

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
COMMITTEE REPORT**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

DRAFT

TO: All Councilmembers

FROM: Chairman Phil Mendelson
Committee of the Whole

DATE: October 20, 2015

SUBJECT: Report on Bill 21-254, “Closing of a portion of Washington Avenue, Southwest, and portions of 5A and 5B ramps to I-395, and transfer of jurisdiction of the closed portions of Washington Avenue, Southwest, 5A and 5B ramps to I-395 and the transfer of jurisdiction of portions of Reservation 729, S.O. 14-16582A and 14-16582B Act of 2015”

The Committee of the Whole, to which Bill 21-254, the “Closing of a portion of Washington Avenue, Southwest, and portions of 5A and 5B ramps to I-395, and transfer of jurisdiction of the closed portions of Washington Avenue, Southwest, 5A and 5B ramps to I-395 and the transfer of jurisdiction of portions of Reservation 729, S.O. 14-16582A and 14-16582B Act of 2015” was referred, reports favorably thereon, and recommends approval by the Council.

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I. BACKGROUND AND NEED

On June 15, 2015, Bill 21-254, the “Closing of a portion of Washington Avenue, Southwest, and portions of 5A and 5B ramps to I-395, and transfer of jurisdiction of the closed portions of Washington Avenue, Southwest, 5A and 5B ramps to I-395 and the transfer of jurisdiction of portions of Reservation 729, S.O. 14-16582A and 14-16582B Act of 2015” was introduced by Chairman Mendelson at the request of the Mayor. Bill 21-254 would close several slivers of streets located under the American Veterans Disabled for Life Memorial and transfer the

administrative jurisdiction over these to the National Park Service in order to align the location of the memorial site with federal jurisdiction.

History of the Site

The American Veterans Disabled for Life Memorial (“memorial”) is a national memorial constructed in 2014 to honor veterans who became disabled while serving in the Armed Forces of the United States. Authorization for the Memorial was approved by the federal government in 2000 through Public Law 106-348.¹ The federal government worked in conjunction with the District to select and approve the site location at the intersection of 2nd Street, Washington Avenue, and ramps 5A and 5B to I-395 in Southwest, in 2001 and begin the design process.² In 2006, Congress approved the Federal and District of Columbia Government Real Property Act of 2006, which authorized the transfer of administrative jurisdiction over major portions of the memorial site from the District to the National Park Service (“NPS”).³ After 2006, however, the final design of the memorial was altered slightly to create an improved traffic pattern around the site. As a result, the memorial site—completed in 2014—does not align perfectly within the jurisdictional transfer to NPS. A portion of the memorial site is technically under the jurisdiction of the District, and a portion of the northbound land of 2nd Street is technically within the jurisdiction of the NPS. Because the memorial is a federal site that is managed by NPS, the NPS needs to have administrative jurisdiction over the land under the memorial. Bill 21-254 will make the necessary tweaks so that the District has complete jurisdiction over the roadway and the NPS has complete jurisdiction over the memorial.

Legal Procedure

The Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-201 *et seq.*) (“Act”) establishes procedures for closing streets and alleys, opening new streets and alleys, naming public spaces, and other procedures related to streets and alleys. The Act authorizes the Council to close all or part of a street or alley, and establishes one standard for reviewing a street or alley closing application: whether the street or alley is determined by the Council to be needed for street or alley purposes. The Act also authorizes the Council to make approval of a street or alley closing contingent upon: (1) the dedication of land for street or alley purposes if the public interest would be served by such action; (2) the granting to the District of specific easements for public purposes; and (3) any other condition that the Council considers necessary.

Pursuant to the Act, street and alley closing applications are submitted to the Surveyor of the District of Columbia who assigns a Surveyor’s Order (S.O.) number and collects applicable fees. The Surveyor requests comments from executive branch agencies and public utilities. A plat is prepared and the application is forwarded through the Mayor’s Office of Policy and Legislative Affairs, which also solicits comments from executive branch agencies. When these reviews are

¹ An Act to authorize the Disabled Veterans’ Life Memorial Foundation to establish a memorial in the District of Columbia or its environs to honor veterans who became disabled while serving in the armed forces of the United States (approved Oct. 24, 2000).

² Testimony of Peter May at the Public Hearing on Bill 21-254 before the Committee of the Whole (Sept. 30, 2015).

³ Public Law 109-396.

completed, the application is transmitted to the Council in the form of a bill from the Mayor. Council members may also initiate action on an alley or street closing on their own by introducing a bill. In such cases, the Act provides that the Council cannot consider such a bill until the required reviews have been completed. Regarding Bill 21-254, all of the reviews have been completed without objection.

The Act establishes notice requirements for street and alley closing legislation. The Council is required to publish notice of a street or alley closing in the *District of Columbia Register*. Further, the applicant is required to give written notice to all property owners abutting a block or alley affected by the proposed street or alley closure. The applicant is also required to post signs at each end of a block or each entrance to an alley affected by the street or alley closing legislation. The applicant is required to give the Council certification of compliance with these requirements. Regarding Bill 21-254, these requirements have been met.

After street or alley closing legislation becomes law and all conditions required by the Council and the Act have been satisfied, the Surveyor records a copy of the act and plat in the Office of the Surveyor. Thereafter, the street or alley is deemed closed and title to the land reverts or vests in fee simple to the record owners as shown on the plat. The land becomes subject to tax and zoning laws in the same manner as the abutting land. The right of the public to use the street or alley typically ceases, and any proprietary interest of the United States or the District of Columbia in the street or alley ceases. If a closing plat shows an easement or dedication of land for public purposes, the land encompassed by the easement or dedication becomes available for the specified public purposes.

There being no objections in the record, the Committee recommends approval to Bill 21-254.

II. LEGISLATIVE CHRONOLOGY

- | | |
|-----------------|---|
| June 15, 2015 | Bill 21-254, the “Closing of a portion of Washington Avenue, Southwest, and portions of 5A and 5B ramps to I-395, and transfer of jurisdiction of the closed portions of Washington Avenue, Southwest, 5A and 5B ramps to I-395 and the transfer of jurisdiction of portions of Reservation 729, S.O. 14-16582A and 14-16582B Act of 2015” is introduced by Chairman Mendelson at the request of the Mayor. |
| June 16, 2015 | Bill 21-254 is “read” at a legislative meeting; on this date the referral of the bill to the Committee of the Whole is official. |
| June 26, 2015 | Notice of Intent to Act on Bill 21-254 is published in the <i>District of Columbia Register</i> . |
| August 28, 2015 | Notice of a Public Hearing on Bill 21-254 is published in the <i>District of Columbia Register</i> . |

- September 25, 2015 Revised Notice of a Public Hearing on Bill 21-254 is published in the *District of Columbia Register*.
- September 30, 2015 The Committee of the Whole holds a public hearing on Bill 21-254.
- October 20, 2015 The Committee of the Whole marks-up Bill 21-254.

