

**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: December 17, 2019

SUBJECT: Report on Bill 23-251, the “Abandonment of the Highway Plan for 39th Street, N.W., S.O. 18-41885 Act of 2019”

The Committee of the Whole, to which Bill 23-251, the “Abandonment of the Highway Plan for 39th Street, N.W., S.O. 18-41885 Act of 2019,” was referred, reports favorably thereon with amendments, and recommends approval by the Council.

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I. BACKGROUND AND NEED

On April 4, 2019, Bill 23-251, the “Abandonment of the Highway Plan for 39th Street, N.W., S.O. 18-41885 Act of 2019,” was introduced by Councilmember Mary Cheh. Bill 23-251 would remove the so-called “paper” streets of 39th Street, N.W., located within Lot 801 in Square 1832, between Upton Street, N.W., and Rodman Street, N.W. in Ward 3. The applicant is a developer seeking to build a new mixed-use development project at the Fannie Mae headquarters site that will include 687 residential units, approximately 60 of which will be affordable, and 313,000 square feet of commercial uses.

Legal Background

The Plan of Permanent System of Highways (Highway Plan) was adopted in 1893 in an effort to control land platting outside of the L’Enfant City by establishing future street alignments for areas not yet subdivided. The Highway Plan has been amended on a number of occasions to

fit more congruously with the outlying landscape of the District of Columbia. In some cases, the streets on the Highway Plan have never been constructed, as is the case with the street subject to this resolution.

Background Pertinent to Bill 23-251

The portion of 39th Street, N.W. to be removed is the northernmost terminus, located adjacent to the existing 39th Street N.W. 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, N.W. has not been dedicated to the District Department of Transportation.

The developer is seeking approval to remove a portion of 39th Street, N.W. from the District of Columbia Highway Plan to facilitate the redevelopment and renovation of the historic Fannie Mae headquarters site at 3900 Wisconsin Avenue, N.W. The development of the 10-acre site will include 687 residential units, approximately 60 of which will be affordable, and 313,000 square feet of commercial uses including office, retail, service and related uses. The development will also contain 1,295 parking spaces and an internal, private street system to serve and to link the development to the surrounding road network, as shown in Figure 1. Groundbreaking for construction began on December 1, 2018.

Figure 1. 3900 Wisconsin Avenue N.W. Site Plan



While ANC 3C voted unanimously to support the removal of the 39th street segment from the Highway Plan on January 23, 2019, single-member district Commissioner for ANC 3C06 noted in their testimony before the Committee that the neighborhood continues to have concerns about the impact the development will have on traffic on 39th Street N.W.¹ After the hearing, the Committee received a dozen emails from residents in McLean Gardens voicing the same concern, and expressing support for traffic calming measures at the end of 39th Street N.W. as shown in Figure 2.

Figure 2. 39th Street N.W. cul-de-sac/driveway



As part of the large tract review (LTR) process, the developer's transportation consultant reviewed current traffic levels and the project's projected traffic impacts at the end of 39th Street N.W. The review suggests that there are roughly 120 vehicle trips generated during peak hours on weekdays, and 20 vehicle trips generated during peak hours on Saturday.² Future peak hour traffic volume is project to increase by 26 vehicle trips for weekdays and 46 vehicle trips on Saturday.³ Should these projections prove to be inaccurate, the developer has agreed to fund a traffic study to determine the need for traffic calming measures in the neighborhood six months after the project's residential and commercial spaces are 95 percent leased and occupied. If the study identifies

¹ These emails are included in the public hearing record attached to this report.

² Gorove-Slade Associates, Comprehensive Transportation Review, 3900 Wisconsin Avenue Large Tract Review, Figure 14, pg. 35.

³ *Ibid.*, pg. 44.

specific traffic calming measures that should be considered, the developer has agreed to pay \$50,000 toward implementation of those traffic calming measures. The Committee believes this arrangement sufficiently addresses neighborhood concerns regarding traffic impacts. The developer reaffirmed this commitment in a letter dated December 12, 2019 that states:

Roadside hereby states its intent to comply with all of the conditions of the public space permit... Therefore, if the traffic study described in the Condition demonstrates the need for traffic calming measures in the neighborhood, Roadside will pursue the recommendations of the traffic study in accordance with the Condition.⁴

Given these facts and history, the Committee recommends Council approval of Bill 23-251.

II. LEGISLATIVE CHRONOLOGY

- | | |
|-------------------|--|
| April 4, 2019 | Bill 23-251, the “Abandonment of the Highway Plan for 39th Street, N.W., S.O. 18-41885 Act of 2019,” was introduced by Councilmember Mary Cheh |
| April 12, 2019 | Notice of Intent to Act on Bill 23-251 is published in the <i>District of Columbia Register</i> . |
| April 23, 2019 | Bill 23-251 is “read” at a legislative meeting; on this date the referral of the bill to the Committee of the Whole is official. |
| October 18, 2019 | Notice of a Public Hearing on Bill 23-251 is published in the <i>District of Columbia Register</i> . |
| November 7, 2019 | The Committee of the Whole holds a public hearing on Bill 23-251. |
| December 17, 2019 | The Committee of the Whole marks-up Bill 23-251. |

III. POSITION OF THE EXECUTIVE

Everett Lott, Deputy Director of the District Department of Transportation, testified at the Committee hearing on November 7, 2019. Mr. Lott stated that DDOT has no objection to the removal of the subject portion of 39th Street N.W., from the Highway Plan.

