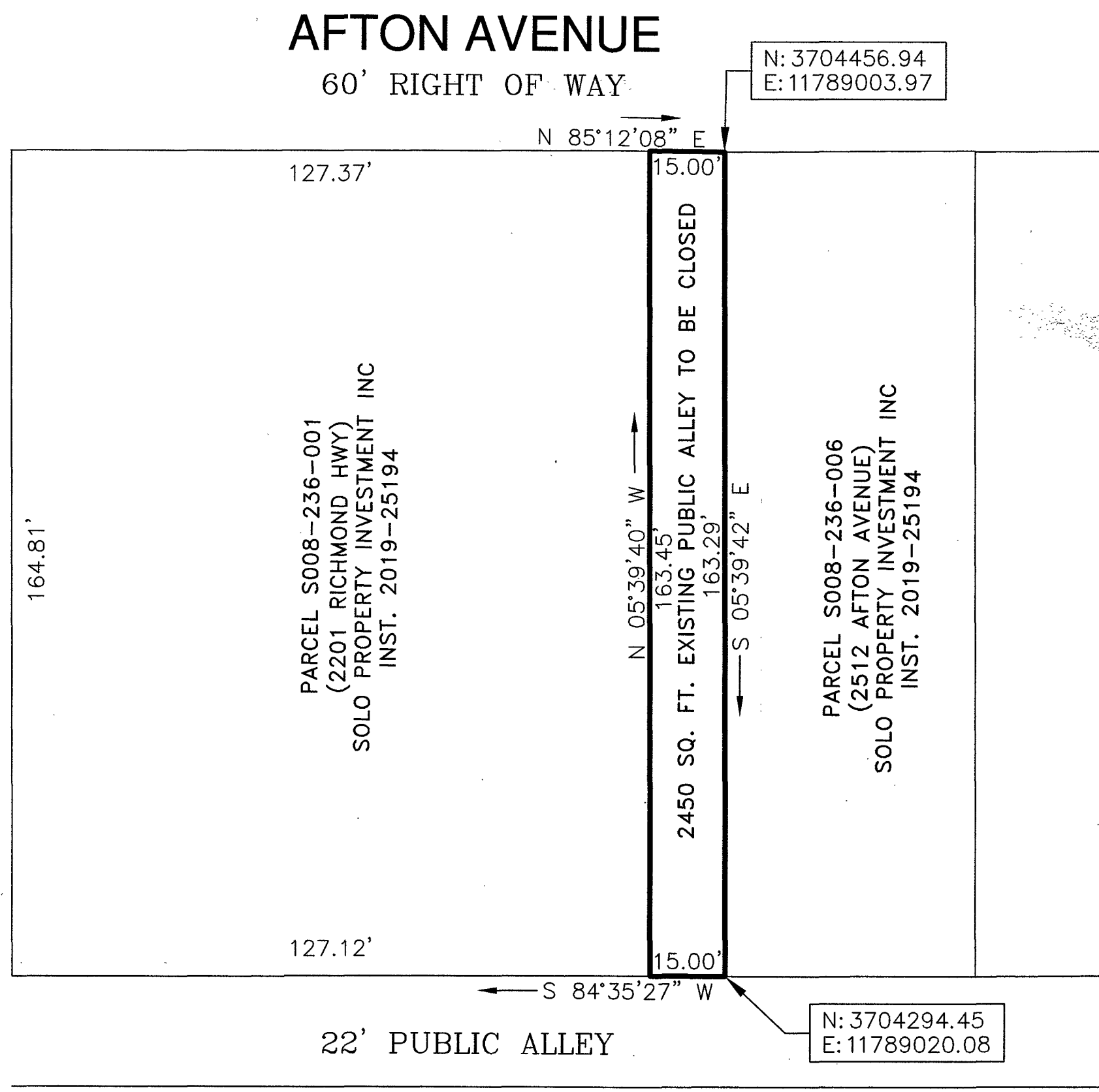
cc: Solo Property Investment, Inc.(by email only)

email cjr@robbins.legal
website robbins.legal


8003 Franklin Farms Rd
Suite 233
Richmond, VA 23229
T 804.299.4208
F 804.774.7527




RICHMOND HIGHWAY
100± RIGHT OF WAY



NOTE:

1. THIS DRAWING IS BASED ON A COMPILATION OF DATA FROM RECORD SOURCES AND RECENT FIELD SURVEY BY HARVEY L. PARKS INC. SHOWN ON PLAT TITLED "PLAT SHOWING PROPOSED 2450 SQ. FT. ALLEY VACATION BETWEEN PARTS OF LOTS 1-3 & LOT 4, BLOCK "5" PLAN OF MELROSE IN THE CITY OF RICHMOND" DATED 01/15/2020
2. THE ALLEY THAT IS PROPOSED TO BE CLOSED TO PUBLIC USE & TRAVEL IS ENCLOSED IN BOLD LINES:  2,450 S.F.
3. THERE ARE PUBLIC UTILITIES IN ALLEY AND UNLESS ARRANGEMENTS ARE MADE WITH DPU TO HAVE UTILITIES REMOVED OR RELOCATED, A FULL WIDTH EASEMENT WILL BE RETAINED. CITY ATTORNEY WILL INCLUDE IN QUIT CLAIM DEED IF AN EASEMENT IS RETAINED.



NOTES 1. Property owners correct as of DEC. 16TH, 2021. 3. Ordinance No 4. Adopted 5. Accepted		Drafting Technician Surveys Superintendent Right Of Way Manager	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 AN ALLEY IN THE BLOCK BOUNDED BY RICHMOND HIGHWAY, AFTON AVENUE, COLUMBIA STREET, AND BELLMEADE ROAD Requested By: ATTORNEY ON BEHALF OF SOLO PROPERTY INVESTMENT, INC.				DRAWING NO. N-28947	
REFERENCES: BL 86NW, N-21460A	REVISIONS			DRAWN BY: J.F. CHECKED BY: M.W.A.	FIELD NOTE	SCALE 1"=25'	DATE 12/16/2021	PROJECT S8-236-AC		