

GOVERNMENT OF THE DISTRICT OF COLUMBIA

District Department of Transportation



Public Hearing on

Bill 23-251, Abandonment of the Highway Plan for 39th Street, N.W., S.O 18-41885 Act of 2019

Public Resolution 23-444, Modification of the Highway Plan to Remove a Portion of 39th Street,
N.W., S.O. 18-41885, Resolution of 2019

Bill 23-332, Abandonment of the Highway Plan for Anacostia Avenue, N.E., S.O. 19-04866, Act
of 2019

Bill 23-474, Closing of Public Street and Elimination of Building Restriction Lines and Abutting
Squares 3765 and 3767, S.O. 18-41561, Act of 2019

Testimony of Everett Lott
Deputy Director
District Department of Transportation

Before the Committee of the Whole
Council of the District of Columbia

Thursday, November 7, 2019
10:00 a.m.
Hearing Room 500
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, D.C. 20004



Good morning, Chairman Mendelson, Members of the Committee, and staff. My name is Everett Lott, Deputy Director of the District Department of Transportation, commonly referred to as DDOT. I am here today to present testimony on behalf of Mayor Muriel Bowser on

- Bill 23-251, Abandonment of the Highway Plan for 39th Street, N.W., S.O. 18-41885 Act of 2019 and Public Resolution 23-444, Modification of the Highway Plan to Remove a Portion of 39th Street, N.W., S.O. 18-41885, Resolution of 2019 which would remove a portion of 39th Street, NW located within Lot 801 in Square 1823 from the Plan of Permanent Systems of Highways (the “DC Highway Plan”) to facilitate mixed use development;
- Bill 23-332, Abandonment of the Highway Plan for Anacostia Avenue, N.E., S.O. 19-04866, Act of 2019 which would remove a portion of Anacostia Avenue, NE located within Lot 806 in Square 5113 from the DC Highway Plan to facilitate development of a multi-unit senior citizen affordable assisted living facility; and
- Bill 23-474, Closing of Public Street and Elimination of Building Restriction Lines and Abutting Squares 3765 and 3767, S.O. 18-41561, Act of 2019



which orders the legal closing of 4th Street N.E., between Kennedy Street N.E., and Ingraham Street N.E., the closing of the public alley in Square 3765, and the elimination of building restrictions lines along 4th Street N.E., Kennedy Street N.E., and Ingraham, Street N.E., abutting Squares 3765 and 3767.

I will now discuss DDOT's specific recommendations for each of the proposed bills.

*Bill 23-251, Abandonment of the Highway Plan for 39th Street, N.W and
Public Resolution 23-444, Modification of the Highway Plan to Remove a Portion
of 39th Street, N.W*

The developer applicant is seeking approval to remove a portion of 39th Street, NW from the District of Columbia Highway Plan to facilitate the redevelopment of the site. The portion of the 39th Street, NW to be removed is the northernmost terminus, located adjacent to the existing 39th Street cul-de-sac north of Rodman Street. The 90-foot right-of-way called for in the Highway Plan for this segment of 39th Street has not been dedicated to DDOT.

DDOT has no objection to the removal of the subject portion of 39th Street from the Highway Plan.



Bill 23-332, Abandonment of the Highway Plan for Anacostia Avenue, N.E.

The developer applicant is seeking approval to remove portions of both Anacostia Avenue, NE and Eastern Avenue, NE from the Highway Plan to facilitate the redevelopment of the site. DDOT understands that approval is needed to create a record lot and receive a building permit. Currently, the encumbrance of the Highway Plan prevents a record lot from being legally created. Since the entirety of the lots are the basis for zoning calculations, the portion of the site where the Highway Plan is designated cannot be severed off into its own record lot.

DDOT objects to the removal of portions of Anacostia Avenue and Eastern Avenue NE, until the following conditions are met:

- For Lot 806, a non-restrictive easement should be recorded for an 80 foot section (not 90 feet), as measured from the northern edge of the Highway Plan section; and
- For Parcel 185/38, a non-restrictive easement should be recorded for the entirety of the parcel including the 10-foot by 290-foot strip of land outside of the 90-foot Highway Plan section, which likely will be needed in the future to ‘straighten out’ the alignment of Eastern Avenue.



Bill 23-474, Closing of Public Street and Elimination of Building Restriction Lines and Abutting Squares 3765 and 3767

The developer applicant is seeking approval to close 4th Street, NE between Kennedy Street and Ingraham Street, the public alley in Square 3765, and to eliminate building restriction lines along 4th Street, NE, Kennedy Street, NE, and Ingraham Street, NE abutting Squares 3765 and 3767.

It is important to note that DDOT is the responsible agency that gives guidance to the opening and closing of District public rights of way. Beyond ensuring that our own standards are met, as outlined in DDOT's Right of Way Policies and Procedures Manual, the agency is also bound to meet federal right of way regulations. The Federal Highway Administration (FHWA) sets these guidelines which require that non-transportation use or disposal of a property interest determined to be excess to transportation needs must be for fair market value and the proceeds used for future Title 23 eligible transportation projects.¹ These regulations provide exceptions to the requirement that disposals be for fair market value only under certain circumstances, including disposals to utilities or railroads, or for use as bikeways or pedestrian walkways. Failure to comply with federal

¹ 23 CFR 710.403.(e)



regulations will put DDOT at risk of receiving federal funds for our transportation projects. As of the date of this hearing, the proposed closure does not conform to the federal requirements as implemented in the current version of the District's Right of Way Manual and it is DDOT's position that this closure should not move forward without first adhering to federal and District regulations.

We also note that this closure request is the second phase of a larger three-phased development plan. The applicant has been coordinating with DDOT regarding another potential right-of-way transfer adjacent to the proposed closure. The applicant constructed a one block extension of Ingraham Street, NE between Hamilton Street and South Dakota Avenue as part of this larger development and has expressed interest in dedicating this block as a public street. However, the street was built without DDOT review of the design plans or inspection of the construction. We are currently reviewing this block to determine if it was built to DDOT standards and, therefore, a candidate for public street acceptance.

Finally, DDOT objects at this time to the requested elimination of the building restriction lines on the south side of the 300 block of Kennedy Street NE between South Dakota Avenue NE and on the east side of the 5400 block of 3rd Street NE. These requested closures pertain to a portion of the PUD that received Stage 1



approval, but for which 2nd Stage PUD plans have not yet been submitted to the Zoning Commission. DDOT finds it would be more appropriate to consider the removal of these building restriction lines after the Zoning Commission has approved final plans for future phases of the PUD. These phases may propose re-aligning portions of Kennedy Street, which would be subject to Council review at that time.

DDOT objects to the proposed action until the following conditions are met:

- DDOT either confirms 1) the adjacent portion of Ingraham Street has been built to DDOT standards, or 2) the applicant agrees to do additional work to the roadway to bring it up to DDOT standards.
- The applicant must pay DDOT fair market value for the street and alley that would be closed or replace in kind with an equivalent dedication of new ROW.
- The applicant compensates the District in the amount of \$29,160 for the removal of existing street trees in the area proposed for closure. A list of these trees is attached to this testimony (Attachment A).



- The applicant compensates the District in the amount of \$6,475.50 for the removal of existing DDOT streetlights in the area proposed for closure. The streetlight equipment estimate is attached to this testimony (Attachment B).
- Removal of the request to eliminate the building restriction lines on the south side of the 300 block of Kennedy Street NE between South Dakota Avenue NE and on the east side of the 5400 block of 3rd Street NE.

I appreciate the opportunity to testify before you today and look forward to answering any questions you may have.

