

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

DRAFT

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**TO:** All Councilmembers

**FROM:** Chairman Phil Mendelson  
Committee of the Whole

**DATE:** October 20, 2020

**SUBJECT:** Report on Bill 23-562, “Closing of Columbian Quarter Alley in Square 5860 Act of 2020”

The Committee of the Whole, to which Bill 23-562, the “Closing of Columbian Quarter Alley in Square 5860 Act of 2020”<sup>1</sup> was referred, reports favorably thereon with minor amendments, and recommends approval by the Council.

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**I. BACKGROUND AND NEED**

On November 26, 2019, Bill 23-562, the “Closing of Columbian Quarter Alley in Square 5860 Act of 2020” was introduced by Councilmember Trayon White. Bill 23-362 would authorize the closure of a portion of the public alley system in Square 5860, bounded by Howard Road, S.E., Suitland Parkway, and the U.S. Botanic Garden Nursery in Ward 8. The purpose of this alley closure is to allow the development of Columbia Quarter. The project is a mixed-use development that will provide 700 residential units, over 1.5 million square feet of office space, and nearly 50,000 square feet of retail space.

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<sup>1</sup> Formerly the Closing of Columbian Quarter Alley in Square 5860 Act of 2019.

### ***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 an alley or street closing 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 23-562, all of the reviews have been completed.

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 23-562, 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 alley closure will allow the applicant (Redbrick LMD) to move forward with the development of Columbia Quarter in Ward 8, a mixed use project with residential, office, and retail use. According to the current site plans, the project will include 700 residential units, in

addition to office and retail space.<sup>2</sup> The developer sought and received an amendment to the zoning map from the Zoning Commission to change the zoning category from Mixed-Use 14 to the Northern Howard Road (NHR) Zone, which allows for a maximum permitted density of 9.0 FAR and requires a minimum density of 2.5 FAR for residential.<sup>3</sup> Additionally, the Zoning Code requires developments in the NHR zone to:

- a. Dedicate 12% of the gross floor area to inclusionary zoning residential units, excluding penthouse habitable space; and
- b. Dedicate 8% of the gross floor area of any residential penthouse habitable space to inclusionary zoning units.<sup>4</sup>

Of the units covered under (a), at least 25% must be reserved for households earning equal to or less than 50% of the median family income (MFI), with the remainder reserved for households earning equal to or less than 60% of MFI. One hundred percent of the units covered under (b) must be reserved for households earning equal to or less than 50% of MFI.<sup>5</sup> A minimum of 25% of all inclusionary zoning units must be three-bedroom units pursuant to Zoning Code, Subtitle K § 1002.5.

*Figure 1. Columbia Quarter Site Plan*



<sup>2</sup> Columbia Quarter Site Plan. Accessed on October 2, 2020.

<sup>3</sup> Zoning Commission Order No. 18-19, approved on September 23, 2019.

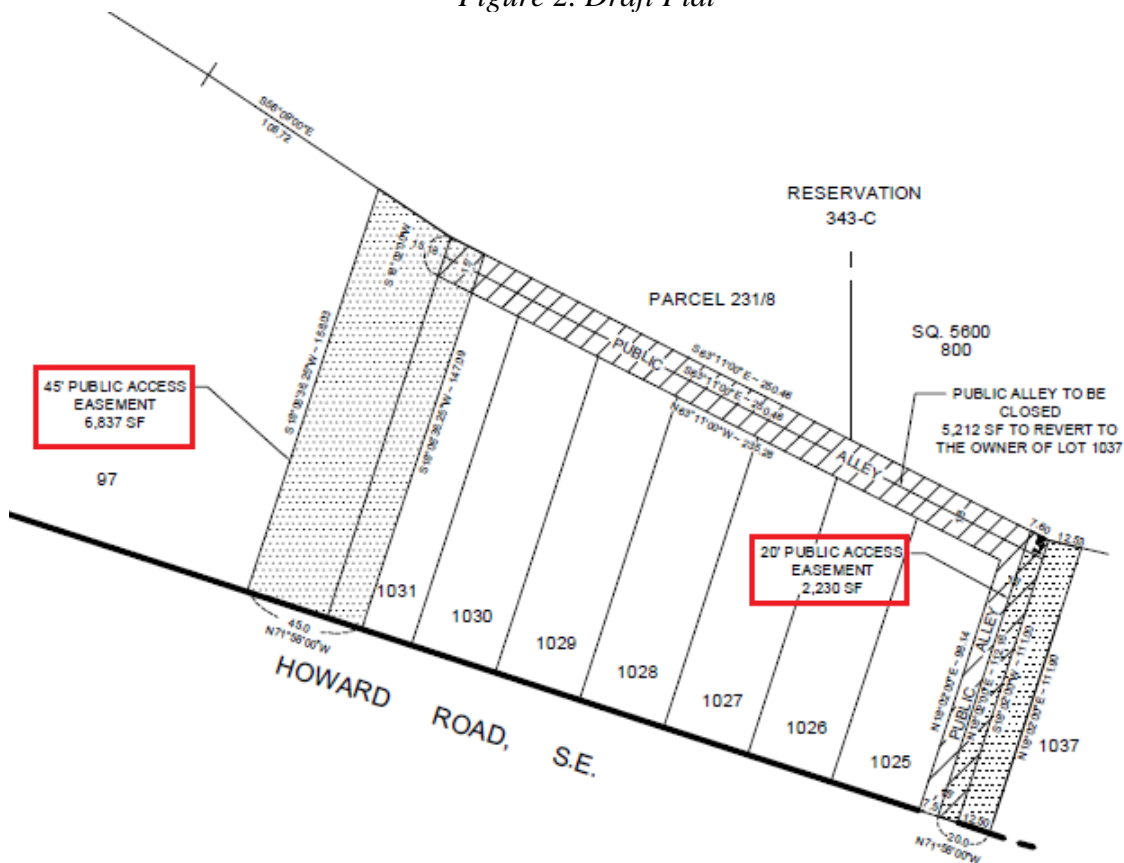
<sup>4</sup> Zoning Code, Subtitle K § 1002.3.

<sup>5</sup> *Id.*

The developer has also entered into a community benefits agreement (CBA) with Advisory Neighborhood Commissions 8A and 8C. As part of the CBA, the developer has agreed to contribute \$2.25 million toward additional affordable housing and Ward 8 community organizations, including the Anacostia Coordinating Council, the Southeast Tennis and Learning Center, and the Congress Heights Community Association. The CBA also includes internship opportunities in the real estate field for students in Ward 8, and targeted workforce development goals during the construction phase of the project.<sup>6</sup>

At the Committee of the Whole’s public hearing on Bill 23-562, the District Department of Transportation (DDOT) testified that it objects to the proposed closure until language in the plat, as shown below, is changed from “public access easement” to “non restrictive easement” and the applicant records non-restrictive easements for two north-south private allees proposed to replace the public right-of-way that will be closed.<sup>7</sup> As such, the bill includes language that the approval of the alley closing is contingent upon satisfying this condition.

