

**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: April 5, 2016

SUBJECT: Report on Bill 21-571, “Closing of a Public Alley in Square 697, S.O. 15-26230, Act of 2016”

The Committee of the Whole, to which Bill 21-446, the “Closing of a Public Alley in Square 697, S.O. 14-26230, Act of 2016” was referred, reports favorably thereon with technical changes, and recommends approval by the Council.

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I. BACKGROUND AND NEED

On January 5, 2016, Bill 21-571, the “Closing of a Public Alley in Square 697, S.O. 15-26230, Act of 2016” was introduced by Councilmember Allen. Bill 21-571 would order the closing of a portion of a public alley system in Square 697, bounded by K Street to the north, Half Street to the east, L Street to the south, and South Capitol Street to the west, in Southeast Washington, D.C., in Ward 6. The applicant is Lerner South Capitol Street Joint Venture (the “Applicant”). The purpose of the closing of this alley is to facilitate the development of a new residential building.

Legal Background

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 completed, the application is transmitted to the Council in the form of a bill from the Mayor. Councilmembers 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 21-571, 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 21-571, these requirements have been met.

After the 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 abutting 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.

The Development Project

The proposed development site is located in Square 697 in the Capitol Riverfront neighborhood of Ward 6. The alley proposed to be closed is located on Lot 46 and provides vehicular access to Lots 45 and 46 from K Street; it is not a through-alley. Lot 46 is owned by the Applicant and is currently vacant and used as a surface parking lot. Lot 45 is improved with a ten-story commercial building. Bill 21-571 will close only the stub of the alley, as shown on the Surveyor's plat. In addition, the Applicant will dedicate a five foot perpetual surface easement

adjacent to the portion of the existing public alley running north-south in order to create a continuous 20-foot wide public alley. The expanded alley will also facilitate access to the below-grade parking and loading facilities for the new building, and enhance access to the parking and loading facilities of the neighboring property located on the east side of the alley. As part of the case before the Board of Zoning Adjustment, the Applicant provided truck-turning movements showing that the proposed alley closure would not preclude trucks from accessing the building on Lot 45.¹ An existing easement on Lot 45 provides access from L Street.

The Applicant plans to construct a 13-story residential building with approximately 320,000 square feet of gross floor area. The new building will include approximately 330 dwelling units and 225 parking spaces in a three-level underground parking garage. The Board of Zoning Adjustment has granted the Applicant a special exception and variances for the project.²

There are no objections on the record. However, the following agency conditions must be met:

1. Provide an easement for access to the existing 12” Sanitary Sewer passing through the alley (DC Water).
2. Remove and replace all DDOT assets in existing alley ROWs (DDOT).
3. Cover all costs for removing existing DDOT street light poles and utility poles, including the light fixtures, arms, and underground electrical conduit (DDOT).
4. Cover all costs to install new street and alley lights and utility poles (DDOT).
5. Rehabilitate streetscape infrastructure between the curb and property lines (DDOT).
6. Maintain fire access to all surrounding properties that may be impacted by this street or alley closing and/or construction project in accordance with Chapter 5, Fire Services Features, Section 503 “Fire Apparatus Access Roads” in the 2012 International Fire Code (FEMS).

The Applicant is Lerner South Capitol Street Joint Venture, which is composed of Lerner Enterprises, LLC, and K & L Partners, LLC. The principals of these companies include Theodore N. Lerner, Annette M. Lerner, Mark D. Lerner, Judy L. Lerner, Edward L. Cohen, Debra Lerner Cohen, Robert K. Tanenbaum, and Marla Lerner Tanenbaum. These individuals have collectively contributed to the following District political campaigns since the 2012 election cycle: (1) Charles Allen for Ward 6; (2) Committee to Elect Sekou Biddle At-Large; (3) Evans 2012 – Ward 2 Council; (4) Re-Elect Jim Graham 2014; (5) Mendelson for Chairman; (6) Muriel Bowser Ward 4 Cares; (7) Re-Elect Yvette Alexander; (8) LaRuby May 2015 Special Election; (9) Re-Elect Orange 2016; (10) Brandon Todd for Ward 4 Special; (11) Re-elect Yvette Alexander 2016; (12)

¹ Memorandum from Sam Zimbabwe, Associate Director (DDOT), to Ronald F. Dreist, Jr., DC Surveyor, regarding S.O. No. 15-26230 – Closing of a Public Alley in Square 697 (1000 South Capitol Street SE), dated February 2, 2016.

² BZA Case No. 19113.

Re-elect Brandon Todd for Ward 4; (13) Jack Evans 2016; (14) Re-elect LaRuby May; (15) Tommy Wells for Mayor; (16) Evans for Mayor; (17) Muriel Bowser for Mayor; and (18) Vincent Gray for Mayor.

The Committee received no testimony in opposition to Bill 21-571. The proposed closing will allow for the development of a residential building and further the economic development of the Capitol Riverfront neighborhood. There being no objections to the alley closing, and no further need for this alley stub, the Committee recommends approval of Bill 21-571.

II. LEGISLATIVE CHRONOLOGY

- Jan. 5, 2016 Bill 21-571, the “Closing of a Public Alley in Square 697, S.O. 15-26230, Act of 2016” is introduced by Councilmember Allen.
- Jan. 19, 2016 Bill 21-571 is “read” at a Committee of the Whole meeting; on this date the referral of the bill to the Committee of the Whole is official.
- Jan. 15, 2016 Notice of Intent to Act on Bill 21-571 is published in the *District of Columbia Register*.
- Feb. 26, 2016 Notice of a Public Hearing on Bill 21-571 is published in the *District of Columbia Register*.
- Mar. 21, 2016 The Committee of the Whole holds a public hearing on Bill 21-571.
- April 5, 2016 The Committee of the Whole marks-up Bill 21-571.

III. POSITION OF THE EXECUTIVE

Roland Driest, the Surveyor for the District of Columbia, testified on behalf of the Executive. Mr. Driest stated that the purpose of Bill 21-571 is to facilitate the construction of a residential building on Lot 46, which is currently vacant. The portion of the alley to be closed is 808 square feet. The land’s market value for the 2016 tax year is \$455 per square foot, for a total value of \$367,640. He further advised that DDOT has given conditional approval based on the Applicant’s commitment to cover the cost of removing DDOT’s light poles and utility poles; the remaining Executive Branch agencies have no objections to the closing. Additionally, Pepco, Verizon, and Washington Gas have no objections, and D.C. Water and Sewer requests certain conditions be fulfilled prior to lifting its objections. No retail tenants will be displaced as a result of the closing.

IV. COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

The Committee received a copy of a letter dated Nov. 10, 2015 from the Chair of Advisory Neighborhood Commission (ANC) 6D Roger Moffatt to the Surveyor for the District, Mr. Roland Driest. The letter offers the support of ANC 6D for closure of the alley. Mr. Moffatt wrote that the alley closure allows the proposed residential building on the site to offer at-grade bicycle parking and the consolidation of curb cuts, increasing parking and improving the pedestrian experience of the streets surrounding the lot.

V. NATIONAL CAPITAL PLANNING COMMISSION REVIEW

Marcel C. Acosta, Executive Director of the National Capital Planning Commission (NCPC), in a Delegated Action of the Executive Director, provided comments to the Council finding that the proposed partial alley closing and establishment of a partial easement in Square 697 would not be inconsistent with the Comprehensive Plan for the National Capital. The delegated action was taken on October 30, 2015.

VI. SUMMARY OF TESTIMONY

The Committee of the Whole held a public hearing on several bills, including Bill 21-571, on Monday, March 21, 2016. The testimony summarized below is from that hearing and specific to Bill 21-571. Copies of selected written testimony are attached to this report (all of the testimony is filed with the record for Bill 21-571).

Norman M. Glasgow, Jr., Holland & Knight, LLP, testified on behalf of the Applicant in favor of Bill 21-571. Mr. Glasgow briefly described the proposed development and indicated that the Applicant would be widening the existing alley from 15 feet to 20 feet and providing a perpetual easement for public use. He further stated that the alley closing is supported by ANC and he is not aware of any opposition to the alley closing.

Stuart Miller, Senior Director of Development, Lerner Enterprises, testified on behalf of the Applicant in favor of Bill 21-571. Mr. Stuart stated that his company, Lerner, is the owner of the Washington Nationals and is involved in the redevelopment and revitalization of the Capitol Riverfront neighborhood. He further stated that the development would advance city's planning goals for the South Capitol Street corridor and the surrounding neighborhood.

The Committee received no testimony or comments in opposition to Bill 21-571.

VII. IMPACT ON EXISTING LAW

Bill 21-571 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 21-571, the Committee finds that the requirements of the Act have been satisfied.³

VIII. FISCAL IMPACT

The attached April __, 2016 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

<u>Section 1</u>	Short title.
<u>Section 2</u>	The Council finds the alley unnecessary for alley purposes and orders the alley closed contingent upon recordation of a covenant establishing a new portion of the alley system by easement and satisfaction of all conditions set forth in the Surveyor's file.
<u>Section 3</u>	Requires transmittal of the act, upon adoption, to the Office of the Surveyor of the District of Columbia.
<u>Section 4</u>	Fiscal impact statement.

X. COMMITTEE ACTION

XI. ATTACHMENTS

1. Bill 21-571 as introduced (omitting some attachments).
2. Selected Written Testimony (some exhibits omitted; all testimony filed with the record for Bill 21-571).
3. Surveyor's Plat.
4. NCPC Comments.
5. Fiscal Impact Statement for Bill 21-571.
6. Legal Sufficiency Determination for Bill 21-571.

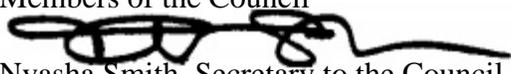
³ D.C. OFFICIAL CODE § 9-202.01 *et. seq.* (2016).

7. Committee Print for Bill 21-571.

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 : January 06, 2016

Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Office of the Secretary on Tuesday, January 5, 2016. Copies are available in Room 10, the Legislative Services Division.

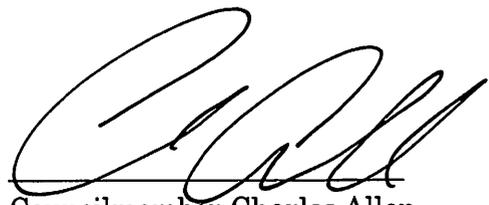
TITLE: "Closing of a Public Alley in Square 697, S.O. 15-26230, Act of 2016",
B21-0571

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



Councilmember Charles Allen

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To order the closing of a portion of a public alley system in Square 697, bounded by K Street, S.E., L Street, S.E., Half Street, S.E., and South Capitol Street, in Ward 6.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act be cited as the "Closing of a Public Alley in Square 697, S.O. 15-26230, Act of 2016".

Sec. 2. (a) Pursuant to Section 201 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983, (D.C. Law 4-201; D.C. Official Code § 9-202.01), the Council finds the portion of the public alley system in Square 697, as shown on the Surveyor's plat filed in S.O. 15-26230, is unnecessary for alley purposes and orders it closed, with title to the land to vest as shown on the Surveyor's plat.

(b) The approval of the Council of this alley closing is contingent upon:

(1) The recordation of a covenant establishing a new portion of the alley system by easement, as shown on the Surveyor's plat in S.O. 15-26230 that includes an agreement by the owner of the property encumbered by the easement to maintain the new portions of the alley system; and

(2) The satisfaction of all conditions in the official file for S.O. 15-26230 before the recordation of the alley closing.

35 Sec. 3. Transmittal.

36 The Council shall transmit copies of this act, upon its adoption, to the Office of the
37 Surveyor and the Office of the Recorder of Deeds.

38 Sec. 4. Fiscal impact statement.

39 The Council adopts the fiscal impact statement in the committee report as the fiscal
40 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
41 approved December 24, 1973 (87 Stat. 813, D.C. Official Code § 1-206-02(c)(3)).

42 Sec. 5. Effective date.

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

Holland & Knight

800 17th Street, Suite 1100 | Washington, DC 20006 | T 202.955.3000 | F 202.955.5564
Holland & Knight LLP | www.hklaw.com

Norman M. Glasgow, Jr.
202.419.2460
norman.glasgowjr@hklaw.com

March 17, 2015

VIA HAND DELIVERY

Ms. Cynthia LeFevre
Legislative Council
Committee of the Whole
John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Suite 506
Washington, D.C. 20004

Re: Alley Closing in Square 697: Bill No. 21-0571

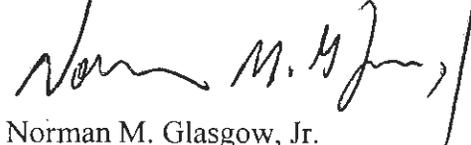
Dear Cynthia:

Enclosed please find fifteen copies of a statement with exhibits in support of the Bill 21-0571 (Closing of a Public Alley in Square 697, S.O. 15-26230, Act of 2015) to be considered at the Committee of the Whole's March 21, 2016, public hearing. The required Affidavit of Posting and Affidavit of Notice have been filed with the Office of the Surveyor.

Thank you for your help in this matter. Should you have any questions or need additional information, please do not hesitate to call me.

Sincerely,

HOLLAND & KNIGHT LLP



Norman M. Glasgow, Jr.

Enclosures

cc: Nichole Opkins, Councilmember Allen's Office (Via Hand Delivery, with enclosure)
Rick Dreist, DC Surveyor (Via Hand Delivery, with enclosure)

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

Application of Lerner South Capitol Street
Joint Venture
Owner of Property in Square 697

Closing of a Portion of a Public Alley
System in Square 697, S.O. 15-26230
Bill 21-0571

STATEMENT OF THE APPLICANT

I.

Introduction

Lerner South Capitol Street Joint Venture (the "Applicant") hereby requests the closing of a portion of a public alley system in Square 697 pursuant to D.C. Code, Section 9-202.01, *et seq.* Bill 21-0571, a copy of which is attached as Exhibit A, was introduced by Councilmember Allen to effectuate the proposed alley closing. The proposed alley to be closed is a dead-end, stub alley and provides access only to property owned by the Applicant. As part of the alley closing request, the Applicant will dedicate a five foot perpetual surface easement adjacent to the portion of the existing public alley running north-south, and connecting to K Street, to create a continuous, 20-foot wide public alley and to provide better two-way circulation within the square. This alley closing is necessary to allow the development of a mixed-use building containing residential, office and/or retail uses. (the "Project"). A copy of the draft alley closing plat showing the portion of the alley to be closed as well as the public alley easement to be established is attached hereto as Exhibit B. As described herein, the alley to be closed is not necessary for alley purposes and the expanded north-south alley will provide improved circulation within the square.

II.

Background and Proposed Development

The proposed development site is located in Square 697, bounded by K Street, SE to the north, L Street, SE to the south, Half Street, SE to the east, and South Capitol Street to the west.

The site to be developed consists of Lot 46 in Square 697 and will be subdivided with the portion of a public alley system to be closed (the "Site"). The land area of the Site is approximately 33,523 square feet.

The Site is currently vacant and used as a surface parking lot for a portion of the year. The Site will be redeveloped with a mixed-use building containing up to approximately 335,230 gross square feet of residential, office and/or retail uses. Access to the below-grade parking and loading facilities will be taken from the expanded and improved north-south public alley that connects to K Street on the north, or the 20-foot alley easement existing on adjacent Lot 45 that connects to L Street to the south

To allow the Project to move forward, a small dead-end, stub alley must be closed. The alley to be closed contains approximately 808 square feet of land area, which is approximately 2.4% of the total land area of the Site. As shown in the plans and drawings attached hereto as Exhibit C, The existing north-south public alley that connects to K Street will be widened by the Applicant through a five-foot recorded surface easement, with a minimum vertical clearance of 15 feet, resulting in a consistent 20-foot wide alley area running through the Square that will be available to the public. The area subject to the proposed alley easement is approximately 500 square feet, approximately 62% of the area of the alley proposed to be closed. The expanded alley will provide better two-way circulation within this portion of the alley system, and throughout the square. The expanded alley will also facilitate access to the below-grade parking and loading facilities for the new mixed-use building, and will provide enhanced access to the parking and loading facilities of the neighboring property located on the east side of the alley system.

III.
Review by District Agencies and Utilities

The proposed alley closing has been reviewed in detail by the affected District of Columbia agencies and utility providers. The Applicant has worked closely with all of these agencies and utility providers on the proposed alley closing and all have approved the application, with the exception of DC Water. Copies of the agency and utility provider reports are attached as Exhibits D through G. As a condition of its approval, the District Department of Transportation (DDOT) requested that the Applicant cover all costs for removing the existing DDOT street light poles and utility poles, including the light fixtures, arms and underground conduit, within the area affected by the alley closing and proposed easement. The Applicant agrees to this condition.

The Applicant is still in the process of consulting with DC Water as a result of its March 8, 2016, letter, which was issued after the Council hearing was scheduled, rescinding its earlier conditional approval of the application. It appears this rescission is a result of a discussion between the District and DC Water as to the terms of its December 8, 2015, letter relating to DC Water's conditional approval. Copies of the DC Water letters mentioned above are attached hereto as Exhibit H. The Applicant looks forward to continuing to work with the District and DC Water toward a reasonable resolution.

Finally, the National Capital Planning Commission submitted a report stating that the proposed alley closing "would not be inconsistent with the Comprehensive Plan for the National Capital" (Exhibit I)

Based on the above-mentioned recommendations of the District agencies, and the utility providers that have expressed no objection to the application, the Applicant submits that the portion of the alley proposed to be closed is not necessary for public alley purposes, and that the proposed alley closing and establishment of an easement will have no adverse impacts on

transportation conditions within the surrounding area and will improve circulation within the square.

IV.
Work with the Community

The Applicant has worked with Advisory Neighborhood Commission 6D (the "ANC") to review the proposed alley closing. At its duly noticed and regularly scheduled meeting of November 9, 2015, the ANC voted unanimously to support the alley closing application and establishment of the five-foot public alley surface easement. A copy of the ANC 6D's letter in support is attached as Exhibit J.

V.
Compliance with the Comprehensive Plan

The Future Land Use Map of the Comprehensive Plan identifies the Site as being in the High Density Commercial land use category (Exhibit K). According to the Framework Element of the Comprehensive Plan, the High Density Commercial land use category defines the central employment district of the city and other major office employment centers on the perimeter of downtown. These areas are characterized by office and mixed office/retail buildings greater than eight stories with lower scale buildings (including historic buildings) interspersed.

The Comprehensive Plan Generalized Policy Map identifies the Site as being in the South Capitol Corridor Land Use Change Area, and within the District's Central Employment Area (CEA), which is considered the business and retail heart of the District and the metropolitan area (Exhibit L). The Comprehensive Plan describes Land Use Change Areas as areas where a change to a different land use from what exists today is anticipated. These areas include many of the city's large development opportunity sites, and smaller sites that are undergoing redevelopment or anticipated to undergo redevelopment. As stated in the Comprehensive Plan, the guiding

philosophy in the Land Use Change Areas is to encourage new development and promote adaptive reuse of existing structures. Many of these areas have the capacity to become mixed-use communities containing housing, retail shops, services, workplaces, parks and civic facilities.

