

INTRODUCED: April 13, 2020

AN ORDINANCE No. 2020-100

To close, to public use and travel, a portion of an alley in the block bounded by East Canal Street, South Foushee Street, East Cary Street, and South 1st Street consisting of 680± 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 11 2020 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That a right-of-way area comprised of a portion of an alley in the block bounded by East Canal Street, South Foushee Street, East Cary Street, and South 1st Street, consisting of approximately 680 square feet, is hereby closed to public use and travel as a right-of-way of the City of Richmond, as shown enclosed with hatched lines on a drawing prepared by the Department of Public Works, designated as DPW Drawing No. N-28896, dated January 10, 2020, and entitled “Proposed Closing to Public Use and Travel of a Portion of Public Alley in the Block Bounded by E Canal Street, Foushee Street, E Leigh Street [sic], Cary Street and S 1st Street,” hereinafter referred to as the “Drawing,” a copy of which is attached to this ordinance.

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: MAY 11 2020 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 (2019), 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 (2015), 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 of whatsoever nature and hold the City harmless therefrom.

(d) The applicant pays the City the sum of \$26,975.60 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 (2015), as amended, for the construction of the improvements on the site and the proposed right-of-way closure and vacation.

(f) 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 upon adoption.

2020 - 029
FEB 25 2020

Office of the
Chief Administrative Officer



CITY OF RICHMOND

INTRACITY CORRESPONDENCE

O&R REQUEST

DATE: February 19, 2020

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor

[Handwritten signature]
3/19/2020

THROUGH: Lenora Reid, Acting Chief Administrative Officer

THROUGH: Robert Steidel, Deputy Chief Administrative Officer

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

[Handwritten signature]

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

[Handwritten signature]

FROM: Brian Copple, Right of Way Manager
Department of Public Works

[Handwritten signature]

RE: PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF A PORTION OF A PUBLIC ALLEY IN THE BLOCK BOUNDED BY E CANAL STREET, S FOUSHEE STREET, E CARY STREET, AND S 1ST STREET

ORD. OR RES No. _____

PURPOSE: To close to public use and travel a portion of a public alley in the block bounded by E Canal Street, S Foushee Street, E Cary Street, and S 1st Street consisting of 680 sq. feet as shown on DPW Drawing # N-28896 dated 1/10/2020 and entitled "PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF A PORTION OF A PUBLIC ALLEY IN THE BLOCK BOUNDED BY E CANAL STREET, S FOUSHEE STREET, CARY STREET, AND S 1ST STREET."

REASON: Letters of request dated April 26, 2019 and December 3, 2019 from Jennifer Mullen with Roth Jackson, on behalf of the property owner, One Canal, LLC. Applicant (One Canal, LLC) proposes construction of a five-story residential structure with parking.

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.
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. The applicant(s)/owner(s)/successor(s) agrees to pay the City of Richmond for this public right-of-way, the sum of \$ 26,975.60.
6. 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.
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.
8. At the discretion of the Director of Public Works, the amount of right of way vacation could be less pending submission of final approved construction plans by the applicant/developer.

BACKGROUND:

The property at 108 S. 1st Street is currently a surface parking lot comprised of multiple parcels that the owner has aggregated to create a developable lot for new construction. The new construction will consist of a 5-story residential structure for a mid-rise mixed use development that will have 138 units plus two level parking with 98 spaces with ground level tenant and service spaces. The property abuts a public alley to the north that is irregularly shaped and is inaccessible immediately adjacent to the property. The applicant proposes to close a small portion of the alley ranging from 1.5 feet to 9.5 feet and would induce significant investment in the City. The existing topography of the portions of the proposed right-of-way closure is challenging and would prevent construction of future roadways within the existing rights of way.

There is a parcel of unknown ownership between parcels W-000-0080-018 and W000-0080-019. Per City Code Section 24-314 requires consent from all adjacent property owners. DPW has deemed this to be a residual parcel resulting from the initial survey and platting of the block.

The value of the right of way to be vacated (680 sf) has been determined to be \$26,975.60 (\$39.67 per square foot) and is based on assessed values of adjacent parcels.

The closing of these rights 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 anticipated

FISCAL IMPLICATIONS: None anticipated.

BUDGET AMENDMENT NECESSARY: No amendment necessary at this time.

REVENUE TO CITY: \$300 application and processing fee; \$ 26,975.60 for the value of the land (\$39.67 per sq. ft.).

DESIRED EFFECTIVE DATE: Upon Adoption.

REQUESTED INTRODUCTION DATE: March 23, 2020

CITY COUNCIL PUBLIC HEARING DATE: April 27, 2020

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 letters
DPW Dwg. No. N-28896

STAFF:

Prepared for Bobby Vincent, Jr., Director DPW
Prepared by Marvin Anderson – Surveys Supt. – DPW
Research and Drawing Coordinated by James Flannery – DPW
Department of Public Works
646-0435



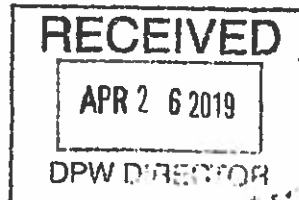
ROTH JACKSON

ROTH JACKSON GIBBONS CONDLIN, P.L.C.

