

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

1350 Pennsylvania Avenue, NW, Washington, DC 20004

TO: All Councilmembers

FROM: Chairman Phil Mendelson
Committee of the Whole

DATE: November 16, 2021

SUBJECT: Report on Bill 24-291, “Omnibus Progressive National Baptist Convention Redevelopment Act of 2021”

The Committee of the Whole, to which Bill 24-291, the “Omnibus Progressive National Baptist Convention Redevelopment Act of 2021” was referred, reports favorably thereon and recommends approval by the Council.

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I. BACKGROUND AND NEED

On June 4, 2021, Bill 24-291, the “Omnibus Progressive National Baptist Convention Redevelopment Act of 2021” was introduced by Councilmember Vincent Gray. Bill 24-291 would remove from the District’s Highway Plan a proposed extension of 50th Street, N.E., located in Lot 825 in Square 5194, close a portion of 50th Street, N.E., adjacent to 5194, and accept the dedication of land for public street purposes in Lots 828 and 830 in Square 5194, in Ward 7. This will facilitate public space improvements related to the development of a 93-unit multifamily housing project, with all units being affordable for households with incomes of 60% median family income (MFI) or below and at least 35 public housing replacement units for Lincoln Heights and Richardson Dwellings.

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 24-291, 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 24-291, 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 removal from the District’s Highway Plan a proposed extension of 50th Street, N.E., located in Lot 825 in Square 5194, the closure of 50th Street, N.E., and Nannie Helen Boroughs, N.E. in Square 5194, and the dedication of land for public street purposes in Lots 828 and 830 in

Square 5194 will facilitate public space improvements related to the development of a 93-unit multifamily housing project, with all units being affordable for households with incomes of 60% median family income (MFI) or below and at least 35 public housing replacement units for Lincoln Heights and Richardson Dwellings, as shown in Table 1.¹

Table 1. Affordability Levels

Residential Unit Type	Units	Affordability Level	Affordable Control Period
Affordable Non-IZ	10	Up to 60% MFI	Life of the project
Affordable Non-IZ	35	Up to 60% MFI	99 years (Replacement Units)
Affordable Non-IZ	55	Up to 60% MFI	40 years

Approval of the PUD was conditioned on several transportation mitigations, including the construction of a 6-foot sidewalk and 4-foot-wide tree box to extend the building length along 50th Street, N.E., and Fitch Place, N.E., and the implementation of a transportation management programs that includes bicycle parking facilities and offering new tenants an annual membership to Capital Bikeshare or a car sharing service for a period of three years.² The closure of a portion of 50th Street, N.E., and dedication of land for public street purposes will specifically facilitate the completion of the sidewalk and related improvements required by Zoning Commission Order No. 17-08.

At the Committee’s public hearing, the District Department of Transportation (DDOT) testified that it objects to the proposed closure until the following conditions are met:

- The applicant records a public access easement with the Recorder of Deeds for the portion of the property to be improved by a 6-foot sidewalk and retaining wall, which will be maintained by the property owner.
- DDOT certifies that i) the foregoing conditions have been satisfied; ii) that the public space improvements in the public right-of-way and subject to a Transportation Online Permitting System (TOPS) permit have been constructed to DDOT standards and specifications; and iii) that all statutory warranties have been provided; and iv) DDOT has agreed to accept the public space improvements.

Both DDOT and the applicant stated at the public hearing that there was agreement by the applicant accepting these conditions. All other objections have been withdrawn. Accordingly, the Committee Print for Bill 24-291 conditions Council approval on the satisfaction of DDOT’s objections.

Conclusion

The Committee finds that the portion of 50th Street, N.E., adjacent to 5194, depicted on the attached Surveyor’s plat is unnecessary for public street purposes. The Committee also finds that the dedication of land for public street purposes in Lots 828 and 830 in Square 5194 is

¹ Zoning Commission Order No. 17-08, pg. 20.

² *Ibid.*, pg. 22.

desirable. Accordingly, the Committee recommends approval of the Committee Print for Bill 24-784.

II. LEGISLATIVE CHRONOLOGY

- June 4, 2021 Bill 24-291, the “Omnibus Progressive National Baptist Convention Redevelopment Act of 2021” is introduced by Councilmember Vincent Gray.
- June 15, 2021 Bill 24-291 is “read” at a legislative meeting; on this date the referral of the bill to the Committee of the Whole is official.
- June 18, 2021 Notice of Intent to Act on Bill 24-291 is published in the *District of Columbia Register*.
- September 17, 2021 Notice of a Public Hearing on Bill 24-291 is published in the *District of Columbia Register*.
- October 14, 2021 The Committee of the Whole holds a public hearing on Bill 24-291.
- November 16, 2021 The Committee of the Whole marks-up Bill 24-291.

III. POSITION OF THE EXECUTIVE

Dan Emerine, Manager of Policy and Legislative Affairs at the District Department of Transportation, testified at the Committee’s public hearing on October 14, 2021 on behalf of Anna Chamberlin. Ms. Chamberlin’s testimony notes that DDOT objects to the closure of streets and dedication of land for public street purposes until:

- The applicant records a public access easement with the Recorder of Deeds for the portion of the property to be improved by a 6-foot sidewalk and retaining wall, which will be maintained by the property owner.
- DDOT certifies that i) the foregoing conditions have been satisfied; and ii) that the public space improvements in the public right-of-way and subject to a Transportation Online Permitting System (TOPS) permit have been constructed to DDOT standards and specifications; and iii) that all statutory warranties have been provided; and iv) DDOT has agreed to accept the public space improvements.

Joseph Snider, D.C. Surveyor, testified at the Committee’s public hearing on October 14, 2021. He stated that the purpose of the bill is to remove from the Highway Plan a proposed extension of 50^h Street, N.E., located in lots 827, 828, 829, and 830 in Square 5194, to order the closing of a portion of 50th Street, N.E., adjacent to Square 5194, and to accept the dedication of Lots 828 and 830 in Square 5194 for public street purposes. Mr. Snider said that the most probable estimate of value for the portion of public street to be closed in Square 5194 as January 1, 2021 is estimated at \$17,910 (370 S.F. X \$48.40). He noted that DDOT objects to the application until the conditions in their June 29, 2021 letter are met.

IV. COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

At a regularly scheduled meeting on June 10, 2021, Advisory Neighborhood Commission (ANC) 7C voted in support of the of closing a portion of 50th Street, N.E., and dedicating land for public street purposes in Lots 828 and 830 in Square 5194.

V. NATIONAL CAPITAL PLANNING COMMISSION REVIEW

Diane Sullivan, Director of Urban Design and Plan Review at the National Capital Planning Commission (NCPC), provided comments to the Council finding that the proposed street closing falls under an exception in Chapter 8 (Exceptions and Project Changes) of NCPC's submission guidelines and is exempt from Commission Review. NCPC's letter is attached.

VI. SUMMARY OF TESTIMONY

The Committee of the Whole held a public hearing on several bills, including Bill 24-291, on Thursday, October 14, 2021. The testimony summarized below pertains to Bill 24-291. Copies of all written testimony are attached to this report.

Leila Batties, Holland & Knight LLP, testified on behalf of the applicant. Ms. Batties provided information on community outreach and engagement that has been done to support the project and reiterated the objections of DDOT.

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

Dan Emerine, Manager of Policy and Legislative Affairs at the District Department of Transportation, 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 24-291.

VII. IMPACT ON EXISTING LAW

Bill 24-291 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 24-291, the Committee finds that the requirements of the Act have been satisfied.

VIII. FISCAL IMPACT

The attached November 15, 2021 fiscal impact statement from the District's Chief Financial Officer states that funds are sufficient in the FY 2022 through FY 2025 budget and financial plan to implement the bill.

IX. SECTION-BY-SECTION ANALYSIS

- Section 1 Short title.
- Section 2 (a) Amends the plan for the extension of a permanent system of highways to remove a portion of 50th Street, N.E., located within Lot 825 in Square 5194.
- (b) Orders the closing of a portion of 50th Street, N.E., between Fitch Place, N.E., and Nannie Helen Burroughs, N.E., and adjacent to Square 5194 and vests title to the land as shown in the Surveyor's plat.
- (c) Accepts the dedication of Lots 828 and 830 in Square 5194 for public street purposes and designates the land as a portion of 50th Street, N.E.
- (d) Conditions the amendment of the Highway Plan, closing of a portion of 50th Street, N.E., and dedication of land on satisfying the conditions set forth by DDOT in the file for S.O. 21-02992.
- Section 3 Fiscal impact statement.
- Section 4 Effective date.