III. POSITION OF THE EXECUTIVE

Roland Dreist, D.C. Surveyor, testified at the Committee's public hearing on September 30, 2015. He briefly explained the street closing and transfer. He stated that the purpose of the legislation was to allow the site of the American Veterans Disabled for Life Memorial to match the actual field conditions, for example by matching curb lines and sidewalks at the site. He further related that the Office of Tax and Revenue reported the land's market value as of January 1, 2014, which represents tax year 2015, is \$988.34 per square foot average for a total estimated value of \$3,665,750. The area of the portion of the street to be closed is 3,709 square feet. He noted that title to the land is with the United States.

Mr. Dreist testified that there were no objections on the record, including none from the Executive branch agencies or utility companies. No existing retail tenants will be displaced as a result of this application.

IV. COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

The Committee did not receive testimony or comments from an Advisory Neighborhood Commission ("ANC"). However, in the Surveyor Roland Driest's testimony before the Committee, he advised the following: "In an e-mail dated January 22, 2015, ANC 6D stated that the closing and transfer of jurisdiction would not cause any changes for people who drive/bike/walk through the area."⁴

V. NATIONAL CAPITAL PLANNING COMMISSION REVIEW

Marcel C. Acosta, Executive Director of the National Capital Planning Commission (NCPC), in a Delegated Action of the Chairman, provided comments to the Council approving the transfers of jurisdiction for lands at Washington Avenue and 2nd Street, SW to facilitate the American Veterans Disabled for Life Memorial project. The delegated action is dated June 4, 2013.

⁴ Testimony of Roland Driest at the Public Hearing on Bill 21-254 before the Committee of the Whole (Sept. 30, 2015).

VI. SUMMARY OF TESTIMONY

The Committee of the Whole held a public hearing on Bill 21-254 on Wednesday, September 30, 2015. The testimony summarized below is from that hearing. Copies of written testimony are attached to this report.

Peter May, Associate Regional Director for Lands, Planning, and Design, National Capital Region, National Park Service, U.S. Department of the Interior, testified in support of the legislation. He detailed the history of the memorial project and expressed appreciation on behalf of the National Park Service for the “extensive coordination and cooperation of DDOT and other District agencies” to complete the memorial and to make the necessary modifications to the roadway intersection.

Richard Kenney, Interim Deputy Chief Engineer, District Department of Transportation, testified in support of the legislation. He provided a brief overview of the history of the memorial site and the need for the legislation to align the boundaries of the memorial.

Roland Driest, Jr., Surveyor of the District of Columbia, testified on behalf of the Executive. His testimony is summarized above in Section III.

The Committee received no testimony nor comments opposing Bill 21-254.

VII. IMPACT ON EXISTING LAW

Bill 21-254 has no impact on existing law. The Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-201 *et seq.*) (“Act”) establishes procedures for closing streets and alleys, opening new streets and alleys, naming public spaces, and other procedures related to streets and alleys. Additionally, it authorizes the Council to close all or part of a street or alley. In approving Bill 21-254, the Committee finds that the requirements of the Act have been satisfied.⁵

Furthermore, An Act To Authorize the Transfer of Jurisdiction Over Public Land in the District of Columbia, approved May 20, 1932 (47 Stat. 161; D.C. Official Code § 10-111), authorizes federal and District authorities administering properties within the District owned the United States or by the District to transfer jurisdiction of such properties among or between themselves for purposes of administration and maintenance. This statute requires recommendation by the National Capital Planning Commission, submission of a proposed resolution by the Mayor to the Council, and reporting to Congress. In approving Bill 21-254, the Committee finds that the requirements of the statute have been satisfied.⁶

⁵ D.C. OFFICIAL CODE § 9-202.01 *et seq.* (2015).

⁶ D.C. OFFICIAL CODE § 10-111 (2015).

VIII. FISCAL IMPACT

The attached September 16, 2015 fiscal impact statement from the District's Chief Financial Officer states that funds are sufficient in the FY 2016 through FY 2019 budget and financial plan to implement the bill.

IX. SECTION-BY-SECTION ANALYSIS

- Section 1 Short title.
- Section 2 The Council finds the portions of Washington Avenue, SW and the portions of ramps 5A and 5B to I-395 to be unnecessary for alley purposes and orders them closed, as shown on the Surveyor's plat.
- Section 3
- Subsection (a)* The Council approves the transfer of jurisdiction as shown on the Surveyor's plat from the District to the National Park Service jurisdiction over the closed portions of Washington Avenue and the I-395 ramps for park purposes. The District shall maintain administrative jurisdiction over the subsurface areas.
- Subsection (b)* The Council approves the transfer of jurisdiction as shown on the Surveyor's plat from the National Park Service to the District jurisdiction over the portions of U.S. Reservation 729 for highway purposes.
- Section 4 Transmittal.
- Section 5 Fiscal impact statement.
- Section 6 Effective date.

X. COMMITTEE ACTION

XI. ATTACHMENTS

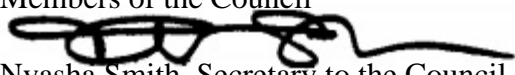
1. Bill 21-254 as introduced.
2. Written Testimony.
3. Surveyor's Plat.
4. NCPC Comments.

5. Fiscal Impact Statement for Bill 21-254.
6. Legal Sufficiency Determination for Bill 21-254.
7. Committee Print for Bill 21-254.

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington D.C. 20004

Memorandum

To : Members of the Council

From : 
Nyasha Smith, Secretary to the Council

Date : June 19, 2015

Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Office of the Secretary on Monday, June 15, 2015. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Closing of a portion of Washington Avenue, Southwest, and portions of 5A and 5B ramps to I-295 and the transfer of jurisdiction of portions of Reservation 729, S.O. 14-16582A and 14-16582B Act of 2015", B21-0254

INTRODUCED BY: Chairman Mendelson at the request of the Mayor

The Chairman is referring this legislation to the Committee of the Whole.

Attachment

cc: General Counsel
Budget Director
Legislative Services



OFFICE OF THE
SECRETARY

2015 JUN 15 AM 9: 55

MURIEL BOWSER
MAYOR

JUN 15 2015

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W., Suite 504
Washington, D.C. 20004

Dear Chairman Mendelson:

Enclosed for the consideration and approval by the Council of the District of Columbia is legislation entitled the "Closing of a portion of Washington Avenue, Southwest, and portions of 5A and 5B ramps to I-295, and transfer of jurisdiction of the closed portions of Washington Avenue, Southwest, 5A and 5B ramps to I-295 and the transfer of jurisdiction of portions of Reservation 729, S.O. 14-16582A and 14-16582B Act of 2015".

