

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

TO: All Councilmembers

FROM: Chairman Phil Mendelson
Committee of the Whole

DATE: November 19, 2019

SUBJECT: Report on Bill 23-331, “Closing of a Public Alley in Square 369, S.O. 18003, Act of 2019”

The Committee of the Whole, to which Bill 23-331, the “Closing of a Public Alley in Square 369, S.O. 18003, Act of 2019” was referred, reports favorably thereon, and recommends approval by the Council.

CONTENTS

I.	Background And Need.....	1
II.	Legislative Chronology.....	2
III.	Position Of The Executive.....	3
IV.	Comments Of Advisory Neighborhood Commissions	3
V.	National Capital Planning Commission Review.....	3
VI.	Summary Of Testimony.....	3
VII.	Impact On Existing Law	4
VIII.	Fiscal Impact.....	4
IX.	Section-By-Section Analysis	4
X.	Committee Action.....	4
XI.	Attachments	5

I. BACKGROUND AND NEED

On June 7, 2019, Bill 23-331, the “Closing of a Public Alley in Square 369, S.O. 18003, Act of 2019” was introduced by Councilmember Jack Evans. Bill 23-304 would authorize the closure of a three-foot portion of the public alley in Square 369, bounded by L Street N.W., 10th Street N.W., M Street N.W., and 9th Street N.W in Ward 2.

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. Council members may also initiate action on an alley or street closing on their own by introducing a bill. In such cases, the Act provides that the Council cannot consider such a bill until the required reviews have been completed. Full agency review was not necessary for Bill 23-331, since it was determined in 2014 that the alley at issue could be deemed private. As such, the Committee requested a letter from the property owner confirming that the alley closure would have no impact on utility operations. Irwin Aldavitch, the property owner, transmitted a letter to the Committee affirming this on October 17, 2019.

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 23-331, 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 alley is located on a surface parking lot. The property owner does not intend to redevelop the property.

II. LEGISLATIVE CHRONOLOGY

June 7, 2019	Bill 23-331, the "Closing of a Public Alley in Square 369, S.O. 18003, Act of 2019" is introduced by Councilmember Jack Evans.
June 18, 2019	Bill 23-331 is "read" at a legislative meeting; on this date the referral of the bill to the Committee of the Whole is official.

- June 21, 2019 Notice of Intent to Act on Bill 23-331 is published in the *District of Columbia Register*.
- September 20, 2019 Notice of a Public Hearing on Bill 23-331 is published in the *District of Columbia Register*.
- October 10, 2019 The Committee of the Whole holds a public hearing on Bill 23-331.
- November 19, 2019 The Committee of the Whole marks-up Bill 23-331.

III. POSITION OF THE EXECUTIVE

Roland Dreist, D.C. Surveyor, testified at the Committee's public hearing on October 10, 2019. He stated that the purpose of the bill is to close a three-foot-wide alley which had previously been consolidated into Lot 71 in Square 369 by a subdivision recorded in Subdivision Book 200, page 104. Mr. Dreist noted that the alley was consolidated with other abutting lots at the request of the property owner in 2006, since the alley did not feed into the alley system, but dead ended.

Mr. Dreist testified that there were no objections on the record, including none from the Executive branch agencies or utility companies.

IV. COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

The Committee received a letter from Advisory Neighborhood Commission (ANC) 2F supporting the alley closing.

V. NATIONAL CAPITAL PLANNING COMMISSION REVIEW

The Committee did not receive any comments from the National Capital Planning Commission.

VI. SUMMARY OF TESTIMONY

The Committee of the Whole held a public hearing on Bill 23-331 on Thursday, October 10, 2019. The testimony summarized below is from that hearing. Copies of all written testimony are attached to this report.

David Julyan, Julyan & Julyan, testified as counsel for the applicant in support of the alley closure.

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

VII. IMPACT ON EXISTING LAW

Bill 23-331 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 23-331, the Committee finds that the requirements of the Act have been satisfied.¹

VIII. FISCAL IMPACT

The attached fiscal impact statement from the District’s Chief Financial Officer states that funds are sufficient in the FY 2019 through FY 2022 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 that the three-foot portion of the public alley in Square 369 is unnecessary for alley purposes and orders it closed, with title to the land to vest to Lot 71 in Square 369, as shown on the Surveyor’s plat filed in S.O. 18003.
<u>Section 3</u>	The Council shall transmit a copy of the act to the Office of the Surveyor and the Office of Recorder of Deeds upon its effective date.
<u>Section 4</u>	Fiscal impact statement.
<u>Section 5</u>	Effective date.