April 26, 2019

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

Richmond Office
(804) 977-3374 (direct)
J.Mullen@rothjackson.com



RE: Right-of-Way Vacation Request: Rear of 108 1/2 to 116 S. First Street (W000-0080/019, W000-0080/018, W000-0080/017, W000-0080/016, W000-0080/015, W000-0080/014, W000-0080/013)

Dear Mr. Vincent,

This firm represents One Canal, LLC in its application for a proposed vacation of a portion of the public alley lying to the rear of 108 1/2 to 116 S. First Street (the "Property"). The Property is located on the western side of S. First Street between E. Canal and E. Cary Streets. The Property includes 0.3744 acres (or 16,308.86 square feet) of lot area, is utilized as a gravel surface parking lot, and backs up to an alley that is served by two (2) entrances along S. Foushee Street and one (1) entrance along E. Cary Street. The Property will be redeveloped as one parcel, pursuant to an ongoing request to rezone the Property to TOD-1 Transit Oriented Nodal District. There exists significant grade change(s) within this alley network; therefore, full egress is not provided in its current condition. As such, this request would authorize the vacation of the portion of the alley that is contiguous with the rear of the Property (the "Alley").

The Alley is further referenced in the survey herein attached and associated with this request, titled "Vacation of a Variable Width Public Alley Lying Between S First Street and S Foushee Street," performed by Jennings Stephenson, P.C., and dated March 8, 2019 ("Exhibit A"). The configuration of the alleys in this block, which is bounded by S. First Street, E. Canal Street, S. Foushee Street, and E. Cary Street, consists of an irregular network. This network provides for multiple entrances, and access can be provided for all properties/parcels not related to this request. With that, large portions of the alley network in this block do not, and likely never could, be fully utilized as an alley, due to the aforementioned significant grade change(s) further demonstrated in the attached photograph ("Exhibit B"). Vacation of the Alley will allow for an efficient development of the Property while maintaining access to all other parcels in the block.

This request is consistent with the Pulse Corridor Plan and ongoing Public discussions/reports related to the ongoing area-wide rezoning of the entire Monroe Ward area. This request to the Alley would allow for the Property to be developed in a manner that is consistent with that guidance. While no specific plan has been finalized for the Property, the TOD-1 zoning applied for is meant to encourage larger scale development.

(00875506;v1)
RICHMOND

11 South Main Street, Suite 501, Richmond, VA 23219
P: (804) 441-8941 F: (804) 441-8942

TYSONS CORNER


16210 Greenbriar Drive, Suite 620, Manassas, VA 20108
P: (703) 426-1544 F: (703) 426-1521

Bobby Vincent, Jr.
April 26, 2019
Page 2

The proposed vacation would still allow access and services to the Property and other abutting properties to continue as they have historically been provided. There would be no adverse impact to any properties in the vicinity.

Thank you in advance for your assistance. Should you have any questions after reviewing this request, please feel free to contact me at (804)977-3374.

Sincerely,



Jennifer D. Mullen, Esq.

Roth Jackson Gibbons Condlin, PLC

(00875506.v1)



RICHMOND

11 South 12th Street, Suite 500, Richmond, VA 23219
P 804-441-8440 F 804-441-8438

TYSONS CORNER

8209 Greensboro Drive, Suite 820, McLean, VA 22102
P 703-485-3535 F 703-485-3525



December 3, 2019

VIA ELECTRONIC MAIL:
Marvin.anderson@richmondgov.com

Mr. Marvin Anderson
Department of Public Works
City Hall, Room 701
900 E. Broad Street
Richmond, Virginia 23219

Jennifer D. Mullen
Richmond Office
(804) 977-3374 (direct)
jmullen@rothjackson.com

Re: Closure of a portion of Public Alley

Dear Marvin,

This letter serves as a request to close to public use and travel and to convey to One Canal, LLC a 680 square foot portion of an alley as identified on the attached plat entitled "Plat Showing a Portion Width Public Alley to be Vacated Within the City Block Bounded by Cary Street, First Street, Canal Street and Foushee Street, City of Richmond, Virginia" dated November 26, 2019.

Please let me know if there is any additional information you need. I appreciate your assistance.

