

INTRODUCED: September 10, 2018

AN ORDINANCE No. 2018-243

To close, to public use and travel, a portion of Northumberland Avenue located between the south line of West Roberts Street and the southern terminus of Northumberland Avenue, consisting of 16,355± square feet, upon certain terms and conditions.

Patron – Mayor Stoney (By Request)

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: OCT 8 2018 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That a right-of-way area comprised of a portion of Northumberland Avenue located between the south line of West Roberts Street and the southern terminus of Northumberland Avenue, consisting of approximately 16,355 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-28774A, dated July 24, 2018, and entitled “Proposed Closing to Public Use and Travel of Northumberland Avenue from the South Line of W. Roberts Street to Its Southern Terminus,” a copy of which is attached to this ordinance.

AYES: _____ NOES: _____ ABSTAIN: _____

ADOPTED: _____ REJECTED: _____ STRICKEN: _____

§ 2. That this ordinance, as to the closing of the right-of-way area identified in section 1 above, shall be in force as provided in section 4.09 of the Charter of the City of Richmond (2018), as amended, and shall become effective only when, within 12 months from the day this ordinance is adopted:

(a) 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.

(b) 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.

(c) The applicant pays the City the sum of \$100,583.25 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.

(d) 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.

(e) The applicant coordinates with the Department of Public Utilities as to the disposition of the infrastructure and utility easement within the portion of Northumberland Avenue that is being closed.

§ 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 upon adoption.



CITY OF RICHMOND
INTRACITY CORRESPONDENCE

O & R REQUEST
4-8064
AUG 13 2018
Office of the Chief Administrative Officer

O&R REQUEST

DATE: August 9, 2018 EDITION: 1

TO: The Honorable Members of City Council

THROUGH: Levar M. Stoney, Mayor (By Request) JS 8/28/18

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer SCG

THROUGH: Robert C. Steidel, Deputy Chief Administrative Officer - Operations [Signature]

THROUGH: Bobby Vincent, Jr, Director Department of Public Works [Signature]

RECEIVED

AUG 29 2018

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

THROUGH: Brian Cople, Right of Way Manager Department of Public Works [Signature]

OFFICE OF CITY ATTORNEY

FROM: Marvin Anderson, Surveys Supt. Department of Public Works MVA

RE: PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF NORTHUMBERLAND AVENUE FROM THE SOUTH LINE OF W. ROBERTS STREET TO ITS SOUTHERN TERMINUS

ORD. OR RES No. _____

PURPOSE: To close to public use and travel a portion of Northumberland Avenue containing 16,355 square feet as shown enclosed with bold lines on a plan prepared by the Department of Public Works and designated as DPW Dwg. No. N-28774A dated July 24, 2018 entitled "PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF NORTHUMBERLAND AVENUE FROM THE SOUTH LINE OF W. ROBERTS STREET TO ITS SOUTHERN TERMINUS" at the request of the applicant.

REASON: Letter of request dated September 6, 2016 from Kimberly R. Kidd with W. Brook Road, LLC. This is an unimproved City street that does not benefit the public. The City currently does not have any future capital plans for the improvement of this road. Closure of this street will serve as an access for the applicant's development of 224 Multi-family residential units. (SUP-027601-2017).

Although the City has not received consent from the current owner of the third parcel pursuant to City Code Sec. 24-314, the owner has stated no objection to the closure, and W. Brook Road, LLC has provided a recorded Quitclaim Deed from the prior owner of the third parcel, Lombardy VU Realty, LLC, stating that Lombardy VU Realty, LLC “release[s], remise[s], and quitclaim[s]” to W. Brook Road, LLC, “all of its rights, title, and interest in and to the unimproved street known as Northumberland Avenue...” W. Brook Road, LLC wishes to use this area to provide secure limited access to their property.

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 identify and protect the rights of any public and/or private owners of utilities who may have a vested interest or facilities in subject right-of-way.
3. A twelve-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.
4. The applicant(s)/owner(s)/successor(s) shall be responsible for surface overflow in the area to be closed.
5. The applicant(s)/owner(s)/successor(s) agrees to pay the City of Richmond for this public right-of-way, the sum of \$100,583.25.
6. The applicant(s)/owner(s)/successor(s) is responsible for providing the Law Department with written evidence 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, twelve months after final approval of the ordinance, the ordinance will become null and void automatically.
7. The applicant(s) /owner(s)/successor(s) is responsible for coordinating with the Department of Public Utilities as to the disposition/abandonment of the infrastructure and utility easement within the portion of Northumberland Avenue that is being closed.