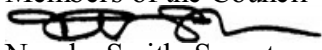
X. COMMITTEE ACTION

XI. ATTACHMENTS

1. Bill 24-291 as introduced.
2. Written Testimony.
3. NCPC Comments.
4. Surveyor's Plat.
5. Fiscal Impact Statement for Bill 24-291.
6. Legal Sufficiency Determination for Bill 24-291.
7. Committee Print for Bill 24-291.

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 : Wednesday, June 9, 2021
Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Office of the Secretary on Friday, June 04, 2021. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Omnibus Progressive National Baptist Convention Redevelopment Act of 2021", B24-0291

INTRODUCED BY: Councilmember Gray

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

Attachment
cc: General Counsel
Budget Director
Legislative Services

Statement of Introduction
Omnibus Progressive National Baptist Convention Redevelopment Act of 2021
Councilmember Vincent C. Gray
June 4, 2021

Today, I introduce the Omnibus Progressive National Baptist Convention Redevelopment Act of 2021 to remove from the plan for the extension of a permanent system of highways a portion of 50th Street, N.E. (known as the “D.C. Highway Plan”), located within Lot 825 in Square 5194; to order the closing of a portion of 50th Street, N.E., between Fitch Place, N.E. and Nannie Helen Burroughs Avenue, N.E., adjacent to Square 5194; and to accept the dedication of Lots 828 and 830 in Square 5194 for public street purposes.

The Progressive National Baptist Convention, Inc. (PNBC) and its development partner, Providence Place I LP are in the process of constructing an apartment house with 100 affordable units at 60% MFI on PNBC’s campus in Ward 7. The development was approved as the Providence Place planned unit development (PUD) pursuant to Zoning Commission Order No. 17-08.

Both the District Department of Transportation (DDOT) and the Office of the Surveyor of have certain requirements that must be met.

DDOT requires:

1. Dedication of land by PNBC to District (will become part of 50th Street)
2. Public access easement (sidewalk)
3. Closure of a portion of 50th Street to revert to PNBC

The Office of Surveyor requires the following for the developer to obtain a certificate of occupancy:

1. Creation of record lot
2. Removal of the Highway Plan over property
3. DDOT requirements

Accordingly, this legislation would facilitate the removal of the Highway Plan over property, the dedication of land by PNBC to District, and the closure of portion of 50th Street to revert to PNBC.

The land to be dedicated by PNBC consists of approximately 1,371 square feet of land area that, although within private property functions as a portion of 50th Street, NE. It includes asphalt road pavement, concrete curb and gutter, concrete sidewalk, landscape area behind the curb, a storm sewer inlet, and electric utilities serving streetlights. The right-of-way to be closed consists of approximately 370 square feet and will vest in PNBC. It will be improved with a sidewalk required in connection with the PUD. The sidewalk, which will be constructed on PNBC property, will be subject to a public easement agreement with DDOT.

I look forward to working with my colleagues to successfully pass this legislation.

Vincent C. Gray
Councilmember Vincent C. Gray

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

1 To remove from the plan for the extension of a permanent system of highways a portion of 50th
2 Street, N.E., located within Lot 825 in Square 5194; to order the closing of a portion of
3 50th Street, N.E., between Fitch Place, N.E. and Nannie Helen Burroughs Avenue, N.E.,
4 adjacent to Square 5194; and to accept the dedication of Lots 828 and 830 in Square 5194
5 for public street purposes.
6

7 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
8 act may be cited as the “Omnibus Progressive National Baptist Convention Redevelopment Act of
9 2021”.

10 Sec. 2. (a) Pursuant to section 404 of the District of Columbia Home Rule Act, approved
11 December 24, 1973 (87 Stat. 787; D.C. Official Code § 1-204.04), and consistent with An Act to
12 provide a permanent system of highways in that part of the District of Columbia lying outside of
13 cities, approved March 2, 1893 (27 Stat. 532; D.C. Official Code § 9-103.01 *et seq.*), the Council
14 amends the plan for the extension of a permanent system of highways to remove a portion of
15 50th Street, N.E., located within Lot 825 in Square 5194, south of Nannie Helen Burroughs

16 Avenue, N.E., and north of Fitch Place, N.E., as shown on the Surveyor’s Plat filed under S.O.
17 21-02992.

18 (b) Pursuant to section 404 of the District of Columbia Home Rule Act, approved
19 December 24, 1973 (87 Stat. 787; D.C. Official Code § 1-204.04), and consistent with the Street
20 and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law
21 4-201; D.C. Official Code § 9-201.01 *et seq.*) (the “Act”), the Council finds that a portion of 50th
22 Street, N.E., between Fitch Place, N.E., and Nannie Helen Burroughs, N.E., and adjacent to
23 Square 5194, as shown on the Surveyor’s plat filed in S.O. 21-02992, is unnecessary for street
24 purposes and orders it closed with title to the land to vest as shown on the Surveyor’s plat.

25 (c) Pursuant to sections 302 and 402 of the Act (D.C. Official Code §§ 9-203.02 and 9-
26 204.01), and notwithstanding the requirements set forth in sections 303 and 421 of the Act (D.C.
27 Official Code §§ 9-203.03 and 9-204.21), the Council accepts the dedication of Lots 828 and 830
28 in Square 5194 for public street purposes, and designates the dedicated land as a portion of 50th
29 Street, N.E., as shown on the Surveyor’s plat filed under S.O. 21-02992.

30 Sec. 3. The amendment to the plan for the extension of a permanent system of highways,
31 the ordering of the street closing, and acceptance of the street dedication specified in section 2
32 are contingent upon satisfying all the conditions set forth in the official file for S.O. 21-02992.

33 Sec. 4. Fiscal impact statement.

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

37 Sec. 5. Effective date.

38 This act shall take effect upon its approval by the Mayor (or in the event of veto by the
39 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
40 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
41 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
42 Columbia Register.

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

Application of Progressive National
Baptist Convention, Inc. and
Providence Place I LP

Bill 24-0291
ANC 7C
S.O. 21-02992

Removal of Highway Plan Designation,
Dedication of Land, and Closure of a Portion
of the 50th Street, NE Right-of-Way

STATEMENT OF THE APPLICANT

I.

Introduction

The Progressive National Baptist Convention, Inc. (“**PNBC**”) and its development partner, Providence Place I LP (together, the “**Applicant**”) submit this statement in support of their request to:

- (1) remove from the plan for the extension of a permanent system of highways (known as the “**D.C. Highway Plan**”) a portion of 50th Street, NE;
- (2) dedicate Lots 828 and 830 in Square 5194, consisting of approximately 1,371 square feet of land area for public street purposes; and
- (3) close a portion of the 50th Street, NE right-of-way, consisting of approximately 370 square feet of land area.

(hereinafter the “**Application**”). The Council is authorized to approve the Application pursuant to section 404 of the District of Columbia Home Rule Act,¹ and consistent with An Act to provide a permanent system of highways in that part of the District of Columbia lying outside of cities,² as well as with the Street and Alley Closing and Acquisition Procedures Act of 1982.³

¹ Approved December 24, 1937 (87 Stat. 787; D.C. Official Code § 1-204.04).

² Approved March 2, 1983 (27 Stat. 532; D.C. Official Code § 9-103.01 *et seq.*).

³ Effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-201.01 *et seq.*).

Bill 24-0291, cited as the “Omnibus Progressive National Baptist Convention Redevelopment Act of 2021”, was introduced by Councilmember Vincent C. Gray to effectuate the Application, and is attached hereto as Exhibit A. Copies of the plats showing the elimination of the D.C. Highway Plan designation, the proposed land dedication, and the proposed closure of a portion of 50th Street, NE are attached hereto as Exhibit B.