Figure 2. Draft Plat



<sup>6</sup> Community Benefits Agreement by and between Columbia Quarter Holdings (CQH) and Advisory Neighborhood Commissions 8A and 8C (See, Zoning Case No. 18-19, Exhibit 44A).

<sup>7</sup> Testimony of Anna Chamberlin, Associate Director of the Planning and Sustainability Division of the District Department of Transportation, Thursday, September 17, 2020, pg. 6.

### ***Conclusion***

Given the facts, the Committee recommends Council approval of Bill 23-562.

## **II. LEGISLATIVE CHRONOLOGY**

- November 26, 2019 Bill 23-562, the “Closing of Columbian Quarter Alley in Square 5860 Act of 2019” is introduced by Councilmember Trayon White.
- December 3, 2019 Bill 23-562 is “read” at a legislative meeting; on this date the referral of the bill to the Committee of the Whole is official.
- December 6, 2019 Notice of Intent to Act on Bill 23-562 is published in the *District of Columbia Register*.
- July 24, 2020 Notice of a Public Hearing on Bill 23-562 is filed with the Office of the Secretary for D.C. Council.
- July 31, 2020 Notice of a Public Hearing on Bill 23-562 is published in the *District of Columbia Register*.
- September 17, 2020 The Committee of the Whole holds a public hearing on Bill 23-562.
- October 20, 2020 The Committee of the Whole marks-up Bill 23-562.

## **III. POSITION OF THE EXECUTIVE**

Joseph Snider, Deputy Surveyor of the D.C. Office of the Surveyor, testified at the Committee’s public hearing on September 17, 2020. Mr. Snider noted the purpose of the alley closure is to allow for the applicant is to facilitate the redevelopment of the site. He said that the most probable value for the closing of the alley as of January 1, 2020 is estimated at \$285,460 (5,212 square feet multiplied by \$54.47). Mr. Snider testified that DDOT has objections to the closure that it will withdraw if certain conditions are met.

Anna Chamberlin, Associate Director of the Planning and Sustainability Division of DDOT, testified at the Committee’s public hearing on September 17, 2020. Ms. Chamberlin noted that DDOT filed a report with the Office of the Surveyor on September 3, 2020 that states DDOT objects to the proposed closure until two “public access easements” on the Surveyor’s plat are redesignated to “non-restrictive easements” and the applicant records non-restrictive easements for two north-south private alley that will replace existing public alley right-of-way.

#### IV. COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

Advisory Neighborhood Commission 8A submitted a letter to the Office of the Surveyor stating that the Commission voted 3-1-1 to support the alley closing on October 1, 2019. Advisory Neighborhood Commission 8C submitted a letter to the Office of the Surveyor stating that the Commission voted 7-0 to support the alley closing on September 4, 2019. Both letters are attached.

#### V. NATIONAL CAPITAL PLANNING COMMISSION REVIEW

By a delegated action of the Executive Director, dated May 29, 2020, the Executive Director of the National Capital Planning Commission found that the proposed alley closing in Square 5860 would not be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital and would not adversely affect any other federal interests. The letter is attached to this report.

#### VI. SUMMARY OF TESTIMONY

The Committee of the Whole held a public hearing on several bills, including Bill 23-562, on Thursday, September 17, 2020. The testimony summarized below pertains to Bill 23-562. Copies of all written testimony are attached to this report.

***Meghan Hottel-Cox, Goulston & Storrs***, testified as counsel to Redbrick LMD. Ms. Hottel-Cox stated that the applicant is seeking the alley closure to facilitate development of Columbia Quarter between South Capitol Street and Interstate 295 on both sides of Howard Road. She noted that the public alley to be closed is not currently used or functional. Ms. Hottel-Cox recommended that the Committee keep the current language on the plat related to “public access easements” rather than changing them to “non-restrictive easements” per DDOT’s request.

***Britt Snider, Principal at Redbrick LMD***, testified in support of the bill as the applicant. Ms. Snider noted that the only non-Redbrick owned property abutting the alley to be closed is the National Park Service, who has filed a letter in support of the alley closing, and that in the coming months, Redbrick will be working on a master plan to improve the properties and re-design the existing Howard Road streetscape.

***Robert Schisel, Transportation Consultant with Gorove/Slade***, testified in support of the bill as a consultant to the applicant. Mr. Schisel said that the proposed easements are designed to allow for potential future redevelopment of the National Park Service land adjacent to the north.

***Joseph Snuder, Deputy Surveyor of the District of Columbia***, testified on behalf of the Executive. His testimony is summarized in Section III.

***Anna Chamberlin, Associate Director of the Planning and Sustainability Division of DDOT***, testified on behalf of the Executive. Her testimony is summarized in Section III.

The Committee has received no testimony or comments in opposition to the alley closing or Bill 23-562.

## VII. IMPACT ON EXISTING LAW

Bill 23-562 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 23-562, the Committee finds that the requirements of the Act have been satisfied.

## VIII. FISCAL IMPACT

The attached fiscal impact statement from the District’s Chief Financial Officer states that funds are sufficient in the FY 2021 through FY 2024 budget and financial plan to implement the bill. The D.C. Surveyor estimates that the most probable value of the land being added to the tax rolls is \$285,460, and the closing will facilitate a development project that will likely bring additional tax revenue to the District.

## IX. SECTION-BY-SECTION ANALYSIS

<u>Section 1</u>	Short title.
<u>Section 2</u>	(a) Orders the closing of a portion of the public alley system in Square 5860, as shown on the Surveyor’s plat filed in S.O. 16-27269.  (b) Approval of the Council for the alley closing is contingent upon satisfying the conditions for file S.O. 16-27269.
<u>Section 3</u>	Fiscal impact statement.
<u>Section 4</u>	Effective date.

## X. COMMITTEE ACTION

## **XI. ATTACHMENTS**

1. Bill 23-562 as introduced.
2. Written Testimony.
3. NCPC Comments.
4. Surveyor's Plat.
5. Fiscal Impact Statement for Bill 23-562.
6. Legal Sufficiency Determination for Bill 23-562.
7. Committee Print for Bill 23-562.

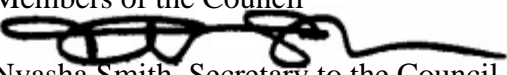


**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**1350 Pennsylvania Avenue, N.W.**  
**Washington D.C. 20004**

Memorandum

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To : Members of the Council

From :   
Nyasha Smith, Secretary to the Council

Date : November 27, 2019

Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Office of the Secretary on Tuesday, November 26, 2019. Copies are available in Room 10, the Legislative Services Division.