The bill proposes the closing of portions of Washington Avenue, Southwest, and ramps 5A and 5B to I-295. In addition, the bill would approve a transfer of jurisdiction of the closed street portions to the National Park Service of the U.S. Department of the Interior ("NPS") for park purposes and a transfer of jurisdiction of portions of Reservation 729 from NPS to the District of Columbia for highway purposes. The bill further provides that the District of Columbia will retain administrative jurisdiction over the subsurface areas beneath the portions of Washington Avenue, Southwest, and ramps 5A and 5B to I-295 for the tunnel, walls, footings and related facilities for Interstate 395. The closings and transfers are needed for the development of the American Veterans Disabled for Life Memorial ("Memorial").

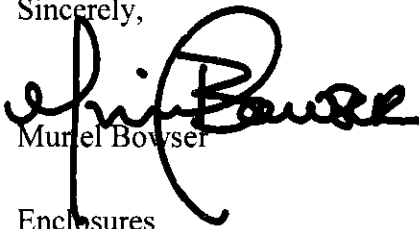
The bulk of the land needed for the Memorial was transferred from the District of Columbia to the NPS in 2010, pursuant to Public Law 109-396. Subsequent to the transfer and completion of the Memorial design, engineering revealed that the Memorial site needed to be adjusted to accommodate the final design. This bill adjusts jurisdiction over the site to accommodate the final design.

With respect to the street closings, the applicant is the District Department of Transportation. Pursuant to D.C Official Code § 9-202. 02(3), the street closing application was also referred to the National Capital Planning Commission ("NCPC"). As required by D.C. Official Code § 10-111, the transfers of jurisdiction were recommended by NCPC through a delegated action by its Chairman dated June 4, 2013.

Enclosed is a copy of the plats for recording these closings and transfers along with a copy of the application file.

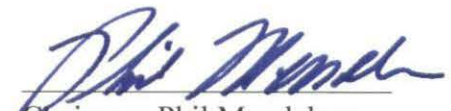
If you have any questions on this matter, please contact Leif Dormsjo, Director, District Department of Transportation at (202) 671-1499.

Sincerely,

A handwritten signature in black ink, appearing to read "Muriel Bowser", written over a printed name. The signature is stylized and cursive.

Muriel Bowser

Enclosures


Chairman Phil Mendelson
at the request of the Mayor

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6 AN ACT
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9
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11 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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16 Chairman Phil Mendelson, at the request of the Mayor, introduced the following bill, which was
17 referred to the Committee on _____.
18

19 To order the closing of a portion of Washington Avenue, Southwest, and portions of 5A and 5B
20 ramps to I-295, and to approve the transfer of jurisdiction of the closed portion of
21 Washington Avenue, Southwest, 5A and 5B ramps to I-295 and the transfer of
22 jurisdiction of portions of Reservation 729.
23

24 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
25 act may be cited as the “Closing of a portion of Washington Avenue, Southwest, and portions of
26 5A and 5B ramps to I-295, and transfer of jurisdiction of the closed portions of Washington
27 Avenue, Southwest, 5A and 5B ramps to I-295 and the transfer of jurisdiction of portions of
28 Reservation 729, S.O. 14-16582A and 14-16582B Act of 2015”.

29 Sec. 2. Pursuant to Section 201 of the Street and Alley Closing and Acquisition
30 Procedures Act of 1982, effective March 10, 1983, (D.C. Law 4-201; D.C. Official Code § 9-
31 202.01), the Council of the District of Columbia finds the portions of Washington Avenue,
32 Southwest and the portions of ramps 5A and 5B to I-295, as shown on the Surveyor’s plat in

1 S.O. 14-16582B, unnecessary for street purposes and orders them closed with title to the land to
2 vest as shown on the Surveyor's plat.

3 Sec. 3. Pursuant to Section 1 of An Act To Authorize the Transfer of Jurisdiction Over
4 Public Land in the District of Columbia, approved May 20, 1932 (47 Stat. 161; D.C. Official
5 Code §10-111), the Council approves the following transfers of jurisdiction as shown on the
6 Surveyor's plat in S.O. 14-16582A:

7 (a) From the District of Columbia to the National Park Services of the U.S.
8 Department of the Interior jurisdiction over the closed portions of Washington Avenue,
9 Southwest, and ramps 5A and 5B ramps to I-295 for park purposes, except that the District of
10 Columbia shall retain administrative jurisdiction over the subsurface area of these portions for
11 the tunnel, walls, footings, and related facilities; and

12 (b) From the National Park Services of the U.S. Department of the Interior to the
13 District of Columbia jurisdiction over portions of U.S. Reservation 729 for the highway
14 purposes.

15 Sec. 4. The Secretary of the Council shall transmit a copy of this act, upon its
16 effectiveness, to the Surveyor of the District of Columbia, the District of Columbia Recorder of
17 Deeds, the Executive Director of the National Capital Planning Commission, the Speaker of the
18 United States House of Representatives, and the President Pro Tempore of the United States
19 Senate.

20 Sec. 4. Fiscal Impact Statement.

21 The Council adopts the fiscal impact statement in the committee report as the fiscal
22 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
23 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

1 Sec 5. Effective Date.

2 This act shall take effect following approval by the Mayor (or in the event of veto by the
3 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
4 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
5 24, 1973 (87Stat. 813; D.C. Official Code § 1-20602(c)(1), and publication in the District of
6 Columbia Register.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
PERMIT OPERATIONS DIVISION


*Copy sent forward
to [unclear] by [unclear]
2/3/15*

Office of the Surveyor



February 5, 2015

TO: Alan Bergstein, Chief
Land Use and Public Works Section

FROM: 
Roland F. Dreist, Jr.
Surveyor, D.C.

SUBJECT: Proposed Closing and Dedication of Public Streets – S.O. 14-16582(B)

Please review the attached draft legislation for legal sufficiency. Also attached for your information is the file for this application.

Upon completion of the review, please forward to the Council of the District of Columbia. If the file needs to be amended by the applicant, please return the file and any comments to the Office of the Surveyor.