As described herein, the Application meets the statutory requirements for approval pursuant to D.C. Code §§ 9-202, and 9-203. The requested actions are necessary to satisfy certain requirements imposed by the District Department of Transportation (“**DDOT**”) in connection with the planned unit development (“**PUD**”) approved for Lot 827 in Square 5194 (the “**PUD Site**”), pursuant to Zoning Commission Order No. 17-08.⁴ See Exhibit C. Moreover, the Council’s approval of the Application will reconcile the inconsistencies between how the area along this segment of 50th Street, NE actually functions versus what is reflected in the Land Records for the District of Columbia (the “**Land Records**”) with regard to ownership of the subject land. The Council’s approval of the requests in the Application also is necessary for the subdivision of land creating a record lot the PUD Site and the adjacent PNBC Campus.

II. **Background**

A. The PUD Site / Project

The PUD Site, known as Lot 827 in Square 5194, consists of approximately 1.6 acres. It is located in on the east side of 50th Street, NE, between Nannie Helen Burroughs Avenue and Fitch Place in Ward 7. The PNBC campus abuts the PUD Site to the east on Lot 829 in Square 5194.

⁴ The original PUD approval applied to Lot 824. Lot 824 was divided into two lots – 825, the PUD site, and Lot 826, the remainder of the PNBC campus. Lot 825 was subsequently divided into two lots – 827, which is PUD Site undergoing construction; and Lot 828, which the Applicant proposes to dedicate to the District under the subject legislation.

Zoning Commission Order No. 17-08 (the “**Order**”) approved a PUD and related Zoning Map from the Residential Apartment (RA)-1 to the RA-2 zone in order to facilitate the redevelopment of the PUD Site with a 93-unit apartment building totaling 94,277 square feet of gross floor area. All of the units within the building will be affordable for households with incomes not exceeding 60% of the median family income (MFI), and a minimum of 35 units will be reserved as replacement units for the Lincoln Heights and Richardson Dwellings controlled by the D.C. Housing Authority. The PUD approval was conditioned upon the Applicant’s implementation of various transportation mitigations including the construction of a sidewalk connection from the PUD Site to Nannie Helen Burroughs Avenue, as captured by Condition No. C.1 of the Order, which reads:

Prior to the issuance of a final Certificate of Occupancy for the Project, the Applicant shall construct a six-foot-wide sidewalk and four-foot wide tree box to extend the building length along 50th Street, N.E. and along Fitch Place, N.E. extending from the intersection of Fitch Place, N.E. and 50th Street, N.E. to Nannie Helen Burroughs Avenue, N.E.

(Order at page 22.)

B. Dedication of Land & Street Closure

To facilitate the completion of the sidewalk and related improvements, the Applicant seeks to dedicate approximately 1,371 square feet of land area along 50th Street, NE to the District. The dedication area, although within private property, includes public infrastructure and improvements, including asphalt, road pavement, concrete curb and gutter, concrete sidewalk, landscape area behind the curb, a storm sewer inlet, and electric utilities serving streetlights. Additionally, the Applicant requests the closure of approximately 370 square feet of land area within the 50th Street, NE right-of-way that will vest in PNBC. This area will be improved with

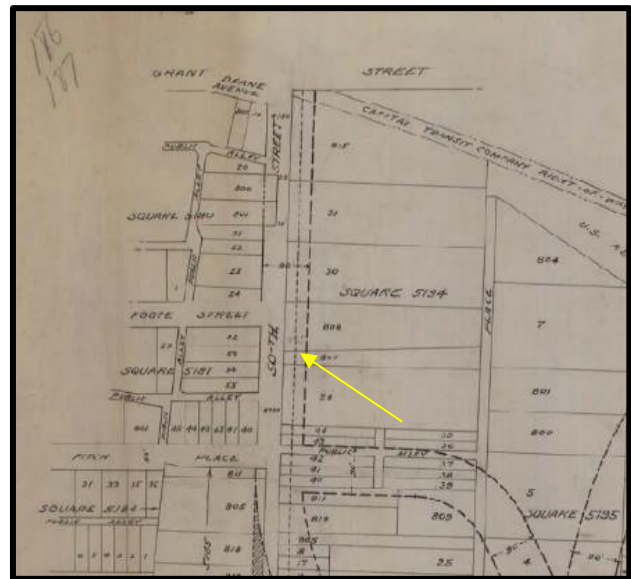
the aforementioned sidewalk that is required as a condition of the PUD approval. While the sidewalk will be constructed on private property, it will be subject to a public access easement agreement with DDOT.

In light of the foregoing and as shown in the Applicant materials, the proposed street closure will not disrupt the existing street grid and is unnecessary for street purposes.

C. D.C. Highway Plan Encumbrance

A portion of Square 5194 is encumbered by the D.C. Highway Plan along the eastern boundary of 50th Street, NE. A subdivision cannot be processed to create a record lot over the encumbered areas. *See* D.C. Code §§ 9-101.05 and 9-101.13. Accordingly, the Applicant requests to modify that D.C. Highway Plan to eliminate that portion of the plan between Fitch Place, NE and Nannie Helen Burroughs Avenue, NE. in order to enable the creation of record lots for the PUD Site and the adjacent PNBC Campus. This area of the D.C. Highway Plan is not necessary for highway purposes and retaining this segment of the plan would not advance any of the District’s goals or policies.

The 1944 excerpt of the D.C. Highway Plan shown to the right (Map No. 2975) depicts the D.C. Highway Plan encumbrance along the eastern boundary of 50th Street, NE.



III. **Review by District Agencies and Utilities**

The Application has been reviewed in detail by the affected District of Columbia agencies and public utilities. Most of the affected agencies and utility companies had no objections to the Application. *See Exhibits D – O*. The few objections that were originally filed with the Office of the Surveyor have been withdrawn and/or any outstanding issues (e.g., execution and recordation of DDOT public access easement) will be fully resolved in the immediate future. *See id.* The following discussion elaborates on the reviews of select agencies and public utilities.

A. Office of Planning

The Office of Planning (“OP”) filed a report dated July 12, 2021, stating that it has no objection to the Application. *See Exhibit D*. In its report, OP stated that “[t]he proposal would particularly further objectives of the Land Use[,] Transportation, Housing[,] Urban Design, [and] Environmental Protection Elements of the Comprehensive Plan, the Far Northeast and Southeast Area Elements, as well as the Lincoln Heights/Richardson Dwellings New Communities Revitalization Small Area Plan.” *Id.* at pg. 2. Further, OP found that “[t]he proposal would provide land for right-of-way improvements along 50th Street, NE” and that “no portion of the 50th Street public right-of-way which is currently in use is proposed to be closed.” *Id.* at pg. 5.

B. DDOT

As set forth in its report dated June 29, 2021, DDOT found that “the application is consistent with how these areas will function as it relates to public and private space.” *See Exhibit E-1* at pg. 1. DDOT also found that the portions of the D.C. Highway Plan that are designated over the subject properties “were never acquired and/or built.” *Id.* at pg. 2. Notwithstanding these conclusions, DDOT stated that it objected to the Application until two conditions were satisfied:

- (1) The Applicant records in the Recorder of Deeds a DDOT approved public access easement for the portion of the Property to be improved by 6-ft sidewalk and retaining wall, which will be maintained by the property owner; and
- (2) DDOT certifies that i) the foregoing conditions have been satisfied; and ii) that the public space improvements in the public right-of-way and subject to a Transportation Online Permitting System (TOPS) permit have been constructed to DDOT standards and specifications; and iii) that all statutory warranties have been provided; and iv) DDOT has agreed to accept the public space improvements.

Id. pg. 5. The Applicant agrees to both conditions. Importantly, in accordance with the first condition, the Applicant has negotiated and finalized a public access easement agreement with DDOT that has been circulated for signatures by the parties. *See* Exhibit E-2.