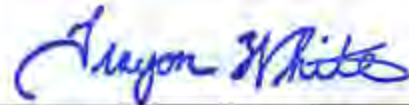
TITLE: "Closing of Columbian Quarter Alley in Square 5860 Act of 2019", B23-0562

INTRODUCED BY: Councilmember T. White

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

Attachment

cc: General Counsel  
Budget Director  
Legislative Services



Councilmember Trayon White, Sr.

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To order the legal closing of a 15 foot wide public alley in Square 5860 abutting lots 1020, 1025 through 1031, 1037 and P231/8 and Square 5600 lot 800 in Ward 8.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Closing of Columbian Quarter Alley in Square 5860 Act of 2019".

Sec. 2. 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; Official Code § 9-202.01 et seq.) ("Act"). The Council finds that the 15-foot public alley in Square 5860 is no longer useful for alley purposes and orders it closed, with title to the land to vest as shown on the Surveyor's plat.

Sec. 3. Transmittal.

The Council shall transmit a copy of this act, upon its effective date, to the Office of the Surveyor, adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D. C. Official Code § 1-301.47a).

Sec. 4. Fiscal impact statement.

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

35           Sec. 5. Effective date.

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

**BEFORE THE DISTRICT OF COLUMBIA CITY COUNCIL**

**B23-562 (SQUARE 5860 ALLEY CLOSING)**

**TESTIMONY OF MEGHAN HOTTEL-COX, GOULSTON & STORRS**

**COUNSEL TO REDBRICK LMD**

- Good morning Mr. Chairman and members of the Committee of the Whole.  
I am Meghan Hottel-Cox with Goulston & Storrs. I, along with colleague John Epting here today, serve as the zoning and land use counsel for Redbrick LMD. We have one witness here this morning to present testimony in support of Bill 23-562: Britt Snider, a Principal at Redbrick. We also have Robert Schiesel with Gorove/Slade Associates with us today who is available to answer questions.
- On September 14, we submitted to the Committee of the Whole our statement and materials in support of the proposed alley closing. As we noted in the statement, this application satisfies all applicable requirements of the D.C. Code, and the approval of this legislation will further the goals and policies of the Comprehensive Plan and the Zoning Regulations for this Northern Howard Road zone to provide significant housing, affordable

housing, and a mix of commercial uses adjacent to the Anacostia Metrorail station.

- The Applicant seeks approval to close the alley to facilitate the master Columbian Quarter development on either side of Howard Road between South Capitol Street on the west and I-295 and the Anacostia Metrorail station on the east. The master plan for the Columbian Quarter includes a mix of residential and office buildings with ground floor retail activating this important corridor with high-density development, as called for by the Comprehensive Plan. The Northern Howard Road zone requires enhanced affordable housing and sustainability measures above and beyond typical projects. The closure of the alley will allow all of the properties on the north side of Howard Road to be consolidated to allow efficient planning.
- As set forth in our written materials, the alley is not necessary as it is not currently used or functional as an alley. The alley is surrounded by property owned by the Applicant and dead-ends at property owned by the National Park Service, which is supportive of the alley closing. The alley has created opportunities for illegal dumping on NPS property and its closure will not detrimentally impact any surrounding property.
- Each affected agency and utility has approved or has no objection to the alley closure. In coordination with DDOT, our proposed alley closure plat

shows two public easements accessed on the northern side of Howard Road. The area of the proposed easements actually exceeds the area of the alley to be closed and will facilitate access to the proposed Columbian Quarter development and potentially provide access if the Poplar Point area to the north is developed in the future.

- In its report, DDOT requested that these easements be labeled as non-restrictive easements. However, we propose to have the plat reflect these easements as public easements, consistent with the Council's long-standing practice on closure plats. While DDOT's request for a non-restrictive easement is a little unclear, the public easement proposed will serve all of the needed transportation purposes typical of a public easement proposed in an alley closing. Further, keeping with this typical practice of providing public easements provides the Applicant the flexibility to master plan with certainty regarding the ability to use areas below or above the public easement area.
- As we noted in our statement, the proposed development is subject to NHR zoning, which will require returning to the Zoning Commission for design review for the development of each building anticipated by the master plan. The Applicant will continue to work with DDOT as part of these Design

Review applications to address any transportation issues, as well as with neighborhood stakeholders.

- With that, I will turn it over to Britt Snider to present his testimony.

**BEFORE THE DISTRICT OF COLUMBIA CITY COUNCIL**

**B23-562 (SQUARE 5860 ALLEY CLOSING)**

**TESTIMONY OF BRITT SNIDER, PRINCIPAL AND HEAD OF  
DEVELOPMENT AT REDBRICK LMD**

- Introduction: Good morning Mr. Chairman and members of the Committee of the Whole. Thank you for the opportunity to present testimony in support of Bill 23-562, Closing of Columbian Quarter Alley in Square 5860.
- Redbrick: My name is Britt Snider and I am a Principal at Redbrick LMD. Redbrick is a DC-based real estate investment and development firm with offices located in both Downtown DC and in Historic Anacostia. We are very focused on bringing economic development and job opportunities to Ward 8, including the Anacostia and Congress Heights neighborhoods. Just earlier this month, we hired a Ward 8 general contractor, F&L Construction, to demolish the existing vacant buildings on the site and anticipate hiring another Ward 8 contractor to clear the site. We understand the importance of working with community businesses any chance we get.
- Alley Property Context: The alley in question is located between two parcels along Howard Road both owned by Redbrick to the east and west



and also bounded to the north by National Park Service land. The alley is located near the northern entrance of the Anacostia Metrorail station. As noted, the only non-Redbrick owned property abutting the existing alley is the National Park Service land on the north side. The Park Service has filed a letter in support of the alley closing.

- Support for Alley Closing: Furthermore, since 2015, Redbrick LMD has engaged in significant outreach to the surrounding community regarding the alley closing process. Both ANCs 8A and 8C have provided letters in support of, and continue to support, the Project. Redbrick has also coordinated with numerous District agencies including the Office of Planning (“OP”), and District Department of Transportation (“DDOT”), and others as well as with utility companies to review the Project and the proposed alley closing. Each of the affected agencies and utility companies has approved or has no objection to the application. OP specifically confirmed that the alley closing is consistent with the District’s planning policies, including the policies of the Comprehensive Plan. Also, it should also be noted that the alley we are proposing to close will be replaced with public easements that exceed the area being closed.