Sincerely,

Jennifer D. Mullen

Enclosure

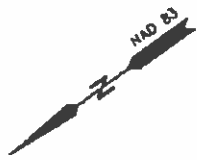
{00970496:v1}

RICHMOND

11 South 12th Street, Suite 500, Richmond, VA 23219
P: 804-441-8440 F: 804-441-8438

TYSONS CORNER

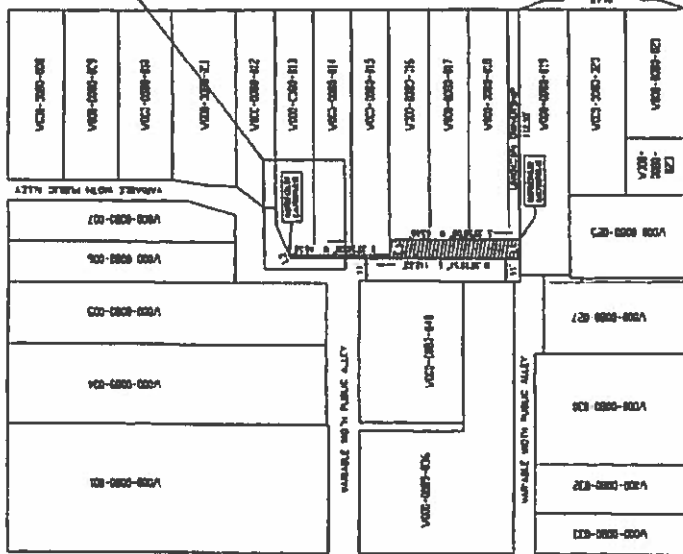
8200 Greensboro Drive, Suite 820, McLean, VA 22102
P: 703-485-3535 F: 703-485-3525



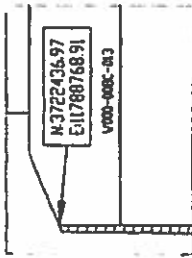
LINE	BEARING	DISTANCE
L1	N54°02'00"W	9.64'
L2	S76°52'7"E	.58'
L3	S54°02'00"E	7.50'

- PARCEL V000-000-012
014 S. 1ST STREET
SOUTH FIRST STREET LLC
10 2012-6225
- PARCEL V000-000-013
018 1/2 S. 1ST STREET
SOUTH FIRST STREET LLC
10 2012-6225
- PARCEL V000-000-014
012 S. 1ST STREET
COLUMBIA PLANNING GROUP LLC
10 2017-552
- PARCEL V000-000-015
012 S. 1ST STREET
SOUTH FIRST STREET LLC
10 2012-7382
- PARCEL V000-000-016
012 1/2 S. 1ST STREET
SOUTH FIRST STREET LLC
10 2012-7203
- PARCEL V000-000-017
014 S. 1ST STREET
SOUTH FIRST STREET LLC
10 2012-6225
- PARCEL V000-000-018
014 1/2 S. 1ST STREET
SOUTH FIRST STREET LLC
10 2012-5496
- PARCEL V000-000-019
016 S. 1ST STREET
SOUTH FIRST STREET LLC
10 2012-7382
- PARCEL V000-000-020
012 S. FIDELITY ST
RESOURCE REALTY LLC
10 2011-4433
- PARCEL V000-000-021
012 S. FIDELITY ST
EMPEROR AND DONALD LLC
10 2017-18026

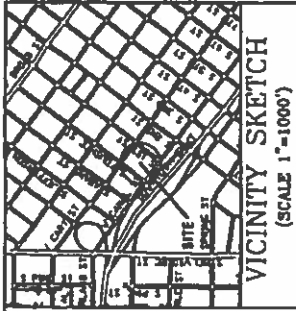
S. FOUSHEE STREET
45' RIGHT OF WAY



DETAIL



VICINITY SKETCH
(SCALE 1"=1000')



NOTES

1. PORTION OF PUBLIC RIGHT-OF-WAY FOR ALLEY PROPOSED TO BE CLOSED TO PUBLIC USE AND TRAVEL IS SHOWN WITH HATCH 60 LINES CLOSED TO PUBLIC USE AND TRAVEL IS SHOWN WITH HATCH 60 LINES.
2. THIS DRAWING IS BASED ON A COMPARISON OF DATA. THE RECORDS FOR THIS PROJECT ARE THE RECORDS FOR THE PROJECT DATED NOVEMBER 28, 2018 FILED PLAT SHOWING A PORTION OF A VARIABLE WIDTH PUBLIC ALLEY TO BE VACATED WITHIN THE CITY BLOCK BOUNDED BY CARY STREET, FIRST STREET, CANAL STREET AND FOUSHEE STREET.

Block No. W-80

Council District 8



PROPOSED CLOSING TO PUBLIC USE AND TRAVEL OF A PORTION OF PUBLIC ALLEY IN THE BLOCK BOUNDED BY E CANAL STREET, FOUSHEE STREET, CARY STREET AND S 1ST STREET

Prepared By: LITTONS DATED: APRIL 24, 2019 AND DECEMBER 3, 2018 - CORRECTED & REVISY

FIELD NOTE	SCALE	DATE	PROJECT	DRAWING NO.
	1"=40'	1/10/2020	W-80 AC	N-28896

DRAWN BY: JF
CHECKED BY: M.T.A.

Surveys Division, Room 600 City Hall
900 E. Broad Street, Richmond, Va. 23219
DEPARTMENT OF PUBLIC WORKS
RICHMOND, VIRGINIA

NOTES

1. Property owners correct as of Jan. 10th, 2019
2. Ordinance
3. Adopted
4. Accepted

Drafting Technician
Surveys Superintendent
Right of Way Manager

REFERENCES: BL 1 SF

REVISIONS