C. NCPC

The National Capital Planning Commission (“**NCPC**”) issued a report dated June 21, 2021, and “determined that the proposed project falls under two exceptions listed in Chapter 8 (Exceptions and Project Changes) of NCPC’s submission guidelines.” *See* Exhibit F. NCPC found that the proposed portion of 50th Street, NE to be closed is not adjacent to federal property and “does not provide access to a federal property or affected other federal interests.” *Id.* Additionally, NCPC stated that amendments to the D.C. Highway Plan “do not have a negative impact on federal property, and cause no environmental impacts including adverse effects on historic properties.” *Id.*

D. D.C. FEMS

By memorandum dated June 29, 2021, the D.C. Fire and Emergency Medical Services Department (“**FEMS**”) stated that it had no objection to the Application. *See* Exhibit G. FEMS further stated that “the applicant is to ensure that all fire department access and service feature requirements are in accordance with” the District of Columbia Fire Code. *Id.*

E. Other District Agencies / Public Utilities

Other District agencies, including the **Department of Housing and Community Development**, the **Department of Public Works**, and the **D.C. Historic Preservation Office**, issued memoranda indicating no objection to the application. *See Exhibits H – J.*

Regarding public utilities, **Washington Gas** and **PEPCO** issued letters stating no objection to the Application dated June 9, 2021, and July 27, 2021, respectively. *See Exhibits K – L.*

The District of Columbia Water and Sewer Authority (“**D.C. Water**”) submitted a letter dated June 9, 2021, initially objecting to the Application because it currently operates or maintains facilities located within the proposed area of 50th Street, NE to be closed. *See Exhibit M.* Subsequently, on July 20, 2021, D.C. Water issued a follow-up correspondence removing its objection stating that “the applicant has contacted D.C. Water and resolved our objections.” *Id.*

Verizon initially objected unless the Applicant provided an easement to permit an existing telephone plant to remain in its present location, or fully reimbursed Verizon for relocating its plant and feeders. *See Exhibit N.* In response, the Applicant issued a letter, dated September 10, 2021, advising Verizon that it would grant the requested easement. *Id.* By letter dated September 13, 2021, Verizon acknowledged the Applicant’s intent to grant an easement and rescinded its objection to the Application. *Id.*

Based on the above-mentioned reports and recommendations of District agencies and utility companies, and the Applicant’s commitments therein, the Applicant submits that the proposed land dedication, street closure, and elimination of the D.C. Highway Plan encumbrance will have no adverse impact on the present transportation conditions within the PUD Site, Square 5194, or the surrounding area.

IV.
Community Outreach

The Applicant has worked extensively with the community and is pleased to have support for the Project and the Application. The Project is within the boundaries of Advisory Neighborhood Commission (“ANC”) 7C-01. When the PUD application was initially processed with the Zoning Commission, ANC 7C submitted two resolutions in support of the Project. *See* Public Record for Z.C. Case No. 17-08, Exhibit Nos. 13 and 44. In addition, the Single-Member District Representative for ANC 7C-01, Commissioner Patricia Malloy, testified in support of the Project at public hearing. *See* Z.C. Order No. 17-08, Findings of Fact No. 78-80, pg. 16.

In regards to the requests made herein, the Applicant first met with ANC 7C at its duly-noticed, regularly scheduled public meeting on Thursday, April 8, 2021. The Applicant also met with the Deanwood Citizens Association and the New Communities Initiative. A letter issued to the Office of the Surveyor that details the various community meetings attended by the Applicant is attached hereto as Exhibit O. At its duly-noticed, regularly scheduled public meeting on Thursday, June 10, 2021, the ANC voted in support of the Application.

V.
Compliance with Highway Plan Modification Notice Requirements
(D.C. Code § 9-101.06)

Pursuant to D.C. Code § 9-101.06, at least 30 days prior to the submission of the application to NCPC and the D.C. Council, written notice with an opportunity to submit comments must be provided to (i) each owner of land within the squares in which or adjacent to which the proposed modification is located; (ii) each ANC within which the proposed modification is located (in this case ANC 7C); and (iii) the public, through publication in the *D.C. Register*. Written notice was provided to ANC 7C on February 22, 2021, and notice of the application was also published in the *D.C. Register* on June 18, 2021 (68 D.C. Reg 25). Once the 30-day notice period expires and

NCPC completes its review, the Office of the Surveyor may prepare a resolution for submission to the D.C. Council that appends all comments received. Pursuant to D.C. Code § 9-101.06, full agency review is not required.

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

A. Authority for the Street Closure and Dedications is Set Forth in the Street and Alley Closing and Acquisition Procedures Act of 1982, D.C. Code § 9-201.01, et seq.

The legal standard for closing a portion of any street is whether the street is "unnecessary for street or alley purposes." D.C. Code § 9-202.01. Such circumstances are present in this case where the portion of 50th Street, NE to be closed does not currently function as public space. Given that this land area totals approximately 370 square feet, the proposed street closure is *de minimus*. Importantly, the proposed street closure will not adversely impact vehicular travel along 50th Street, NE because the existing street lines and roadway width will remain unchanged. The proposed street closure was agreed upon by the District and Applicant in order for the Land Records to reflect how the area actually functions and is needed to facilitate the completion of the sidewalk and related streetscape improvements that were conditioned by the Zoning Commission pursuant to the Order. Considering that the Applicant will grant a public access easement over the land area to be vested in PNBC, the closed street portion will effectively remain open to the public and serve to enhance the pedestrian experience. In light of the foregoing reasons and the complete file for S.O. 21-02992, the Council may determine that the subject portion of 50th Street, NE is unnecessary for street purposes.

Additionally, the Mayor may open, extend, widen, or straighten: (1) any street to conform with the highway plan; or (2) any minor street or alley, upon the petition of the owners of more

than 1/2 of the property fronting on the proposed street or alley, or when the Mayor finds that the public interest would be best served by the action. D.C. Code § 9-203.01. Any land used for the purpose of opening, extending, widening, or straightening any street minor street or alley pursuant to D.C. Code § 9-203.01 may be acquired by acceptance by the Council of a dedication of land. D.C. Code § 9-203.02(3).

The Council's acceptance of the dedication of Lots 828 and 830 in Square 5194 will serve the public interest. This land currently functions as public space. With the dedication, the land will be formally conveyed to the District and the District's ownership will be reflected in the Land Records.

B. The Proposed Closure and Dedication Implement District Planning Objectives

The proposed street closure and land dedication are necessary to accommodate the construction of the sidewalk and related improvements that are required before the final certificate of occupancy for the Project can be issued. As discussed above, OP found that the Application would further several of the Citywide Elements in the Comprehensive Plan, including the Land Use, Transportation, Housing, Urban Design, and Environmental Protection elements. *See Exhibit D* at pg. 2. In addition, DDOT stated no objection to the Application, given that the Applicant will finalize and record a public access easement and will construct improvements to DDOT standards and specifications. For these reasons, the Application is fully consistent with relevant District policies and implements the city's planning objectives.

VII.
Conclusion

For the above-stated reasons, the Applicant respectfully requests that the Council approve the Applicant's request to (1) eliminate that portion of the D.C. Highway Plan encumbering portions of Square 5194; (2) dedicate Lots 828 and 830 in Square 5194 to the District for public street purposes; and (3) close a portion of the 50th Street, NE right-of-way. These actions will facilitate important streetscape improvements that are conditioned under the Applicant's PUD approval and will benefit the public interest. The Application has been reviewed in detail by the applicable District agencies and public utilities, all of which have indicated no objection to the Application or have provided conditions to which the Applicant has agreed. Therefore, the Applicant respectfully requests that the Council approve Bill No. 24-0291.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: *Leila Batties*
Leila M. Jackson Batties, Esq.
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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Consumer and Regulatory Affairs



Public Hearing on

Bill 24-104, “Closing of Public Streets and Alleys and the Removal of Building Restriction Lines Adjacent to Squares 5862, 5865, 5866 and 5867, S.O. 17-26688, Act of 2021”;

Bill 24-105, “Dedication of Land for Public Street and Alley Purpose Adjacent to Squares 5862, 5865, 5866, and 5867, S.O. 17-26689, Act of 2021”;

Bill 24-167, “Dedication of Land for Street Purposes and Establishment of a Building Restriction Line in Square 2873, S.O. 20-04746, Act of 2021”;

Bill 24-211, “Closing of a Portion of Maryland Avenue, S.W. between Independence Avenue and 6th Street, S.W., and the Transfer of Jurisdiction of the Closed Portion of Maryland Avenue and portions of Independence Avenue and 4th and 6th Streets, S.W., S.O. 17-26507, Act of 2021”;

Bill 24-234, “Abandonment of the Highway Plan for Jackson Street, N.E., S.O. 21-00463, Act of 2021”; and

Bill 24-291, “Omnibus Progressive National Baptist Convention Redevelopment Act of 2021”

Background Information Provided by
Joseph Snider
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

Thursday, October 14, 2021
10:00 a.m.