- No Need for Alley: As you can see with recent photographs, the alley is not operational, has not been operational for years and serves no purpose for the surrounding properties owned by Redbrick or NPS. The existing alley is not necessary for parking or loading access to any property, is not necessary for traffic maneuvering, and results in no adverse impacts on the transportation network. Today the alley is not used for any legitimate purpose, although in the past illegal dumping has occurred by using the alley.
- Project Master Plan: In the coming months, Redbrick will be working on a master plan to improve our properties and re-design the existing Howard Road streetscape with new streets, sidewalks, landscaping, and special paving features to provide a pedestrian-oriented street with activated ground floor uses in addition to new vertical development. We look forward to sharing these plans with the city as they start to take shape.
- Alley Closing Needed: The alley closing allows for the most efficient use of the property on the north side of Howard Road by consolidating the properties, which are bisected by the alley, and allows for better connections between buildings.
- Project Benefits: The Project will include a robust package of public benefits and amenities for both the surrounding community and the District

as a whole, namely 12% Inclusionary Zoning (IZ) affordable residential units where there is currently no housing at all at the Property. Therefore, the Project will create net new market rate and affordable housing in an underserved area.

- DDOT Easements: In connection with the alley closing, we are proposing two new public easements from Howard Road, as shown on the plat we provided to the Surveyor's Office. The public easements also allow for potential connection to NPS land if that property is ever developed in the future.
- Conclusion: In conclusion, the alley closing is an important component for effectuating future development of a new, cohesive mixed-use environment that will promote health and wellness while improving the greater Anacostia neighborhood. Our hope is that the Project will provide a new destination and neighborhood where the community can grow and people from all socioeconomic backgrounds can live, work, and play.

**BEFORE THE DISTRICT OF COLUMBIA CITY COUNCIL**

**B23-562 (SQUARE 5860 ALLEY CLOSING)**

**TESTIMONY OF ROBERT SCHISEL, GOROVE/SLADE**

**TRANSPORTATION CONSULTANT FOR REDBRICK LMD**

On behalf of Gorove Slade and the Applicant, the following is my testimony regarding the Alley Closure in Square 5869 supporting the Columbian Quarter development plans. My testimony centers on three points regarding the alley closure:

First, the existing alley currently does not serve any transportation function. It is a 'paper' alley that is unbuilt. It 15-foot wide alley that extends from Howard Road and forms an L shape around several properties and is similar to other alleys in the District that serve individual homes.

Second, other than the National Park Service land to the north, the Applicant owns all of the parcels that abut the alley and their development plans include buildings and transportation needs that the existing alley would not serve well. The existing alley's width and shape are not appropriate for the types of buildings the consolidated ownership allows. It is too narrow and does not need to bend into an L shape to reach each individual parcel. The proposed north-south easements the

Applicant is proposing as part of the alley closing are much more appropriate for the consolidated ownership and potential development plans. They are wider and can more easily accommodate the vehicular and multi-modal needs the Applicant's development plans will generate.

Finally, the proposed easements are designed in a way to allow for potential future redevelopment of the NPS land adjacent to the north. If that land were developed, it would require quality access to Howard Road, which these two easements provide whereas the existing alley, even if built out, would not. The Applicant has performed a Master Planning exercise to help think through how the easements could work both short and long term with the Applicant's consolidated parcels, and with potential development to the north.

We would also like to recognize DDOT's September 3<sup>rd</sup> memo on the alley closure, which contained similar thoughts on the existing alley's utility and the improved functionality the private easements provide.

In summary, the existing alley serves no purpose and if built would not serve the proposed development well. The proposed north-south easements provide more appropriate access for the Applicant's consolidated parcels, and provide potential connectivity to future development to the north beyond the Applicant's property.

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



**Public Hearing**  
**B23-562, “Closing of Columbian Quarter Alley in Square 5860,  
Act of 2019”**

**Testimony by Joseph Snider**  
**Deputy Surveyor of the District of Columbia**  
**Department of Consumer and Regulatory Affairs**

**Before the**

**Committee of the Whole**

**Chairman Phil Mendelson**

**Council of the District of Columbia**

**September 17, 2020**

**10:00 am**

**Virtual Hearing**

Good Morning, Chairman Mendelson, members and staff of the Committee of the Whole. I am Joseph Snider, Deputy Surveyor of the District of Columbia, at the Department of Consumer and Regulatory Affairs (DCRA). I appear before you today to provide background information on B23-562, “Closing of Columbian Quarter Alley in Square 5860, Act of 2019.” This bill orders the closing of a portion of a public alley in Square 5860, bounded by Howard Road S.E., the U.S. Botanic Garden Nursey and the Suitland Parkway in Ward 8.

The bill was introduced by Councilmember Trayon White.

The purpose of this alley closure is to facilitate the redevelopment of the site with mixed uses, including office space, housing, and retail. This closing is filed under S.O. 16-27269 in the Office of the Surveyor. The 15-foot wide partially improved alley to be closed was created by a subdivision of Square 5860. It was recorded in Subdivision Book 79 on Page 95 on July 6, 1925 in the Office of the Surveyor.

Title to the portion of the alley to be closed could not be determined to be held by the District or the United States. The most probable estimate of value from the Office of Tax and revenue (OTR) as of January 1, 2020 which represents tax year 2021 for the public alley closed in Square 5860 is \$285,460.00 (5,212 S.F. X \$54.47 estimated square foot value). The estimate is rounded and based on neighboring lots 1025, 1026, 1028-1031 and 1037 in the same square.

The applicant for this closing is Poplar Point RBBR, LLC who is represented by Goulston & Storrs. The Office of the Surveyor notified the relevant Executive Branch agencies on November 8, 2016. Within a letter dated August 3, 2020, the District Department of Transportation (DDOT) indicated DDOT has no objections to the alley closure on the following conditions:

- The official alley closure plat is updated with the following changes:
  - Change public access easement terminology in non-restrictive easement throughout plat; and
  - Label the easternmost 20-foot easement area using text, similar to the 45-foot easement area.
- The applicant records non-restrictive easement for the two (2) north-south private alleys proposed to replace the existing “L” shaped public alley right-of-way to be closed.

The remaining agencies have no objections to the proposed closing. The utility companies were notified on November 8, 2016, and they have no objections to the proposed closing.

Pursuant to D.C. Official Code §9-202.02(3), the Surveyor’s Office notified the National Capital Planning Commission (NCPC) who was notified on November 8, 2016. In a letter dated June 8, 2020, NCPC found that the proposed alley closing within Square 5860, (S.O. 16-27269) located at 740-744 Howard



Road, S.E. in Washington, DC would not be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital, nor would it adversely impact any other identified federal interests. Pursuant to D.C. Official Code §9-202.02(5) Advisory Neighborhood Commission (ANC) 8A was notified on November 8, 2016. In a letter dated October 8, 2019, ANC 8A indicated that it voted to support the proposed alley closing. Pursuant to D.C. Official Code §9-202.02(6), the Surveyor's Office notified the abutting property owners on November 8, 2016. Any other comments regarding this closing will be forwarded when received.