⁴ Letter from Roadside Development to Chairman Phil Mendelson, December 12, 2019, pg. 1.

IV. COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

Advisory Neighborhood Commission 3C submitted a letter to the D.C. Surveyor on February 14, 2019 noting that the ANC unanimously voted to support the removal of the 39th street segment from the Highway Plan on January 23, 2019. The letter is attached.

V. NATIONAL CAPITAL PLANNING COMMISSION REVIEW

The National Capital Planning Commission (NCPC) approved of the amendment to remove a portion of 39th Street N.W. from the Highway Plan at an NCPC meeting on March 7, 2019. NCPC's Commission Action document is attached.

VI. SUMMARY OF TESTIMONY

The Committee of the Whole held a public hearing on several bills, including Bill 23-251, on Thursday, November 7, 2019. The testimony summarized below pertains to Bill 23-251. Copies of written testimony are attached to this report.

Rob Wolcheski, representative of the project applicant at Roadside Development, provided background on the development and the review process that the development has been through to-date.

Jeffrey Utz, land use counsel of Goulston & Storrs, PC, testified the applicant would prefer the Committee move the resolution (PR 23-444) forward rather than the bill due to timing.

Angela Bradbery, Advisory Neighborhood Commissioner 3C06, testified that the neighborhood continues to have concerns about the developments impact on traffic on 39th Street N.W.

John Howe, public witness, testified in opposition to the bill.

Everett Lott, Deputy Director of the District Department of Transportation, testified on behalf of the Executive. His testimony is summarized in Section III.

The Committee received a dozen emails from neighborhood residents expressing concern about the developments impact on traffic in McLean Gardens, particularly on 39th Street N.W.

VII. IMPACT ON EXISTING LAW

Bill 23-251 has no impact on existing law. D.C. Official Code § 9-101.06 gives the Mayor the authority to establish and modify the District's "permanent system of highways" or public streets, subject to review and approval by both the Council of the District of Columbia and the National Capital Planning Commission.

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>	States the portions of the Highway Plan the Council has proposed for abandonment.
<u>Section 3</u>	Fiscal impact statement.
<u>Section 4</u>	Effective date.

X. COMMITTEE ACTION

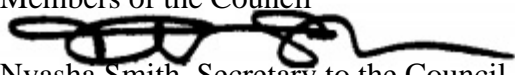
XI. ATTACHMENTS

1. Bill 23-251 as introduced.
2. Written Testimony.
3. Letter from the National Capital Planning Commission.
4. Plat on file with the Surveyor's Office.
5. Fiscal Impact Statement for Bill 23-251.
6. Legal Sufficiency Determination for Bill 23-251.
7. Committee Print for Bill 23-251.

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 : April 09, 2019

Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Office of the Secretary on Thursday, April 4, 2019. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Abandonment of the Highway Plan for 39th Street, N.W., S.O. 18-41885 Act of 2019", B23-0251

INTRODUCED BY: Councilmember Cheh

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

Attachment

cc: General Counsel
Budget Director
Legislative Services


Councilmember Mary M. Cheh

1
2
3
4
5 A BILL
6
7
8

9 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
10
11
12

13 To remove from the Plan of Permanent Systems of Highways a portion of 39th Street,
14 N.W., located within Lot 801 in Square 1823, as shown on the Surveyor's Plat
15 filed under S.O. 18-41885.
16

17 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

18 That this act may be cited as the "Abandonment of the Highway Plan for 39th Street,
19 N.W., S.O. 18-41885 Act of 2019".

20 Sec. 2. Notwithstanding section 6 of An Act To provide a permanent system of
21 highways in that part of the District of Columbia lying outside of the cities, approved
22 June 28, 1898 (30 Stat. 520; D.C. Official Code § 9-101.06), the Council amends the
23 permanent system of highways to remove a portion of 39th Street, N.W., located within
24 Lot 801 in Square 1832, between Upton Street, N.W., and Rodman Street, N.W., as
25 shown on the Surveyor's Plat filed under S.O. 18-41885.

26 Sec. 3. Fiscal impact statement.

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

30 Sec. 4. Effective date.

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

D.C. Council Hearing – Committee of the Whole

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

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

November 7, 2019 @ 10:00 am

TESTIMONY OF JEFF UTZ

Good Morning Chairman Mendelson and Members of the Council. My name is Jeff Utz of Goulston and Storrs, and I'm here on behalf of NASH-Roadside 3900 Wisconsin, LLC, the owner and developer of the 3900 Wisconsin Avenue, NW property that is the subject of this application. We appreciate the opportunity to appear before you today.

The property is located in Northwest Washington and is bounded by 4000 Wisconsin to the north, Wisconsin Avenue to the east, McLean Gardens to the south, and Federal park land to the west. We brought a board depicting the entirety of Square 1823 to provide a sense the property's location. The Property is currently improved with the former Fannie Mae headquarters building and is the subject of construction for a project that we will detail shortly.