BACKGROUND: The requested closure is for a stub street which provides secondary frontage and access for three parcels. The applicant, W Brook Road, LLC, purchased the area encompassing the three parcels from the United States Postal Service in 2011 and has sold one parcel to Lombardy VU Realty, LLC in 2013. The purchaser constructed apartments on the parcel and executed the aforementioned Quitclaim Deed.

This stub section of Northumberland Avenue was used as a property entrance by the postal service for many years and no longer serves purpose to the general public. The applicant wishes to use this r/w for a limited access to their property from Roberts Street. Their property contains an office building and two warehouse buildings which they lease to small businesses that require a central City location. Maintaining and improving their access from Roberts Street will allow for improved access to the warehouse buildings and loading dock.

The value of the right of way to be vacated (16,355 sf) has been determined to be \$100,583.25 (\$6.15 per square foot) and is based on the assessed values of the adjacent parcels. This cost is customarily paid to the City by the owners of the properties that will ‘receive’ the closed right of way.

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.

FISCAL IMPLICATIONS: None.

BUDGET AMENDMENT NECESSARY: No amendment necessary at this time.

REVENUE TO CITY: \$300 application & processing fee, \$100,583.25 for the adjusted cost of the value of the land.

DESIRED EFFECTIVE DATE: Upon Adoption.

REQUESTED INTRODUCTION DATE: September 10, 2018

CITY COUNCIL PUBLIC HEARING DATE: October 8, 2018

REQUESTED AGENDA: Consent Agenda.

RECOMMENDED COUNCIL COMMITTEE: None

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: Planning Commission

AFFECTED AGENCIES: Public Works; Law Department; Planning and Development Review; Economic and Community Development, Public Utilities; Assessor; Budget and Strategic Planning; Fire Department; Police Department.

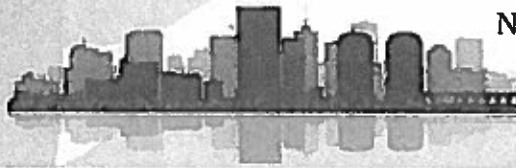
RELATIONSHIP TO EXISTING ORD. OR RES.: SUP-027601-2017

REQUIRED CHANGES TO WORK PROGRAM(S): None.

ATTACHMENTS: Applicant's request letter;
DPW Dwg. No. N-28744A;
Notice of proposed closure to adjoining property owner

STAFF:
Prepared for Bobby Vincent, Jr. – DPW Director
Prepared by Brian Copple – DPW RW Manager
Research and Drawing Coordinated By: James Flannery
Department of Public Works
646-0435

W BROOK ROAD, LLC



830 SOUTHLAKE BLVD., SUITE B1
N. CHESTERFIELD, VA 23236-3935

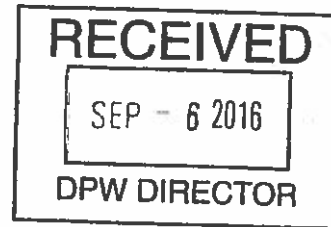
Email: kiddbiz@ymail.com

Office: (804) 464-4166

Fax: (804) 594-5971

September 6, 2016

Director of Public Works
City Hall, Room 701
900 E Broad Street
Richmond, VA 23219



Re: Closure of Unimproved City Street (Northumberland Ave)

Dear Sir or Madam:

I am writing to request that an unimproved City Street be closed to the public and the land be added to our tax parcel #N0000530010 (addressed as 2009 Brook Road). This unbuilt street is called Northumberland Avenue, and it comes off of Roberts Street, just a short distance from the intersection of Brook Road and Roberts Street. We purchased this property in 2011 from the United States Postal Service, and this unbuilt City Street had been used as a property entrance by the postal service for many years.