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

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
*District Department of Transportation*



Public Hearing on  
B23-522, Closing a portion of Chesapeake Street, S.W., Magazine Road, S.W., and  
Keel Avenue, S.W... Act of 2019

B23-562, Closing of Columbian Quarter Alley in Square 5860 Act of 2019

B23-580, Closing of a Public Alley in Square 2892, S.O. 19-47478, Act of 2019

B23-656, Closing of a Public Alley in Square 740, S.O. 18-41567, Act of 2020

B23-784, Closing of Public Streets and Alleys and Dedication of Land for Public  
and Alley Purposes Adjacent to Squares 3039, 3040, and 3043, S.O. 17-21093 and  
S.O. 17-21094 Act of 2020

Testimony of  
Anna Chamberlin

Associate Director, Planning & Sustainability Division  
District Department of Transportation

Before the  
Committee of the Whole

Council of the District of Columbia

Thursday, September 17, 2020  
10:00 a.m.

John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, D.C. 20004



Good morning Chairman Mendelson, members of the Council, staff, and District residents. My name is Anna Chamberlin, and I am the Associate Director of the Planning and Sustainability Division at the District Department of Transportation, commonly referred to as DDOT. I am here today to present testimony on behalf of Mayor Muriel Bowser and DDOT Director Jeff Marootian regarding six bills, which are Bill 23-522, the “Closing a portion of Chesapeake Street, S.W., Magazine Road, S.W., and Keel Avenue, S.W... Act of 2019,” Bill 23-562, the “Closing of Columbian Quarter Alley in Square 5860 Act of 2019,” Bill 23-580, the “Closing of a Public Alley in Square 2892, S.O. 19-47478, Act of 2019,” Bill 23-656, the “Closing of a Public Alley in Square 740, S.O. 18-41567, Act of 2020,” and Bill 23-784, the “Closing of Public Streets and Alleys and Dedication of Land for Public and Alley Purposes Adjacent to Squares 3039, 3040, and 3043, S.O. 17-21093 and S.O. 17-21094 Act of 2020.”

The stated purpose of Bill 23-552 is to close a portion of Chesapeake Street, S.W., Magazine Road, S.W., and Keel Avenue, S.W., and transfer jurisdiction to the Department of the Navy. DDOT filed a report with the Office of the Surveyor on September 22, 2015, related to S.O. No. 14-21786. DDOT’s report noted that there are no DDOT assets identified in the areas proposed to be closed, and that the closures are not projected to negatively impact the transportation network, traffic circulation, planned DDOT improvements, or public space. DDOT has no objections to the proposed closures in this bill.

The stated purpose of Bill 23-580 is to close a portion of the public alley system in Square 2892, bounded by Lamont Street N.W., Georgia Avenue N.W., Kenyon Street N.W., and Sherman Avenue N.W. DDOT filed a report with the Office of the Surveyor on August 13, 2019, related to S.O. No. 47478. DDOT's report noted that there are no DDOT assets identified in the areas proposed to be closed, and that the closures are not projected to negatively impact the transportation network, traffic circulation, planned DDOT improvements, or public space. DDOT has no objections to the proposed closures in this bill.

The stated purpose of Bill 23-784 is to close a portion of Morton Street, N.W., and the portions of the public alley system adjacent to Square 3039 in Ward 1. It accepts the dedication and designation of 6th Street, N.W., Luray Place, N.W., and an extension of Morton Street, N.W., for public street purposes, and accepts the dedication of land adjacent to Square 3039 for public alley purposes in Ward 1. DDOT filed a report with the Office of the Surveyor on March 16, 2018, related to S.O. No. 17-21093 and 17-21094. DDOT's report noted that the agency objects to the proposed closure until the following conditions are met:

- S.O. No. 17-21093 and 17-21094 must be approved together such that the rights-of-way (ROW) are not closed without the corresponding dedication of new ROW in order to achieve the revised transportation network envisioned in the Planned Unit Development (PUD) proposal associated with these closures;

- The Applicant must compensate the District in the amount of \$2,427.20 for the removal of existing DDOT lighting in the areas proposed for closure;
- The Applicant must secure tree removal permits for three street trees that would be affected by the closure of the Morton Street segment, prior to removal of the trees.

It is DDOT's understanding that by its incorporation into this bill, Council intends to fulfill the first condition (coordination of the closures with the appropriate land dedication). On September 14, 2020, the Applicant's legal counsel confirmed that the Applicant will meet this condition, along with the conditions related to compensation for the removal of street lighting and securing the necessary tree removal permits. DDOT notes that Section 3 of Bill 23-784 stipulates that the Council's approval of the closures and land dedications are contingent upon the satisfaction of all conditions set forth in the official files for S.O. No. 17-21093 and 17-21094 prior to the recordation of plats by the Surveyor. DDOT also notes that through an administrative oversight, conditions related to the Applicant's building of public space improvements, and DDOT acceptance of the improvements, do not appear in the list of conditions on the final page of DDOT's 2018 report to the Surveyor. It is DDOT's understanding that, since those conditions appear earlier in the report, they were intended to and should be incorporated into the set of conditions specified under Section 3 of this bill. The

Applicant's legal counsel confirmed on September 14, 2020, that the Applicant will meet DDOT's conditions related to the construction and acceptance of public space improvements.

The stated purpose of Bill 23-656 is to close a portion of the public alley system in Square 740, bounded by K Street, S.E., First Street, S.E., L Street, S.E., and New Jersey Avenue, S.E., in Ward 6. DDOT filed a report with the Office of the Surveyor on February 14, 2020, related to S.O. No. 18-41567. DDOT's report noted that the agency objected to the proposed closure until several conditions are met. These conditions include compensation for the removal of DDOT lighting in the area to be closed, meeting with DDOT's arborist to determine whether a special tree permit is needed for any impacted trees, and conditions associated with the non-restrictive easement that would establish a replacement alley network. On April 1, 2020, DDOT filed a supplemental report indicating our understanding that the Applicant has agreed to all of the conditions. DDOT can confirm that the Applicant has provided payment for removal of the street lighting, and has obtained the necessary special tree permit. DDOT is still awaiting full documentation of the necessary non-restrictive easement. DDOT notes that Section 3 of Bill 23-656 stipulates that the Council's approval of the closure is contingent upon the recordation of a covenant establishing new portions of the alley system by easement, and upon the satisfaction of all conditions set forth in the official file for S.O. No. 18-41567.

The stated purpose of Bill 23-562 is to close a 15-foot wide public alley in Square 5860 abutting lots 1020, 1025 through 1031, 1037, and P231/8, along with Square 5600 lot 800 in Ward 8. DDOT filed a report with the Office of the Surveyor on September 3, 2020, related to S.O. No. 16-27269. DDOT's report noted that the agency objected to the proposed closure until the following conditions are met:

- DDOT can support the locations of the 45-foot and 20-foot easement areas shown in Figure 1 of our report to the Surveyor, dated September 3, 2020, so long as the official alley closure plat is updated with the following changes:
  - Change 'public access easement' terminology to 'non-restrictive easement' throughout the plat; and
  - Label the easternmost 20-foot easement area using text, similar to the 45-foot easement area.
- The Applicant records non-restrictive easements for the two (2) north-south private alleys proposed to replace the existing 'L' shaped public alley right-of-way to be closed.