A. Compliance with the Citywide Elements of the Comprehensive Plan

The Project is consistent with the policies of the Citywide Elements of the Comprehensive Plan, and will advance many of the District's planning goals, including, but no limited to, the following:

I. Land Use Element

The alley closing application and associated project is consistent with the following policies of the Land Use Element of the Comprehensive Plan:

- *Policy LU-1.1.5: Urban Mixed Use Neighborhoods* – The South Capitol Street corridor/Stadium area is one of the areas identified in Comprehensive Plan where mixed-use neighborhoods that combine high-density residential, office, retail, cultural, and open space is encouraged. The Project, facilitated by the proposed alley closing, will contribute to the ongoing revitalization of this area.
- *Policy LU-1.4.1: Infill Development* –South Capitol Street currently has several developments either underway, or soon to be underway, which will advance the District's long-term vision of transforming the corridor into a monumental boulevard and gateway into the city. The proposed redevelopment of the Site will complement the other developments currently underway and strengthen the design integrity of the corridor.
- *Policy LU-2.2.7: Alley Closings* – The Comprehensive Plan discourages the conversion of alleys to private yards or developable land when the alleys are part

of the historic fabric of the neighborhood and would otherwise continue to perform their intended functions, such as access to rear garages and services areas for trash collection. Given the current alley configuration within the Square, the closing of this portion of the alley will not impact the internal circulation within the Square, and thus, it is not necessary for alley purposes.

2. Urban Design Element

The alley closing application and the Project will further a number of the policies of the Urban Design Element and help address some of the most important urban design issues facing the District. The urban design policies that are particularly applicable to this proposal include the following:

- *Policy UD-1.1.2: Reinforcing the L'Enfant and McMillan Plans* -- The Project will not result in the closure of any streets, and the portion of the alley to be closed is not associated with any vistas or viewsheds. The Project will result in a development that adheres to established rights-of way, and reinforces the District's unique character as embodied in the L'Enfant and McMillan Plans. Specifically, the Project will contribute to the advancement of the District's vision to transform South Capitol Street into a monumental urban boulevard.

- *Policy UD-1.4.1: Avenue/Boulevards and Urban Form* -- This policy promotes the use of Washington's major avenues/boulevards as a way to reinforce the form and identity of the city, connect its neighborhoods, and improve its aesthetic and visual character. The Project is consistent with this policy as it will replace a long existing surface parking lot with an active, mixed-use development that adds architectural character to the South Capitol Street corridor. In addition, the quality of the

surrounding public realm will be substantially improved through the reconstruction of the surrounding streetscape.

- *Policy UD-1.4.2: City Gateways* –Redevelopment of the Site will help advance District and federal planning efforts to revitalize the South Capitol Street gateway by replacing the existing surface parking lot with a new mixed-use building that has high architectural quality and a renovated public realm.

B. Consistency with the Lower Anacostia Waterfront/Near Southwest Area Element

Finally, the Site is located within the South Capitol Street/Buzzard Point Policy Focus Area of the Lower Anacostia Waterfront/Near Southwest Area Element of the Comprehensive Plan which includes policies that promote, among other things, the transformation of South Capitol Street into a great urban boulevard and “walking” street, befitting its role as a gateway to the U.S. Capitol. The proposed alley closing will advance these policies by facilitating the redevelopment of the Site with a new mixed-use building containing residential, office, and/or retail uses that will also substantially improve the quality of the public realm and pedestrian circulation along South Capitol Street.

VI.

Compliance with the Street and Alley Closing and Acquisition Procedures Act (D.C. Code Section 9-201.01, et seq.)

A. Authority for this Closing Is Set Forth in the Street and Alley Closing and Acquisition Procedures Act of 1982, D.C. Code Section 9-201.01, et seq.

The legal standard for closing an alley is whether the alley is "unnecessary for street or alley purposes." D.C. Code § 9-202.01. The proposed alley to be closed is a dead-end, stub alley and does not provide access to any property except that owned by the Applicant. It is a remnant of the original alley system in the square, which has been changed and modified as development

within the square has occurred. The proposed establishment of the new alley easement will improve vehicular circulation within the alley system, which will enhance the overall circulation and transportation system in the square. Accordingly, the portion of the alley system to be closed is no longer necessary for alley purposes.

B. The Proposed Closing Implements District Planning Objectives

The proposed closure is necessary to allow the construction of the Project. As discussed above, the proposed development is consistent with the Comprehensive Plan's designation for the Site, as confirmed in the reports submitted by the Office of Planning and NCPC. The redevelopment of the Site with a mixed-use building containing residential, office, and/or retail uses will advance the District's vision and long-term planning efforts to revitalize the South Capitol Street corridor into a monumental boulevard. Furthermore, as stated previously, the alley closing application has been reviewed in detail by various District of Columbia agencies and public utilities, and these agencies and utilities have all indicated no objection to the proposed alley closing.

C. Economic Impacts of the Alley Closing and the Project

The Project will result in a significant increase in tax revenues for the District. According to information available on the District of Columbia Office of Tax and Revenue (OTR) website, the Site, in its current state, has an assessed value of \$14,885,330 and generates approximately \$134,690 in annual real property tax. According to the same OTR information, assessed values for recently constructed office and residential buildings in close proximity are approximately eight to ten times higher than the Site's current assessed value. In addition to increased real property taxes,

the Project will result in increased income, sales, and/or business tax revenue to the District, and create several new jobs.

VII.
Witnesses

1. Stuart Miller
on behalf of Lerner South Capitol Street Joint Venture
2000 Tower Oaks Boulevard
8th Floor
Rockville, MD 20852
(301) 692-2373

2. Mark Gilliland, FAIA
Shalom Baranes Associates Architects
1010 Wisconsin Avenue, NW
Suite 900
Washington, DC 20007
(202) 342-2200

3. Erwin Andres
Gorove/Slade Inc.
1140 Connecticut Ave, NW
Suite 600
Washington, DC 20036
(202) 296-8625

4. Shane L. Dettman, AICP
Holland & Knight, LLP
800 17th Street, NW
Suite 1100
Washington, DC 20006
(202) 469-5169

VIII.
Exhibits

- | | |
|-------------------|---|
| <u>Exhibit A:</u> | Bill 21-057I |
| <u>Exhibit B:</u> | Draft alley closing plat |
| <u>Exhibit C:</u> | Plans and elevations |
| <u>Exhibit D:</u> | Report from District Department of Transportation |

- Exhibit E: Report from the Office of Planning
- Exhibit F: Reports from other District agencies (Historic Preservation Office; Department of Public Works, Solid Waste Management Administration; Fire and Emergency Medical Services Department; and Department of Housing and Community Development)
- Exhibit G: Reports from utility providers (Washington Gas, PEPCO, and Verizon)
- Exhibit H: Reports from DC Water
- Exhibit I: Report from the National Capital Planning Commission
- Exhibit J: Letter of support from Advisory Neighborhood Commission 6D
- Exhibit K: Relevant portion of the Future Land Use Map of the Comprehensive Plan
- Exhibit L: Relevant portion of the Generalized Policy Map of the Comprehensive Plan
- Exhibit M: Outline of testimony of Stuart Miller, Lerner South Capitol Street Joint Venture
- Exhibit N: Outline of testimony and resume of Mark Gilliland, FAIA, Shalom Baranes Associates Architects
- Exhibit O: Outline of testimony and resume of Erwin Andres, Gorove/Slade Associates, Inc.
- Exhibit P: Outline of testimony and resume of Shane Dettman, AICP, Holland & Knight LLP
- Exhibit Q: Affidavit of Notice

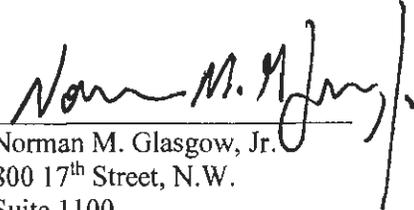
IX.
Conclusion

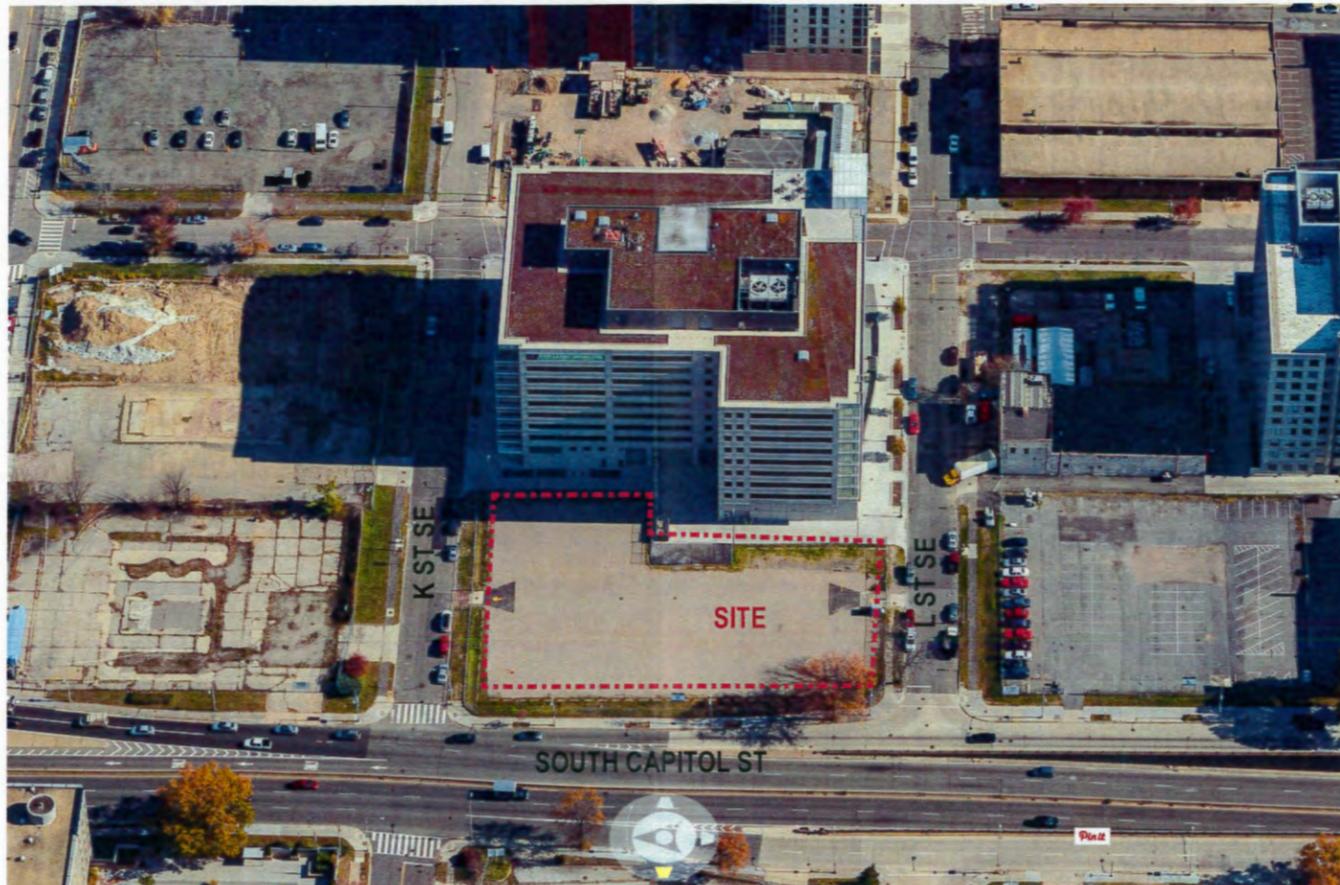
For the above-stated reasons, the Applicant respectfully requests that the Council approve the alley closing application referenced herein.

Respectfully submitted,

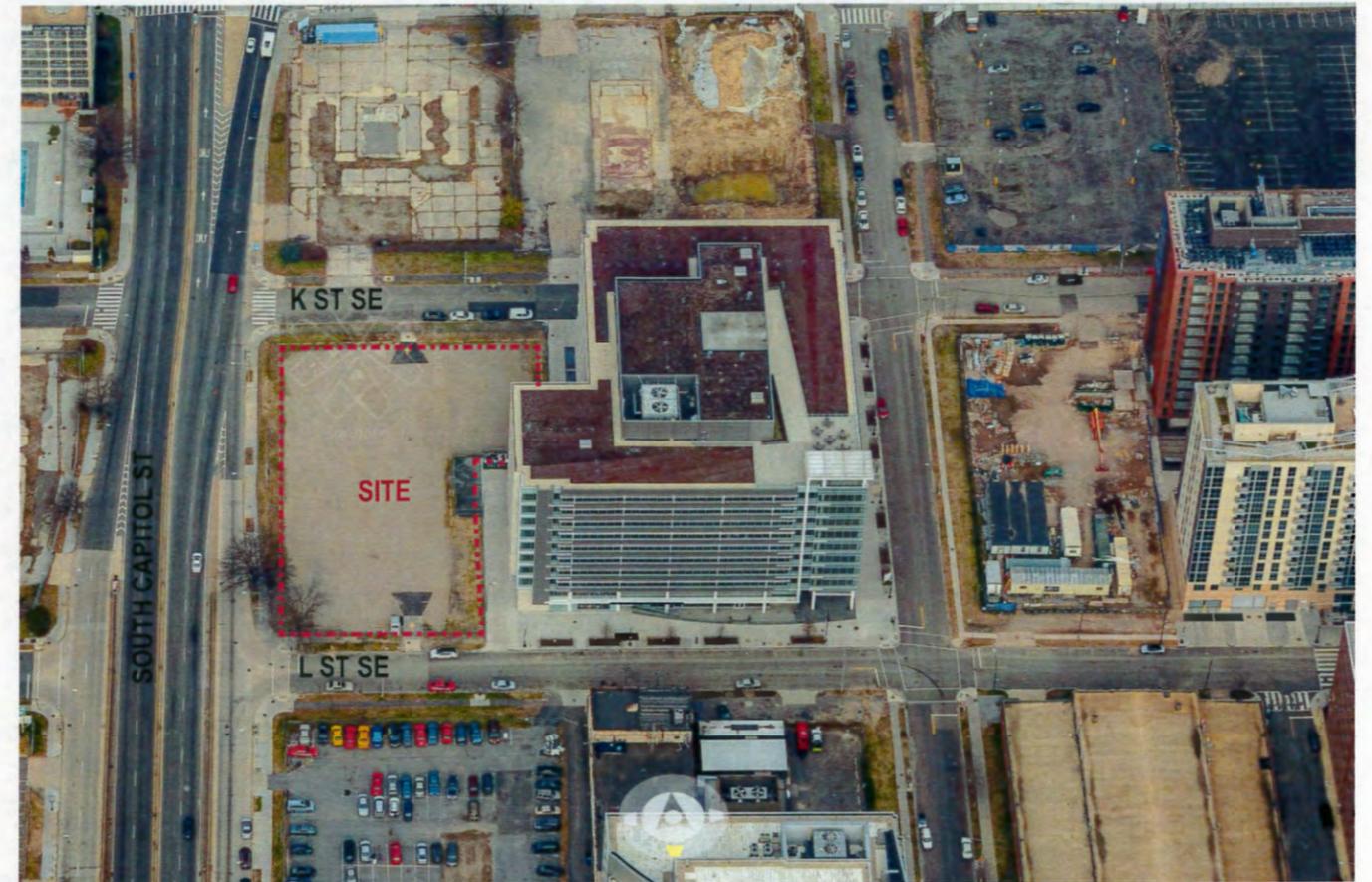
HOLLAND & KNIGHT LLP

By:


Norman M. Glasgow, Jr.
800 17th Street, N.W.
Suite 1100
Washington, DC 20006



BIRDS EYE LOOKING EAST



BIRDS EYE LOOKING NORTH



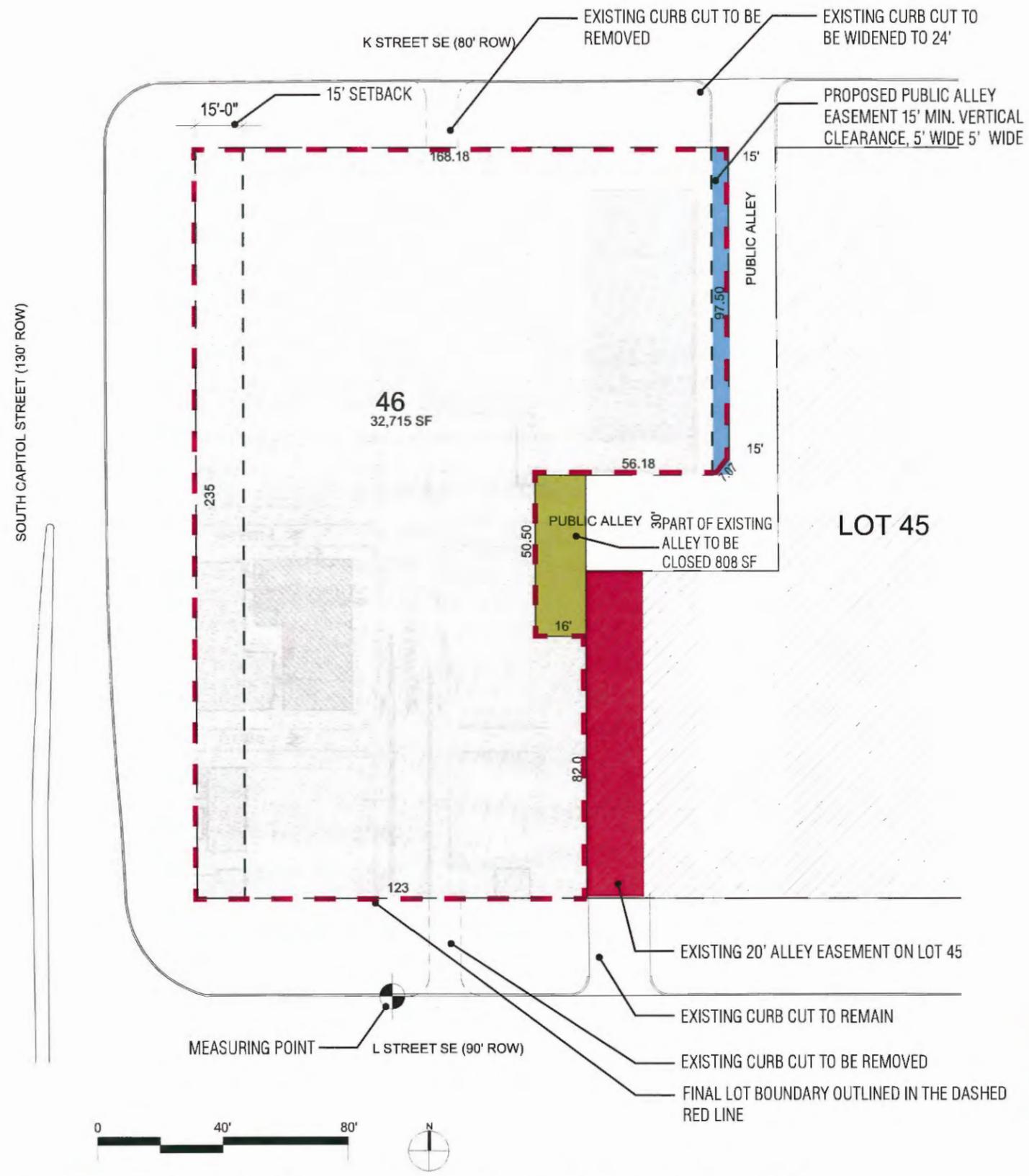
STREET VIEW LOOKING NORTH



STREET VIEW LOOKING SOUTH

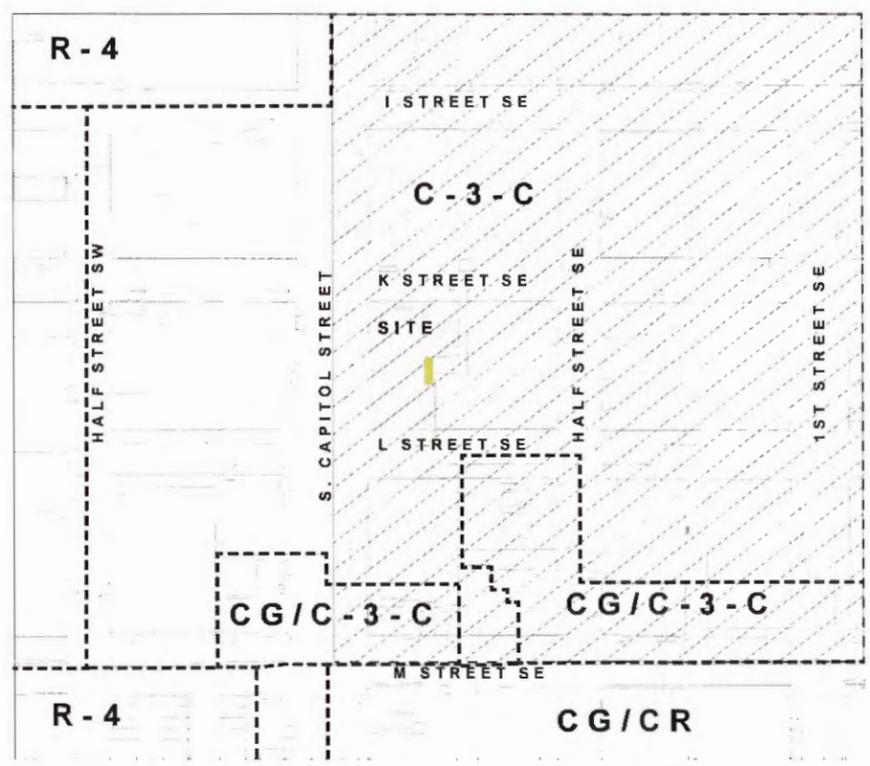


STREET VIEW LOOKING NORTHWEST



SQUARE:	697		
LOT:	46		
ZONE:	C-3-C / CAPITOL SOUTH RECEIVING ZONE		
	Lot 46	32,715	
	Alley	808	
SITE AREA:		33,523	
STREET WIDTHS:			
	SOUTH CAPITOL STREET	130'	(USED FOR HEIGHT ACT COMPLIANCE)
	L STREET, SE	90'	(USED FOR MEASURING POINT LOCATION)
	K STREET, SE	80'	(USED FOR REAR YARD MEASUREMENT)
VERTICAL HEIGHTS:			
	MEASURING POINT:	23.5'	(ASSUME BASED ON DC GIS INFORMATION)
	MAIN ROOF PARAPET:	153.5'	(130' ABOVE THE MEASURING POINT)
	ROOF STRUCTURE PARAPET:	171.5'	(18.5' ABOVE THE MAIN ROOF)