The legislation before you would remove the unimproved and unused segment of 39th Street NW on the Highway Plan located on the property as shown on the blown up board of the Surveyor's plat.

There are 2 pieces of legislation before you today for this removal action:

- PR23-444 – a resolution; and
- Bill 23-251 – a bill.

The Bill was the legislation initially introduced on Apr 4, 2019 by Councilmember Cheh. The DC Council's counsel required that it was submitted as a bill since it was not transmitted to the Council by the Mayor; however this legislation was initially intended to be introduced as a Resolution.

The Resolution was the second piece of legislation introduced on September 16, 2019 for the same Highway Plan removal. This was transmitted to your office by the Mayor (after being initiated by the Surveyor) and therefore the legislation could be considered as a Resolution.

We request that the Resolution is the legislation that moves forward for vote to effectuate the requested Highway Plan removal due to timing and simplicity while still allowing for compliance with statutory requirements.

We note that the subject Highway Plan segment of 39th Street previously terminated directly into another segment of the Highway Plan labeled as "Tilden Street" along the boundary of 3900 and 4000 Wisconsin, however this Tilden segment was closed on January 9, 1948. The subject segment of 39th Street should have been removed at such time, but that was not finalized.

The project has been reviewed in detail by the community and various agencies. To that end, DDOT and NCPC submitted reports that indicate no objection and approval to the proposed Highway Plan removal, respectively. Similarly, ANC 3C submitted a resolution indicating support for the removal. Further, the project has been reviewed favorably by OP and other District agencies as part of the District's Large Tract Review and HPRB processes.

Thank you for this chance to testify. I would now like to turn it over to Rob Wolcheski to testify on behalf of the property owner and developer.

D.C. Council Hearing – Committee of the Whole

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

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

November 7, 2019 @ 10:00 am

TESTIMONY OF ROB WOLCHESKI

Good Morning Chairman Mendelson and Members of the Council. My name is Rob Wolcheski, and I'm here on behalf of NASH-Roadside 3900 Wisconsin, LLC, the owner and developer of the project being constructed at the 3900 Wisconsin Avenue, NW property that is the subject of this application. We appreciate the opportunity to appear before you today.

General description of the City Ridge project

The removal of the portion of 39th Street from the Highway Plan facilitates the creation on the Property of a new mixed-use development project known as "City Ridge". The project will renovate and incorporate portions of the existing and historic "Equitable Life/Fannie Mae" building along with constructing additional structures to create a vibrant project containing a wide variety of retail, service, office, residential, and other uses, along with associated landscaping and public space improvements.

The project includes approximately 687 new residential units, including approximately 60 affordable units, approximately 313,000 square feet of commercial uses including office, retail, service and related uses, including the District of Columbia's first Wegman's grocery store, and associated parking spaces. As part of the development of the property, the Applicant will construct an internal private street system to serve and to link the development to the surrounding roadway network.

History of public review

The project has been reviewed in detail by the public and the District agencies through the District's Large Tract Review, historic preservation review, and public space committee processes, receiving approvals and support at each step. As part of those processes, the project has been extensively reviewed by the Office of Planning, DDOT, HPO, and several other agencies.

The Applicant has conducted extensive community outreach for several years and continues to hold on-going meetings with the community to solicit input for the project. ANC 3C has provided a letter in support of the abandonment. The ANC and Ward 3 Councilmember Mary Cheh have otherwise been supportive of the project.

Highway Plan encumbrance

The portion of 39th Street, NW requested to be removed from the Highway Plan is entirely on private property owned by the Applicant, and is not necessary for public street purposes. This "paper street" segment has not been utilized and has never been improved.

Rather, our team is creating a private street network that will allow the property to be more connected to the surrounding road network.

Therefore, the proposed removal of the segment of 39th Street from the Highway Plan will have no adverse impact on adjacent or nearby properties.

Benefits to the Project in removing the Highway Plan encumbrance

The proposed Highway Plan removal allows for an encumbrance to be removed from title and for the creation of a condominium plat. With the current Plan in place, the Office of the Surveyor is not able to create a condominium plat that the project requires, in an expedited fashion,

to proceed. Further, the proposed Plan removal facilitates the delivery of new housing to Ward 3 and the District generally.

Since we are limited in how we can proceed with our project until this issue is resolved, we would greatly appreciate the Council's timely action on the currently pending resolution. We prefer the Resolution to the Bill due to the critical timing implications of removing the Highway Plan encumbrance.

Again, we greatly appreciate your time and the opportunity to testify today and I'm available to answer any questions the Council may have.

Thank you.

**Testimony Regarding B23-0251, Abandonment of the Highway Plan for 39th Street, N.W., S.O. 18-41885 Act of 2019, and PR23-0444, Modification of the Highway Plan to Remove a Portion of 39th Street N.W., S.O. 18-41885, Resolution of 2019
D.C. Council Committee of the Whole
Nov. 7, 2019**

Angela Bradbery
Commissioner, ANC3C06
3700 39th St. NW, #F180
Washington DC 20016
(202) 669-6517

I am Angela Bradbery, commissioner for ANC3C06, which includes the Roadside development at 3900 Wisconsin Avenue as well as the McLean Gardens and Vaughan Place neighborhoods. I am here today to speak on behalf of my district and ANC3C, which supports the removal of the 39th Street NW segment from the old highway plan.