Attachments

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General


Commercial Division
Land Use and Public Work Section



PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

MEMORANDUM

TO: Lolita Alston
Director
Office of Legislative Support

FROM: Alan Bergstein 
Section Chief
Land Use and Public Work

SUBJECT: Closing of a portion of Washington Avenue, Southwest, and portions of 5A and 5B ramps to I-295, and transfer of jurisdiction of the closed portions of Washington Avenue, Southwest, 5A and 5B ramps to I-295 and the transfer of jurisdiction of portions of Reservation 729, S.O. 14-16582A and 14-16582B Act of 2015

DATE: May 1, 2015

This Section has reviewed a proposed bill entitled the Closing of a portion of Washington Avenue, Southwest, and portions of 5A and 5B ramps to I-295, and transfer of jurisdiction of the closed portions of Washington Avenue, Southwest, 5A and 5B ramps to I-295 and the transfer of jurisdiction of portions of Reservation 729, S.O. 14-16582A and 14-16582B Act of 2015”.

The attached proposed legislation is legally sufficient. Therefore, pursuant to the request of the Surveyor, we are forwarding the legislative package to you for review by the Mayor and submission to the Council. If you have any questions concerning the legal sufficiency of the legislation, please contact me at 442-9772. Questions concerning the S.O. file should be directed to the Surveyor, Roland F. Dreist Jr. at 442-4699.

Attachment

cc: Roland f Dreist Jr., Surveyor

Janet Robins, Deputy
Legal Counsel Division

STATEMENT OF PETER MAY, ASSOCIATE REGIONAL DIRECTOR FOR LANDS, PLANNING, AND DESIGN, NATIONAL CAPITAL REGION, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE COMMITTEE OF THE WHOLE, COUNCIL OF THE DISTRICT OF COLUMBIA, CONCERNING B21-254, CLOSING A PORTION OF WASHINGTON AVENUE, SOUTHWEST, AND PORTIONS OF 5A AND 5B RAMPS TO I-295, AND TRANSFER OF JURISDICTION OF THE CLOSED PORTIONS OF WASHINGTON AVENUE, SOUTHWEST, 5A AND 5B RAMPS TO I-295 AND THE TRANSFER OF JURISDICTION OF PORTIONS OF RESERVATION 729, S.O. 14-16582A AND 14-16582B ACT OF 2015.

SEPTEMBER 30, 2015

Mr. Chairman, the National Park Service (NPS) appreciates the opportunity to offer this testimony to the Council today regarding B21-254, which would formally close a portion of Washington Avenue, Southwest and portions of the 5A and 5B ramps to Interstate 295, and to approve the transfer of portions of U.S. Reservation 729. The National Park Service strongly supports this legislation.

The roadway spaces now under consideration for transfer were realigned by the District of Columbia Department of Transportation (DDOT) in 2013 as part of the American Veterans Disabled for Life Memorial, which was dedicated by President Obama on October 5, 2014. The area of parkland that is proposed for transfer has been used as a portion of 2nd Street, Southwest since 2013.

Public Law 106-348, approved October 24, 2000, authorized the establishment of the American Veterans Disabled for Life Memorial in order to honor veterans who became disabled while serving in the Armed Forces of the United States. The site that was selected and approved, in coordination with the District of Columbia, in August 2001. An initial design concept that would have restored the historic alignment of C Street Southwest to form the southern boundary of the memorial site was approved in April 2004.

However, the memorial limits were subsequently redesigned in response to concerns that re-establishing C Street might impact the security of adjacent properties managed by the Architect of the Capitol. In the midst of the redesign process, major portions of the site were reassigned to the National Park Service as part of the Federal and District of Columbia Government Real Property Act of 2006. An official plat recorded the reassignment of land in September 2010. That plat reflected desired alignments of Washington Avenue and the Interstate 295 ramps as they were understood at the time.

DDOT completed the redesign of 2nd Street, Southwest and its intersection with Washington Avenue in 2012, but in order to fully meet public traffic movement needs, the resulting roadway alignments differed from the initial design from 2010. As a result, a portion of the memorial site is technically under the jurisdiction of the District of Columbia, and a portion of the northbound lane of 2nd Street, Southwest is technically within the jurisdiction of the NPS.

Passage of B21-254 would reassign properties so that the District of Columbia Government has complete jurisdiction over the roadway, and the NPS has complete jurisdiction over the American Veterans Disabled for Life Memorial.

The NPS appreciates the extensive coordination and cooperation of DDOT and other District agencies, the Federal Highway Administration, the American Veterans Disabled for Life Memorial Foundation, and others to complete the Memorial and to make needed modifications and improvements at this roadway intersection. We believe that the passage of B21-254 will correct these areas of jurisdiction to more precisely align with the memorial site as it was envisioned by Congress in 2005-2006.

Mr. Chairman, this concludes my prepared testimony on B21-254, and I would be happy to answer any questions you may have.

9/30/15

Testimony regarding Bill 21-254

Richard Kenney, District Dept. of Transportation, Interim Deputy Chief Engineer

Good morning, Chairman Mendelson. My name is Richard Kenney and I am with the District's Department of Transportation. I presently serve as the Interim Deputy Chief Engineer and also the Program Manager for Team 1 which is responsible for infrastructure projects in wards 1 and 2, including the Closing of C Street, SW project which is the subject of today's testimony.

Congress authorized the memorial in October of 2000, and the intention was for NPS to build and maintain the memorial. That design was completed in August 2012. Prior to construction it became apparent that the memorial as designed did not fit entirely on the site. It was discovered that jurisdiction boundaries described by roadway project did not coincide with boundaries of memorial site as transferred to NPS. The issue is that due to minor adjustments in the site layout, NPS would have some jurisdiction of 2nd Street, SW roadway while DDOT would have jurisdiction over portion of AUDLM memorial site.

DDOT believes the intent of Public Act 109-396 was to give NPS Responsibility and Jurisdiction, over the memorial's final approved site (curb line to curb line) while DDOT would have jurisdiction over the street. The original transfer legislation was defined by the memorial's general site boundaries based on the (then) approved concept. An adjustment of the plat transfer is now necessary to account for the boundaries of the final approved design which was approved by CFA and the NCPC in 2009 and 7/2010 respectively. For this reason, DDOT recommends an amended plat of transfer which accurately depicts the memorials actual site as approved by NCPC be approved.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Consumer and Regulatory Affairs



Public Hearing on

Bill No. 21-254, “Closing of a Portion of Washington Avenue, Southwest, and Portions of 5A and 5 B Ramps to I-395; and Transfer of Jurisdiction of the Closed Portions of Washington Avenue, Southwest, and Portions of 5A and 5B Ramps to I-395; and the Transfer of Jurisdiction of Portions of Reservation 729, S.O. 14-16582(A) and S.O. 14-16582(B) Act of 2015”