CAPITOL SOUTH RECEIVING ZONE

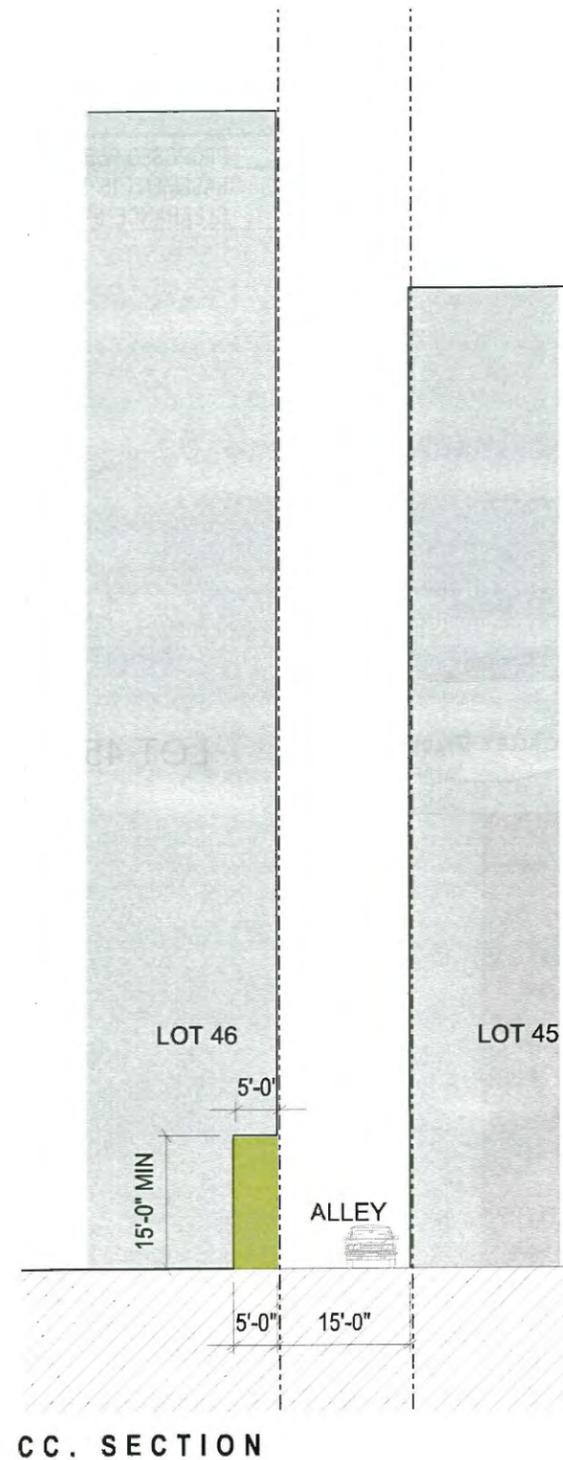
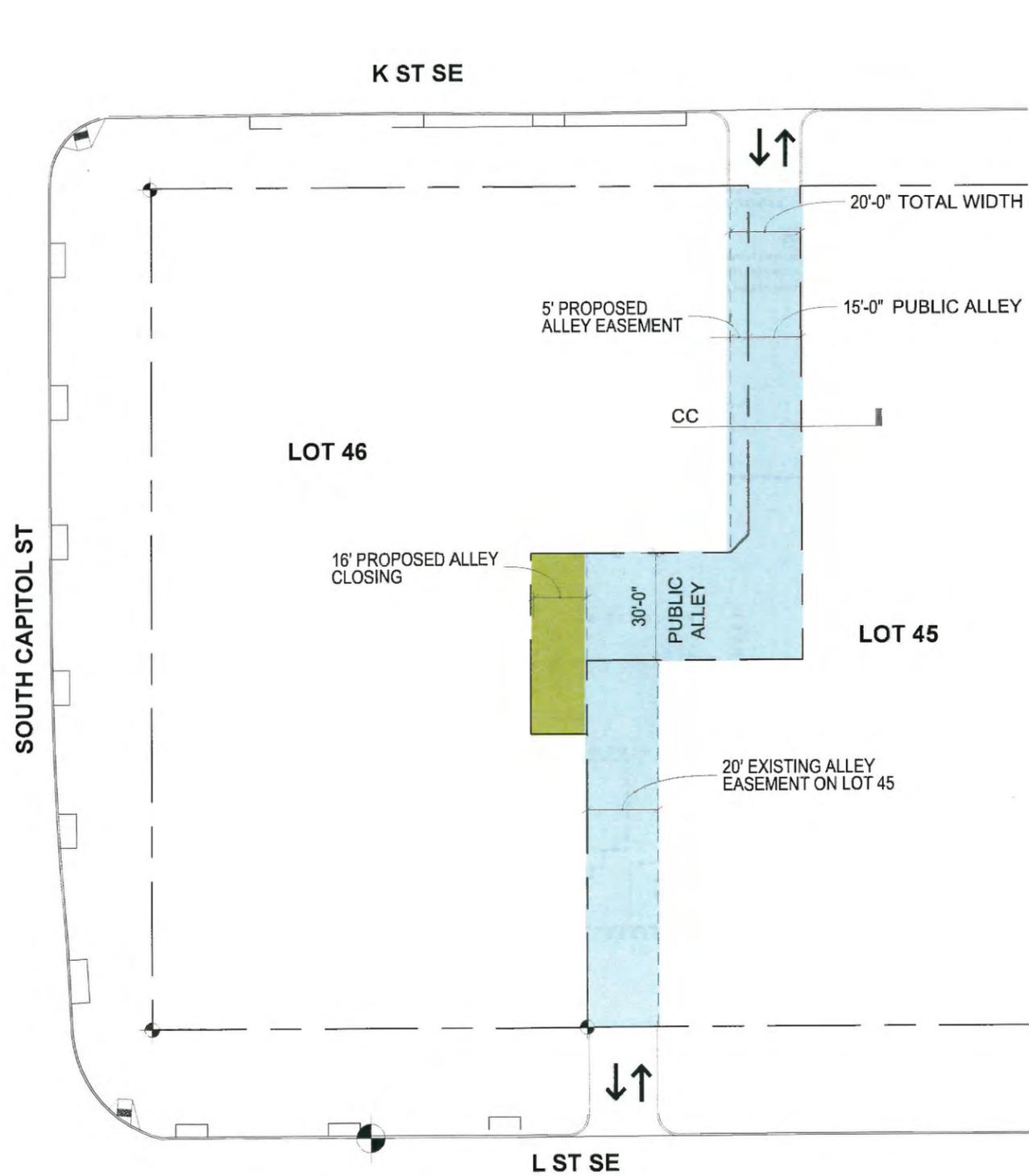


- PROPOSED BUILDING SITE ON LOT 46
- PROPOSED ALLEY EASEMENT
- PROPOSED ALLEY CLOSING
- EXISTING ALLEY EASEMENT ON LOT 45

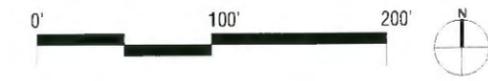


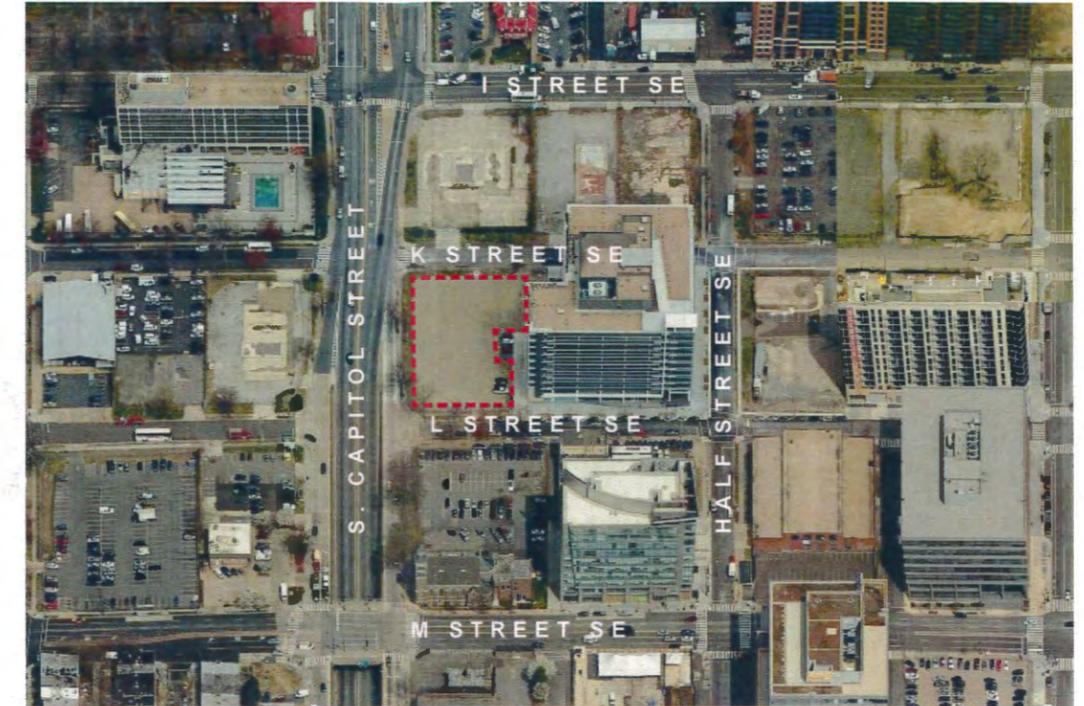
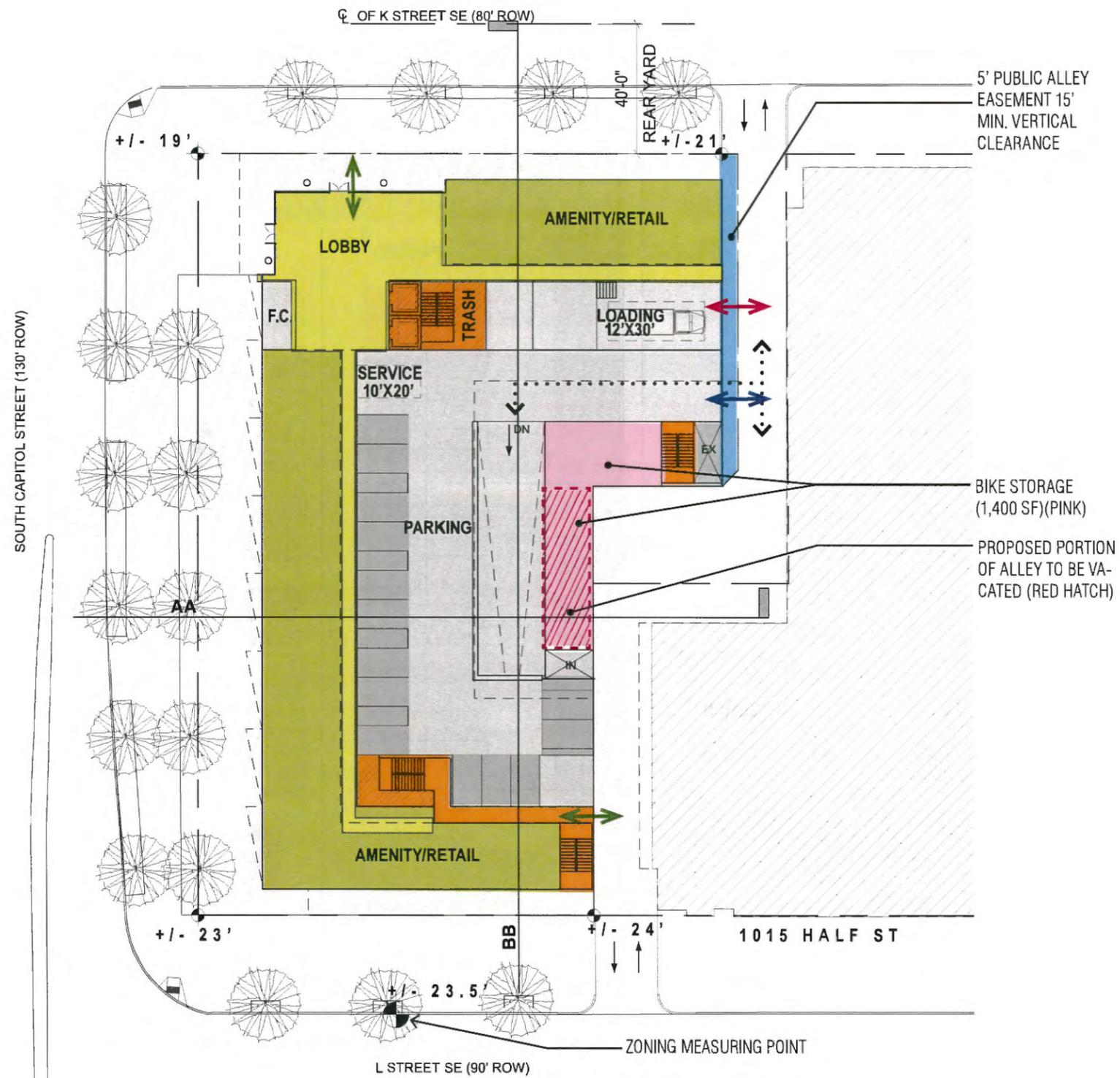
1000 S. CAPITOL STREET, SE

ALLEY DIAGRAM & SITE MAP



- PEDESTRIAN ENTRANCE
- LOADING ENTRANCE
- PARKING ENTRANCE
- PUBLIC ALLEY TO BE VACATED
- PROPOSED BUILDING
- EXISTING BUILDING
- PUBLIC ALLEY AND ALLEY EASEMENT THROUGH-BLOCK CIRCULATION





NOTES:
 SIZES AND LOCATIONS OF DOORS, WINDOWS, INTERIOR PARTITIONS, INTERIOR STAIRS, ELEVATORS ARE PRELIMINARY AND SHOWN FOR ILLUSTRATIVE PURPOSES ONLY.

STREETSCAPE DESIGN TO COMPLY WITH SOUTH CAPITOL STREET PLAN AND DDOT STANDARDS.

1000 S. CAPITOL STREET, SE



WASHINGTON, DC

MARCH 17, 2016 ©2016 Shalom Baranes Associates, PC

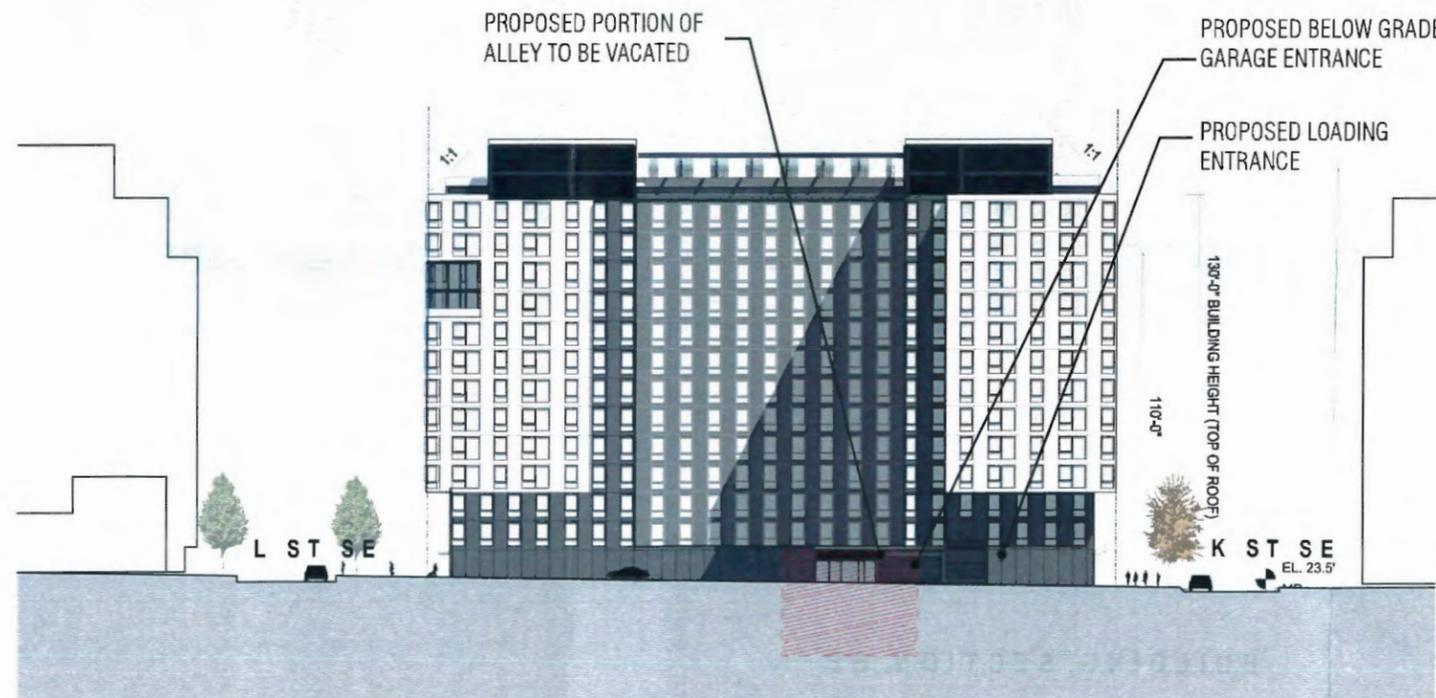
shalom baranes associates architects



WEST ELEVATION (SOUTH CAPITOL ST)



NORTH ELEVATION (K ST SE)



EAST ELEVATION (PUBLIC ALLEY)



SOUTH ELEVATION (L ST SE)



1000 S. CAPITOL STREET, SE



WASHINGTON, DC

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shalom baranes associates architects



1000 S. CAPITOL STREET, SE

LERNER WASHINGTON, DC

MARCH 17, 2016 ©2016 Shalom Baranes Associates, PC

shalom baranes associates | architects



**EXECUTIVE BRANCH TESTIMONY
BY THE
OFFICE OF THE SURVEYOR ON BILL NO. 21-571
“CLOSING OF A PUBLIC ALLEY IN SQUARE 697
S.O. 15-26230, ACT OF 2016”**

March 21, 2016

INTRODUCTION:

Good afternoon 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. 21-571. This bill would order the closing of a portion of a public alley system in Square 697, bounded by K Street, L Street, Half Street, and South Capitol Street in Southeast in Ward 6. There would also be established a five (5) foot wide alley easement on the west side of the ten (10) foot north/south all as depicted on the Surveyor’s Plat.