Good Morning, Chairman Mendelson, members, and staff of the Committee of the Whole. I am Joseph Snider, the 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 B24-104, “Closing of Public Streets and Alleys and the Removal of Building Restriction Lines Adjacent to Squares 5862, 5865, 5866, and 5867, S.O. 17-26688, Act of 2021”; B24-105, “Dedication of Land for Street and Alley Purposes Adjacent to Squares 5862, 5865, 5866 and 5867, S.O. 17-26689, Act of 2021”; B24-167, “Dedication of Land for Street Purposes and Establishment of a Building Restriction Line in Square 2873, S.O. 20-04746, Act of 2021”; B24-211, “Closing of a Portion of Maryland Avenue, S.W. between Independence Avenue and 6th Street, S.W., and the Transfer of Jurisdiction of the Closed Portion of Maryland Avenue and portions of Independence Avenue and 4th and 6th Streets S.W., S.O. 17-26507, Act of 2021”; Bill 24-234, “Abandonment of the Highway Plan for Jackson Street, N.E., S.O. 21-00463, Act of 2021”; and B24-291, “Omnibus Progressive National Baptist Convention Redevelopment Act of 2021.”

Bill 24-104, “Closing of Public Streets and Alleys and the Removal of Building Restriction Lines Adjacent to Squares 5862, 5865, 5866 and 5867, S.O. 17-26688, Act of 2021”

I will begin with B24-104, “Closing of Public Streets and Alleys and the Removal of Building Restriction Lines Adjacent to Squares 5862, 5865, 5866, and

5867, S.O. 17-2688, Act of 2021,” which was introduced by Councilmember White.

The purpose of this bill is to close portions of Firth Sterling Avenue, S.E., Eaton Road S.E. and Stevens Road, S.E., adjacent to Squares 5862, 5865, and 5886 and removal of Building Restriction Lines, and to close portions of the public alley system in Squares 5862, 5865, 5866, and 5887 and removal of building Restriction Lines in Ward 8 to facilitate the development at the Barry Farms site.

The portions of Firth Sterling Avenue, S.E., Eaton Road S.E., Stevens Road, S.E., and alleys to be closed in Squares 5862, 5865, 5866, and 5867 were created by subdivisions as shown in Book Levy Court (LC-2) on Page 1, Book 57 on Page 15, Book 67 on Pages 40 and 40-A, and Book 117 on Page 32 respectively, recorded from years 1867 to 1942.

Title to the closed portions of Firth Sterling Avenue, S.E., Eaton Road, S.E., Stevens Road, S.E., and alleys in Squares 5862, 5865, 5866, and 5867 could not be determined to be held by the District of Columbia or the United States.

The most probable estimate of value as of January 1, 2021, which represents tax year 2022 for the public streets, public alleys and building restriction lines removed in Square 5862, 5865, 5866 and 5867 is \$4,149,800 (152,396 s.f. x \$27.23 (\$27.2304) estimated square foot). The estimate is explained as follows:

- \$2,691,370 (98,837 s.f. x \$27.23 (\$27.2304) estimated square

foot) (for public alleys closed)

- \$1,458,430 (53,550 s.f. x \$27.23 (\$27.2349) estimated square

foot) (for public street closed)

The applicant for this closing is the Barry Farms Redevelopment Associates and the District of Columbia, who are represented by Holland and Knight, LLC. The Office of the Surveyor notified the relevant Executive Branch agencies and utility companies of the application on August 23, 2018. In a letter dated August 8, 2021, the District Department of Transportation (DDOT) objected to this application. However, DDOT would have no objection to this application if all the terms and conditions contained in the Agreement are satisfied as outlined in their letter dated August 8, 2019. In a letter dated August 24, 2018, DC Water objected to this application indicating that it currently operates or maintains facilities located within the proposed street/alley closing area. However, DC Water would not have any objection if the applicant executed and recorded an easement that allows for the continued operation and maintenance of their facilities. DC Water subsequently submitted a letter dated July 23, 2019, stating that it no longer objected to the proposed closure because their objections had been resolved. The remaining Executive Branch agencies have no objections.

The Surveyor's Office notified the utility companies of the application on August 24, 2018. In a letter dated September 18, 2018, Pepco objected to this

application. However, Pepco would not have any objection to the proposed closing of public street and alleys if Pepco's electrical facilities were maintained in place or relocated at no cost to Pepco. Pepco subsequently submitted a letter dated April 3, 2019, stating that it no longer objected to the proposed closure due to the applicant's proposal to enter into an easement agreement with Pepco. The remaining utility companies have no objection.

Pursuant to D.C. Official Code § 9-202.02(3), the Surveyor's Office notified the National Capital Planning Commission (NCPC) of this application on August 24, 2018. In a letter dated September 24, 2018, NCPC staff has determined that the proposed project falls under an exception listed in Chapter 8 (Exceptions and Project Changes) of NCPC's submission guidelines. Specifically, NCPC concluded the project meets the conditions of Exception 9, regarding amendment to the Highway Plan, which encompass public street/alley dedications or closures outside of the L'Enfant Plan of the Federal City.

Pursuant to D.C. Official Code § 9-202.02(5) Advisory Neighborhood Commission (ANC) 8C was notified of this application on August 24, 2018. In a letter dated April 26, 2019, ANC 8C indicated their support for the proposed street closing.

Bill 24-105, "Dedication of Land for Public Street and Alley Purposes Adjacent to Squares 5862, 5865, 5866, and 5867, S.O. 17-26689, Act of 2021"

Next I will turn to B24-105, the "Dedication of Land for Public Street and

Alley Purposes Adjacent to Squares 5862, 5865, and 5867, S.O. 17-26689, Act of 2021,” which was introduced by Councilmember White.

This bill would order the dedication and designation of Obama Way, S.E., Eureka Place, S.E., Solomon Road, S.E., Eaton Road, S.E., River Walk, S.E., Stevens Road, S.E., and Hermitage Way, S.E., adjacent to Squares 5865 and 5866 for public street purposes, to dedicate land to widen portions of Summer Road, S.E., Eaton Road, S.E., and Stevens Road, S.E., adjacent to Squares 5862, 5865 and 5866, and to dedicate land adjacent to Squares 5865, 5866 and 5867 for public alley purposes, and authorize the improvement of the dedicated land for street and alley purposes in Ward 8.

The applicant for this application is the Barry Farms Redevelopment Associates, LLC and the District of Columbia who are represented by Holland and Knight, LLC. The Office of the Surveyor notified the relevant Executive Branch agencies and the utility companies of the application on August 24, 2018. In a letter dated August 8, 2019, DDOT objected to this application. However, DDOT would have no objection to the application if all of terms and conditions contained in the Agreement are satisfied as outlined in their letter dated August 8, 2019. The remaining agencies have no objections.

The Surveyor’s Office notified the utility companies of the application on August 24, 2018. In a letter dated April 12, 2019, Washington Gas objected to the

dedication of land for public street and public alleys due to the existence of active natural gas facilities within the limits of the proposed alley closure. However, in a letter dated October 13, 2020, Washington Gas clarified that it does not have active natural gas facilities within the limits of the proposal and that it has no objections. The remaining utility companies have no objections.

Pursuant to D.C. Official Code § 9-202.02(3), the Surveyor's Office notified the National Capital Planning Commission (NCPC) of this application on August 24, 2018. In a letter dated September 24, 2018, NCPC staff determined that the proposed project falls under an exception listed in Chapter 8 (Exceptions and Project Changes) of NCPC's submission guidelines. Specifically, NCPC concluded that the project meets the conditions of Exception 9, regarding amendments to the Highway Plan, which encompass public street/alley dedications or closures outside of the L'Enfant Plan of the Federal City.

Pursuant to D.C. Official Code § 9-202.02(5), Advisory Neighborhood Commission (ANC) 8C was notified of this application on August 24, 2018. In a letter dated April 26, 2019, ANC 8C indicated their support for this application.

B24-167, "Dedication of Land for Street Purposes and Establishment of a Building Restriction Line in Square 2873 (S.O. 20-04746) Act of 2021"

Next I will turn to B24-167, "Dedication of Land for Street Purposes and Establishment of a Building Restriction Line in Square 2873 (S.O. 20-04746) Act

of 2021,” which was introduced by Chairman Mendelson at the request of the Mayor.