DDOT seeks confirmation that the Applicant will fulfill all of these conditions. DDOT also notes that, as introduced, Bill 23-562 lacks a section making Council's approval of the closure contingent on any specific conditions, including conditions set forth in the official file with the Office of the Surveyor.

DDOT recommends that the bill include such conditions, consistent with the formulation of Bills 23-656 and 23-784.

This concludes my testimony. Thank you for allowing me the opportunity to testify before you today. I am available to answer any questions that you may have.



**Application of  
Poplar Point RBBR, LLC**

**Closing of a Public Alley in Square 5860**

**S.O. 16-27269**

**Bill 23-562**

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

Application of Poplar Point RBBR, LLC  
Bill 23-562

Closing a Public Alley in Square 5860  
S.O. 16-27269

**SUPPLEMENTAL STATEMENT OF THE APPLICANT**

**I. INTRODUCTION**

Poplar Point RBBR, LLC (the “Applicant”), wishes to supplement the record after the hearing on September 17, 2020 on Bill 23-562, which requests the closing of the entire unimproved 15-foot-wide public alley in Square 5860 abutting Lots 1025 through 1031, 1037, Parcel 231/8 and Lot 800 in Square 5600, pursuant to § 9-202.05(1) of the D.C. Code. Bill 23-562 effectuates the proposed alley closing which allows the Applicant to consolidate its properties (the “Property”), which are bisected by the alley, and provide for the development of a truly mixed-use development with office, residential, and retail uses (the “Project”). The alley closing allows for a more efficient site plan.

At the hearing, the Council requested supplemental information from the Applicant regarding the proposed easements. At the hearing, the Applicant and the District Department of Transportation (“DDOT”) noted agreement on the location and size of the 45-foot and 20-foot easement areas depicted on the alley closure plat (the “Easement Areas”), which will replace the closed alley with a greater area than is being closed. However, the Applicant testified that it proposed these easements be public access easements consistent with Council past practice, and DDOT requested that the easements be non-restrictive easements. Chairperson Mendelson requested a response from the Applicant regarding the need for these easements to be for public access rather than non-restrictive in nature.

**II. PUBLIC ACCESS EASEMENTS**

The Applicant has proposed, as testified at the hearing and shown on the plat, that the two Easement Areas be designated as public access easements. Such easements are consistent with the Council’s typical practice in establishing easements during an alley closing process. A public access easement guarantees public access over the two areas and protects the interests of the District. Additionally, to address DDOT’s concerns brought up at the public hearing, the Applicant is willing to agree to several conditions for the public access easements, as noted in Section IV below. The Applicant has shared these proposed conditions with DDOT.

As the Applicant testified at the hearing, the Applicant needs to be able to utilize the areas above and below the Easement Areas as part of the Project development. The Project contemplates a new development over this underutilized area with a series of buildings. The Project will require building connections above the easement area and likely activity below the Easement Areas, including parking and other building connections. This concept is consistent with the Project design previously approved by the Zoning Commission and supported by DDOT during a now-abandoned Planned Unit Development for the Property.

Additionally, the Property is located in the Northern Howard Road (“NHR”) Zone. Any development in the NHR Zone will require review and approval by the Zoning Commission through the Design Review process. DDOT will be involved in the Design Review process just as they were in the previous PUD process and will be able to comment on any proposed improvements above or below the Easement Areas and make recommendations regarding the access to and use of the Easement Areas as necessary.

### **III. ISSUES WITH NON-RESTRICTIVE ACCESS EASEMENTS**

Despite many years of precedent and history supporting the closing of an alley with dedicated public easements, as DDOT testified at the hearing, DDOT is now advocating for a non-restrictive easement which would treat the easement area as akin to public space. That would require any improvements within the Easement Areas to receive approval from the Public Space Committee and would, as admitted by DDOT, greatly restrict the Applicant’s ability to construct these necessary improvements as part of the Project. This Project is a large new mixed-use development with significant housing and affordable housing opportunities in a brand-new neighborhood adjacent to the Anacostia Metrorail station, and design flexibility is needed moving forward.

Further, as testified at the hearing and discussed above, DDOT will have review rights over the Project, including over the Easement Areas, through the Design Review process required for the Project due to its location in the NHR Zone. Therefore, subjecting any improvements in the Easement Areas to additional review by the Public Space Committee is duplicative and unnecessary.

Finally, restrictions on the ability to construct above-grade connections at the Property could prevent the Project from achieving the high-density development called for in the Comprehensive Plan. In order to have street frontage required by the Height Act to build to high density levels, buildings at the Project must front on either the far west or east ends of the Property. Therefore, any improvements in between the two proposed Easement Areas must connect over at least one of the two Easement Areas in order to be constructed to the maximum height allowed in the NHR Zone.

### **IV. CONDITIONS TO PUBLIC ACCESS EASEMENTS**

In order to address DDOT’s concerns raised at the Council hearing, the Applicant is willing to agree to the following conditions as part of the public access easements:

- a) The Applicant agrees to negotiate, enter into, and record a “Public Access Easement Agreement” to cover the Easement Areas prior to the recordation of that alley closure plat;
- b) The Applicant agrees to improve the Easement Areas with DDOT standard paving and materials;
- c) The Applicant agrees to maintain the Easement Areas in accordance with DDOT standards;

- d) The Easement Areas will include a minimum sixteen (16) foot clearance from the finished grade of the Easement Areas;
- e) DDOT will have the right to review and provide comment on the design of the Easement Areas, including signage or retail tenant amenity space, through the Zoning Commission Design Review process required by the property's NHR zoning;
- f) The Applicant agrees to work with any utility company to provide facilities in the Easement Areas, including below grade in the Easement Areas, in order for such utilities to provide service to the Applicant's property or other properties in the future;
- g) The Applicant agrees to cooperate with the District, DDOT, the National Park Service, or any party that obtains ownership interest in the property to the north of the Easement Areas in any effort to utilize the Easement Areas to connect to this adjacent property;
- h) The Applicant agrees the public access rights over the Easement Areas will not be closed for private events unless such closure is approved by DDOT;
- i) The Applicant reserves the right to periodically use the Easement Areas for publicly-accessible events, including but not limited to retail pop-ups, farmer's markets, training and community events, to allow the Applicant to fulfill the terms of the Community Benefits Agreement negotiated with Advisory Neighborhood Commissions 8A and 8C; provided, however, that the Applicant agrees to limit such events to no more than twelve (12) times per year;
- j) The Applicant reserves the right to construct improvements below grade under the Easement Area for uses such as parking, vaults, and storage, provided such use and improvements do not impede the ability of the public to utilize the Easement Areas;
- k) The Applicant reserves the right to construct building connections over the Easement Areas, provided such connections are at least sixteen (16) feet above the finished grade of the Easement Areas.
- l) The requirement to construct the Easement Areas shall be triggered when the Applicant is constructing any permanent building approved through the Design Review process (the "Project") that is adjacent to the Easement Areas.
- m) Prior to construction of the Project, the Applicant reserves the right to use the Easement Areas on an interim basis, and during any construction for the Project, the Applicant reserves the right to utilize the Easement Areas for construction staging or other construction uses.