APPLICANT:

The applicant is Lerner South Capitol Street Joint Venture who is represented by Holland & Knight.

PURPOSE:

The purpose of this closing is to facilitate the construction of a residential building on Lot 46, which is currently vacant.

DESCRIPTION:

The portion of the alley to be closed was created by subdivision of Original Squares in Recorded Book 3, Page 697 on April 13, 1797.

TITLE:

Title to the alley could not be determined to be held by the District or the United States.

AREA & ASSESSED VALUE:

The portion of the alley to be closed is 808 square feet. The Office of Tax and Revenue has indicated that the land's market value as of January 1, 2015 which represents tax year 2016 is \$455.00 per square foot value for a total estimated value of \$367,640.00.

AGENCIES:

DDOT has given conditional approval based on the applicant covering the cost of removing DDOT's light poles and utility poles. The remaining Executive Branch agencies have no objection to this closing.

UTILITIES:

Pepco, Verizon and Washington Gas have no objections to this closing. D.C. Water and Sewer originally had conditionally released its objection on December 8, 2015. It has however, reasserted its objection in a letter dated March 8, 2016.

RETAIL TENANTS:

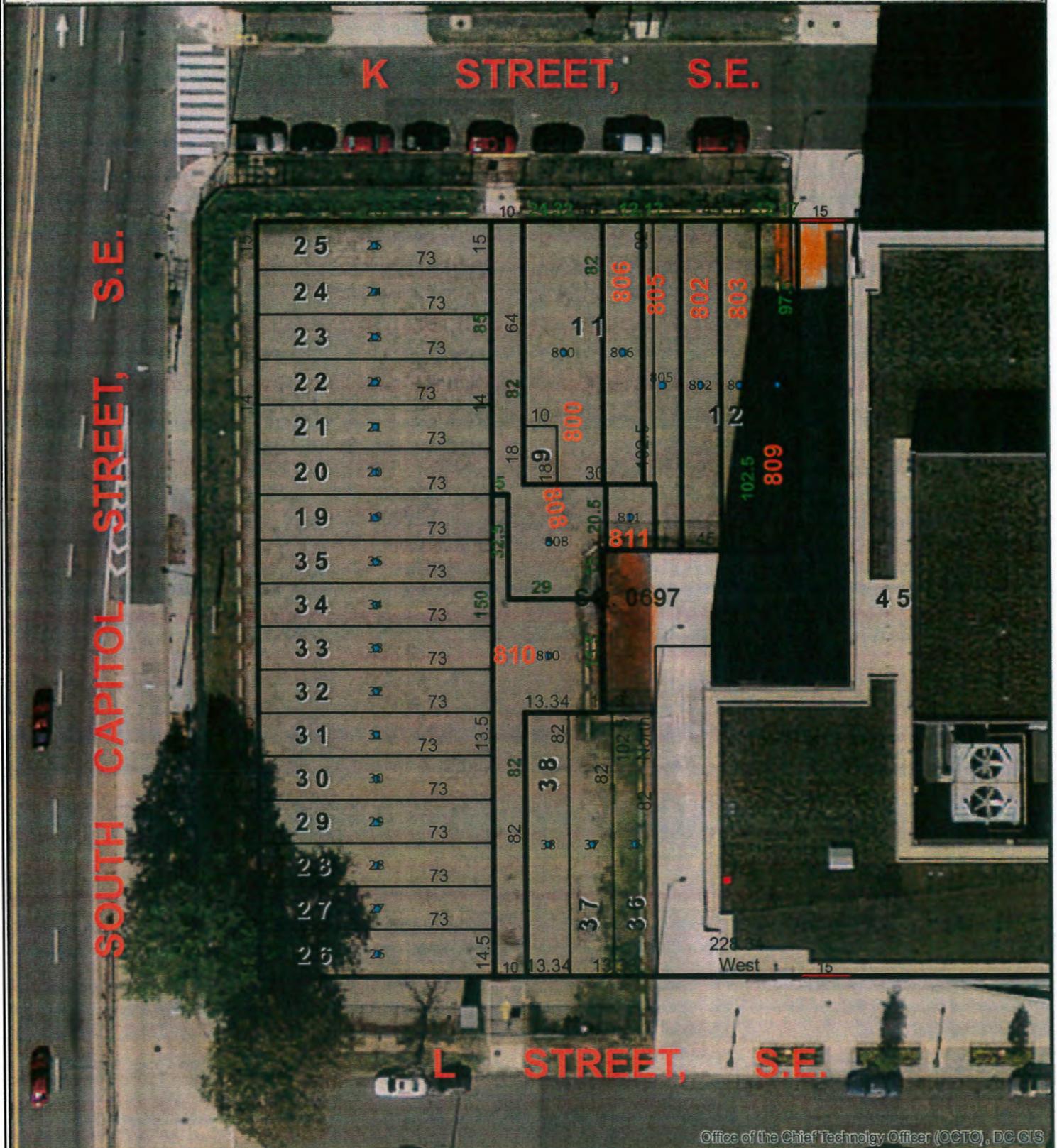
No retail tenants will be displaced as a result of this closing.

NCPC, ANC & ABUTTING PROPERTY OWNERS:

Pursuant to D.C. Official Code §9-202-02(5) Advisory Neighborhood Commission (ANC) 6D was notified of this application on September 15, 2015. In a letter dated November 10, 2015, ANC 6D voted 6-0 in support of this application. The National Capital Planning Commission, (NCPC) was notified of this application on September 15, 2016. In a letter dated November 12, 2015, NCPC found the proposed public alley closing and establishment of a partial easement would not be inconsistent with the Comprehensive Plan for the National Capital. The abutting property owner was notified of this application on September 15, 2015. To-date, we have not received any comments from the abutting property owner. Any comments will be forwarded when received.

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

PUBLIC ALLEY CLOSED & EASEMENT ESTABLISHED
SQUARE 697



Office of the Chief Technology Officer (OCTO), DC GIS

	1 inch = 41 feet	Prepared by: Office of the Surveyor	Coordinate System: NAD 1983 StatePlane Maryland FIPS 1900 Information on this map is for illustration only. The user acknowledges and agrees that the use of this information is at the sole risk of the user. No endorsement, liability, or responsibility for information or opinions expressed are assumed or accepted by any agency of the DC Government.
	SCALE		
		Date: March 14, 2016	

Holland & Knight

800 17th Street, NW, Suite 1100 | Washington, DC 20006 | T 202.955.3000 | F 202.955.5564
Holland & Knight LLP | www.hklaw.com

Norman M. Glasgow, Jr.
202 419 2460
norman.glasgowjr@hklaw.com

August 10, 2015

Mr. Roland Dreist
D.C. Surveyor
Office of the Surveyor
1100 4th Street, SW, Third Floor
Washington, DC 20024

Re: Partial Alley Closing and Easement Establishment in Square 697

Dear Mr. Dreist:

On behalf of Lerner South Capitol Street Joint Venture (the "Applicant"), enclosed please find six copies of an application to close a portion of an alley in Square 697. Also enclosed are the required filing fee of \$2,750.00 and a completed retail displacement form.

The Applicant is the current owner of Lot 46 in Square 697. Square 697 is bounded by K Street, SE on the north, L Street on the south, Half Street on the east, and South Capitol Street on the west (the "Square"). There is only one other lot located within the Square, Lot 0045, which according to the District of Columbia Office of Tax and Revenue Real Property Assessment Database is currently owned by Half Street SE, L.L.C.

The portion of the alley requested to be closed is no longer necessary for transportation or alley purposes, and can be closed without disrupting vehicular access to any property located within the Square. The area requested to be closed consists of approximately 808 square feet. The requested closing will facilitate the construction of a residential building on Lot 46, which is currently vacant. Development of the residential building is still early in the design process, however, conceptual plans suggest the building would be constructed to a height of 130 feet and could contain approximately 320,000 square feet of gross floor area. In addition, early estimates indicate that the building could include approximately 330 dwellings units, +/- 10%, and approximately 225 parking spaces. Access to parking and loading facilities within the building would be located off of the north-south alley that connects to both K and L Streets. The public alley connecting to K Street is currently 15 feet wide. As part of this alley closing application, the Applicant proposes to widen this portion of the alley to 20 feet through the establishment of a 5-foot perpetual easement on its property, Lot 46.

This application is filed pursuant to the procedures set forth in 24 DCMR §1400. Included with the Alley Closing Application form are the following:

Revised: 6/28/13

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
PERMIT OPERATIONS DIVISION
OFFICE OF THE SURVEYOR
1104 4TH STREET, S.W., 3RD FLOOR
WASHINGTON, DC 20024

Surveyor's Office File No. _____

_____ Date

**APPLICATION TO CLOSE/DEDICATE A STREET OR ALLEY OR ELIMINATION OF
BUILDING RESTRICTION LINE**

Location

Street(s)

Name: _____

Abutting Squares: _____

Portion to be closed/dedicated: _____

AS PER SKETCH ATTACHED

Alley(s)

Name: Lerner South Capitol Street Joint Venture

Abutting Squares: 0697

Portion to be closed/dedicated.: see attached plat

AS PER SKETCH ATTACHED

This application is made by:

Lerner South Capitol Street Joint Venture

301.692.2373

Applicant's Name (print)

Telephone Number

2000 Tower Oaks Boulevard, 8th Floor, Rockville, MD 20852

Address

I certify that the above information is true to the best of my knowledge.



Signature of Applicant or Agent

**TO REPORT WASTE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICE OR OFFICIAL,
CALL THE INSPECTOR GENERAL AT 1-800-521-1639**

Revised: 6/28/13

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
PERMIT OPERATION DIVISION
OFFICE OF THE SURVEYOR
1100 4TH STREET, S.W., 3RD FLOOR
WASHINGTON, DC 20024**

Retail Tenant Displacement Form

Note: The following information is required relative to provisions of DC Law 6-133 (DC Act 6-171).

Surveyor's Office File No. _____

Regarding an application for the proposed closing/dedication of the following street(s) or alley(s), the undersigned, being the applicant or the agent for the applicant, hereby makes the following representations as complete and true:

1. All properties associated with the proposed closing/dedication are listed as follows:

Square	Lot Number
0697	0046

2. The proposed closing/dedication will or will not result in displacement of existing retail tenants because of the demolition, substantial rehabilitation, or discontinuance of an existing building.

Name	Address	Square/Lot
Lerner South Capitol Street Joint Venture	2000 Tower Oaks Boulevard 8th Floor Rockville, MD 20852	0697 / 0046

8/11/15
Date

Stuart H. Hillal
Print or Type Name


Signature

Note: This form must be completed, signed and submitted with the application.

**TO REPORT WASTE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICE OR OFFICIAL,
CALL THE INSPECTOR GENERAL AT 1-800-521-1639**

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Chief Financial Officer
Office of Tax and Revenue



MEMORANDUM

To: Roland F. Driest, Jr., Surveyor, DC

From: Eugene Clindinin, Supervisory Appraiser, OTR/RPTA/RPAD

Date: March 7, 2016

Subject: Assessed Land value for S.O. 15-26230 Public Alley Closed in Square 697

Reference: S.O. 15-26230 Public Alley Closed in Square 697

Pursuant to your request the land area has been revised and we have derived the most probable estimate of value for the above referenced tract of land. The most probable estimate of value as of January 1, 2015 which represents tax year 2016 for the closed section of Square 697 is estimated at **\$367,640** (\$08 S.F. X \$455 estimated square foot value).

If you have any questions, please contact me at 202.442.6743.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Eugene Clindinin', is written over a large, light blue circular stamp.

Eugene Clindinin
Supervisory Appraiser
OTR/RPTA/RPAD



March 8, 2016

Mr. Roland Dreist
D.C. Surveyor
Department of Consumer and Regulatory Affairs
Office of the Surveyor
1100 4th St, S.W., 3rd Floor
Washington, DC 20024

Subject: Street/Alley Closing Application S.O. 15-26230

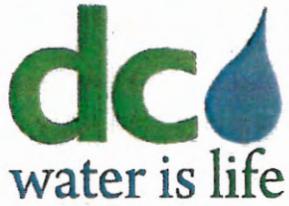
Dear Mr. Dreist:

The District of Columbia Water and Sewer Authority (DC Water) sent you a letter on December 8, 2015 conditionally releasing our objection to this alley closing. DC Water hereby rescinds that conditional release.

DC Water reasserts its objections to the proposed street/alley closings requested in S.O. 15-26230 due to our need for continued operation and maintenance of the following facilities in the proposed closed alley:

1. Existing 12" Sanitary Sewer passing through the alley.

DC Water requires the applicant to provide an easement that allows for the continued operation and maintenance of the existing facilities. This easement should have no restrictions above, at or below the surface, be contiguous with existing public space boundaries and fully comply with the terms in the attached form. Please have the applicant contact us to resolve the objection at their convenience.



I can be reached at the contact information listed below.

Regards,

A handwritten signature in black ink that reads "Kevin Harney". The signature is written in a cursive style with a large, sweeping "K" and "H".

Kevin Harney
Easement and Covenant Coordinator
District of Columbia Water and Sewer Authority
1100 4th Street, SW Suite #310
Washington, DC 20024
202-646-8627 Office, 202-646-8628 Fax, kevin.harney@dwater.com
DC Water - Water is Life!



December 8, 2015

Mr. Roland Dreist, D.C. Surveyor
Department of Consumer and Regulatory Affairs
Office of the Surveyor
1100 4th St, S.W., 3rd Floor
Washington, D.C. 20024

Subject: 15-26230 Street/Alley Closing Application for Square 697

Dear Mr. Dreist,

The District of Columbia Water and Sewer Authority ("DC Water") objects to the proposed street/alley closing described in the application 15-26230, dated September 15, 2015, because of the following infrastructure:

1. Existing 12" Sanitary Sewer passing through the alley.

DC Water will conditionally withdraw its objection to 15-26230, if the Applicant agrees in writing to do the following prior to the recordation of the street/alley closing plat:

1. Submit plans to DC Water for the relocation or abandonment of the above listed facilities; and
2. Provide a copy of the approved plans to DC Water at the following address:

District of Columbia Water and Sewer Authority
Permit Operations Department
1100 4th Street, SW # 310
Washington DC 20024
Attn: Kevin Harney, Easement and Covenant Coordinator



Permit Operations

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY | 1100 4th STREET, SW | SUITE 310 | WASHINGTON, DC 20024

If you have any questions, I can be reached at 202-646-8627 Office, 202-646-8628 Fax, or by email at kevin.harney@dcwater.com.

Regards,

A handwritten signature in black ink, appearing to read 'Kevin Harney', is written over a light blue rectangular background.

Kevin Harney, Easement and Covenant Coordinator
Permit Operations Department

Holland & Knight

800 17th Street, Suite 1100 | Washington, DC 20006 | T 202.955.3000 | F 202.955.5564
Holland & Knight LLP | www.hklaw.com

DAVID W. BRIGGS
202-828-5001
david.briggs@hklaw.com

December 3, 2015

VIA UPS

Mr. Kevin Harney
Easement and Covenant Coordinator
District of Columbia Water and Sewer Authority
Permit Operations Department
1100 4th Street, SW – Suite #310
Washington, DC 20024

Re: S.O. 15-26230 – Partial Closing of Public Alley in Square 697

Dear Mr. Harney:

Pursuant to the District of Columbia Water and Sewer Authority's (DC WASA) letter to the Office of the Surveyor, dated September 23, 2015, and attached hereto, regarding the above referenced application, this letter serves to notify you that, on behalf of the Applicant, we confirm that the Applicant agrees to pay all costs to abandon and, if necessary, to relocate the 12-inch sanitary sewer line located in the portion of the alley system sought to be legally closed.

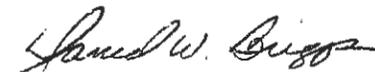
In addition, per the attached map provided by DC WASA on September 30, 2015, showing the existing 12-inch sewer line configuration in Square 697, the sewer line crosses through the property currently known as Lot 46, which the Applicant owns and is in the early stages of preparing plans to redevelop. Thus, we also confirm that the Applicant agrees to pay all costs of any necessary abandonment of the portion of the sewer line within Lot 46.

I trust this agreement is sufficient to allow DC WASA to approve the proposed alley closing application. Should further assurance be required, please do not hesitate to contact me. If this is sufficient, please notify the Office of the Surveyor that DC WASA withdraws its objection.

Thank you for your cooperation and prompt attention to this matter.

Respectfully,

HOLLAND & KNIGHT LLP



David W. Briggs

Enclosure

cc: Office of the Surveyor (via Hand Delivery) ✓

Holland & Knight

800 17th Street, Suite 1100 | Washington, DC 20006 | T 202.955.3000 | F 202.955.5564
Holland & Knight LLP | www.hklaw.com

RECEIVED
OCT 06 2015
BY: *all*

DAVID W. BRIGGS
202-828-5001
david.briggs@hklaw.com

October 6, 2015

VIA UPS

Mr. Kevin Harney
Easement and Covenant Coordinator
District of Columbia Water and Sewer Authority
Permit Operations Department
1100 4th Street, SW – Suite #310
Washington, DC 20024

Re: S.O. 15-26230 – Partial Closing of Public Alley in Square 697

Dear Mr. Harney:

Pursuant to the District of Columbia Water and Sewer Authority's (DC WASA) letter (copy enclosed) to the Office of the Surveyor regarding the above referenced application, this letter serves to notify you that, on behalf of the Applicant, we agree to pay all costs to abandon, relocate, or, if feasible, grant an easement to DC WASA for the operation and maintenance of the 12-inch sanitary sewer line located in the portion of the alley system sought to be legally closed

I trust this agreement is sufficient to allow DC WASA to approve the proposed alley closing application. Should further assurance be required, please do not hesitate to contact me. If this is sufficient, please notify the Office of the Surveyor that DC WASA withdraws its objection.

Thank you for your cooperation and prompt attention to this matter.

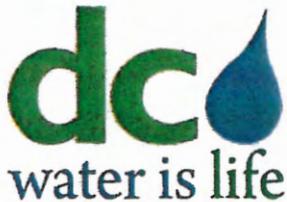
Respectfully,

HOLLAND & KNIGHT LLP

David W. Briggs
David W. Briggs

Enclosure

cc: Office of the Surveyor (via Hand Delivery)



September 23, 2015

Mr. Roland Dreist
D.C. Surveyor
Department of Consumer and Regulatory Affairs
Office of the Surveyor
1100 4th St, S.W., 3rd Floor
Washington, DC 20024

Subject: Street/Alley Closing Application S.O. 15-26230 located near Square(s) 697

Dear Mr. Dreist:

The District of Columbia Water and Sewer Authority objects to the proposed street/alley closure under requested S.O. 15-26230, dated September 15, 2015. District of Columbia Water and Sewer Authority currently operates and maintains the following facilities within portions of the street in the proposed S.O. 15-26230:

1. Existing 12" Sanitary Sewer passing through the alley.

The applicant must (a) abandon the facilities, (b) relocate the facilities, or (c) provide an easement for District of Columbia Water and Sewer Authority to maintain and operate the facilities.