McLean Gardens is a 23-acre neighborhood with 31 low-rise residential buildings bounded on the east by Wisconsin Avenue and the west by the Glover-Archbold Park forest. One of the main roads within the neighborhood is 39th Street NW, which runs north-south, and runs into the back of the Roadside development. It eventually will connect to the private streets that Roadside plans to build.

At 39th and Porter Streets, there is a children's playground and entrance to the Glover-Archbold Park trail. This means that a lot of people with small children and dogs cross 39th Street in various places to reach the park and playground.

One of the main concerns the neighborhood has about the Roadside development is that it will increase traffic on 39th Street, particularly with cut-through traffic from people using the neighborhood to get to Wegmans and other commercial parts of the development.

So the neighborhood supports whatever can be done to minimize the projected traffic increase this development will bring.

In the unlikely event that the highway plan ever were to come to fruition, the extension of 39th Street straight into the development, running almost to the north end of it, definitely would invite a lot of traffic and would be bad for the neighborhood.

For this reason, ANC3C on Jan. 23, 2019, voted unanimously to support the removal of the 39th Street segment from the old highway map.

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.



Dear Councilmembers and ANC members,

I am a resident of McLean Gardens and I wish to express support for the requirement to add a resident only gate to the rear entrance (39th St) of the new Roadside Development property. I live very close to the 39th St entrance and I'm very concerned at the possibility of this small residential road being used as a rear entrance to the new development by all its visitors. For safety concerns, it seems a very logical move to require this gate, those driving in and out will be residents and likely to have a greater sense of ownership and care of the neighboring areas. I don't see how the gate could pose any negative effects to the existing community or the new development, it will only serve to increase safety and security, and the developer should be agreeable to that concession.

Thank you for considering the concerns of our long-established community,
Alison McKelvie
3770 39th St NW

To whom it may concern. I am a resident on Rodman Street between 38th and 39th. We own our unit in Mclean Garden. I am in favor of the gate because I believe gates limit access and thereby limit communities to connect to one another. It reminds me of gating communities. I like that Mclean Gardens is open to anyone who want to drive here. The new development should be similar. This way, our neighborhoods are more fully part of a unit. Thank you for your consideration.

Josh
Rodman St. NW

Hi,

If it's not too late, I would like to express my SUPPORT FOR A GATE at the end of 39th Street into the new Roadside development, especially because this is what was first proposed to the community when this project first came about.

One of the main reasons I've chosen to own a property in McLean Gardens is because of the peace and quiet in the neighborhood. This developer is getting pretty much everything they want from the city and for once, I hope the ANC and the Council can fight for what the current residents of the neighborhood prefer - A RESIDENT GATE.

39th and Rodman Streets get a LOT of Sidwell Friends traffic, especially in the morning. I have been in many near accidents in my car and on foot because of drivers cutting through the neighborhood in a rush. I don't even want to think of how much more traffic there would be if there is a free-flowing entrance into this gigantic new development. Why not just keep the traffic to Wisconsin Avenue????

Thanks.

Kara Lilian
3860 Rodman Street NW E227
Washington, DC 20016

Dear Council Chairman Mendelson,

I have been an owner and resident of McLean Gardens for over 30 years. My brother has lived in McLean Gardens for the past 10 years in the unit that I own at 3800 39th St. That unit is within a few feet of 39th Street and the City Ridge property line. I am writing to express my strong support for maintaining the vehicle gate that currently exists at the north end of 39th Street and separates the City Ridge property from McLean Gardens. I also support restricting use of that vehicle gate to residents of City Ridge only. It is my understanding that the Council has the discretion to make this gate a condition of granting Roadside's petition to clear title to their property by removing the city's old highway plan (B23-0251 and PR23-0444)

Roadside's most recent plans for the City Ridge development show an-as-yet-to-be-determined mix of 750 rental apartments and condominiums, a significant increase from the 680 units that were originally planned, plus conversion of the landmarked Fannie Mae building from what was originally proposed as a boutique hotel to office space, and 250,000 square feet of commercial space. A very densely developed, mixed use property -- City Ridge -- will be located directly against a low density residential area -- McLean Gardens. All of the roads within McLean Gardens are local roads and are not designed to handle the level of traffic that Roadside's own traffic studies show that the City Ridge development will generate. For the past 60 years the property now owned by Roadside generated traffic only twice each week day from a relatively small number of office workers. City Ridge will generate traffic at a much higher level, seven days a week and 24-hours a day. The noise and pollution that level of traffic will produce will have a serious, negative impact on our quality of life.