The purpose of this bill is to dedicate Lots 1107 and 1113 in Square 2873 to accommodate the extension of W Street N.W., and to establish a 25-foot-wide building restriction line on the southern portion of Lots 1106 and 1112 in Square 2873, in Ward 1.

The Record Lots were recorded in the Office of the Surveyor on August 14, 2019, in Subdivision Book 216, on Page 13 for Lots 1106 and 1107; and on November 27, 2019, in Subdivision Book 216, on Page 118 for Lots 1112 and 1113.

Title to Lots 1106 and 1107 in Square 2873 has been determined to be held with “The Howard University”, “Its Mine Now, LLC” and “50 Turkeys, LLC.” Title to Lots 1112 and 1113 in Square 2873 has been determined to be held with “The Howard University” and “Howard Dormitory Holdings, LLC.”

The most probable estimate of value as of January 1, 2021, which represents tax year 2021 for the land dedication for public street and building restriction line in Square 2873, is \$3,746,710.00 (11,576 s.f. x \$323.83 estimated square foot).

The estimate is explained as follows:

- \$1,873,680 (5,786 s.f. x \$323.83 estimated square foot)

- \$1,873,030 (5,784 s.f. x \$323.83 estimated square foot)

The applicant for this dedication and building restriction line establishment is Howard University, who is represented by Saul Ewing Arnstein and Lehr, LLP.

The Office of the Surveyor notified the relevant Executive Branch agencies and utility companies of this application on July 27, 2020. DDOT objected to this application until the conditions have been satisfied as outlined in their letter dated November 17, 2020. In a letter dated January 6, 2021, Howard University agreed to all of the conditions stated by DDOT in their letter dated November 17, 2020. The remaining Executive Branch agencies have no objection.

Pursuant to D.C. Official § 9-202-02(3), the Surveyor's Office notified the National Capital Planning Commission (NCPC) of this application on July 27, 2020. In a letter dated August 26, 2020, NCPC staff determined that the proposed project falls under an exception listed in Chapter 8 (Exceptions and Project Changes) for NCPC's submission guidelines. Specifically, NCPC concluded that the project meets the requirements of Exception 8, which includes street and alley closing located outside of the boundary of the L'Enfant Plan of the Federal City under the following conditions: 1) the street or alley is not adjacent to federal property and 2) the street or alley does not provide access to a federal property or affect other federal interests. The project was also made available for public review on the NCPC website, and no comments were received.

Pursuant to D.C. Official Code § 9-202.02(5), Advisory Neighborhood Commission (ANC) 1B was notified of this application on July 27, 2020. In a letter dated September 3, 2020, ANC 1B indicated that they support the proposed street dedication and establishment of a building restriction line in Square 2873. The applicant is the owner of the property of the street dedication and building restriction line to be established.

Bill 24-211, “Closing of a Portion of Maryland Avenue, S.W. between Independence Avenue and 6th Street, S.W., and the Transfer of Jurisdiction of the Closed Portion of Maryland Avenue and portions of Independence Avenue and 4th and 6th Streets, S.W., S.O. 17-26507, Act of 2021”

Next I will turn to B24-211, “Closing of a Portion of Maryland Avenue, S.W. between Independence Avenue and 6th Street, S.W., and the Transfer of Jurisdiction of the Closed Portion of Maryland Avenue and portions of Independence Avenue and 4th and 6th Streets, S.W., S.O. 17-26507, Act of 2021,” which was introduced the Chairman Mendelson, at the request of the Mayor.

The purpose of this bill is to close a portion of Maryland Avenue, S.W., and to transfer the jurisdiction of portions of Maryland Avenue, Independence Avenue, S.W., 4th Street S.W., and 6th Street, S.W. adjacent to Square 492 in Ward 6 to the National Park Service. This relates to the new Dwight D. Eisenhower Memorial.

The portion of Maryland Avenue, S.W. to be closed was created by the establishment of the Federal City of Washington. The street is shown on the King

Plats, Plate 9 in the year 1803.

Title to the portion of Maryland Avenue, S.W. to be closed is determined to be held by the United States.

The most probable estimate of value as of January 1, 2020, which represents tax year 2021 for the public street closed in Square 492 and N 492 is \$67,073,900 (74,407 s.f.). The estimate is explained as follows:

- The public street closed title to revert to USA GSA is \$2,352,330 (2,248 s.f. x \$1,046.41 estimated square foot). This estimate is rounded and based on Lot 110 of Square 492.
- The public street closed to revert to USA N.P.S. is \$64,721,570 (72,159 s.f. x \$896.93 estimated square foot). The estimate is rounded and based on lot 800 of Square N-492.

The applicant for this application is the U.S. Department of the Interior, National Park Service. The Office of the Surveyor notified the relevant Executive Branch agencies and utility companies on January 29, 2018. They have no objections.

Pursuant to D.C. Official Code § 9-202.02(3), the Surveyor's Office notified the National Capital Planning Commission (NCPC) of this application on January 29, 2018. In a letter dated April 11, 2018, NCPC stated pursuant to delegation of

authority adopted by the Commission on December 14, 1977, the Chairman approved the revised transfer of jurisdiction of a portion of Maryland Avenue between 4th and 6th Streets, S.W. and portions of sidewalk space along 4th and 6th and Independence Avenue, S.W. from the District Department of Transportation to the United States Government, under the jurisdiction of the National Park Service and the General Services Administration in order to create a unified site for the Dwight D. Eisenhower Memorial.

Pursuant to D.C. Official Code § 9-202.02(5), Advisory Neighborhood Commission (ANC) 6D was notified of this application on January 29, 2018. In a letter dated April 10, 2018, ANC 6D indicated their support for this application.

B24-234, “Abandonment of the Highway Plan for Jackson Street, N.E., S.O. 21-00463, Act of 2021”

Next I will turn to B24-234, “Abandonment of the Highway Plan for Jackson Street, N.E., S.O. 21-00463, Act of 2021,” which was introduced by Councilmember McDuffie.

The purpose of this bill is to remove from the Highway Plan the extension of Jackson Street, N.E. located within Lot 806 in Square 3835 in Ward 5.

The applicant for this application is PO 8th Street, LP who is represented by Holland and Knight, LLC. The Office of the Surveyor notified DDOT on December 9, 2020. In a letter dated February 3, 2021, DDOT indicated they had

no objections to the elimination of the segment of Jackson Street, N.E. from the D.C. Highway Plan.

Pursuant to D.C. Official Code § 9-202.02(3), the Surveyor's Office notified the National Capital Planning Commission (NCPC) of this application on December 9, 2020. In a letter dated December 29, 2020, NCPC indicated that staff determined that the proposed project falls under an exception listed in Chapter 8 (Exceptions and Project Changes) of NCPC's submission guidelines. Particularly, NCPC determined that the project meets the requirements of Exception 9, which includes the amendments to the Highway Plat that do not have a negative impact on federal property and cause no environmental impacts including adverse effects on historic properties. Staff review did not identify any federal interests that would be impacted by the proposed modification.

Pursuant to D.C. Official Code §9-202.02(5), Advisory Neighborhood Commission (ANC) 5E was notified of this application on December 9, 2020. In a letter dated December 15, 2020, ANC 5E indicated that they have no objection to the proposed modification.

B24-291, "Omnibus Progressive National Baptist Convention Redevelopment Act of 2021"

Finally, I will turn to Bill 24-291 "Omnibus Progressive National Baptist Convention Redevelopment Act of 2021," which was introduced by

Councilmember Gray.

The portion of 50th Street, N.E. to be closed was created by a subdivision of the Town of Lincoln as shown in Book G.S. on Page 25, recorded in the year 1874. Title to the closed portion of 50th Street, N.E. could not be determined to be held by the District of Columbia or the United States.

The purpose of this bill is to remove from the Highway Plan extension of a portion of 50th Street, N.E. located within Lots 827, 828, 829, and 830 in Square 5194, to order the closing of a portion of 50th Street, N.E. adjacent to Square 5194, and to accept the dedication of Lots 828 and 830 in Square 5194 in Ward 7 for public street purposes.