## **V. CONCLUSION**

In summary, the Applicant seeks to close an unimproved alley which serves no alley purposes under the DC Code while providing public access easements areas well in excess of the alley area to be closed. For the above-stated reasons, the Applicant respectfully requests that the Council approve this application with the public access easements noted above.

Respectfully submitted,

GOULSTON & STORRS, PC

By: 

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## Delegated Action of the Executive Director

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<b>PROJECT</b> <b>Closing of a Public Alley in Square 5860</b> <b>(S.O.16 - 27269)</b> 740 - 744 Howard Road, SE Washington, DC	<b>NCPC FILE NUMBER</b> 7841
<b>SUBMITTED BY</b> District of Columbia Department of Consumer and Regulatory Affairs Office of the Surveyor	<b>NCPC MAP FILE NUMBER</b> 82.00(44.40)44473
	<b>ACTION TAKEN</b> Approval of comments to the Council of the District of Columbia
	<b>REVIEW AUTHORITY</b> Advisory Per DC Code § 9-202.02

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The District of Columbia Department of Consumer and Regulatory Affairs, Office of the Surveyor, on behalf of Poplar Point RBBR LLC, has requested comments on the closing of a public alley located in Square 5860 (the Square). The Square is in the Anacostia area of southeast Washington, DC, adjacent to Poplar Point. It is bound by Howard Road to the south, Suitland Parkway to the west, the US Botanic Garden Nursery to the north, and the Anacostia Metro station to the east. The existing "L" shaped public alley borders the Square to the north along Lots 97, 1025 through 1031 and separates Lots 1025 and 1037 where the alley turns approximately 90-degrees south to intersect with Howard Road. Parcel 23 1/8 and Lot 800 in Square 5600 (1600 Fairlawn Avenue, SE) are federally owned properties that abut the alley to the north. These properties are under the management jurisdiction of the Department of the Interior, National Park Service (NPS), National Capital Region, National Capital Parks-East (NACE). The undeveloped alley is 15 feet wide and occupies 5,212 square feet of land area. It is not currently used by adjacent properties.

According to the District of Columbia Office of the Surveyor, the public alley land will revert to the owner of Lot 1037 as the lot was initially created from that lot. As noted above, the subject alley is adjacent to federal property and NPS has indicated no concerns with the proposed alley closure. The closing will accommodate a future mixed-use development and the developer has indicated that they are currently in the master planning process. The development will be subject to mandatory design review by the District of Columbia Zoning Commission. As such, the project is not inconsistent with the federal interests identified within the Comprehensive Plan for the National Capital.

The Coordinating Committee originally reviewed the proposal at its December 14, 2016 meeting. Subsequently, the request was placed on hold to allow for additional coordination between District agencies and the developer. The Coordinating Committee most recently reviewed the proposal at its April 15, 2020 meeting. The participating agencies included the District of Columbia State Historic Preservation Office (email), the District Department of Transportation (DDOT), the District Office of Energy and the Environment (DOEE), the District Office of Planning (DCOP), the Washington Metropolitan Area Transit Authority (WMATA), the General Services Administration, and the National Park Service. DDOT and DCOP noted that the developer of the

property has discussed revisions to the future development site plan that may affect the District’s considerations for closing the public alley. These revisions have not yet been submitted to the District as a formal application. As such, the Committee forwarded the proposed comments to the Commission with the statement that the project has not been coordinated with DDOT or DCOP. NPS indicated it would affirm their understanding of the alley reversion. On May 4, 2020 NPS confirmed via email to NCPC staff that NPS has no issue with the alley closure as proposed. No additional comments were received from DDOT or DCOP and further coordination between the development team and District agencies will continue through the mandatory design review process.

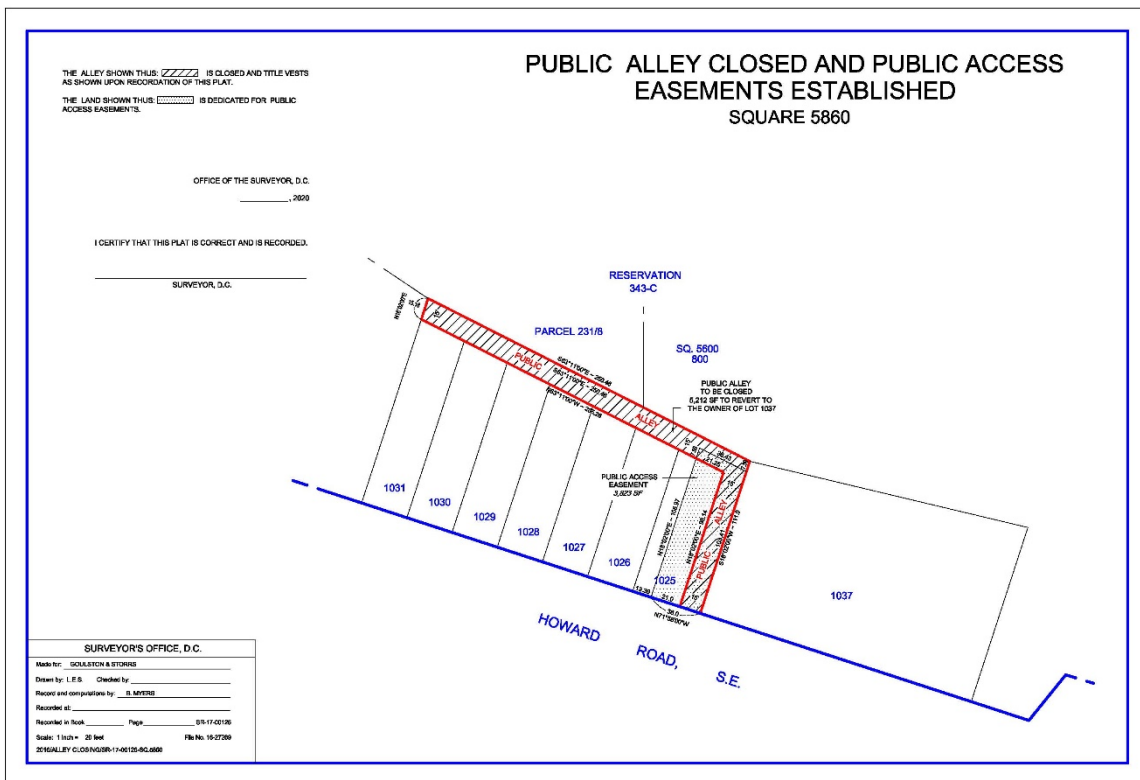


Figure 1 Plat of Alley Closure and Public Access Easement Establishment at Square 5860

\* \* \*

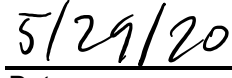
Pursuant to delegations of authority adopted by the Commission on October 3, 1996 and per DC Code § 9-202.02, I find that the proposed alley closing within Square 5860 (S.O. 16 – 27269) located at 740 – 744 Howard Road, SE in Washington, DC would not be inconsistent with the

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Federal Elements of the Comprehensive Plan for the National Capital nor would adversely impact any other identified federal interests.