Testimony of
Roland Dreist, Jr.
Surveyor of the District of Columbia

Before the

Committee of the Whole
Chairman Phil Mendelson

September 30, 2015
Room 120
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, D.C. 20004



**EXECUTIVE BRANCH TESTIMONY
BY THE
OFFICE OF THE SURVEYOR
ON BILL NO. 21-254, CLOSING OF A PORTION OF WASHINGTON AVENUE,
SOUTHWEST, AND PORTIONS OF 5A AND 5B RAMPS TO I-395, AND TRANSFER
OF JURISDICTION OF THE CLOSED PORTIONS OF WASHINGTON AVENUE,
SOUTHWEST, 5A AND 5 B RAMPS, TO I-395 AND THE TRANSFER OF
JURISDICTION OF PORTIONS OF RESERVATION 729
S.O. 14-16582(A) AND 14-16582(B) ACT OF 2015**

September 30, 2015

INTRODUCTION:

Good morning Chairman Mendelson and Committee Members. I am Roland Dreist, Surveyor of the District of Columbia. I appear before you today to present testimony on Bill No. 21-254. This bill would close a portion of Washington Avenue, Southwest and portions of the 5A and 5B ramps to I-395 and approve the transfer of jurisdiction of the closed portion of Washington Avenue, Southwest, the 5A and 5B ramps to I-395 and transfer of jurisdiction of portions of Reservation 729.

APPLICANT:

The applicant is the Department of Transportation.

PURPOSE:

The purpose of this closing and transfer are to allow the site of the American Veterans Disabled for Life Memorial to match the actual field conditions. This is an adjustment to more closely match curb lines and sidewalks at the site.

DESCRIPTION:

The area is shown on a Transfer of Jurisdiction Plat recorded in Subdivision Book 204, Page 198 on September 2, 2010. The area is also shown on the King Plats of 1803, Sheet 9.

TITLE:

Title to the land, which appears to be part of the original streets, is with the United States.

AREA & ASSESSED VALUE:

The area of the portion of the street to be closed is 3,709 square feet. The Office of Tax and Revenue has indicated that the land's market value as of January 1, 2014 which represents tax year 2015 is \$988.34 per square foot average for a total estimated value of \$3,665,750.00

AGENCIES:

The Executive Branch agencies have no objections to this application.

UTILITIES:

The utility companies have no objections to this application.

RETAIL TENANTS:

No retail tenants will be displaced as a result of this application.

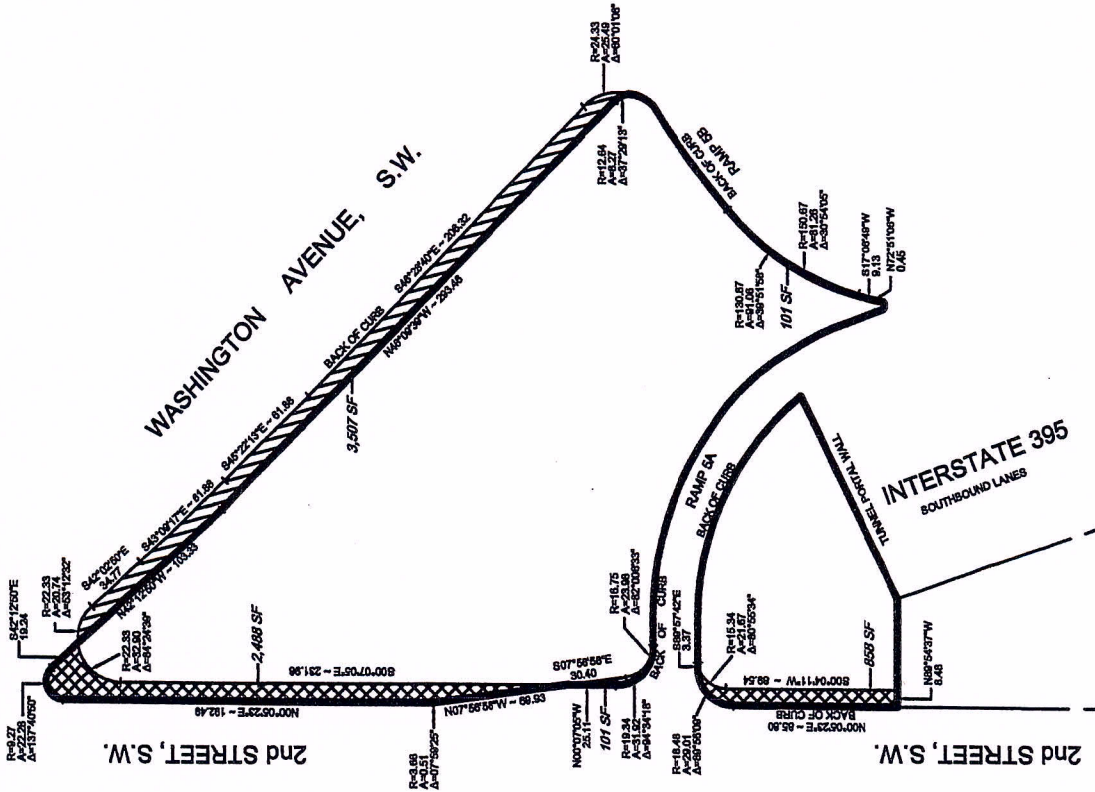
NCPC, HPRP, ANC & ABUTTING PROPERTY OWNERS:

Pursuant to D.C. Official Code §9-202-02(3), the National Capital Planning Commission (NCPC) was notified of this closing and transfer on July 29, 2014. In a letter dated September 9, 2014, NCPC approved the transfers of jurisdiction for lands at Washington Avenue and 2nd Street, S.W., to facilitate the American Veterans Disabled for Life Memorial project.

Pursuant to D.C. Official Code §9-202-02(5) the application was referred to Advisory Neighborhood Commission (ANC) 6D on July 29, 2015. In an e-mail dated January 22, 2015, ANC 6D stated that the closing and transfer of jurisdiction would not cause any changes for people who drive/bike/walk through the area. ANC 6D took no vote to support or oppose this application.

This concludes my testimony. I appreciate the opportunity to appear before you today and welcome any comments or discussion regarding this matter. Thank you.

PLAT SHOWING STREET DEDICATION AND STREET CLOSING ON 2nd STREET, S.W., WASHINGTON AVENUE, S.W. AND ACCESS RAMP 5B FOR INTERSTATE 395



THE LAND SHOWN THIS: [Symbol] IS DEDICATED FOR A PUBLIC STREET.
THE STREET SHOWN THIS: [Symbol] IS CLOSED AND TITLE VEGETS AS
SHOWN UPON RECORDATION OF THIS PLAT.