McLean Gardens is a family-oriented and pet friendly community. We have a large and growing number of pre-school and elementary school aged children. Both our playgrounds and a dog park are located on 39th Street. The situation on 39th Street between Langley Court and the 39th Street gate is particularly hazardous. The short distance between the existing 39th Street gate and Rodman Street and between Rodman Street and Porter Street means that there are no stop signs on 39th Street until you reach Langley Court. We already have problems with vehicles speeding along 39th St. There have been cases where pedestrians have narrowly missed being hit by cars as they attempt to cross Rodman St. at 39th Street and 39th Street at both Rodman Street and Porter Street. The level of traffic that City Ridge will generate will make it virtually impossible for children to cross 39th Street safely on their way to school or to one of the playgrounds.

McLean Gardens has two parking lots with entrances directly adjacent to the existing vehicle gate at the north end of 39th Street. The removal of that gate will also make it extremely difficult to exit both of those parking lots.

Roadside says that it has designed the roads within its property to discourage vehicles from entering from 39th St. A gate which limits access to City Ridge residents would be the most effective way of reducing traffic on 39th Street and such a gate was in Roadside's original plans for the City Ridge property. I hope the City would condition surrender of its right-of-way on Roadside limiting access to and from 39th Street to residents only.

Thank you for your consideration.

Deborah Linde
Owners, 3800 39th St. B128 and 3871 Newark St. F474

Hello,

I am a District resident and McLean Gardens owner (3895 Rodman St NW, #B74) and would like to add my concerns about legislation [B23-0251](#) and [PR23-0444](#). I think requiring a resident-only gate at the City Ridge entrance on 39th Street is a reasonable and necessary measure to help ensure pedestrian safety. When you vote, please consider the considerations of the residents who live on Rodman and 39th street, especially those of us who have children.

My two sons, ages 10 and 7, attend Hearst elementary and will attend Deal Middle School. We know at least a 25 elementary and middle-school aged kids who live near that intersection. These kids play in the neighborhood, crossing 39th and Rodman Street to get their friends' homes, the pool, and the Glover-Archibald trail. I already have concerns about these kids' safety based on the number of cars I see speeding down Rodman street - many are Uber/lyft drivers and others who use the residential streets as a cut-through, some of which use 39th and Rodman to get to/from Sidwell in the mornings and afternoons.

While I am largely excited about the development at City Ridge, my main concern that continues to be unresolved is pedestrian safety brought on by the increased traffic that will be coming to an otherwise "sleepy" residential street. I think attaching a requirement that the entrance at 39th street into the City Ridge development have a resident-only gate is a reasonable and un-burdensome one. It would do a lot to allay some of my concerns about people speeding through 39th street to get into the development. It would also ensure admittance to residents only, rather than trusting the developer that that will be the case.

When you vote on this measure, please consider the children and families who live in this neighborhood. Families and children who have already had close calls with the careless city drivers. Families and children who are concerned about all the additional traffic from the 700 new residents who will be added next door and all the District residents who will flock to the city's only Wegman's grocery store, among other amenities. Please support the addition of a resident-only gate as a requirement for approving the opening of 39th street.

Thanks!

Keri

Dear ANC 3C and City Council Members,

I understand that the DC City Council is considering legislation to remove from the city's [old highway plan](#) an extension of [39th Street](#) NW from the cul-de-sac north of Rodman Street northward into Roadside's property. **I strongly urge the Council to condition approval of Roadside's request ON the installation of a resident-only gate at [39th Street](#) (a gate that would allow vehicular access to the new development only to its residents).**

I live on the corner of 38TH and Rodman Streets. We already experience significantly increased traffic on Rodman Street during the hours when Sidwell students and staff enter and leave the campus. Drivers coming south on Wisconsin Avenue prefer to turn right on Rodman, do a U turn into 38TH, and approach the Sidwell parking lot directly from Rodman instead of taking a left into the parking lot from Wisconsin. I have witnessed one pedestrian injury, and I have been fearful when crossing 38TH Street in the morning. With the addition of Sidwell's lower school, there will be significant increases in vehicular traffic for drop offs and pickups.

Adding to the neighborhood traffic will be vehicles operated by hundreds of new residents of City Ridge. There is no doubt in my mind that if 39th street access to City Ridge is open to the public, many shoppers and commercial establishment patrons will use Rodman street instead of Wisconsin Avenue to access nonresidential portions of the development.

A resident-only gate on 39th would eliminate access through our neighborhood by vehicles visiting Wegman's and other commercial establishments in City Ridge.

I also urge the council to review with WMATA plans for dealing with increased bus ridership that will occur as thousands of more residents, students, and visitors to our neighborhood accompany the development of City Ridge and 4000 Wisconsin Avenue and Sidwell's expansion.