\_\_\_\_\_  
Marcel Acosta  
Executive Director



\_\_\_\_\_  
Date



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

THE LAND SHOWN THUS  IS DEDICATED FOR PUBLIC ACCESS EASEMENTS.

# PUBLIC ALLEY CLOSED AND PUBLIC ACCESS EASEMENTS ESTABLISHED

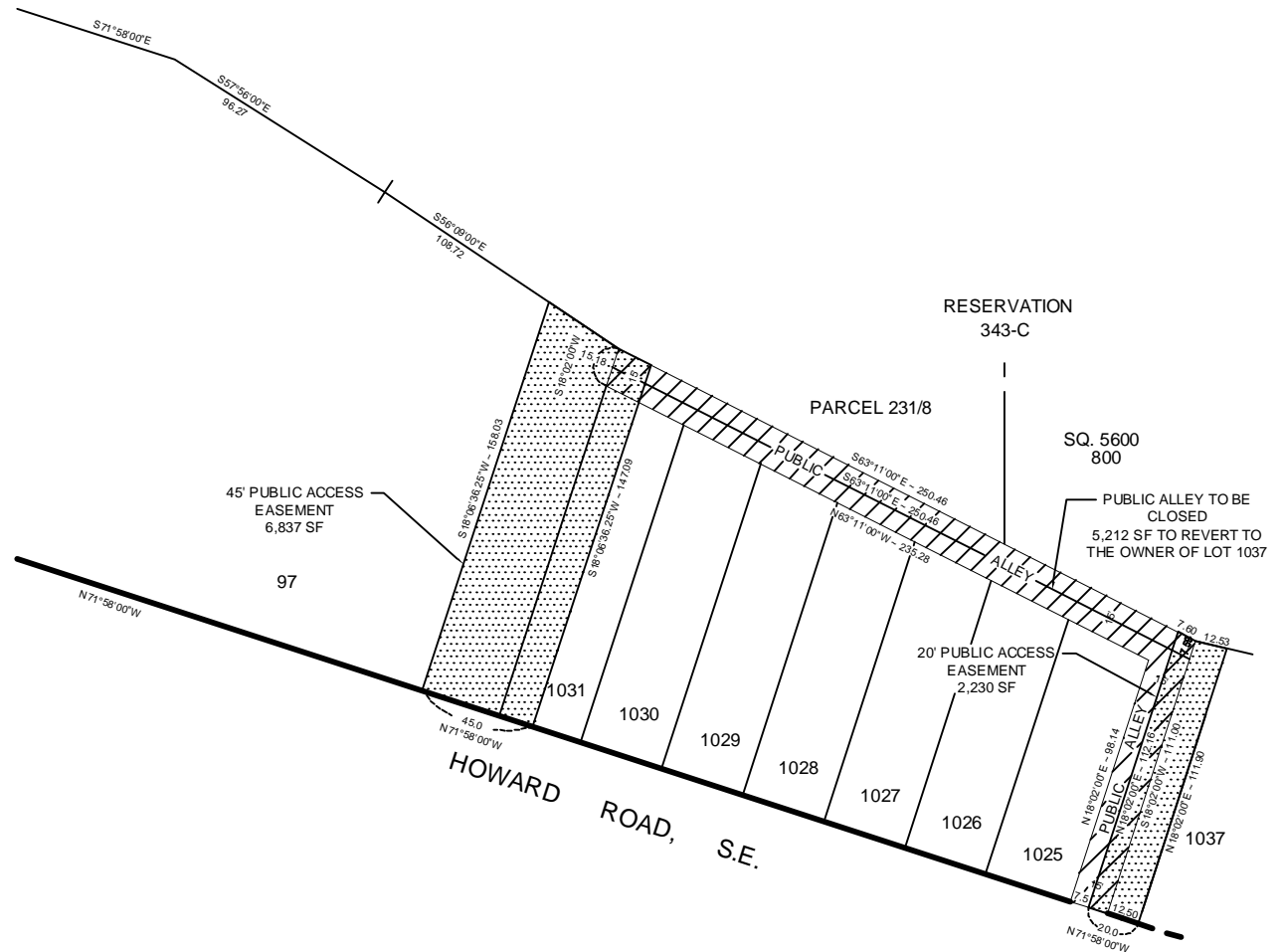
## SQUARE 5860

OFFICE OF THE SURVEYOR, D.C.

\_\_\_\_\_, 2020

I CERTIFY THAT THIS PLAT 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: \_\_\_\_\_

Recorded in Book \_\_\_\_\_ Page \_\_\_\_\_ SR-17-00126

Scale: 1 inch = 30 feet File No. 16-27269

1 **DRAFT COMMITTEE PRINT**  
2 **Committee of the Whole**  
3 **October 20, 2020**  
4  
5  
6  
7  
8

9 A BILL

10  
11 23-562  
12  
13

14 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
15  
16  
17  
18

19 To order the legal closing of a 15-foot wide public alley in Square 5860 abutting lots 1020, 1025  
20 through 1031, 1037 and P231/8 and Square 5600 lot 800 in Ward 8.

21 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
22 act may be cited as the “Closing of Columbian Quarter Alley in Square 5860 Act of 2020”.

23 Sec. 2. (a) Pursuant to section 201 of the Street and Alley Closing and Acquisition  
24 Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; Official Code § 9-202.01 *et*  
25 *seq.*), The Council finds that the 15-foot public alley in Square 5860 is no longer useful for alley  
26 purposes and orders it closed, with title to the land to vest as shown on the Surveyor’s plat.

27 (b) The approval of the Council of this alley closure is contingent upon satisfying all the  
28 conditions set forth in the official file for S.O. 18-41567.

29 Sec. 3. Fiscal impact statement.

30 The Council adopts the fiscal impact statement prepared by the Chief Financial Officer as  
31 the fiscal impact statement required by section 4a of the General Legislative Procedures Act of  
32 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.472).

33           Sec. 4. Effective date.

34           This act shall take effect upon its approval by the Mayor (or in the event of veto by the  
35 Mayor, action by the Council to override the veto), and a 30-day period of congressional review  
36 as provided in Section 602(c)(1) of the District of Columbia Home Rule Act, approved  
37 December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206-02(c)(1)) and publication in the  
38 District of Columbia Register.