The applicant is asked to respond with a course of action describing how the utility will be addressed.

If you have any questions, I can be reached at the contact information listed below.

Regards,

A handwritten signature in black ink, appearing to read "Kevin Harney". The signature is written in a cursive style.

Kevin Harney, Easement and Covenant Coordinator
District of Columbia Water and Sewer Authority, Permit Operations Department
1100 4th Street, SW Suite #310
Washington, DC 20024
Office 202-646-8627 Fax 202-646-8628
kevin.harney@dcwater.com
DC Water - Water is Life!



A PHI Company

Distribution Engineering – D.C.
Building #59
3400 Benning Rd., NE
Washington, DC 20019
Tel (202) 331-6237
Fax (202) 388-2721

January 11, 2016

Mr. Roland F. Dreist, Jr., Surveyor, DC
Office of the Surveyor for the District of Columbia
D.C. Department of Consumer and Regulatory Affairs
1100 4th Street, SW, 3rd Floor
Washington, DC 20024

Dear Mr. Dreist:

Subject: Proposed Closing of a Public Alley and Easement Established
In Square 697 - S. O. 15-26230

In response to your memorandum dated September 15, 2015 concerning the alley closing and easement in Square 697, we comment as follows:

We have reviewed the documents showing the proposed transfer, dedication, and closing for the alley and we have determined that Pepco does not have any conflicts with its underground facilities.

If you have any question about Pepco's facilities, please call me on (202) 388-2194 or send an e-mail to me at cgoumbala@pepco.com.

Very truly yours,

Cheikh Goumbala

Cheikh Goumbala
Sr. Supervising Engineer
Distribution Engineering DC
202-388-2194

Network Engineering
OPPE MD/DC



Floor 1
Silver Spring, MD 20904

October 14th, 2015
Mr. Roland F. Dreist, Jr.
Office of the Surveyor
1100 4th Street SW.
Washington, D.C. 20024

RE: Proposed Closing of a Public Alley and Easement Established in Square 697-S.O 15-26230

Dear Mr. Dreist:

In reference to your letter dated which relates to S.O. 15-26230

Location: Closing of a Public Alley in Square 697-S.O 15-26230

The telephone plant in this area consists of Telephone cable and Telephone Pole.

Verizon Washington D.C. Inc. has no objections to this closing of a Public Alley in Square 697

Very truly yours,

Kenneth Young
Engineer, Outside Plant Engineering, WSAM

KLB/KDY *Kenny Young*

c.c. D.C.D.O.T. Underground Location Section
Area Engineer
File



Washington
Gas

6801 Industrial Road
Springfield, Virginia 22151

September 24th, 2015

Mr. Roland Driest
Atten. Diana Dorsey Hill
Department Of Consumer and Regulatory Affairs
Building and Land Regulations Administration
Office of The Surveyor
Washington , D.C. 20002

Dear Mr. Roland Driest

RE: Proposed Closing of a Public Alley and Easement Established in Square
697 – S.O. 15 - 26230.

We have no facilities in conflict with the area as shown and have no objection to
the closing of Public Alley and Easement Established in Square 697 – S.O. 15 -
26230.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Banks".

Robert Banks

Digitizer / Draftsman

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF TRANSPORTATION**



d. Policy, Planning and Sustainability Administration

To: Ronald F. Dreist, Jr
DC Surveyor
Office of the Surveyor

From: Sam Zimbabwe 
Associate Director

Date: February 2, 2016

Subject: S.O. No. 15-26230 – Closing of a Public Alley in Square 697 (1000 South Capitol Street SE)

Overview

Lerner South Capitol Street JV LLC (the Applicant) seeks approval to remove an 808-square foot stub of an existing public alley system and the dedication of a perpetual public easement 5-foot wide and 15-feet high along the north-south alignment of the alley where it intersects with K Street SE. The subject alley is located in Square 697, adjacent to Lot 46, which is owned by the Applicant.

Development Proposal

Lot 46 is currently vacant. The Applicant proposes a multi-family residential building with 330 dwelling units and 225 vehicle parking spaces. The Applicant sought and was approved for zoning relief from the Board of Zoning Adjustment (BZA #19113). The Applicant sought variances from the side yard requirements under § 775.5 and the loading requirements under § 2201.1, and a special exception from the roof structure requirements under § 411.11, to allow roof structures not meeting the setback requirement under § 770.6(b), and single enclosure requirements under § 411.3.

The BZA Order is attached to this memorandum noted as Attachment A. DDOT participated in this process and submitted a report on the transportation elements to the BZA, which is attached to the memorandum as Attachment B.

Figure 1 shows the proposed alley closing and easement dedication.

Alley Operations

The Applicant seeks to close a stub portion of the alley equaling approximately 808 square feet. This section of the alley is currently paved with crushed stone rather than concrete to match the remainder of the alley system. This area is not currently used to facilitate vehicle operations in the alley system. As part of the BZA process, the Applicant provided truck turning movements (Figures 2 and 3) showing that the proposed alley closure would not preclude trucks accessing the building located on Lot 45 which borders the alley to the east.

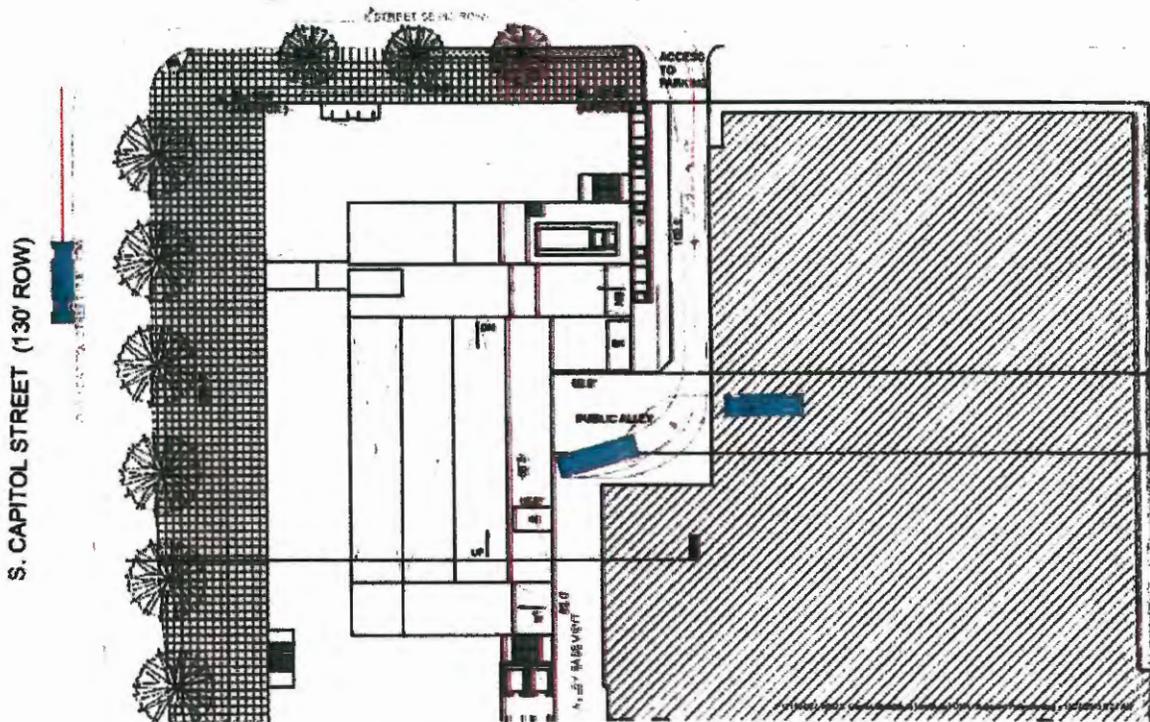


Figure 2 SU-30 Inbound (Source: Gorove/Slade)

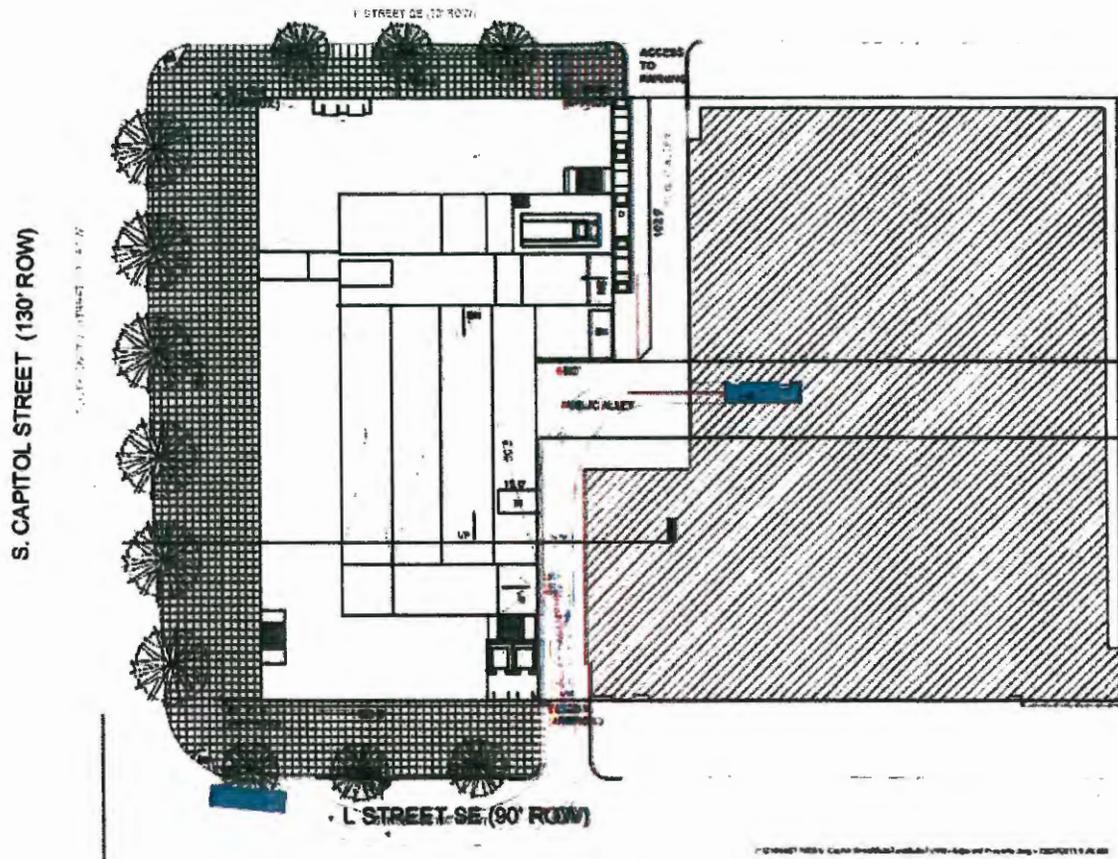


Figure 3 SU-30 Outbound (Source: Gorove/Slade)

The Applicant also proposes to widen the northern portion of the alley to 20 feet with a 5-foot easement to connect to K Street. This easement is expected to facilitate alley operations.

Maintenance of Utility Services

There are three light poles in the alley adjacent to the proposed easement that would be an obstacle when the alley is effectively widened due to the easement. No DDOT assets are known to be in the footprint of the proposed alley closing, but there is an alley light pole approximately one foot south of the affected area.

If the closure and easement are approved, the Applicant is responsible for removing and replacing all DDOT assets in existing alley ROWs. The Applicant will be responsible for covering all costs for removing existing DDOT street light poles and utility poles, including the light fixtures, arms and underground electrical conduit. The applicant is also responsible for covering all costs to install new street and alley lights and utility poles. Note that underground facilities will be required. Please direct the Applicant to coordinate with the DDOT Traffic Operations Administration (DDOT-TOA) – Electrical Division at (202) 207-4664, who will inspect the area to determine the existing DDOT assets to be removed and submit a cost estimate to the Applicant.

Public Space

In line with District policy and practice, any substantial new building development or renovation is expected to rehabilitate streetscape infrastructure between the curb and the property lines. This includes curb and gutters,

street trees and landscaping, street lights, sidewalks, and other appropriate features within the public rights of way bordering the site.

The Applicant has not yet applied for public space permits from DDOT. The Applicant must work closely with DDOT and the Office of Planning to ensure that the design of the public realm meets current standards and will substantially upgrade the appearance and functionality of the streetscape for public users needing to access the property or circulate around it. In conjunction with the District of Columbia Municipal Regulations, DDOT's Design and Engineering Manual will serve as the main public realm references for the Applicant. DDOT staff will be available to provide additional guidance during the public space permitting process.

Recommendation

DDOT has no objection to the actions with the condition that the Applicant cover all costs for removing existing DDOT street light poles and utility poles, including the light fixtures, arms and underground electrical conduit.

SZ:jr

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF TRANSPORTATION**



d. Policy, Planning, and Sustainability Administration

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Samuel Zimbabwe
Associate Director *[Handwritten Signature]*

DATE: November 17, 2015

SUBJECT: BZA Case 19113 – 1000 South Capitol Street SE

APPLICATION

Lerner South Capitol Street JV LLC (the Applicant), pursuant to 11 DCMR §§ 3103.2 and 3104.1, seeks approval for variances from the side yard requirements under § 775.5, and the loading requirements under § 2201.1, and a special exception from the roof structure requirements under § 411.11, to allow roof structures not meeting the setback requirement under § 770.6(b), and single enclosure requirements under § 411.3, to construct a new multi-family apartment building in the C-3-C District at premises 1000 South Capitol Street S.E. (Square 697, Lot 46). The building program includes 330 dwelling units and 225 vehicle parking spaces. Relief is sought to provide one 30-foot loading berth with a 20-foot service space in lieu of the zoning required 55-foot loading berth.

RECOMMENDATION

The District Department of Transportation (DDOT) has reviewed the Applicant's request and determined that based on the information provided, the requested variance from loading requirements to provide one 30-foot loading dock in lieu of the required 55-foot loading dock will have no adverse impacts on the travel conditions of the District's transportation network provided the proposed loading management plan be adopted. A 30-foot loading berth is likely sufficient to accommodate move-in/move-out truck activities associated with the proposed residential unit size mix.

Site access for vehicle parking and loading is proposed from a public alley to the east of the site, as shown in Figure 1. The Applicant proposes to widen the northern portion of the alley to 20 feet with a 5-foot easement to connect to K Street. An existing 20-foot alley easement connects to L Street. The

Applicant provided truck turning diagrams showing that the proposed loading layout accommodates front-in/front-out movements, in keeping with DDOT's Design and Engineering Manual (31.2.3.2). As part of a separate action with the District, the Applicant proposes to close a stub portion of alley adjacent to the site and incorporate it into the subject site. The Applicant provided truck turning diagrams showing that closing the alley segment would not impede truck movements for the subject site or the neighboring property, and the Applicant is seeking approval to close the alley concurrently with the zoning relief.

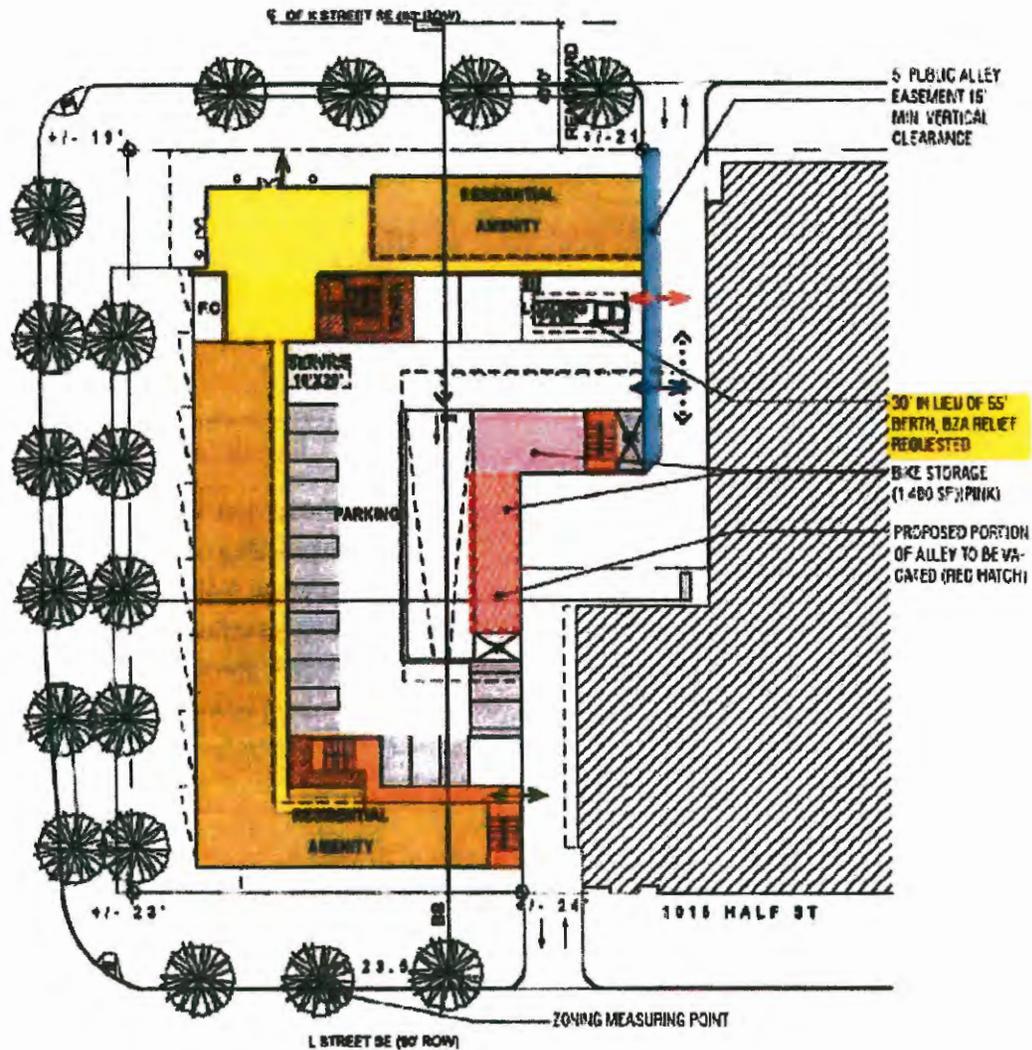


Figure 1 Site Plan (Source: Gorove/Slade)

To mitigate the potential impacts of the loading relief, the Applicant proposes a loading management with the following elements:

- Assign a loading coordinator to be on duty during delivery hours;
- Require tenants and vendors to coordinate and schedule deliveries;
- Limit trucks accessing the loading berth to a maximum of 30 feet in length;
- Required all tenants to schedule any loading operation conducted using a truck greater than 20 feet in length;
- Schedule deliveries such that the loading space's capacity is not exceeded. In the event that an unscheduled delivery vehicle arrives while the loading space is full, that driver will be directed to return at a later time when the loading space will be available;
- Monitor inbound and outbound truck maneuvers to ensure that trucks accessing the loading space do not block vehicular traffic;
- Trucks using the loading space will not be allowed to idle and must follow all District guidelines for heavy vehicle operation; and
- Limit loading operations to daytime hours (7am-7pm).

In the rare event that larger trucks must service the site, Emergency No Parking signs are available from DDOT to reserve a loading area along the curbside. DDOT finds the loading management plan sufficient to mitigate potential loading impacts.