X. COMMITTEE ACTION

¹ D.C. OFFICIAL CODE § 9-202.01 *et. seq.* (2015).

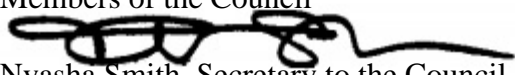
XI. ATTACHMENTS

1. Bill 23-331 as introduced (omitting some attachments).
2. Written Testimony.
3. Surveyor's Plat.
4. NCPC Comments.
5. Fiscal Impact Statement for Bill 23-331.
6. Legal Sufficiency Determination for Bill 23-304.
7. Committee Print for Bill 23-304.

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

Memorandum

To : Members of the Council

From : 
Nyasha Smith, Secretary to the Council

Date : June 18, 2019

Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Office of the Secretary on Friday, June 7, 2019. Copies are available in Room 10, the Legislative Services Division.

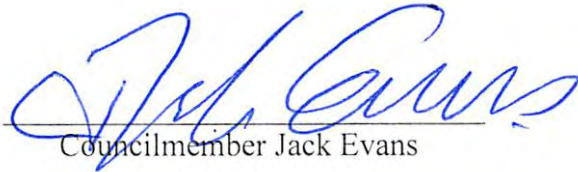
TITLE: "Closing of a Public Alley in Square 369, S.O. 18003, Act of 2019", B23-0331

INTRODUCED BY: Councilmember Evans

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

Attachment

cc: General Counsel
Budget Director
Legislative Services


Councilmember Jack Evans

1
2
3 A BILL
4
5

6 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
7

8 To order the closing of a portion of the public alley in Square 369, in Ward 2.
9

10 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
11 act may be cited as the “Closing of a Public Alley in Square 369, S. O. 18003, Act of 2019”.

12 Sec. 2. Pursuant to section 201 of the Street and Alley Closing and Acquisition
13 Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-
14 202.01 *et seq.*) (“Act”), the Council finds that the 3-foot portion of the public alley in Square 369
15 is unnecessary for alley purposes and orders it closed, with title to the land to vest to Lot 71,
16 Square 369, as shown on the Surveyor’s plat filed in S.O. 18003, and recorded in Book 200,
17 Page 104.

18 Sec. 3. Transmittal.

19 The Council shall transmit a copy of this act, upon its effective date, to the Office of the
20 Surveyor and the Office of Recorder of Deeds.

21 Sec. 4. Fiscal impact statement.

22 The Council adopts the fiscal impact statement in the committee report as the fiscal
23 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
24 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301-47.a).

25 Sec. 5. Effective date.

1 This act shall take effect upon its approval by the Mayor (or in the event of veto by the
2 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
3 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
4 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
5 Columbia Register.



ANC 2F
WASHINGTON, D.C.

ADVISORY NEIGHBORHOOD COMMISSION 2F

Government of the District of Columbia

5 Thomas Circle, NW | Washington, D.C. 20005

Telephone: (202) 642-3168 | www.anc2f.org

Commissioners

2F01 Jason Forman, Secretary

2F02 John Guggenmos, Vice-Chair

2F03 John Bottino

2F04 John Fanning, Chair

2F05 vacant

2F06 Ian Simon

2F07 Kevin Sylvester

2F08 Janice Ferebee

Angela Kissel, Executive Director

June 3, 2019

(via email only)

Office of Councilmember Jack Evans
1350 Pennsylvania Avenue, Suite 106,
NW Washington, DC 20004

Re: Support for 10th & L Alley Closing Bill

Dear Councilmember Jack Evans,

ANC 2F supports the closing of the alley at 10th and L St NW. This site and the issue before the council is the footprint of a previous three-foot alley that is completely contained within the Lot and has already been closed. However, a property owners owns Lot 71, which surrounds the relevant alley footprint. As the attached material confirms, in 2006, Lot 71 in Square 368 was created and recorded and the Surveyor's Office determined it was able to close the three foot, totally enclosed interior alley via the subdivision process and incorporate into the new single record lot. In 2014, the Surveyor's Office confirmed the alley could be and was closed without the need for a public hearing or Council action because under District policy, when an alley is completely surrounded by property owners who all agree it should be closed, the closing is considered a ministerial action not requiring public or Council attention. However, financial lenders have taken the position that the above referenced policy isn't sufficiently defined in DC statute and therefore still require legislative authorization for the closing. Therefore ANC 2F supports the bill concerning the alley closure at 10th and L St NW that is currently before the council for consideration.