OFFICE OF THE SURVEYOR
OF THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20544

I certify that this plat is correct and is hereby approved for record in this Office.

SURVEYOR D.C.

SURVEYOR'S OFFICE, D.C.	
Made for: <u>JERRY HADGNEY</u>	Checked by: _____
Drawn by: <u>L.E.S.</u>	Recorded and computations by: <u>B. MYERS</u>
Recorded at: _____	Page: _____
Recorded in Book: _____	SR-14-0795
Scale: 1 inch = 40 feet	File No. 14-16602

PLAT SHOWING STREET CLOSING

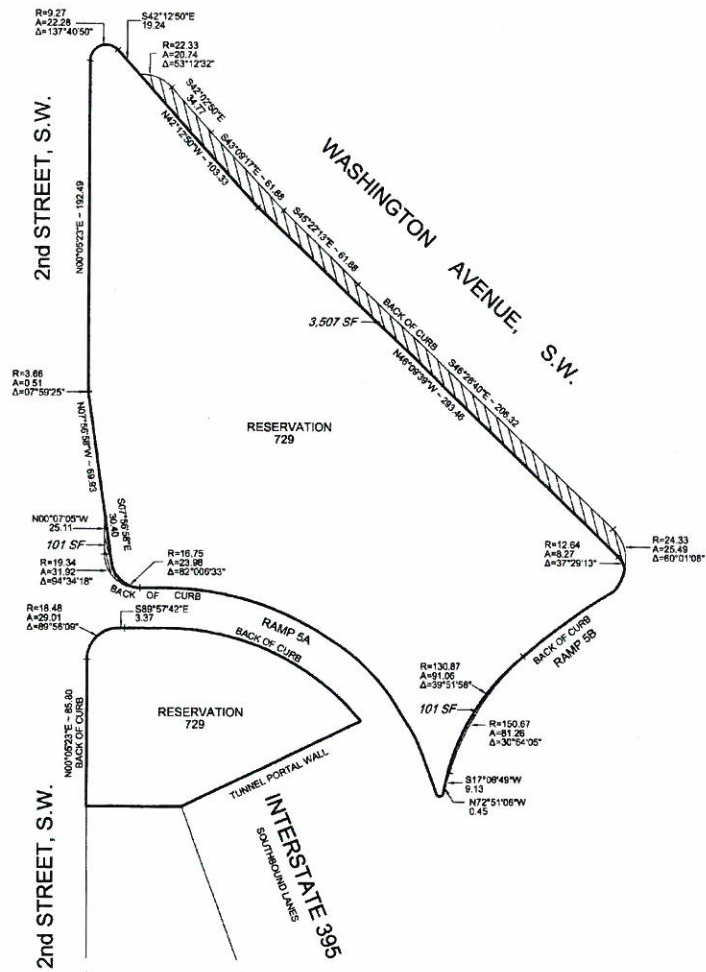
ON 2nd STREET, S.W., WASHINGTON AVENUE, S.W. AND ACCESS RAMPS 5A AND 5B FOR INTERSTATE 395

THE STREETS AND RAMPS SHOWN THUS: ARE CLOSED AND TITLE VESTS AS SHOWN UPON RECORDATION OF THIS PLAT

OFFICE OF THE SURVEYOR
OF THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. _____, 2015

I certify that this plat is correct and is hereby approved for record in this Office.

SURVEYOR D.C.



SURVEYOR'S OFFICE, D.C.

Made for: JERRY HACKNEY
 Drawn by: L.E.S. Checked by: *[Signature]*
 Record and computations by: B. MYERS
 Recorded at: _____
 Recorded in Book _____ Page _____ SQ-14-03795
 Scale: 1 inch = 40 feet File No. 14-10582

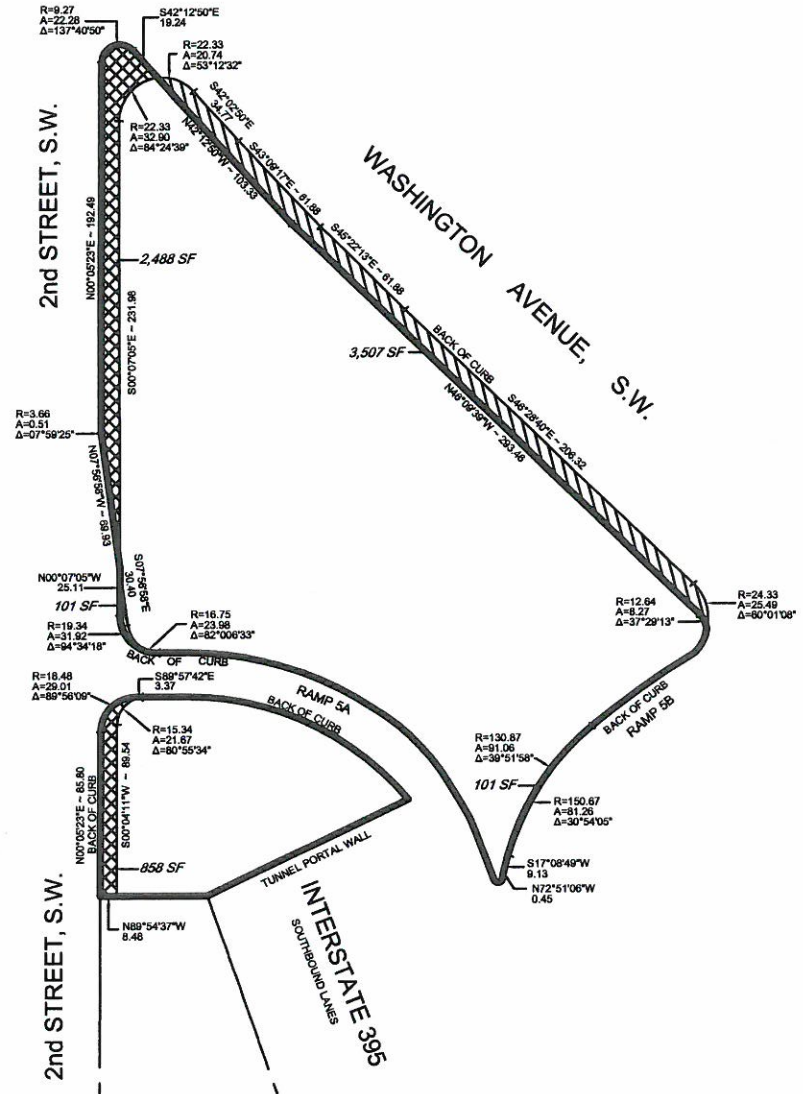
PLAT SHOWING STREET DEDICATION AND STREET CLOSING ON 2nd STREET, S.W., WASHINGTON AVENUE, S.W. AND ACCESS RAMP 5B FOR INTERSTATE 395

THE LAND SHOWN THUS: IS DEDICATED FOR A PUBLIC STREET.
THE STREET SHOWN THUS: IS CLOSED AND TITLE VESTS AS SHOWN UPON RECORDATION OF THIS PLAT.