This review pertains only to zoning issues and does not consider potential impacts to District owned public space. DDOT's lack of objection to this zoning action should not be viewed as an approval of public space elements. If any portion of the project has elements in the public space requiring approval, the Applicant is required to pursue a public space permit through DDOT's permitting process. The Applicant may refer to the District of Columbia Municipal Regulations and DDOT's Design and Engineering Manual for specific controls of public space. A summary can be found in DDOT's Public Realm Design Manual.

SZ:jr

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 19113 of Lerner South Capitol Street JV LLC, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for variances from the side yard requirements under § 775.5, and the loading requirements under § 2201.1, and a special exception from the roof structure requirements under § 411.11, to allow roof structures not meeting the setback requirement under § 770.6(b), and single enclosure requirements under § 411.3, to construct a new multi-family apartment building in the C-3-C District at premises 1000 South Capitol Street S.E. (Square 697, Lot 46).

HEARING DATE: November 24, 2015
DECISION DATE: November 24, 2015

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6.)

The Board of Zoning Adjustment (“Board”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 6D, and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6D, which is automatically a party to this application.

ANC 6D filed a report dated November 10, 2015, indicating that at a regularly scheduled, duly noticed public meeting on November 9, 2015, with a quorum of Commissioners present, the ANC considered the application. The ANC voted 5-0-1 to recommend approval of the application with three conditions. (Exhibit 28.) At the request of the Board during the public hearing, the Applicant clarified that the third condition, regarding a commitment to provide affordable housing, would be in effect for as long as the project remains a rental building. The Board noted that the conditions proffered by the ANC were generally not related to the relief requested, therefore it was not inclined to adopt them as conditions to the order; however, because the Applicant indicated during the hearing that it accepted the third condition, the Board has adopted that condition.

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

Web Site: www.dcoz.dc.gov

Board of Zoning Adjustment
District of Columbia
CASE NO.19113
EXHIBIT NO.34

BZA APPLICATION NO. 19113
PAGE NO. 2

The Office of Planning ("OP") submitted a timely report on November 16, 2015, recommending approval of the application, (Exhibit 29,) and testified in support at the public hearing. The District Department of Transportation ("DDOT") submitted a timely report on November 17, 2015 indicating that it had no objection to the Applicant's requests for variance and special exception relief. (Exhibit 30.)

Half Street SE, LLC, owner of the adjacent property, filed a letter noting that it has no objection to the application, but requesting that the Board adopt the Applicant's loading management plan, as referenced in DDOT's report in Exhibit 30, as a condition of approval. (Exhibit 32.) The Board declined to adopt the specific elements of the Applicant's loading management plan as conditions of the order to allow the Applicant flexibility to work with DDOT on the plan, if necessary.

Variance Relief

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for variances from the side yard requirements under § 775.5 and the loading requirements under § 2201.1. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that in seeking a variance from 11 DCMR §§ 775.5 and 2201.1, the Applicant has met the burden of proving under § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception from the roof structure requirements under § 411.11, to allow roof structures not meeting the setback requirement under § 770.6(b), and single enclosure requirements under § 411.3. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 411.11, that the requested relief can be granted as

**BZA APPLICATION NO. 19113
PAGE NO. 3**

being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application is hereby **GRANTED, SUBJECT TO THE APPROVED PLANS AT EXHIBITS 27B1 – 27B6, AND SUBJECT TO THE FOLLOWING CONDITION:**

1. The Applicant, or any successor owner/operator of the site, in a rental apartment building development, shall make two units affordable: one for a household with an income that is 80-120% of Area Median Income and one for a household with an income that is 50-80% of Area Median Income. The number of bedrooms in each unit shall be in keeping with the unit distribution in the completed building. The Applicant shall verify the income of each household living in an affordable unit and set the rent at no more than 30% of each household's income.

VOTE: **3-0-2** (Marnique Y. Heath, Marcie I. Cohen, and Frederick L. Hill, to APPROVE; Jeffrey L. Hinkle not participating and one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

ATTESTED BY: _____


SARA A. HARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: December 2, 2015

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-

BZA APPLICATION NO. 19113
PAGE NO. 4

YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.



MEMORANDUM

TO: Roland F. Dreist, Jr., L.S., D.C. Surveyor
Office of the Surveyor

FROM: *JL for* Jennifer Steingasser, Deputy Director, Development Review & Historic Preservation

DATE: February 19, 2016

SUBJECT: S.O. 15- 26230
Proposed Closing of a Portion of a Public Alley in Square 697

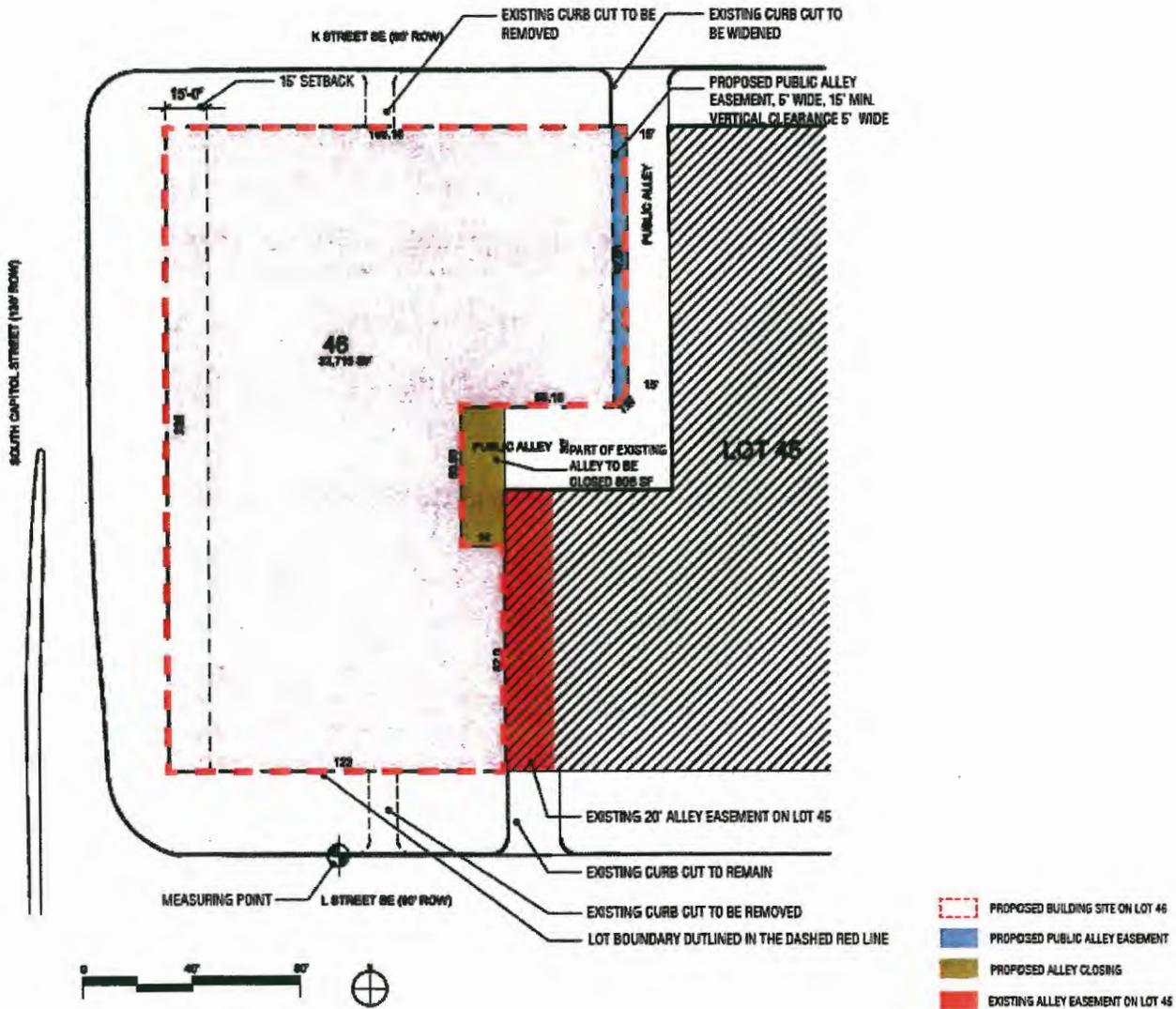
I. RECOMMENDATION

The Office of Planning (OP) has completed its review of the application for the requested alley closing, and has no objection to this request.

II. SITE DESCRIPTION

Address:	1000 South Capitol Street, S.E.
Applicant	Lerner South Capitol Street Joint Venture
Legal Description:	Square 697, Lot 46
Ward / ANC:	6, 6D
Zone:	C3C – Capitol South TDR Receiving Zone <ul style="list-style-type: none"> • C3C – permits medium-high density mixed use development • TDR Receiving Zone – permits additional height and density than in base C3C zone.
Historic District)	Not in historic district. Within boundaries of historic L’Enfant Plan, but is not a protected alley, and not a protected street.
BZA Review and Approval:	The proposal is consistent with the approval given by the Board of Zoning Adjustments (BZA) in Case No. 19113 on November 24, 2015. The Order includes a condition requiring adherence to a plan approved by the District Department of Transportation (DDOT) governing loading from the portions of the alley that would remain after this requested closing.
Comprehensive Plan Generalized Future Land Use and Policy Map Designation:	Land Use Map – High Density Commercial Policy Map – Central Washington The proposal is not inconsistent with these designations.
Comprehensive Plan:	Area Elements: The proposal would further objectives of the Central Washington Area Element of the Comprehensive Plan.

III PROPOSAL



<p>Request:</p>	<p>To close an 808 square foot section of the central portion of the alley in Square 697, as shown in green on the map above. In conjunction with this, the applicant would grant a 5 foot wide, 15 foot tall easement on the northern portion of the alley, as shown in blue on the map above. This would increase the effective width of that portion of the alley from 15 feet to 20 feet.</p>
<p>Description:</p>	<p>The public portion is an approximately generally north/south alley, laid-out in three segments. It provides access from K Street, S.E. to the center of the Square. An existing easement on Lot 45, to the east of the alley, provides a private alley continuation and access from the public alley to L Street, S.E.</p>

Size:	The public portion of the alley is approximately 150 feet long. The segments vary in width: 15' for the northern and easternmost segment; 30' for the middle segment; 16 feet for the southern and westernmost segment.
Adjacent Ownership:	Lerner South Capitol Street Joint Venture owns all property adjacent to the western side of the public alley. Half Street SE LLC owns all property on the eastern and southern side of the public alley
Proposed Development:	The applicant proposes to construct a new 320,000 sf, 330-unit apartment building. It would be 130 feet high, with 13 above-ground stories and a three-level underground parking garage with a maximum of 225 parking spaces. There would be no curb cuts along the pedestrian ways on South Capitol, K or L Streets, other than the existing curb cuts for the subject alley.
<u>Parking and Loading</u>	Parking and loading would entered the alley from K Street, and enter the proposed building from the western side of the northern alley segment.
<u>Easements</u>	An existing easement on Lot 45, to the east, provides a private alley continuation of the public alley and access to L Street, S.E. The applicant proposes to grant a 5 foot wide, 15 foot tall easement on the northern portion of the alley which would increase the effective width of that portion from 15 feet to 20 feet and, together with the existing easement on Lot 45, would result in a 20 foot wide public/private north-south alley between K and L Streets, S.E.

III. ANALYSIS

A. Planning and Urban Design

The Director of the Office of Planning is required to “*determine whether the proposed closing is in compliance with the District’s planning and urban design objectives*”, as per 24 DCMR 1401.2(c). These objectives, as contained within the Comprehensive Plan (10DCMR, Chapter 9), include:

§300 Land Use Element

§310.8 Policy LU-2.2.7: Alley Closings

Discourage the conversion of alleys to private yards or developable land when the alleys are part of the historic fabric of the neighborhood and would otherwise continue to perform their intended functions, such as access to rear garages and service areas for trash collection.

The proposed closing would not be inconsistent with this objective. DDOT has indicated that a report will be filed registering no objections to the alley closing.

§900 Urban Design Element

The critical urban design issues facing the District of Columbia... include:

- *Strengthening civic identify through a renewed focus on assets such as public spaces, boulevards, and waterfront areas...*

- *Improving the public realm, particularly street and sidewalk space...*

The proposed closing is integral to retaining the existing pedestrian-friendly curb-cut free context adjacent to the development on K, L and South Capitol Streets, and to ensuring adequate truck-turning movements for the planned development.

§903.7 Policy UD 1.1.2: Reinforcing the L'Enfant and McMillan Plans.

... Restore as appropriate and where possible, previously closed streets and alleys, and obstructed vistas or viewsheds. (See Figure 9.3: Discouraging Alley and Street Closings within the L'Enfant Plan Area 903.10)

There would be no negative impact. The portions of the alley system proposed for closure are within the boundaries of the historic L'Enfant Plan but the alleys themselves are not part of that plan. Because no streets would be closed, no vistas or viewsheds would be altered by the alley closing, although the new building is designed to maintain important viewsheds along South Capitol Street.

§906.6 Policy UD1.4.1: Avenues/Boulevards and Urban Form

Use Washington's major avenues/boulevards as a way to reinforce the form and identity of the city, connect its neighborhoods, and improve its aesthetic and visual character...

The closure would have no impact on this policy objective and would better-enable the applicant to provide the voluntary setbacks from South Capitol Street that the urban design policies for the area have established to reinforce vistas towards the U.S. Capitol. These setbacks will become mandatory upon the effective date of recently passed zoning regulations.

§909.8: Policy UD 2.1.2: Downtown Street and Block Patterns

Maintain a fine grained pattern of Downtown blocks, street and alleys, with intersections and frontages that encourage pedestrian movement and reduce the potential for immense variations in scale and "fortress-like" office buildings (see Figure 9.8 [Superblock Versus Fine-Grained Street and Development Patterns Section 909.13]).

The proposed closings and the associated development would not be inconsistent with this objective. The requested closure will make the widening of the sidewalk along South Capitol Street more feasible.

§913.6 Policy UD-3.1.9: Street Closures

Strongly discourage the closure of streets for private ownership or use. Any request for street closure should be reviewed in terms of the resulting impacts on vehicular and pedestrian circulation, access to private property, emergency access and fire protection, view obstruction, loss of open space, building scale, and other factors.

No street closure is involved.

§ 1700 Central Area Element

Policy CW-1.1.1 Promoting Mixed Use Development

Expand the mix of land uses in Central Washington to attract a broader variety of activities and sustain the area as the hub of the metropolitan area. Central Washington should be strengthened as a dynamic employment center, a high-quality regional retail center, an internationally-renowned cultural center, a world-class visitor and convention destination, a vibrant urban neighborhood, and the focus of the regional transportation network. New office and retail space, hotels, arts and entertainment uses, housing, and open space should be encouraged through strategic incentives so that the area remains attractive, exciting, and economically productive. Insert relevant Policy Reference from the Area Element and provide evaluation.

Policy CW 1.1.4 New Housing Development in Central Washington

Encourage the development of new high-density housing in Central Washington.,,

Closing the requested portion of alley would be consistent with this policy and would have the following beneficial impacts on the land use and physical aspect of the Central Area:

- The alley closing would permit the replacement of a vacant lot with a new residential development.
- The applicant would dedicate a 5' wide public alley easement, which is wider and therefore more useable for loading, parking, and service vehicle access from the alley. In doing so, the applicant is ensuring that parking and loading garage doors do not have to face the street, and more of the ground floor of the new building can be devoted to more active uses adjacent to sidewalks.

B. Housing Linkage

The project will develop approximately 330 apartment units. It will not be achieving additional commercial office space through closure of the alley and, therefore, is not subject to the housing linkage requirements of § 306.33 of the Comprehensive Plan. There will be no residential use of the proposed penthouse space. Therefore, no affordable housing construction or contribution is required.

C. 24 DCMR Chapter 14 Requirements

The alley closing regulations require submission of a plan so that reviewing agencies can determine the potential impact of the requested closing. 24 DCMR §1400.8 requires the plan to cover items including:

- (f) *The approximate gross floor areas intended for various uses such as retail, office, residential, industrial, and commercial;*

This has been provided by applicant.

The points of ingress and egress that vehicles will use for parking or loading purposes;

This has been provided by applicant.

The location of off-street parking spaces and their number and size;

This has been provided by applicant.

The location and size of loading and unloading facilities such as berths, docks, and platforms;

This has been provided by applicant.

(g) A Tracking diagram for the maximum size trucks intended to use the loading and unloading facilities;

This has been provided by applicant.

(h) Elevation views for each side of any building proposed for the site.

This has been provided by applicant as part of BZA 19113, which was reviewed by both OP and DDOT.

IV. CONCLUSIONS

In OP's opinion, the information provided by the applicant is adequate to meet the requirements of §1400.8, for a project at this stage of its design development.

JS/SLC

GOVERNMENT OF THE DISTRICT OF COLUMBIA
HISTORIC PRESERVATION OFFICE
OFFICE OF PLANNING



MEMORANDUM

TO: Roland Dreist, Office of the Surveyor

SUBJECT: Proposed Closure of an Alley in Square 697; bounded by K St SE on the north, L St SE on the south, Half St SE on the east, and South Capitol St on the west (S.O. 15-26230)

DATE: September 29, 2015

Thank you for contacting the DC Historic Preservation Office regarding the revised plans for the above-referenced closures. We appreciate the opportunity to review this action. However, § 9-202.02(4) of the D.C. Code only requires the Mayor to refer applications “to close any street located on the L’Enfant Street Plan” to the Historic Preservation Review Board. We have no comment on this proposed action since this closure involves an alley rather than a street.

BY:

A handwritten signature in black ink that reads "Andrew Lewis". The signature is written over a horizontal line.

C. Andrew Lewis
Senior Historic Preservation Specialist
DC State Historic Preservation Office

15-0480



A.O. 15-26230

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**



MEMORANDUM

TO: Roland F. Dreist, Jr.
Surveyor of the District of Columbia
Attention: Diana Dorsey Hill

FROM: Paul Walker
Architect (Construction Inspector)

DATE: September 30, 2015

SUBJECT: Department of Housing and Community Development Review comments on Alley Closing application in Square 697

The Department of Housing and Community Development (DHCD) has reviewed the above referenced alley closing Square 697 bounded by K Street, SE on the north, I. Street on the south, Half Street on the east, and South Capitol Street on the west.

Based on the information provided, DHCD will have no facilities in conflict with the area shown and have no objection to the street closing and dedication.

If you have any further question please feel free to contact me at (202)442-7218.

Sincerely


Paul Walker

DFD,

Department of Housing and Community Development

GOVERNMENT OF THE DISTRICT OF COLUMBIA
FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT
WASHINGTON, D. C. 20001



MEMORANDUM

TO: Roland F. Dreist Jr.
District of Columbia Surveyor

FROM: Tony L. Falwell *JH*
Asst. Chief Fire Marshal
DCFEMS Fire Prevention Division

DATE: September 28, 2015

SUBJECT: Surveyor's Office File No. 15-26230

This written correspondence is being forwarded to your office to address SO File No. 15-26230 that was submitted to the DCFEMS Office of the Fire Marshal (Fire Prevention Division) for review. The request involves the proposed closing of an alley and easement established in square 697.

Based on FEMS review, the following findings are being brought forth: FEMS Office of the Fire Marshal has no objection to this application being approved if the following requirements are adhered to: Fire department access is maintained to all surrounding properties that may be impacted by this street or alley closing and/ or construction project in accordance with Chapter 5, Fire Service Features, Section 503 "Fire Apparatus Access Roads" in the 2012 International Fire Code.