Best regards,

Commissioner John Fanning
Chairman, ANC 2F

JULYAN & JULYAN

DAVID S. JULYAN

COUNCIL OF THE DISTRICT OF COLUMBIA COMMITTEE OF THE WHOLE

Thursday, October 10, 2019

Bill 23-331, Closing of a Public Alley in Square 369, S.O. 18003, Act of 2019

Mr. Chairman and members of the committee, my name is David Julyan. My client owns Lot 71 in Square 369, which completely surrounds the relevant alley footprint. As the attached material confirms, the DC Surveyor's Office has agreed that closing the alley is consistent with District policy and procedures. The alley closing was presented to ANC2F's Public Space Committee and the full ANC and received overwhelming support in both meetings. The Surveyor's position, the ANC letter and other relevant material is attached.

The subdivision plat creating Lot 71 in Square 369 (recorded March 22, 2014 in the Office of the Surveyor in Book 200 at Page 104) included in the consolidation of land a three foot alley that had been deemed at the time to be a private alley.

It was determined at the time the alley at issue could be deemed private as it was only 3 feet wide, served only the abutting properties that were included in the subdivision, and was a dead end alley that did not lead to an interior public alley system. The subdivision plat was recorded that consolidated Lots 59, 816, 867 (816 & 867 also known as former lots 54 through 58 and a portion of lot 7) and the 3 foot wide alley into new Lot 71 with a new area that included the square footage of the closed alley.

B23-0331 completes the official closure via Council action. Full agency review is not required as this process is a formality to officially close the alley that has been a part of Lot 71 since the subdivision was recorded in 2006. The subdivision plat creating Lot 71 will be updated once the legislation has been enacted.

In addition to material cited above, also attached is the original plat creating the 3 foot alley and a copy of the subdivision plat creating existing Lot 71 in Square 369 that includes the 3 foot alley area.

As you can see, this is a straight forward, non-controversial matter and it's hoped the committee will agree and move the bill forward.

Thank you for considering this matter and I am available to answer any questions.

October 17, 2019

The Honorable Phil Mendelson
Council of the District of Columbia
1350 Pennsylvania Ave, NW
Suite 504
Washington, DC 20004

Re: B23-331

Dear Chairman Mendelson;

I am responding to your request at the recent hearing on B23-331, which closes an alley footprint that is completely surrounding by property I own and has not been an "active" alley for decades.

I have owned the property of over 20 years. It is actually a surface parking lot.

During my ownership and all the activity conducted in preparation to eventually sell the property, I am aware of no impact the alley location has on any utilities. Nor has any DC agency that has been involved in the property or the effort to close the alley footprint identified any utilities impact issues.

If I can be of any additional assistance, please contact me.

Sincerely,

Irwin Edlavitch

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**



Public Hearing
On
Bill 23-331, the “Closing of a Public Alley in Square 369,
S.O. 18003 Act of 2019”

Roland Dreist
Surveyor of the District of Columbia
Department of Consumer and Regulatory Affairs

Before the
Committee of the Whole
Chairman Phil Mendelson

John A Wilson Building
Room 412
1350 Pennsylvania Avenue, NW
Washington, DC 20004

October 10, 2019
10:00 am

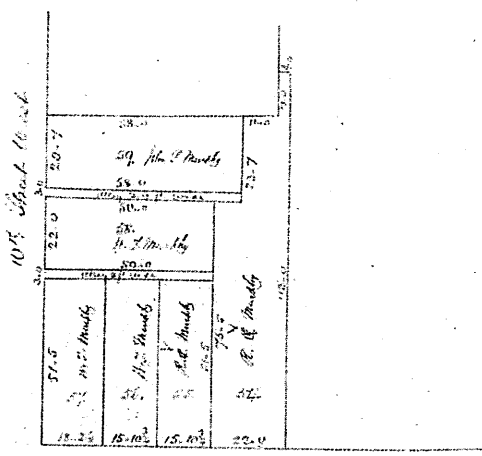
Good Morning, Chairman Mendelson, members, and staff of the Committee of the Whole. I am Roland Dreist, Surveyor of the District of Columbia with the Department of Consumer and Regulatory Affairs. I appear before you today to provide background information on Bill the 23-331 "Closing of a Public Alley in Square 369 S.O. 18003 Act Of 2019." This bill would order the closing of a portion of a public alley in Square 369, bounded by L Street N.W., 10th Street N.W., M Street N.W., and 9th Street N.W. in Ward 2.

The purpose of this alley closure is to allow by Council action, the closure of a three (3) foot wide alley which had been previously consolidated into Lot 71 in Square 369 by a subdivision recorded in Subdivision Book 200, Page 104. The plat which created the alley was recorded in Subdivision Book WBM, Page 74 on January 21, 1874. The original subdivision did not identify the three (3) foot wide alleys as public and appeared to serve only those lots that were created by that subdivision.