Thank you,
Madelyn Spirnak
3690 38TH St NW

Sent from my iPad

Dear Council Chairman Mendelson,

I have been an owner and resident of McLean Gardens for over 30 years. I am writing to express my strong support for a resident-only gate to be installed on 39th St, NW between our property and the future City Ridge development, It is my understanding that the Council has the discretion to make this gate a condition of granting Roadside's petition to clear title to their property by removing the city's old highway plan (B23-0251 and PR23-0444)

As you are aware, one of the chief concerns about City Ridge on the part of McLean Gardens residents is the inevitable increase of traffic in the neighborhood. As a former resident, you know firsthand the quiet, suburban and family-oriented nature of our community. While some of our residents are looking forward to the new amenities that City Ridge will provide, many of us are also apprehensive about the monumental changes and impact of having 1000 new neighbors next door, as well as a destination grocery store and other commercial venues. Since the city streets running through McLean Gardens will serve as the only access to City Ridge other than Wisconsin Avenue, it is common sense that this design will result in an exponential increase in vehicular traffic through our neighborhood. In addition, the traffic on Wisconsin Avenue, which is already extremely congested, will also undoubtedly worsen, and the McLean Gardens streets will be a natural cut-through route for drivers wishing to avoid Wisconsin. The overall situation will be exacerbated by the planned relocation of the Sidwell lower campus and the development of 4000 Wisconsin Ave. The large number of MG families with small children and the location of two playgrounds on 39th Street make this situation particularly concerning.

From the outset of the planning and construction of City Ridge, Roadside has encouraged an open communication with our residents. They purport to care about the interests of our community, and some of our concerns have been addressed. This is to their credit, and, despite our skepticism about the traffic and other issues, we have tried to give the developer the benefit of the doubt. Yet despite efforts on the part of the ANC to mitigate the future traffic by limiting access from 39th St. to City Ridge with a resident-only gate, Roadside has adamantly refused to consider it. Our request for traffic-calming measures will also depend on a future traffic study by Roadside. There is certainly precedent for traffic mitigation measures in other parts of the city. For example, in the Friendship Heights area, Jenifer St. NW is completely blocked off from Wisconsin Avenue traffic. McLean Gardens residents are seeking something very modest in comparison.

On other issues, we have seen a pattern of reassurance by the developer, only to have our trust shaken. The original design plans were radically changed, morphing from adjacent townhouses and buildings that would "match McLean Gardens in profile and height" to massive multi-story residential buildings. We were told that the height of at least one of these buildings would be 70 feet, a figure which omitted an additional 19 foot rooftop "penthouse." More recently, concerns about future light pollution, brought up at town hall meetings with Roadside and glossed over, have already been realized by their shining extremely bright lighted logo advertising from the tops of their construction cranes (in response to resident complaints, lights have been sporadically and temporarily turned off until their impact can be "reduced", not eliminated).

So at this point many of us are less than confident about their bland assurance that, as Richard Lake claimed in a recent Washington Post article, "traffic won't be as bad as they (residents) fear."
https://www.washingtonpost.com/realestate/along-wisconsin-ave-in-nw-23-acre-oasis-of-mclean-gardens-braces-for-change/2019/10/30/8825190c-f998-11e9-8190-6be4deb56e01_story.html

Lake extrapolates from traffic patterns that existed when Fannie Mae employees commuted to and from the site. This comparison is another red herring. Many of the Fannie Mae employees worked in a neighboring building (4000 Wisconsin). The Fannie Mae traffic was limited, present only during rush hour on weekdays. The employees mostly accessed or exited the site from other points on Upton Street and Wisconsin Avenue, and they did have gates at either side of their property. I don't think it is valid to compare this to a mixed-use development which will be active 24/7.

For these reasons, I would urge the Council to make a resident-only gate a prerequisite for approving the request to remove the city's old highway plan. The safety and tranquility of our neighborhood hang in the balance. Thank you for your consideration in this matter.

Sincerely,
Gail Markowitz
3860 Rodman St., NW #F228
Washington, DC 20016

Hi,

We are writing as owners & residents of McLean Gardens who live just next to the 39th st gate (old entrance to Fannie Mae).

We feel strongly that this gate **should be for residents of City Ridge only**. It should not be open / available to day visitors. Cars already go too fast and there is too much traffic on Rodman & 39th given the number of families and little children in the neighborhood.

Thank you for your consideration,
Lisa Newman-Wise & Brendan Crow

To whom it may concern,

It is my understanding that there is discussion of installing a residents-only gate to the entrance of McLean Gardens following the development at City Ridge on Wisconsin Avenue. I am excited to see how the development helps the neighborhood economy, and as a resident of McLean Gardens, am thrilled to have such wonderful amenities within walking distance of my home.

The addition of a residents-only gate into McLean Gardens on 39th Street would be an essential addition to protect the safety of our neighborhood streets. After looking over the proposed drawings and literature for the new development, I have concerns about the volume of traffic using 39th Street and Rodman Street as a cut-through or thoroughfare to avoid Wisconsin Avenue (which is designed to accommodate heavier traffic flow). Please note that the Vaughn Place sub-division inside McLean Gardens has private entry gates for their residents.

I have a child on the way, and it is imperative that our streets stay safe for the rest of the children in our neighborhood as they walk, bike, stroller, and more. Already, far too often, have I seen rideshare vehicles speeding through the streets with little regard to the traffic calming devices put into place (stop signs at 39th and Rodman, Langley, Newark, etc). There has been discussion of adding traffic cameras to the neighborhood, but the first step needs to be limiting the flow of cars onto the streets, then resorting to traffic calming devices.