This unbuilt City Street serves no public purpose and is only of benefit to us; since we own most of the adjacent property as is shown on the enclosed survey plat. We wish to use this unbuilt City Street area for a limited access to our property from Roberts Street. Our property contains an office building and two warehouse buildings. Maintaining and improving our access from Roberts Street will allow for improved access to our warehouse buildings and loading dock. We are investors and lease this property to small businesses that require a central City location.

We sold an adjacent parcel, addressed as 2017 Brook Road, to Lombardy VU Realty, LLC in 2013. This purchaser constructed apartments on the 2017 Brook Road parcel and has no need for the unbuilt City Street. Lombardy VU Realty, LLC recently executed a Deed of Quitclaim; which releases all claims they have to this unbuilt City Street.

Respectfully Submitted,

Kimberly R. Kidd

enc: Survey Plats
Quitclaim Deed-executed by Lombardy VU Realty, LLC

RUDY COYNER

ATTORNEYS AT LAW

OLIVER RUDY LAW BUILDING
9910 WAGNERS WAY
P.O. BOX 58
CHESTERFIELD, VA 23832

CARRIE E. COYNER
KERRY B. HUTCHERSON
OLIVER RUDY (1937-2007)

Email: kerry@rudycoyner.com
Telephone (804) 748-3600
Facsimile (804) 748-4671

Via FedEx overnight delivery

July 2, 2018

2017 Brook Road Fee, LLC
4 World Trade Center 29th Floor
New York, NY 10007-0000

**NOTICE REGARDING PROPOSED CLOSURE OF A PORTION OF
NORTHUMBERLAND AVENUE, RICHMOND, VIRGINIA**

To whom it may concern:

I am writing on behalf of my client, W Brook Road, LLC, to notify you of an application that my client has filed with the City of Richmond to close the portion of Northumberland Avenue in Richmond, Virginia, which portion is located between the south line of West Roberts Street to such portion's southern terminus, consisting of 16,355± square feet. My client is the owner of two parcels of land that adjoin the said portion of Northumberland Avenue, specifically those parcels identified as PID N0000530010 and N0000586009. My client is also the owner of all rights, title, and interest in the said portion of Northumberland Avenue. By that certain Deed of Quitclaim, dated June 7, 2016 and recorded on August 3, 2016 in the Circuit Court Clerk's Office of the City of Richmond, Virginia as Instrument Number 160014923, Lombardy VU Realty, LLC conveyed to W Brook Road, LLC "any and all of its rights, title, and interest in and to the unimproved street known as Northumberland Avenue..." (see attachments for a copy of the Deed of Quitclaim). The aforesaid Deed of Quitclaim was of record when 2017 Brook Road Fee, LLC purchased the property identified as PID N0000627010 from Lombardy VU Realty, LLC on March 1, 2017.

The purpose of this letter is to notify 2017 Brook Road Fee, LLC, of the proposed closure of the aforesaid portion of Northumberland Avenue and to explain my client's rights with respect to Northumberland Avenue. Richmond City Code Sec. 24-314 provides that, unless otherwise requested by a member of City Council or the Mayor, no public street shall be closed to public use and travel unless written consent to such closure has been obtained from all owners of real property abutting said street. My client, being aware of this consent requirement, acquired by the aforesaid Deed of Quitclaim all of the rights, title, and interest in the portion of Northumberland Avenue to be closed from Lombardy VU Realty, LLC. Consequently, Lombardy VU Realty's conveyance of the property identified as PID N0000627010 to 2017 Brook Road Fee, LLC on March 1, 2017 did not include any rights, title, or interest in Northumberland Avenue (including any right to consent or withhold consent to the closure of said street) because those rights, title, and interest had already been quitclaimed to my client in 2016. As the owner of all rights, title, and interest in the said portion of Northumberland Avenue, my client is consenting to the proposed street closure.

Should you have any questions or concerns regarding the proposed street closure please respond to me by 5 p.m. EDT on Friday, July 6, 2018 so that I can address your questions and concerns within the timeframe necessary to expeditiously pursue my client's request for the street closure.

Sincerely,

A handwritten signature in black ink, appearing to read "Kerry Hutcherson", written in a cursive style.

Kerry Brian Hutcherson, Esquire