OFFICE OF THE SURVEYOR
OF THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. _____, 2014

I certify that this plat is correct and is hereby approved for record in this Office.

SURVEYOR D.C.



SURVEYOR'S OFFICE, D.C.

Made for: JERRY HACKNEY
 Drawn by: L.E.S. Checked by: _____
 Record and computations by: B. MYERS
 Recorded at: _____
 Recorded in Book _____ Page _____ SR-14-03795
 Scale: 1 inch = 40 feet File No. 14-16582



Commission Members

Presidential Appointees

L. Preston Bryant, Jr., Chairman
John M. Hart
Elizabeth A. White

Mayoral Appointees

Arrington Dixon
Robert E. Miller

Ex Officio Members

Secretary of Defense
The Honorable Charles "Chuck" Hagel

Secretary of the Interior
The Honorable Sarah "Sally" Jewell

Administrator
General Services Administration
The Honorable Daniel Tangherlini

Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
The Honorable Thomas R. Carper

Chairman
Committee on Oversight
and Government Reform
U.S. House of Representatives
The Honorable Darrell Issa

Mayor
District of Columbia
The Honorable Vincent C. Gray

Chairman
Council of the District of Columbia
The Honorable Phil Mendelson

Executive Director

Marcel C. Acosta

IN REPLY REFER TO:
NCPC FILE No. 7499/6179

SEP 9 2014

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 504
Washington, DC 20004

Dear Chairman Mendelson:

Pursuant to delegations of authority adopted by the Commission on December 14, 1977, the Chairman approved the transfers of jurisdiction for lands at Washington Avenue and 2nd Street, SW to facilitate the American Veterans Disabled for Life Memorial project. The transfers of jurisdiction will transfer 3,447 square feet of land from the National Park Service to the District of Columbia for highway purposes and 3,507 square feet of land from the District of Columbia to the National Park Service for park uses. A copy of the Delegated Action of the Chairman is enclosed.

Sincerely,

Marcel C. Acosta
Executive Director

Enclosure

cc: Councilmember Vincent Orange, Chairman, Committee on Business,
Consumer, and Regulatory Affairs
Ellen McCarthy, Acting Director, DC Office of Planning
Peter May, Associate Regional Director, National Park Service
Frederick Lindstrom, Commission of Fine Arts
Roland F. Dreist, Jr., Surveyor, DC



Reading File

Commission Members

Presidential Appointees

L. Preston Bryant, Jr., Chairman
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Elizabeth A. White

Mayoral Appointees

Arrington Dixon
Robert E. Miller

Ex Officio Members

Secretary of Defense
The Honorable Charles "Chuck" Hagel

Secretary of the Interior
The Honorable Ken Salazar

Acting Administrator
General Services Administration
The Honorable Daniel Tangherlini

Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
The Honorable Thomas R. Carper

Chairman
Committee on Oversight
and Government Reform
U.S. House of Representatives
The Honorable Darrell Issa

Mayor
District of Columbia
The Honorable Vincent C. Gray

Chairman
Council of the District of Columbia
The Honorable Phil Mendelson

Executive Director
Marcel C. Acosta

IN REPLY REFER TO:
NCPC File No. 7499/6179

JUN 11 2013

Mr. Peter May
Associate Director
Lands, Planning and Design
National Capital Region
National Park Service
1100 Ohio Drive, SW
Washington, D.C. 20242

Dear Mr. May:

Pursuant to delegations of authority adopted the Commission on December 14, 1977, the Chairman approved the transfers of jurisdiction for lands at Washington Avenue and 2nd Street, SW to facilitate the American Veterans Disabled for Life Memorial project. A copy of the Delegated Action of the Chairman is enclosed.

Sincerely,

Marcel C. Acosta
Executive Director

Enclosure

cc: Harriet Tregoning



Delegated Action of the Chairman

PROJECT Transfers of Jurisdiction American Veterans Disabled for Life Memorial 2nd Street and Washington Avenue, SW Washington, DC	NCPC FILE NUMBER 7499/6179
SUBMITTED BY United States Department of the Interior National Park Service	NCPC MAP FILE NUMBER 1.72(63.00)43784
	ACTION TAKEN Approval of transfer of jurisdiction
	REVIEW AUTHORITY Approval per 40 U.S.C. § 8124(a)

The National Park Service has submitted transfers of jurisdiction of land at Washington Avenue and 2nd Street, SW for the development of the American Veterans Disabled for Life Memorial (the Memorial). Jurisdiction of the land for the Memorial was previously transferred from the District of Columbia to the National Park Service in accordance with Public Law 109-396. However, due to Memorial and roadway design refinements made after the transfer occurred, an additional transfer is necessary to properly align the boundaries between the Memorial site and the roadway. The National Park Service is implementing the Memorial design that the Commission approved in 2010.

The proposed transfers will transfer 2,728 square feet of land along 2nd Street, SW from the National Park Service to the District of Columbia for highway purposes and 4,824 square feet of land along Washington Avenue, SW from the District of Columbia to the National Park Service for park uses. The transfer will allow 2nd Street, SW to be converted from a one-way traffic pattern to a two-way traffic pattern. The design will also align the Washington Avenue, SW curb at the Memorial site with the adjacent curb in front of the United States Department of Health and Human Services building.

In accordance with the National Environmental Policy Act (NEPA), the National Park Service has determined that the project is a categorical exclusion under its environmental regulations C.2, for land exchanges that will not lead to significant changes in the use of land. NCPC staff has independently reviewed the project information and has determined that the project is categorically excluded under Section 8(c)(22) of NCPC's Environmental and Historic Preservation Policies and Procedures, for the review and approval of land exchanges or transfers of jurisdiction that will not lead to anticipated changes in the use of land and that have no potential for environmental impact.