As it stands, parking inside McLean Gardens is limited, at best. Anyone with the misfortune of arriving home after 6:00pm is hard-pressed to find any available parking within the neighborhood. Would the residents of City Ridge be eligible for Zone 3 RPP? Will they be required to park in their own garage, or charged for this amenity? I worry that the overflow of new residents or retail guests will place even higher demand on our residential streets.

Thanks for the work you are doing, and we look forward to hearing from you all.

--

Katie Ferguson Lucas

kglferguson@gmail.com

kf476@georgetown.edu

(757) 812-3155

To whom it may concern,

My wife and I recently purchased a house in Mclean Gardens in June. We are very excited to have this development come to the area. After reading the literature and looking at the drawings my biggest concerns were the amount of traffic and the amount of parking. We have a little boy on the way and I am very concerned with safety of the added number of cars, especially with people that do not care about the area (speeding).

I work in the construction/development industry and would highly recommend that a resident gate be installed to keep large numbers of cars from using 39th Street as a thoroughfare. This would keep this amount of traffic to Wisconsin Ave where the street is designed to carry this capacity.

I am also hoping you can answer the question about parking. Would residents in this development be able to procure Zone 3 parking? If so, the parking in Mclean Gardens would be an absolute nightmare. This obviously increases if the management company is going to charge residents to park in the garage.

I have also seen numerous emails in regards to the speeding in the neighborhood. People have asked for cameras, etc. but I believe the easiest way to solve this on 39th Street is to add a stop sign at the 3-way intersection of Porter St and 39th St. Doing so forces the drivers to not pick up enough speed between Rodman and the next stop sign at Langley Ct.

I appreciate the work you are doing and please let me know if you have any questions.

I look forward to hearing from you.

Thanks,

Kyle Lucas

John Moriarty & Associates of Virginia, LLC

CSX East

861 New Jersey Ave SE

Washington, DC 20003

Cell: (207) 233-5629

E-Mail: klucas@jm-a.com

To Whom it May Concern:

I am writing to encourage the ANC and the DC Council to support a resident-only gate on 39th St. into the development now owned by Roadside Developers.

The traffic on 39th Street has already increased significantly since construction on the Fannie Mae property began, and with anchor stores like Wegman's, it will continue to grow. 39th St. is a residential street for children, dogs and pedestrians. Parking is already a premium and fast cars are already a cause for concern. It is not designed nor equipped to be a thruway.

A resident-only gate would be a very good way to compromise the needs of the neighborhood with the needs of the developers.

I appreciate your attention to this and appreciate your work.

Sincerely,

Lisa A Bianco
3600 39th St. NW
Washington, DC 20016



Commission Action

March 7, 2019

PROJECT

**Removal of a Portion of 39th Street, NW,
from the Permanent System of Highways,
Lot 801, Square 1823**

Between Upton and Rodman Streets, NW,
west of Wisconsin Avenue, NW
Washington, DC

SUBMITTED BY

District of Columbia Department of Consumer
and Regulatory Affairs

REVIEW AUTHORITY

Approval
per DC Code § 9-103.02

NCPC FILE NUMBER

8036

NCPC MAP FILE NUMBER

72.00(44.40)44864

APPLICANT'S REQUEST

Approval of Highway Plan
Amendment

ACTION TAKEN

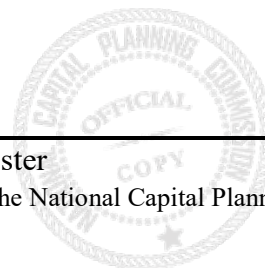
Approved Highway Plan
Amendment

The Commission:

Approves the amendment to remove a portion of 39th Street, NW from the Permanent System of Highways, located within Lot 801, Square 1823, between Upton and Rodman Streets, NW, west of Wisconsin Avenue, NW in Washington DC.

Notes the portion of 39th Street, NW currently sits on private property, and the amendment to the Highway Plan will allow for private redevelopment of the site, which is subject to review by the government of the District of Columbia.

Julia A. Koster
Secretary to the National Capital Planning Commission



AMENDMENT TO THE D.C. HIGHWAYS PLAN SQUARE 1823

PURSUANT TO D.C. CODES, § 101.06, § 101.12, AND RESOLUTION NUMBER _____ APPROVED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, THE PROPOSED STREET SHOWN THUS ZZZZ IS HEREBY ELIMINATED FROM THE PERMANENT SYSTEM OF HIGHWAYS.

NATIONAL CAPITAL PLANNING COMMISSION
WASHINGTON, D.C.