One of the alleys created was closed previously by a petition of the abutting owners to the Commissioners of the District and was declared closed and shown on a "Closing Of Alley In Square 369" recorded in Subdivision Book 128, Page 28 on February 17, 1949. The plat showed the remaining alley as a public alley, although there was no mention in the narrative of the plat to indicate it was "public" and could possibly have been a scrivener's error. As the alley was only three (3) feet wide and did not feed into an alley system but dead ended, it was consolidated with the other abutting lots at the request of the owner in 2006.

I have provided the background plats for your review and welcome any questions regarding this matter.

Sub-division of parts of lots
No. 687 Square 369.



with 2' street

Washington City D.C.
January 21: 1874

This is to Certify that we have Sub-divided part of lots No. 687 in Square No. 369 in accordance with the will of the late John Murphy deceased into the lots 54, 55, 56, 57, 58, 59 with two alleys, 3 feet wide each, lots Nos. 54 & 55 Rachel V. Murphy lots Nos. 56, 57 & 58 to M. J. Murphy lot No. 59 to John E. Murphy

Witness }
Jas. H. Gray
10 Days

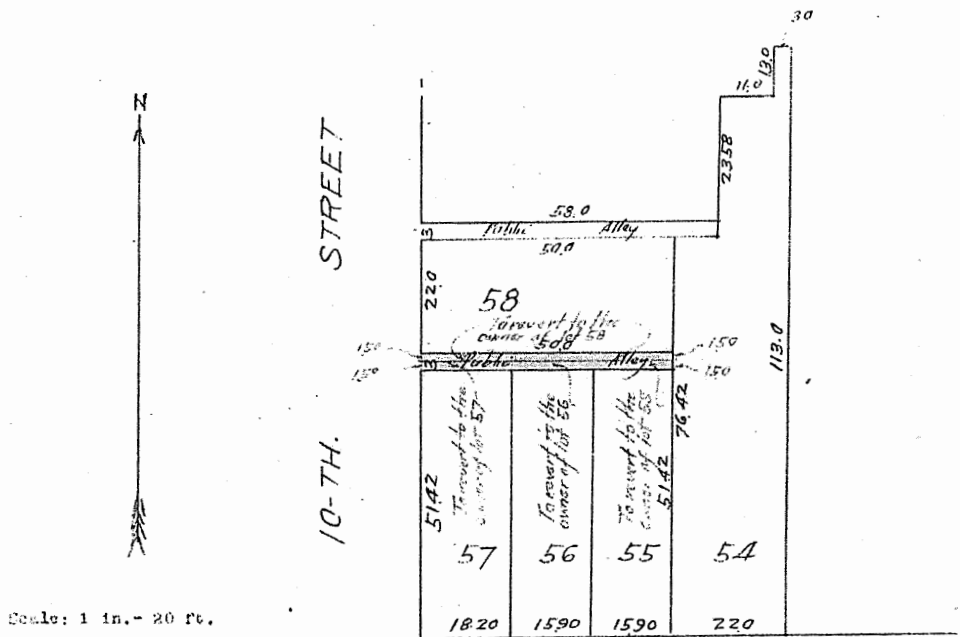
Wm. J. Murphy }
Wm. J. Murphy } Guardian to M. J. Murphy
John E. Murphy }

Notary Public
District of Columbia
Jan'y 21: 1874

I do hereby Certify that I have examined the above plat of Sub-division of parts of Original lot No. 687 in Square No. 369 and find the same correct,
Given under my hand and the Seal of this Office
This 21st day of January A. D. 1874

James H. Gray
Notary Public District of Columbia

CLOSING OF ALLEY IN SQUARE 350



By the undersigned owners of all the land abutting the alley proposed to be closed hereby petition the Commissioners of the District of Columbia to close the area shown hereon in green.
 Witness our hands and seals this 7th day of February 1949.

WITNESSES

- 2 Witnesses
- 2 Witnesses
- 2 Witnesses
- 2 Witnesses
- 2 Witnesses

OWNERS

- (Signed) Annabel Services Murphy (Seal)
- (Signed) Grace Frances Murphy (Seal)
- (Signed) Joseph Alexander Murphy (Seal)
- (Signed) William Ashford Murphy (Seal)
- (Signed) Ida Irene Murphy (Seal)

No trust

OFFICE OF THE COMMISSIONERS, D.C.

Washington, February 15th, 1949

Having received a petition from the owners of all the land abutting the alley which it is proposed to close
 I HEREBY CERTIFY that the alley shown hereon in green is hereby declared closed, vacated and abandoned. Action taken in accordance with Title 7-204 of the code of law for the District of Columbia, the title to the area so closed to revert to the owners of the abutting property as indicated hereon.