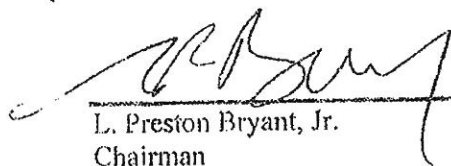
The District of Columbia State Historic Preservation Officer previously determined that the design of the Memorial would have no adverse effect on historic properties. The DC SHPO also reviewed the proposed transfer and determined that since the ownership of the land will remain with the National Park Service, the proposed transfer of jurisdiction will have no adverse effect provided that the National Park Service consult with the DC SHPO on any future actions on the site. NCPC

has an independent responsibility to comply with Section 106 of the National Historic Preservation Act. NCPC staff determined that approval of the transfer of jurisdiction does not have the potential to cause effects on historic properties in accordance with 36 CFR 800.3(a)(1). The transfer of jurisdiction is an administrative action to align the boundaries between the Memorial site and the roadway, but no physical improvements are associated with the transfer. In addition, effects on historic properties were considered under the Section 106 consultation for the design of the Memorial.

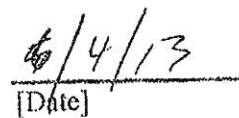
The Coordinating Committee reviewed the proposal at its May 15, 2013 meeting. The Committee forwarded the proposed transfer of jurisdiction to the Commission with the statement that the proposal has been coordinated with all participating agencies. The participating agencies were: NCPC; the District of Columbia Office of Planning; the District of Columbia State Historic Preservation Office; the District of Columbia Department of Transportation; the General Services Administration; the National Park Service and the Washington Metropolitan Area Transit Authority.

* * *

Pursuant to delegations of authority adopted by the Commission on December 14, 1977, and 40 U.S.C. §8124(a), I approve the transfers of jurisdiction for lands at Washington Avenue and 2nd Street, SW to facilitate the American Veterans Disabled for Life Memorial project. The transfers of jurisdiction will transfer 2,728 square feet of land from the National Park Service to the District of Columbia for highway purposes and 4,824 square feet of land from the District of Columbia to the National Park Service for park uses.



L. Preston Bryant, Jr.
Chairman



[Date]


Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: September 16, 2015

SUBJECT: Fiscal Impact Statement – “Closing a portion of Washington Avenue, Southwest, and portions of 5A and 5B ramps to I-395, and transfer of jurisdiction of the closed portions of Washington Avenue, Southwest, 5A and 5B ramps to I-395 and the transfer of jurisdiction of portions of Reservation 729, S.O. 14-16582A and 14-16582B Act of 2015”

REFERENCE: Bill 21-254, as Introduced

Conclusion

Funds are sufficient in the fiscal year 2016 through fiscal year 2019 budget and financial plan to implement the bill.

Background

In 2010, the District transferred¹ land to the National Park Service for the American Veterans Disabled for Life Memorial. The Disabled Veterans' Life Memorial Foundation completed the Memorial in 2014, but the finished site does not conform exactly to the land that the District transferred. The bill makes changes to the land jurisdiction to match the final design. In return, the National Park Service will return the excess land to the District.

The bill authorizes the transfer of 3,709 square feet of Washington Avenue, S.W., and 101 square feet of the land that contain the ramps 5A and 5B to I-395 from the District to National Park Service (portions of Reservation 729). Because the I-395 tunnel is beneath this land, the District will retain administrative jurisdiction over the subsurface. The National Park Service will transfer 3,346 square feet of 2nd Street S.W. from to the District.

Financial Plan Impact

¹ Pursuant to Public Law 109-396, “Federal and District of Columbia Government Real Property Act of 2006.”

The Honorable Phil Mendelson

FIS: Bill 21-254, "Closing a portion of Washington Avenue, Southwest, and portions of 5A and 5B ramps to I-395, and transfer of jurisdiction of the closed portions of Washington Avenue, Southwest, 5A and 5B ramps to I-395 and the transfer of jurisdiction of portions of Reservation 729, S.O. 14-16582A and 14-16582B Act of 2015," as Introduced.

Funds are sufficient in the fiscal year 2016 through fiscal year 2019 budget and financial plan to implement the bill. The District does not expect additional costs from this transfer, and District executive agencies and utilities do not object to the transfer.

4
5
6
7 A BILL

8
9
10 Bill 21-254

11
12
13 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

14
15
16
17
18 To order the closing of a portion of Washington Avenue, S.W., and portions of Ramps 5A and
19 5B to Interstate 395, and to approve the transfer of jurisdiction of the closed portions of
20 Washington Avenue, S.W., and Ramps 5A and 5B to Interstate 395, and of portions of
21 U.S. Reservation 729.

22
23 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
24 act may be cited as the “Closing of a Portion of Washington Avenue, S.W., and Portions of
25 Ramps 5A and 5B to Interstate 395, and Transfer of Jurisdiction of the Closed Portions of
26 Washington Avenue, S.W., and Ramps 5A and 5B to Interstate 395, and of Portions of U.S.
27 Reservation 729, S.O. 14-16582A and 14-16582B, Act of 2015”.

28 Sec. 2. Pursuant to section 201 of the Street and Alley Closing and Acquisition
29 Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-
30 202.01), the Council finds the portion of Washington Avenue, S.W., and the portions of Ramps
31 5A and 5B to Interstate 395, as shown on the Surveyor’s plat filed in S.O. 14-16582B,
32 unnecessary for street purposes and orders them closed, with title to the land to vest as shown on
33 the Surveyor’s plat.

34 Sec. 3. Pursuant to section 1 of An Act To Authorize the Transfer of Jurisdiction Over
35 Public Land in the District of Columbia, approved May 20, 1932 (47 Stat. 161; D.C. Official
36 Code §10-111), the Council approves the following transfers of jurisdiction, as shown on the
37 Surveyor's plat filed in S.O. 14-16582A:

38 (a) From the District of Columbia to the National Park Service of the United
39 States Department of the Interior, jurisdiction over the closed portions of Washington Avenue,
40 S.W., and Ramps 5A and 5B to Interstate 395 for park purposes; provided, that the District of
41 Columbia shall retain administrative jurisdiction over the subsurface area of these portions for
42 the tunnel, walls, footings, and related facilities; and

43 (b) From the National Park Service of the United States Department of the
44 Interior to the District of Columbia, jurisdiction over portions of U.S. Reservation 729 for
45 highway purposes.

46 Sec. 4. Transmittal.

47 The Council shall transmit a copy of this act, upon its effective date, to the Office of the
48 Surveyor of the District of Columbia, the Office of the Recorder of Deeds, the Executive
49 Director of the National Capital Planning Commission, the Speaker of the United States House
50 of Representatives, and the President Pro Tempore of the United States Senate.

51 Sec. 5. Fiscal impact statement.

52 The Council adopts the fiscal impact statement in the committee report as the fiscal
53 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
54 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

55 Sec. 6. Effective date.

56 This act shall take effect following approval by the Mayor (or in the event of veto by the
57 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
58 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
59 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
60 Columbia Register.

61