The most probable estimate of value as of January 1, 2021, which represents tax year 2022 for the portion of public street to be closed in Square 5194 is \$17,910 (370 s.f. x \$48.40 estimated square foot). The estimate is explained as follows:

- \$17,910 (370 s.f. x \$48.40 estimated square foot) for portion of 50th Street to Owner of Lot 827.

The applicant for this application is the Progressive National Baptist Convention, LLC who is represented by Holland and Knight, LLC. The Office of the Surveyor notified the relevant Executive Branch agencies on June 1, 2021.

DDOT objected to this application until the conditions have been satisfied as outlined in their letter dated June 29, 2021. It now appears that their concerns have been resolved.

In a letter dated June 8, 2021, Verizon objects to this proposal unless conditions outlined in their letter are met. The remaining utility companies have no objections.

Pursuant to D.C. Official Code § 9-202.02(3), the Surveyor's Office notified the National Capital Planning Commission (NCPC) of this application on June 1, 2021. In a letter dated June 21, 2021, NCPC staff determined that the proposed project falls under two exceptions listed in Chapter 8 (Exceptions and Project Changes) of NCPC's submission guidelines. Particularly, NCPC concluded that the project meets the requirements of Exception 8, which pertains to District of Columbia Zoning Commission referrals related to street closures outside of the L'Enfant City boundary under the following conditions: 1) the street or alley is not adjacent to federal property and 2) the street or alley does not provide access to a federal property or affect other federal interest. Additionally, the project also meets the requirements of Exception 9, which relates to Highway Plan amendments that do not have a negative impact on federal property and causes no environmental impacts, including adverse effect on historic properties. Staff has determined that each of these conditions apply to the proposed District referral and

therefore, that this project is exempt from Commission review.

Pursuant to D.C. Official Code § 9-202.02(5), Advisory Neighborhood Commission 7C was notified of this application on June 1, 2021. To date, we have not received comments from ANC 7C.

This concludes my testimony. I appreciate the opportunity to appear before you today and welcome any questions you may have regarding these matters. Thank you.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
District Department of Transportation



Public Hearing on

- Bill 24-104, Closing of Public Streets and Alleys and the Removal of Building Restriction Lines Adjacent to Squares 5862, 5865, 5866, and 5867, S.O. 17-26688 Act of 2021
- Bill 24-105, Dedication of Land for Public Street and Alley Purposes Adjacent to Squares 5862, 5865, 5866, and 5867, S.O. 17-26689 Act of 2021
- Bill 24-167, Dedication of Land for Street Purposes and Establishment of a Building Restriction Line in Square 2873 (S.O. 20-04746) Act of 2021
- Bill 24-211, Closing of a portion of Maryland Avenue, S.W. between Independence Avenue and 6th Street, S.W., and the transfer of jurisdiction of the closed portion of Maryland Avenue and portions of Independence Avenue and 4th and 6th Streets, S.W., S.O. 17-26507, Act of 2021
- Bill 24-234, Abandonment of the Highway Plan for Jackson Street, N.E., S.O. 21-00463, Act of 2021
- Bill 24-291, Omnibus Progressive National Baptist Convention Redevelopment Act of 2021

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, October 14, 2021
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 Acting DDOT Director Everett Lott regarding six bills, which are Bill 24-104, the “Closing of Public Streets and Alleys and the Removal of Building Restriction Lines Adjacent to Squares 5862, 5865, 5866, and 5867, S.O. 17-26688 Act of 2021,” Bill 24-105, the “Dedication of Land for Public Street and Alley Purposes Adjacent to Squares 5862, 5865, 5866, and 5867, S.O. 17-26689 Act of 2021,” Bill 24-167, the “Dedication of Land for Street Purposes and Establishment of a Building Restriction Line in Square 2873 (S.O. 20-04746) Act of 2021,” Bill 24-211, the “Closing of a portion of Maryland Avenue, S.W. between Independence Avenue and 6th Street, S.W., and the transfer of jurisdiction of the closed portion of Maryland Avenue and portions of Independence Avenue and 4th and 6th Streets, S.W., S.O. 17-26507, Act of 2021,” Bill 24-234, the “Abandonment of the Highway Plan for Jackson Street, N.E., S.O. 21-00463, Act of 2021,” and Bill 24-291, the “Omnibus Progressive National Baptist Convention Redevelopment Act of 2021.”

The stated purpose of Bill 24-104 is to close portions of the public street and alley system adjacent to Squares 5862, 5865, 5866, and 5867, as shown by the hatch marks on the Surveyor’s plat in S.O. 17-26688. DDOT filed a report with the Office of the Surveyor on August 8, 2019, related to S.O. 17-26688. DDOT’s report noted that the agency objected to the proposed closure and removal of building restriction lines until several conditions are met. Since the conditions are lengthy I will not read them in full, but I have attached our report for the record. Once these conditions have been met, DDOT would have no objection to the recordation of the plat.

The stated purpose of Bill 24-105 is to dedicate the streets and alleys adjacent to Squares 5862, 5865, 5866, and 5867 as Obama Way, S.E., Eureka Place, S.E., Soloman Road, S.E., Eaton Road, S.E., River Walk, S.E., Stevens Road, S.E., and Hermitage Way, S.E. as shown on the Surveyor's plats filed under S.O. 17-26689. DDOT filed a report with the Office of the Surveyor on August 8, 2019, related to S.O. 17-26689. DDOT's report noted that the agency objected to the proposed closure and removal of building restriction lines until several conditions are met. Since the conditions are lengthy I will not read them in full, but I have attached our report for the record. Once these conditions have been met, DDOT would have no objection to the recordation of the plat.

The stated purpose of Bill 24-167 is to dedicate Lots 1107 and 1113, in Square 2873 for street purposes to accommodate the extension of W Street, N.W. right-of-way, and establish a 25 foot wide building restriction line on Lots 1106 and 1112 in Square 2873, in Northwest Washington, D.C. in Ward 1. DDOT filed a report with the Office of the Surveyor on November 17, 2020, related to S.O. 20-04746. DDOT's report noted that the agency objected to the proposed dedication until several conditions are met. The first condition is that the applicant has constructed the public space improvements pursuant to the terms and conditions of the Horizontal Public Use Agreement signed by the parties. The applicant just recently began construction so no conditions have been satisfied at this time. The next condition will be that the public space improvements have been inspected by DDOT and meet or exceed DDOT standards and specifications consistent with the Horizontal Public Use Agreement, and that the dedication plat for W Street NW shall not be recorded until DDOT has agreed to accept the public space improvements, all statutory warranties have been provided and the applicant has complied with all of the terms and conditions of the Horizontal Public Use Agreement. The applicant has been

working with DDOT through the terms of the Horizontal Public Use Agreement. Once these conditions have been met, DDOT would have no objection to the recordation of the plat.

The stated purpose of Bill 24-211 is to order the closing of a portion of Maryland Avenue, S.W. and the transfer of jurisdiction of the closed portion of Maryland Avenue and portions of Independence Avenue and 4th and 6th Streets S.W., to the National Park Service. DDOT initially objected to this closure until an agreement could be provided evidencing that DC Water will continue to maintain the stormwater facilities on, under and through the sidewalks around the site along 4th Street, 6th Street and Independence Avenue SW. The National Park Service has since provided a letter committing to issue the necessary access permits once the transfer is complete. Accordingly, DDOT has no objections to the proposed closures in this bill.

The stated purpose of Bill 24-234 is to remove from the plan for the extension of a permanent system of highways a portion of Jackson Street, N.E., located within Lot 805, Square 3835. DDOT has no objections to the proposed closures in this bill.

The stated purpose of Bill 24-291 is to remove from the plan for extension of a permanent system of highways a portion of 50th Street, N.E., located within Lot 825 in Square 5194. It calls for the closing of 50th Street, N.E. and Nannie Helen Burroughs Avenue, N.E., adjacent to Square 5194 and accepts the dedication of Lots 828 and 830 in Square 5194 for public street purposes. DDOT filed a report with the Office of the Surveyor on June 29, 2021, related to S.O. 21-02992. The first condition is that the applicant records at the Recorder of Deeds a DDOT-approved public access easement for the portion of the Property to be improved by 6-ft sidewalk and retaining wall, which will be maintained by the property owner. The applicant has not returned the signed easement at this time, so no conditions have been satisfied. The applicant has been working with DDOT on the easement and we are waiting for final

signature. Once these conditions have been met, DDOT would have no objection to the recordation of the plat.