The Surveyor of the District of Columbia is directed to record this plat in his office.
 By order of the Board of Commissioners of the District of Columbia.

(Signed) G.M. Thornett
 Secretary to the Board

I certify that the foregoing plat agrees with the records of this office and was received for record
 at 10:25 A.M. February 17, 1949.

J. J. Deal
 Surveyor, District of Columbia.

City Sub. " Square 350 "

M.P. 100181

R.C.B.

The undersigned certify that they are owners in fee simple of the property to be subdivided and are in peaceful occupation thereof; that there are no pending suits or actions that affect title to the property; that parties to any deeds of trust have hereon indicated their assent; and that there are no interests or claims affecting title to the property other than such deeds of trust. The undersigned hereby combines Lots 54 thru 60, Square 369 (Book WBM Page 74), remainder of Lot 7, Square 369 (Book 198 Page 4), Public Alley (Book 128 Page 29) and three foot alley (Book WBM Page 74) into one Lot and Square 369 and requests that this subdivision be recorded in the Office of the Surveyor of the District of Columbia.

WITNESSES

OWNERS

Rene P. Ponce
Mar. M. P.

Irwin P. Edlavitch
IRWIN P. EDLAVITCH

Subscribed and sworn before me this 22 day of July 2005

Donald Stewart
Notary Public - District of Columbia

11-30-2009
My Commission Expires

NUMBER OF TRUSTS: 0

ASSENT BY TRUSTEES:

SURVEYOR'S OFFICE, D.C.

Made for: SHAW PITTMAN, LLP

Drawn by: L.E.S. Checked by: *BAH*

Record and computations by: F. SLEEM

Recorded at: 3:50 pm MARCH 22, 2006

Recorded in Book 200 Page 104 S.O. 16003

Scale: 1 inch = 20 feet

File No. 05-1370

OFFICE OF TAX AND REVENUE

3/19, 2006

I certify that the following statements relating to this subdivision are correct.

- 1 Ownership agrees with our records: 3/19/06
- 2 Real estate taxes are paid to: 3/19/06
- 3 There are no unpaid assessments: 3/19/06

for Mary O. Short Davis for
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.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

3/19, 2006

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

Zoning District: DD/C-2-C

Faye O.
District Administrator

3-1, 2006
[Signature]
HISTORIC PRESERVATION

OFFICE OF THE SURVEYOR

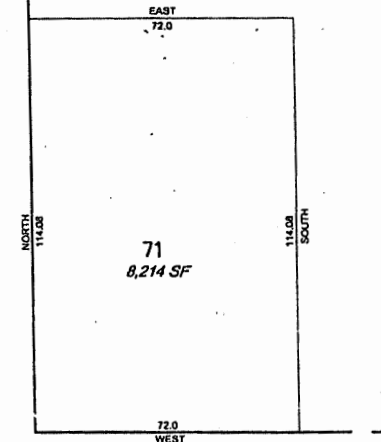
March 22, 2006

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

[Signature]
Surveyor, D.C.

SUBDIVISION
SQUARE 369

10th STREET, N.W.



L STREET, N.W.

1 **DRAFT COMMITTEE PRINT**
2 **Committee of the Whole**
3 **November 19, 2019**
4
5
6

7 A BILL

8
9 23-331
10
11

12 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
13
14
15

16 To order the closing of a portion of the public alley in Square 369, in Ward 2.
17

18 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
19 act may be cited as the “Closing of a Pubic Alley in Square 369, S.O. 18003, Act of 2019.”

20 Sec. 2. Pursuant to section 404 of the District of Columbia Home Rule Act, approved
21 December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-204.04), and consistent with the Street
22 and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law
23 4-201; D.C. Official Code § 9-201.01 *et seq.*), the Council finds the 3-foot portion of the public
24 alley in Square 369, as shown on the Surveyor’s plat filed in S.O. 16-24507, is unnecessary for
25 alley purposes and orders it closed, with title to the land to vest to Lot 71, Square 369, as shown
26 on the Surveyor’s plat filed in S.O. 18003, and recorded in Book 200, Page 104.

27 Sec. 3. Transmittal.

28 The Council shall transmit a copy of this act, upon its effective date, to the Office of the
29 Surveyor and the Office of Recorder of Deeds.

30 Section 4. Fiscal impact statement.

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

34 Sec. 5. Effective date.

35 This act shall take effect following approval by the Mayor (or in the event of veto by the
36 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
37 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
38 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
39 Columbia Register.