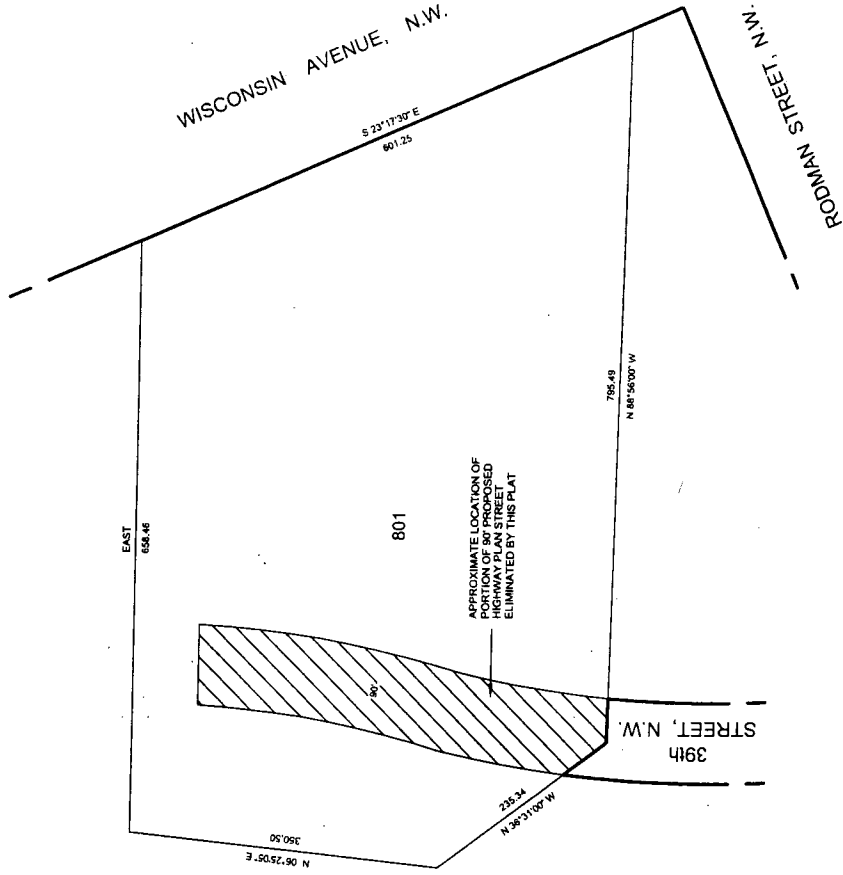
THE COMMISSION APPROVED THE AMENDMENT ON MARCH 7, 2018, IN ACCORDANCE WITH SECTIONS § 101.06 AND § 101.12 OF THE CODE OF LAW FOR THE DISTRICT OF COLUMBIA.

CHAIRMAN

OFFICE OF THE SURVEYOR, D.C.
_____, 20____

I CERTIFY THAT THE PLAT SHOWN HEREIN IS CORRECT AND IS RECORDED.

Surveyor, D.C.



SURVEYOR'S OFFICE, D.C.

Made for: GOULSTON & STORRS
 Drawn by: L.E.S. Checked by: _____
 Record and computations by: B. MYERS
 Recorded at: _____ Page: _____ SF: 19-00271
 Recorded in Subdivision Book: _____ File: SC-1841885
 Scale: 1 inch = 80 feet
 2018 HWY PLAN ELIMINATION SR-19-00271_SC_1823


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



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

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

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: December 10, 2019

SUBJECT: Fiscal Impact Statement – Abandonment of the Highway Plan for 39th Street, N.W., S.O. 18-41885 Act of 2019

REFERENCE: Bill 23-251, As Introduced

Conclusion

Funds are sufficient in the fiscal year 2020 through fiscal year 2023 budget and financial plan to implement the bill.

Background

The bill authorizes the removal of a segment of 39th Street N.W.¹ from the Plan of the Permanent System of Highways in the District to allow for the development of the space. The segment is currently on private property, owned by the applicant, and is unimproved. The owners seek to remove the “on-paper” highway designation so that it does not impede a mixed-use development² planned on the site.

Financial Plan Impact

Funds are sufficient in the fiscal year 2020 through fiscal year 2023 budget and financial plan to implement the bill. No agency has objected to the removal of the land from the highway system and the District Department of Transportation has no current jurisdiction over the privately-owned land.

¹ Located within Lot 801 in Square 1832 between Upton Street N.W., and Rodman Street, N.W., as shown on the Surveyor’s Plat filed under S.O. 18-41885.

² The segment is part of a bigger site including the former Fannie Mae building at 3900 Wisconsin Ave N.W. that is to be redeveloped.

1 **DRAFT COMMITTEE PRINT**
2 **Committee of the Whole**
3 **December 17, 2019**
4
5
6

7 A BILL

8
9 23-251
10

11
12 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
13
14 _____
15

16 To remove from the Plan of Permanent Systems of Highways a portion of 39th Street, N.W.,
17 located within Lot 801 in Square 1823, as shown on the Surveyor’s Plan filed under S.O.
18 18-41885.
19

20 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
21 act may be cited as the “Abandonment of the Highway Plan for 39th Street, N.W., S.O. 18-41885
22 Act of 2019.”

23 Sec. 2. Notwithstanding section 6 of An Act to provide a permanent system of highways
24 in that part of the District of Columbia lying outside of the cities, approved June 28, 1898 (30
25 Stat. 520; D.C. Official Code § 9-101.06), the Council amends the permanent system of
26 highways to remove a portion of 39th Street, N.W., located within Lot 801 in Square 1832,
27 between Upton Street, N.W., and Rodman Street, N.W., as shown on the Surveyor’s Plat filed
28 under S.O. 18-41885.

29 Sec. 3. Fiscal impact statement.

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

33 Sec. 4. Effective date.

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