Near Southeast/Southwest
Advisory Neighborhood Commission 6D

November 10, 2015

1101 Fourth Street, SW
Suite W 130
Washington, DC 20024
202.554.1795
Email: office@anc6d.org
Website: www.anc6d.org

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Treasurer
Meredith Fascett

Office of the Surveyor, DC
1100 4th St. SW, 3rd Floor
Washington, DC 20024
Attn: Roland F. Dreist, Jr.

**RE: Proposed Closing for Public Alley and Easement Established in Square 679,
S.O. 15-26230**

VIA E-MAIL: roland.dreist@dc.gov

COMMISSIONERS

SMD 1 *Marjorie Lightman*
SMD 2 *Stacy Cloyd*
SMD 3 *Rachel Reilly Carroll*
SMD 4 *Andy Litsky*
SMD 5 *Roger Moffatt*
SMD 6 *Rhonda Hamilton*
SMD 7 *Meredith Fascett*

Dear Mr. Dreist,

At a regularly scheduled and properly noticed public meeting on November 9, 2015, with a quorum present, a quorum being four Commissioners, Advisory Neighborhood Commission (ANC) 6D voted 6-0-0 in support of Lerner South Capitol Street Joint Venture's application to close a portion of an alley on Square 697, Lot 46. We understand that while this action is considered an alley closure, it technically would be the extinguishment of the District's easement across what is a remnant part of an original alley in the original city.

The alley closure allows the proposed residential building on the site (with the proposed street address of 1000 South Capitol Street SE) to offer at-grade bicycle parking near the building's lobby. It does not add to the site's impermeable surface; in fact, it is our understanding that much of the 808 square feet will be covered by a green roof. The alley closure also allows for the consolidation of curb cuts, increasing parking and improving the pedestrian experience on the streets surrounding the lot.

Respectfully submitted,

Roger Moffatt
Chair, ANC 6D

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Public Works



Solid Waste Management Administration

MEMORANDUM

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

FROM: Anthony Duckett, *A.D.*
Chief Street & Alley Cleaning Division

SUBJECT: Proposed closing of a Public Alley and Easement in Square 697-SQ- 15 -26230

Date: December 9, 2015

The following Street closing was investigated for review:

Proposed closing of a Public Alley and Easement, in Square 697-SQ- 15 -26230

The Department has reviewed the proposed Alley closing, at this time we have no objection to the closing of the Alley Square 697-SQ- 15 -26230.

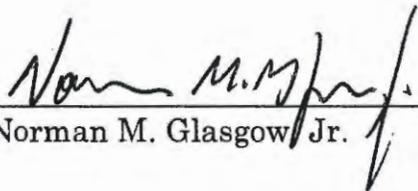
If you have any questions please call me at 202-727-2539.

BEFORE THE COMMITTEE OF THE WHOLE
OF THE DISTRICT OF COLUMBIA CITY COUNCIL

In re: S.O. 15-26230 (Closing of a Public Alley in Square 697)
Bill 21-571

AFFIDAVIT OF NOTICE FOR PROPOSED ALLEY CLOSING

I, Norman M Glasgow, Jr., have caused written notice of the Council's intent to consider the proposed legislation to be mailed on March 3, 2016, by certified mail, to all of the owners of all the property which abut the entire alley of which a portion is to be closed. A list of the property owners is attached as Exhibit A. Copies of the post office receipts of mailing are attached as Exhibit B. A copy of the written notice is attached as Exhibit C.


Norman M. Glasgow Jr.

Subscribed and sworn to before me this 3rd day of March, 2016.


Rosalind Frink
Notary Public, D.C.



expires:

January 14, 2017

ROSALIND C. FRINK
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires January 14, 2017

RECEIVED
MAR 03 2016
BY: See

Holland & Knight

800 17th Street, Suite 1100 | Washington, DC 20006 | T 202.955.3000 | F 202.955.5564
Holland & Knight LLP | www.hklaw.com

Memorandum

VIA FIRST CLASS, US MAIL (WITH CERTIFICATE OF MAILING)

Date: March 3, 2016

To: Property Owners in Square 697

From: Holland & Knight LLP

Re: Closing of a Public Alley in Square 697, S.O. 15-26230, Act of 2016
Bill 21-571

Pursuant to the Street and Alley Closing Acquisition Procedures Act, D.C. Code Section 9-201, *et seq.*, an application to close a portion of a public alley in Square 697 has been filed with the Office of the Surveyor. Square 697 is bounded by K Street, L Street, Half Street, and South Capitol Street, in Southeast in Ward 6. A plat showing the portion of the alley to be closed and the alley easement to be established is attached as Attachment 1.

This notice is sent to you pursuant to D.C. Code Section 9-202.06. The Committee of the Whole of the District of Columbia City Council will hold a public hearing on Monday, March 21, 2016, at 12 p.m., John A. Wilson Building, Hearing Room 412, 1350 Pennsylvania Avenue, N.W., to consider Bill 21-571, which would order the closing of the above-referenced alley. A copy of the Notice of Public Hearing is attached as Attachment 2.

If you have any questions concerning this matter, please do not hesitate to call Shane L. Dettman, Director of Planning Services, Holland & Knight, at (202) 469-5169 or the Committee of the Whole, Council of the District of Columbia at (202) 724-8196.

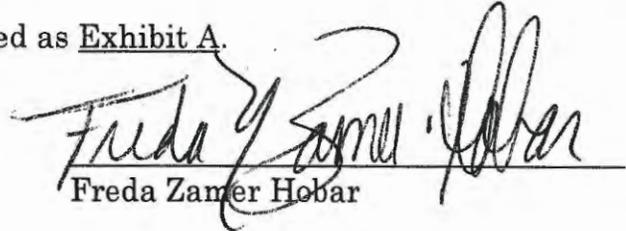
ATTACHMENT C

BEFORE THE COMMITTEE OF THE WHOLE
OF THE DISTRICT OF COLUMBIA CITY COUNCIL

In re: S.O. 15-26230 (Closing of a Public Alley in Square 697)
Bill 21-571

AFFIDAVIT OF POSTING FOR PROPOSED ALLEY CLOSING

I, Freda Zamer-Hobar, on March 1st, 2016, personally posted two (2) public notice signs. All public notice signs were furnished by the Office of the Surveyor, indicated the date, time and location of the public hearing, and were posted at each entrance from a street to any alley in Square 697. Photographs of the signs have been taken for the record and are attached as Exhibit A.


Freda Zamer Hobar

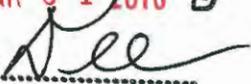
Subscribed and sworn to before me this 1st day of March, 2016.


Rosalind Frink
Notary Public, D.C.

My commission expires: Jan. 14, 2017



ROSALIND C. FRINK
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires January 14, 2017

RECEIVED
MAR 01 2016
BY: 



March 21, 2015

Mr. Roland Dreist, D.C. Surveyor
Department of Consumer and Regulatory Affairs
Office of the Surveyor
1100 4th St, S.W., 3rd Floor
Washington, D.C. 20024

Subject: 15-26230 Street/Alley Closing Application for Square 697

Dear Mr. Dreist,

The District of Columbia Water and Sewer Authority ("DC Water") objects to the proposed street/alley closing described in the application 15-26230, dated September 15, 2015, because of the following infrastructure:

1. Existing 12" Sanitary Sewer passing through the alley.

The Applicant agreed in writing to do the following:

1. Execute the attached easement; and
2. Provide the executed original easement to DC Water for their signature and recordation at the following address:

District of Columbia Water and Sewer Authority
Permit Operations Department
1100 4th Street, SW # 310
Washington DC 20024
Attn: Kevin Harney, Easement and Covenant Coordinator

Therefore, DC Water conditionally removes its objection to this closing provided the attached easement gets executed and recorded PRIOR TO THE SURVEYOR RECORDING THE PLAT.



If you have any questions, I can be reached at 202-646-8627 Office, 202-646-8628 Fax, or by email at kevin.harney@dcwater.com.

Regards,

A handwritten signature in blue ink, appearing to read "Kevin Harney". The signature is fluid and cursive, written over a light blue horizontal line.

Kevin Harney, Easement and Covenant Coordinator
Permit Operations Department

Prepared by and Return to:

DC Water and Sewer Authority
1100 4th Street, SW # 310
Washington, DC 20024

S.O. 15-26230

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (“**Agreement**”) made this _____ day of _____, 2016 between LERNER-SOUTH CAPITOL STREET JOINT VENTURE, a general partnership, herein called “**Grantor**,” and the **DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**, an independent authority of the District of Columbia, herein called “**Authority**”.

RECITALS

WHEREAS, Grantor owns that certain real property in Square 697, Lot 46 located in the District of Columbia and described and shown in the attached **Exhibit A** (the “**Subject Property**”); and

WHEREAS, Grantor has requested, in an application made to the District of Columbia Office of the Surveyor (the “**Surveyor**”), filed in S.O. 15-26230, dated August 10, 2015 (the “**Grantor’s Application**”), that the District of Columbia legally close a portion of the public alley system in Square 697 as depicted on the draft alley plat of alley closing prepared by the Surveyor in the attached **Exhibit B** (the “**Surveyor’s Plat**”); and

WHEREAS, pursuant to the *Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996*, effective April 18, 1996, as amended, (D.C. Law 11-111, D.C. Official Code §§ 34-2202.01 et seq.) Authority is responsible for the planning, designing, constructing, operating, maintaining regulating, financing, repairing, modernizing, and improving the water distribution and sewage collection, treatment and disposal systems and services within the District of Columbia; and

WHEREAS, Authority, by letter dated March 8, 2016 to the Surveyor, has issued its objection to the requested closing of a portion of the public alley system in Square 697 proposed in **S.O. 15-26230** due to the presence of a 12 inch sanitary sewer line, which is located in the area described and shown in the attached **Exhibit C** (the “**Easement Area**”), and whose operation must be maintained for the public good; and

WHEREAS, Authority, in the letter of objection, notified the Surveyor that it requires the Grantor to provide an easement for the removal of the objection in the form

as set forth in this Agreement, which letter of objection and form of Easement are included in the Surveyor's official file for **S.O. 15-216230**; and

WHEREAS, as a condition to close said portion of the public alley system in Square 697, Grantor has agreed to execute an easement in the form as set forth in this Agreement; and

WHEREAS, the Authority and Grantor mutually acknowledge and agree that the terms of this Agreement are intended to run with and bind the Subject Property from the point in time that the Surveyor records the Surveyor's Plat on the land records of the Recorder of Deeds for the District of Columbia (the "**Land Records**"), reverting to Grantor, its successors, transferees and assigns in title to the lands within the legally closed portions of the public alley system in Square 697 as requested by **S.O. 15-26230**; and

NOW THEREFORE, in consideration of the benefit to Grantor, and other good and valuable consideration, the sufficiency of which is hereby acknowledged by Grantor and Authority, Grantor, on behalf of itself and successive Owner of Subject Property, and Authority hereby agree as follows:

1. Grant of Easement. Grantor, on behalf of itself, its successors, transferees and assigns, hereby grants unto Authority and its successors and assigns, an easement ("**Easement**") with the right of pedestrian and vehicular ingress and egress in, on, under, over to a minimum height of twenty-five feet (25 ft.) above finished grade, and across the full width and length of alley area as described and shown in the attached **Exhibit C** (the "**Easement Area**"). Grantor, on behalf of itself, its successors, transferees and assigns, grants unto Authority the right to install, construct, reconstruct, alter, maintain, repair, enlarge, relocate and inspect all facilities, including but not limited to, pipes, manholes, and other appurtenances the Authority deems appropriate, now or in the future, to and/or for water service and sanitary, combined, and storm sewer service together with their related facilities for the water distribution and sewage collection, treatment, and disposal systems (individually and collectively, the "**Facilities**").

2. Facilities Ownership and Maintenance. Title to all Facilities in the Easement Area shall remain vested in the District of Columbia and under the operational jurisdiction and control of Authority. Authority shall make any repairs or replacements to the Facilities it deems necessary for their proper upkeep and maintenance. Following any work by Authority that disturbs the surface of the Easement Area, Authority shall restore the surface, including ordinary lawns, standard walks, roadways, driveways and parking lot surfacing, to the condition in which it existed prior to Authority's work; provided, however, Authority will in no case be responsible for replacing or paying for the repair or replacement of any structure, tree or other surface feature violative of this Agreement, specifically including paragraph 4 below.

3. Access to Subject Property. During the course of any work permitted hereunder and during any periodic inspection and maintenance of the Facilities or the Easement Area, Authority shall be permitted to access the Easement Area with persons,

vehicles and any other equipment it deems necessary. In addition to the foregoing, Authority, and its respective agents and employees, shall have the right to use land of the Grantor adjoining the Easement Area to the extent reasonably necessary to facilitate replacement, alteration, maintenance, inspection, operation and any necessary repairs; provided, however, that this right to use adjoining land shall be exercised only during periods of actual replacement, alteration, maintenance, inspection, operation or repair, and then only to the minimum extent necessary for such work; and further, this right to use adjoining land shall not be construed to allow the Authority to erect any building, structure or facilities of a permanent nature on Subject Property or within the Easement Area (other than the Facilities).

4. Interference with Use. The owner of the Subject Property from time to time (the "Owner", with term "Owner" being deemed to include Grantor to the extent and for so long as it is an owner of the Subject Property), shall use and operate the Easement Area so that there is no unreasonable interference with Authority's use and operation of the Facilities and the Easement Area. Owner shall not erect any buildings, walls or other structures in the Easement Area either above or below grade that impair the Authority's ability to excavate and repair the Facilities, and shall not plant or allow any trees being planted or grown thereon. In addition, Owner is specifically prohibited from constructing or placing in the Easement Area any structure, container, surface or subsurface feature (including, without limitation, swimming pools, ponds and detention basins) for the storage or containment of any liquids including, without limitation, water, heating oil, gasoline, diesel fuel, and liquefied natural gas. However, non-structural fences, walks, pavement for driveways and parking lot surfacing may be constructed or placed within the Easement Area. Authority shall have the right at all times to cut or remove any trees or structures or other obstructions in the Easement Area at Owner's expense. Further, Owner shall not cause or permit a change of grade of the Easement Area resulting in an increase or decrease in the grade by more than twelve inches (12"). Owner may allow other utility providers to install conduit, cable or pipes in the Easement Area provided such installed materials cross the Facilities at an angle of not less than forty-five (45) degrees. Grantor reserves for itself and any successor Owner the right to continue to use the land within the Easement Area for any use and purposes which shall not violate in any way the preceding restrictions and which shall not interfere with the use thereof by Authority in fulfilling the purposes for which this Easement is granted.

5. Interference with Facilities. Grantor agrees and covenants, on behalf of itself and any successor Owner, to and with Authority that any building or other structure (whether one or more, "**Structure**") constructed and erected, or caused to be constructed and erected, by Owner on the Subject Property shall, in addition to complying with all requirements of applicable laws and regulations, be so constructed that no structural load shall rest upon, or be transmitted either directly or indirectly to, the Facilities and that no part of any Structure, or of the foundations thereof, shall be installed within 5 feet, vertically or horizontally, of said Facilities.

6. Damage from Construction of Structure. Grantor covenants, on behalf of itself and any successor Owner, that Owner shall and will conduct, or cause to be

conducted, the work of construction or erection of any Structure in such manner that no harm or damage will be done or result to the Facilities, and Grantor does further covenant, on behalf of itself and any successor Owner, that Owner will pay to Authority, promptly and without demand by Authority, the total and entire cost to Authority of any repairs, or other work directly related to such repairs, of the Facilities resulting from the construction or existence of the Structure.

7. Facility Changes and Termination of Easement.

(a) Notwithstanding Sections 1, 4, and 5 of this Agreement, Authority may permit Owner from time to time to replace, relocate, modify, abandon in-place or remove all, or portions of, the Facilities (such replacement, relocation, modification, abandonment or removal of Facilities being referred to herein as the "Facilities Changes") subject to the following conditions:

(1) Owner shall have submitted a District of Columbia Department of Consumer and Regulatory Affairs Permit Application and plans for the Facility Changes, including a schedule for implementing the Facility Changes, that comply with the District of Columbia Construction Codes Supplement, as amended, and Authority's design and specification requirements;

(2) Authority shall have approved the plans for the Facilities Changes (the "**Approved Plans**"), provided that Authority's approval may not be unreasonably withheld or delayed;

(3) The implementation of the Facilities Changes shall be at Owner's sole cost and expense; and

(4) The Facilities Changes will not adversely affect the ability of Authority to continue to deliver to property(ies) (other than Subject Property) the services that Authority provides to those property(ies) as of the submittal date of the DCRA Permit Application and plans for the Facility Changes.

(b) As and when the Facility Changes are completed in accordance with the Approved Plans, have been inspected, and accepted by Authority, Authority agrees to execute, at the request of Owner, a document, in recordable form, releasing this Agreement and grant of the Easement made hereby for any portion of the Easement Area where Facility(ies) or portions thereof have been removed from service and for which Authority shall have no further obligation to operate or maintain. Authority shall have no responsibility for the costs of recordation. This Agreement, however, shall remain in effect with regard to all portions of the Easement Area where there are other operating Facility(ies); provided, however, this Agreement including exhibits shall be modified to reflect the revised location of the Easement Area and the identity of those Facility(ies) located therein.

8. Recordation. Unless Authority elects to record this Agreement on the land records of the Recorder of Deeds for the District of Columbia, Grantor covenants that it shall record this Easement on the Land Records prior to the recordation of the Alley Closing Application and will provide a copy of the recorded instrument as certified by the Recorder of Deeds as a true copy to the Surveyor and to Authority.

9. Miscellaneous.

(a) Counterparts. This Agreement may be executed in multiple counterparts each of which shall constitute an original and all of which together shall constitute one and the same instrument.

(b) Governing Law; Jurisdiction. This Agreement shall be governed by the laws of the District of Columbia without reference to choice of laws principles thereof. The parties hereto accept the jurisdiction of the Superior Court of the District of Columbia as the court of competent jurisdiction to resolve matters under this Agreement.

(c) Binding Effect. The parties agree that the terms and conditions of this Agreement shall (i) be binding upon, and shall inure to the benefit of, their respective heirs, legal representatives, successors and assigns, and (ii) run with the land and be binding upon and inure to the benefit of all parties owning or having any interest in the Subject Property.

(d) Written Modifications. No change or modification of this Agreement shall be valid unless the same is in writing, signed by the parties hereto and recorded in the Land Records. No purported or alleged waiver of any of the provisions of this Agreement shall be valid or effective unless in writing signed by the party against whom it is sought to be enforced.

(e) Further Actions. The parties hereto shall at any time and from time to time after the execution of this Agreement, upon request of any party, do, execute, acknowledge and deliver, or will cause to be done, executed, acknowledged or delivered, all such further acts, deeds, conveyances and assurances as reasonably may be required to effectuate the purposes of this Agreement.

(f) Severability of Provisions. In the event that one or more of the provisions of this Agreement shall be held to be illegal, invalid or unenforceable, each such provision shall be deemed severable and the remaining provisions of this Agreement shall continue in full force and effect.

(g) Covenants. By executing this Agreement, each of Grantor and Authority represents that: (i) it is authorized to enter into, execute and deliver this Agreement and to perform its obligations hereunder; (ii) this Agreement is effective and enforceable against such party in accordance with its terms; (iii) the person signing on such party's behalf is duly authorized to execute this Agreement; and (iv) no other signatures or approvals are

necessary in order to make all of the representations of such party contained in this paragraph true and correct.

(h) Incorporation of Recitals and Exhibits. The Recitals and Exhibits are hereby incorporated herein and made a part of this Agreement by reference.

(i) Indemnification. In connection with the construction by Owner of any structure or building abutting or encroaching upon the Easement Area, Owner will assume all liability for any damage to the Facilities. Owner shall indemnify, hold harmless, protect and defend Authority and its officers, directors, employees and agents against and from all losses, damages, liabilities, suits, claims, demands, expenses (including, without limitation, attorneys' fees), judgments, interest and costs incurred or suffered by Authority or its officers, directors, employees and agents that arise either as a result of Owner's negligence or as a result of Authority's use of or entry in the Easement Area including the installation, operation, maintenance and replacement of all or any portion of the Facilities, unless such loss, damage, liability, suit, claim, demand, expense, judgment, interest or cost is due to the Authority's gross negligence, or willful action or willful failure to act.

(j) Remedies. If Owner or Authority shall fail to comply with the terms and conditions contained herein, the non-defaulting party may seek specific performance of such term and conditions and any direct damages resulting from breach thereof, in addition to any other rights or remedies available to the non-defaulting party at law or in equity, but in no event may either Owner or Authority seek punitive or consequential damages that may arise as a result of a failure to comply with the terms and conditions of this Agreement.

(k) Anti-Deficiency Acts. The obligations of Authority to fulfill financial obligations, if any, pursuant to this Agreement, or any subsequent agreement entered into pursuant to this Agreement or referenced herein (to which Authority is a party), are and shall remain subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349-1351 1511-1519; (ii) the D.C. Official Code §§ 1-206.03(e) and 47-105; (iii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 – 355.08; and (iv) the Section 446 of the District of Columbia Home Rule Act, D.C. Official Code § 1-204.46 (collectively, (i), (ii), (iii) and (iv), as amended from time to time, the “**Anti-Deficiency Acts**”). Pursuant to the Anti-Deficiency Acts, nothing in this Agreement shall create an obligation of Authority in anticipation of an appropriation by Congress for such purpose, and Authority's legal liability for the payment of any charges under this Agreement shall not arise or obtain in advance of the lawful availability of appropriated funds for the applicable fiscal year as approved by Congress.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF Authority, acting through its General Manager & CEO, has caused this instrument to be executed as of the day and year written first above.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

By: _____
Name: George S. Hawkins
Title: General Manager & CEO

DISTRICT OF COLUMBIA:

I, _____, a Notary Public in and for the aforesaid jurisdiction do hereby certify that George S. Hawkins, as General Manager & CEO representing the District of Columbia Water and Sewer Authority, party to the foregoing Easement Agreement bearing the date of the _____ day of _____, 2016, personally appeared before me in said jurisdiction, the said George S. Hawkins being personally well known to me as the person who executed said Easement Agreement and acknowledged the same to be the act and deed of the District of Columbia Water and Sewer Authority.

Given under my hand and seal this _____ day of _____ 2016.

NOTARY PUBLIC

My Commission Expires _____

EXHIBIT A

Legal Description of Subject Property

All of that certain property, situate, lying and being in the District of Columbia and more particularly described as follows:

Lot 46 in Square 697 in a subdivision made by LERNER SOUTH CAPITOL STREET JOINT VENTURE, as per plat recorded in Book 209 Page 178 among the land records of the Office of the Surveyor of the District of Columbia.

... Lot and Square 697 and requests that this subdivision
District of Columbia

SQUARE

OWNERS

LERNER SOUTH CAPITOL STREET
JOINT VENTURE

BY: LERNER ENTERPRISES, LLC
ITS: MANAGING VENTURER

[Signature]

EDWARD L. COHEN, MANAGER

- 1 I certify that the following statements relating to this subdivision are correct
- Ownership agrees with our records: 5/7/2015 RA
- Real estate taxes are paid to: 9/30/2015/10
- There are no unpaid assessments: 5/7/2015 RA

[Signature]
Chief Assessor, Assessment Division

I acknowledge for the owners that this is not a tax certificate as intended
by D.C. Code Section 47-405

[Signature]

16th day of April 2015

8/30/17
My Commission Expires

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

5/27, 2015

I certify that this subdivision complies with all applicable provisions of DCMR11,
Zoning Regulation of the District of Columbia.

Zoning District: C-3-C

[Signature]
Zoning Administrator

JUSTS: 0
TRUSTEES:

April 21, 2015

[Signature]

HISTORIC PRESERVATION

OFFICE OF THE SURVEYOR

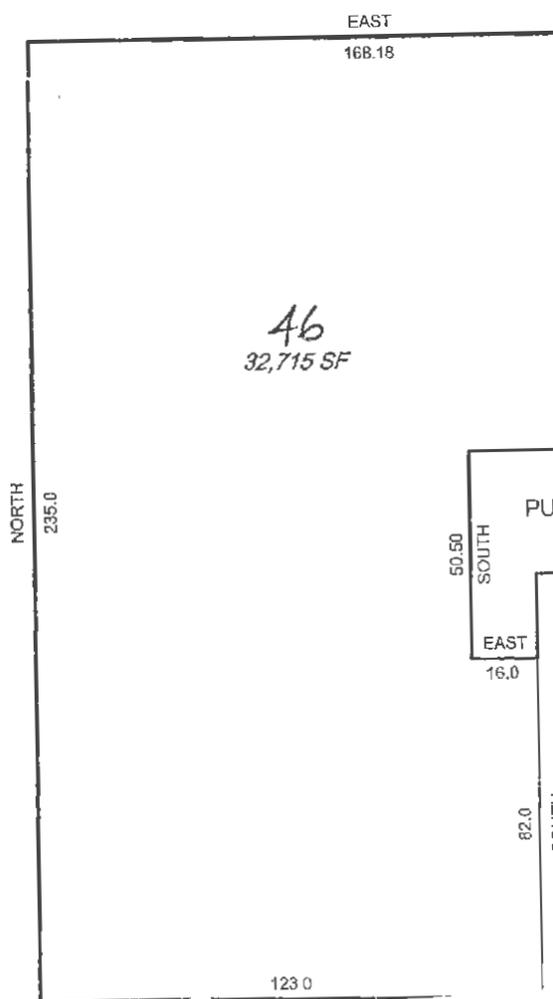
May 27, 2015

I certify that this plat is correct and is hereby recorded.

[Signature]

K STREET,

SOUTH CAPITOL STREET, S.E.



WEST STREET,

...E, D.C.
[Signature]

EXHIBIT B

Surveyor's Plat in S.O. 15-26230

PUBLIC ALLEY CLOSED AND EASEMENT ESTABLISHED SQUARE 697

THE ALLEY SHOWN THUS:  IS CLOSED AND TITLE VESTS AS SHOWN UPON RECORDATION OF THIS PLAT.
THE EASEMENT SHOWN THUS:  IS ESTABLISHED.

OFFICE OF THE SURVEYOR, D.C.

_____ 2016

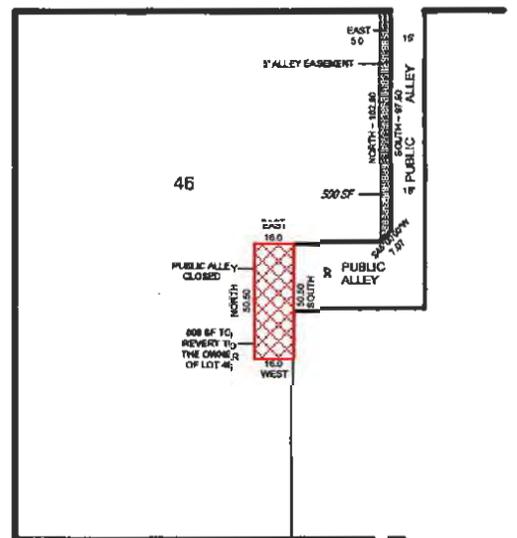
I CERTIFY THAT THIS PLAT IS CORRECT AND IS RECORDED.

SURVEYOR, D.C.

 - EASEMENT AREA

SOUTH CAPITOL STREET, S.E.

K STREET, S.E.



L STREET, S.E.

SURVEYOR'S OFFICE, D.C.

Made for: HOLLAND & KNIGHT / F. HOBAR
 Drawn by: L.E.B. Checked by: _____
 Revised and computations by: B. MYERS
 Recorded at: _____
 Recorded in Book _____ Page _____ SA-16-0806
 Scale: 1 inch = 20 feet File No. 15-30230



D.O. 15-26230

Commission Members

Presidential Appointees

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

Mayoral Appointees

Arrington Dixon
Geoffrey Grifffis

Ex Officio Members

Secretary of Defense
The Honorable Ashton Carter

Secretary of the Interior
The Honorable Sarah Jewell

Acting Administrator
General Services Administration
The Honorable Denise Roth

Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
The Honorable Ron Johnson

Chairman
Committee on Oversight
and Government Reform
U.S. House of Representatives
The Honorable Jason Chaffetz

Mayor
District of Columbia
The Honorable Muriel Bowser

Chairman
Council of the District of Columbia
The Honorable Phil Mendelson

Executive Director
Marcel C. Acosta

**IN REPLY REFER TO:
NCPC File No. 7723**

NOV 12 2015

**The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
The 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 October 3, 1996, I found the proposed public alley closing and establishment of a partial easement in Square 697, bounded by South Capitol Street, K Street, L Street, and Half Street, SE, would not be inconsistent with the Comprehensive Plan for the National Capital. A copy of the Delegated Action of the Executive Director is enclosed.

Sincerely,

**Marcel C. Acosta
Executive Director**

Enclosure

**cc: Councilmember Vincent Orange, Chairman, Committee on Business,
Consumer, and Regulatory Affairs
Eric Shaw, Director, DC Office of Planning
Frederick Lindstrom, Commission of Fine Arts
Roland Dreist, DC Surveyor**



S.O. 15-26230

Delegated Action of the Executive Director

PROJECT Closing of a Public Alley and Easement Establishment in Square 697, Lot 46 South Capitol Street, K Street, SE, L Street, SE, and Half Street, SE Washington, DC	NCPC FILE NUMBER 7723
SUBMITTED BY District of Columbia Department of Consumer and Regulatory Affairs	NCPC MAP FILE NUMBER 41.10(44.40)44234
	ACTION TAKEN Approval of comments to the Council of the District of Columbia
	REVIEW AUTHORITY Advisory per D.C. Code § 9-202.02

The District of Columbia Office of the Surveyor referred both the closure of a portion of an alley in Square 697, Lot 46 and the dedication of a perpetual public easement at the same location to the Commission for review and comment on behalf of a private developer. Square 697 is bound by South Capitol Street on the west, Half Street on the east, K Street on the north, and L Street, SE on the south.

The developer states that the portion of the alley closure is no longer necessary for circulation purposes, and the alley can be closed without disrupting vehicular access to any property located within the Square. The alley closing area consists of approximately 808 square feet. The requested closing will facilitate the construction of a residential building on Lot 46, which is currently vacant. Development of the residential building is still early in the design process, however, conceptual plans suggest that the building will be 130 feet tall and contain approximately 320,000 square feet of gross floor area. In addition, the building will include approximately 330 dwellings units and 225 parking spaces. Access to parking and loading facilities within the building will be located off the north-south alley that connects to both K and L Streets, SE. The public alley connecting to K Street, SE is currently 15 feet wide. As part of this alley closing application, the applicant proposes to widen this portion of the alley to 20 feet through the establishment of a 5-foot perpetual easement on its property.

Staff has reviewed this alley closing and easement dedication and determined that the closing will not affect the movement of vehicles through the square and the easement establishment will widen the existing alley and make it more accessible. The closure will not affect any federal properties, nor any other identified federal interests.

The Coordinating Committee reviewed the proposal at its October 14, 2015 meeting. The Committee forwarded the proposed alley closing 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 Department of Transportation; the District of Columbia State Historic Preservation Office; the National Park Service; the General Services Administration and the Washington Metropolitan Area Transit Authority.



Delegated Action of the Executive Director

PROJECT

**Closing of a Public Alley and Easement
Establishment in Square 697, Lot 46**

South Capitol Street, K Street, SE, L Street,
SE, and Half Street, SE
Washington, DC

NCPC FILE NUMBER

7723

NCPC MAP FILE NUMBER

41.10(44.40)44234

ACTION TAKEN

Approval of comments to the
Council of the District of Columbia

SUBMITTED BY

District of Columbia Department of Consumer
and Regulatory Affairs

REVIEW AUTHORITY

Advisory
per D.C. Code § 9-202.02

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* * *

Pursuant to delegations of authority adopted by the Commission on October 3, 1996 and D.C. Code § 9-202.02, I find the proposed public alley closing and establishment of a partial easement in Square 697, bounded by South Capitol Street, K Street, L Street, and Half Street, SE, would not be inconsistent with the Comprehensive Plan for the National Capital.



Marcel Acosta
Executive Director

10-30-15

Date

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Norman M. Glasgow, Jr.
(202) 419-2460
norman.glasgowjr@hklaw.com

Memorandum

Date: April 1, 2016

To: Cynthia LeFevre, Legislative Council
Committee of the Whole
John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Suite 506
Washington, D.C. 20004

From: Norman M. Glasgow, Jr. *NMG, Jr.*

Re: Alley Closing in Square 697: Bill No. 21-571

This memorandum provides the additional information requested by the Committee of the Whole at the March 21, 2016, public hearing relating to the above-referenced bill. First, the Applicant for the requested alley closing is Lerner South Capitol Street Joint Venture. The partners of the Applicant are (i) Lerner Enterprises, LLC; and (ii) K & L Partners, LLC. The Committee requested information relating to the political contributions by any member of each of the LLCs, or individual related to any member thereof, to any candidate in District elections from the 2012 cycle. This requested information is attached hereto as Attachment A.

Second, please find attached recommended revisions to the alley closing legislation that are necessary to respond to recent conversations with the Recorder of Deeds and the Office of Surveyor (Attachment B). As stated in our February 4, 2016, letter, these recommended revisions relate to the relationship between the alley closing plat and the covenant that will be recorded by the Applicant to establish the five-foot wide alley easement, and specifically the question of which document officially grants the easement. The suggested revisions to the text for Bill 21-571 will establish the alley closing plat as the document that grants the easement, and the covenant as the document that sets forth the scope and conditions for use and operation of the easement that is established by the alley closing plat. To assist your review of the recommended revisions, attached herewith is a clean version of the revised legislation, as well as a marked-up version that shows the revisions made to the text of the legislation as it was originally introduced.

If you have any questions or need additional information, please do not hesitate to contact me.

ATTACHMENT A

LERNER SOUTH CAPITOL STREET JOINT VENTURE

Ownership

Lerner Enterprises, LLC

K & L Partners, LLC

Political Contributions of Principals of LLCs that comprise Lerner South Capitol Street Joint Venture

	[1]	[2]	[3]	[4]	[5]	[6]	[7]	[8]	[9]	[10]
Theodore N. Lerner	187.50			500.00	187.50	375.00	500.00	500.00		750.00
Annette M. Lerner	187.50				187.50	375.00	500.00	500.00		
Mark D. Lerner	187.50				187.50	375.00	500.00			750.00
Judy L. Lerner	187.50				187.50	375.00	500.00			
Edward L. Cohen	187.50	1,000.00	500.00	500.00	187.50	375.00	500.00	500.00	500.00	750.00
Debra Lerner Cohen	187.50				187.50	375.00	500.00	500.00	500.00	
Robert K. Tanenbaum	187.50			500.00	187.50	375.00	500.00	500.00	500.00	750.00
Marla Lerner Tanenbaum	187.50				187.50	375.00	500.00	500.00		

DC Council Contributions

[1]	Charles Allen for Ward 6	2/24/2014
[2]	Committee to Elect Sekou Biddle At-Large	4/15/2011
[3]	Committee to Elect Sekou Biddle At-Large	12/12/2011
[4]	Evans 2012 - Ward 2 Council	6/29/2011
[5]	Re-Elect Jim Graham 2014	2/25/2014
[6]	Mendelson for Chairman	2/25/2014
[7]	Muriel Bowser Ward 4 Cares	11/10/2011
[8]	Re-Elect Yvette Alexander	3/13/2012
[9]	Laruby May 2015 Special election	3/9/2015
[10]	Re-Elect Orange 2016	3/2/2016

ATTACHMENT A

LERNER SOUTH CAPITOL STREET JOINT VENTURE

Ownership

Lerner Enterprises, LLC

K & L Partners, LLC

Political Contributions of Principals of LLCs that comprise Lerner South Capitol Street Joint Venture

	[11]	[12]	[13]	[14]	[15]	[16]	[17]	[18]	[19]	[20]
Theodore N. Lerner		375.00	500.00	500.00	500.00	125.00	1,250.00	1,250.00	750.00	1,875.00
Annette M. Lerner						125.00	1,250.00	1,250.00	750.00	1,875.00
Mark D. Lerner		375.00	500.00	500.00	500.00	125.00	2,000.00	1,250.00	750.00	1,875.00
Judy L. Lerner						125.00	2,000.00	1,250.00	750.00	1,875.00
Edward L. Cohen	500.00	375.00	500.00	500.00	500.00	125.00	500.00	1,250.00	750.00	1,875.00
Debra Lerner Cohen				500.00	500.00	125.00	500.00	1,250.00	750.00	1,875.00
Robert K. Tanenbaum	500.00	375.00	500.00	500.00	500.00	125.00	1,250.00	1,250.00	750.00	1,875.00
Marla Lerner Tanenbaum						125.00	1,250.00	1,250.00	750.00	1,875.00

[11]	Brandon Todd for Ward 4 Special	3/6/2015
[12]	Re-Elect Yvette Alexander 2016	3/2/2016
[13]	Re-Elect Brandon Todd for Ward 4	3/2/2016
[14]	Jack Evans 2016	3/2/2016
[15]	Re-Elect LaRuby May	3/2/2016

Mayoral Contributions

[16]	Tommy Wells for Mayor	2/25/2014
[17]	Evans for Mayor	2/25/2014
[18]	Muriel Bowser for Mayor	2/25/2014
[19]	Muriel Bowser for Mayor	8/8/2014
[20]	Vincent Gray for Mayor	2/25/2014

4
5
6
7 A BILL

8
9
10 Bill 21-571

11
12
13 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

14
15
16
17
18 To order the closing of a portion of a public alley system in Square 697, bounded by K Street to
19 the north, Half Street to the east, L Street to the south, and South Capitol Street to the
20 west, in Southeast Washington, D.C. in Ward 6.

21
22 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
23 act be cited as the “Closing of a Public Alley in Square 697, S.O. 15-26230, Act of 2016”.

24 Sec. 2. (a) Pursuant to section 404 of the District of Columbia Home Rule Act, approved
25 December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-204.04), and consistent with the Street
26 and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law
27 4-201; D.C. Official Code § 9-201.01 *et seq.*), the Council of the District of Columbia finds that
28 the portion of the public alley system in Square 697, as shown on the Surveyor’s plat filed in
29 S.O. 15-26230, is unnecessary for alley purposes and orders it closed, with title in the land to
30 vest as shown on the Surveyor’s plat.

31 (b) The approval by the Council of this alley closing is contingent upon:

32 (1) The recordation of a covenant establishing a new portion of the alley system
33 by easement, as shown on the Surveyor’s plat filed in S.O. 15-26230 that includes an agreement

34 by the owner of the property encumbered by the easement to maintain the new portions of the
35 alley system; and

36 (2) The satisfaction of all conditions set forth in the official file for S.O. 15-26230
37 prior to the recordation of the alley closing plat.

38 Sec. 3. Transmittal.

39 The Council shall transmit a copy of this act, upon its adoption, to the Office of the
40 Surveyor.

41 Sec. 4. Fiscal Impact Statement.

42 The Council adopts the fiscal impact statement in the committee report as the fiscal
43 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
44 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

45 Sec. 5. Effective date.

46 This act shall take effect following approval by the Mayor (or in the event of veto by the
47 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
48 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
49 24, 1973 (87 Stat. 813, D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
50 Columbia Register.