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.

IN REPLY REFER TO:
NCPC File No. 8288

June 21, 2021

Sharon Schellin
Zoning Commission of the District of Columbia
441 4th Street, NW, Suite 200-S
Washington, DC 20001

Re: NCPC File No. 8288 (Proposed Closing of a Portion of 50th Street, NE near Square 5194
and Other Modifications – S.O. 21-02992)

Dear Sharon Schellin:

The purpose of this letter is to respond to the above-mentioned project submitted to the National Capital Planning Commission (NCPC) for review, in accordance with DC Code § 9-202.02.

Upon review of the project documents, NCPC staff has determined that the proposed project falls under two exceptions listed in Chapter 8 (Exceptions and Project Changes) of NCPC's submission guidelines. In particular, the project meets the requirements of Exception 8, which pertains to District of Columbia Zoning Commission referrals related to street closures outside of the L'Enfant City boundary under the following conditions: 1) the street or alley is not adjacent to federal property and 2) the street or alley does not provide access to a federal property or affect other federal interests. Additionally, the project also meets the requirements of Exception 9, which relates to Highway Plan amendments that do not have a negative impact on federal property, and cause no environmental impacts including adverse effects on historic properties. Staff has determined that each of these conditions apply to the proposed District referral and therefore, that this project is exempt from Commission review.

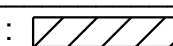
This determination applies only to the project listed above. Determinations to whether a particular project falls within one of the Commission's exceptions are done on a case-by-case basis, either during early consultation or upon request for review. Please note that the applicant cannot make this determination independently and must submit projects to NCPC to confirm that an exception is warranted. If you have any questions or need additional information, please contact Michael Weil at (240) 575-0212 or michael.weil@ncpc.gov.

Sincerely,

Diane Sullivan

Diane Sullivan
Director, Urban Design and Plan Review

PURSUANT TO D.C. LAW _____, EFFECTIVE _____, 20____,
 THE STREET SHOWN THUS:  IS CLOSED AND TITLE
 VESTS AS SHOWN UPON RECORDATION OF THIS PLAT.

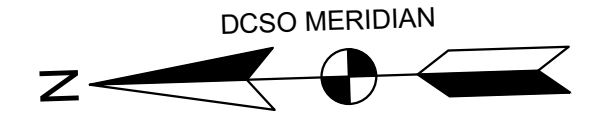
PURSUANT TO D.C. LAW _____, EFFECTIVE _____, 20____,
 THE LAND SHOWN THUS:  IS DEDICATED IN FEE SIMPLE FOR STREET
 PURPOSES.

PURSUANT TO D.C. LAW _____, EFFECTIVE _____, 20____,
 THE LAND SHOWN THUS:  IS AS A PUBLIC EASEMENT FOR STREET
 IMPROVEMENT AND PUBLIC UTILITY PURPOSES.

THE D.C. HIGHWAY PLAN LINES ARE HEREBY ELIMINATED AS SHOWN ON THE PLAT.

INDEX SHEET

STREET DEDICATION, PORTION OF PUBLIC STREET CLOSED, PUBLIC EASEMENT AND D.C HIGHWAY PLAN ELIMINATED SQUARE 5194, LOTS 827, 828, 829, AND 830



OFFICE OF THE SURVEYOR, D.C.

_____, 20____

I CERTIFY THAT THIS PLAT IS CORRECT AND IS RECORDED.

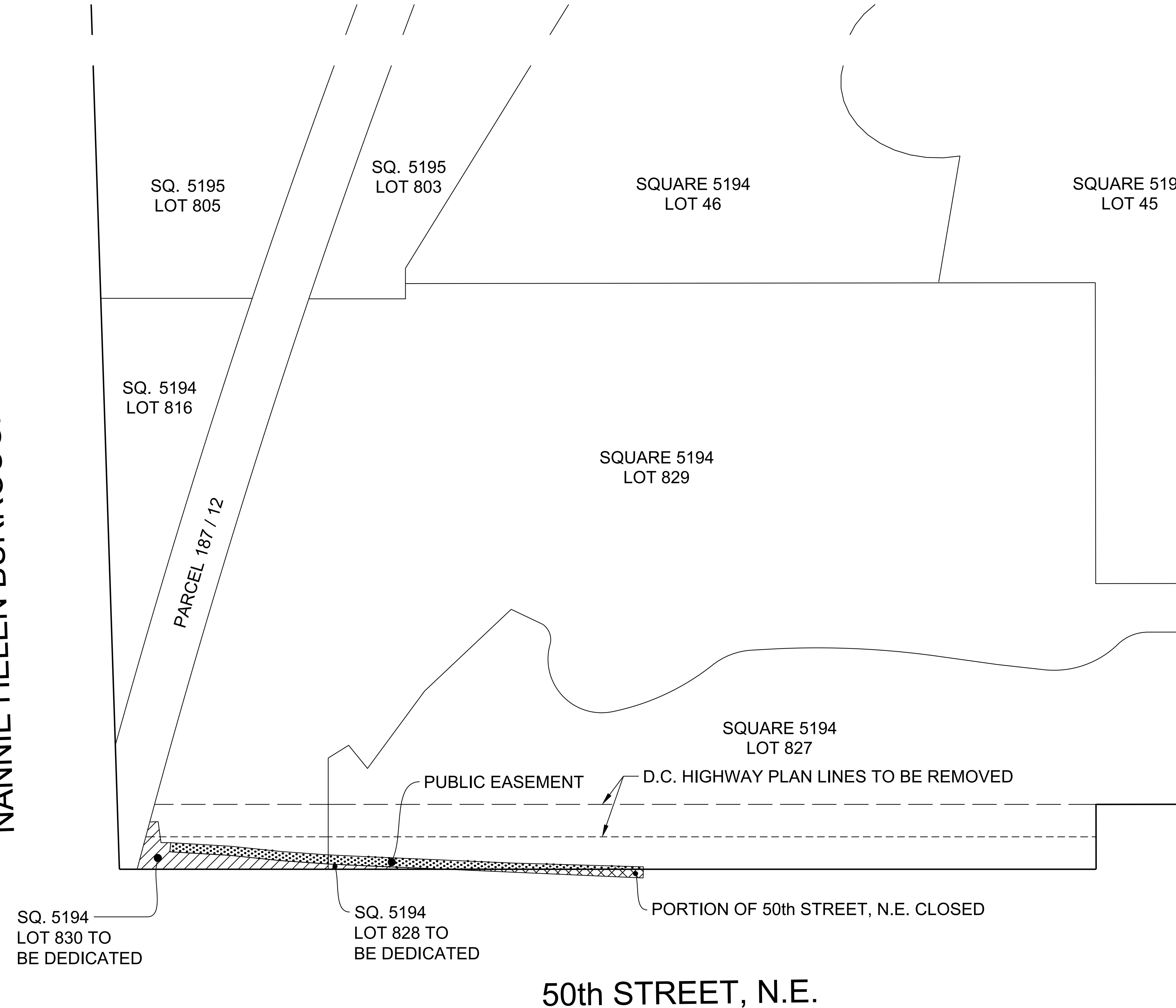
 SURVEYOR, D.C.

SHEET INDEX

SHEET 1	INDEX
SHEET 2	D.C. HIGHWAY PLAN ELIMINATED
SHEET 3	STREET DEDICATION AND PUBLIC STREET CLOSED
SHEET 4	PUBLIC EASEMENT

NANNIE HELEN BURROUGHS AVENUE, N.E.

FITCH PLACE, N.E.



Note: All plats based on field work and research by A. Morton Thomas & Associates, Inc. Survey work and research performed from 2020 thru 2021.

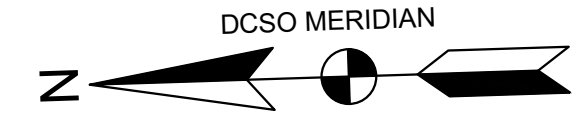
SURVEYOR'S OFFICE, D.C.

Made for: _____
 Drawn by: AMT Checked by: B. MEYERS
 Record and computations by: AMT
 Recorded at: _____
 Recorded in Book _____ Page _____
 Scale: 1 inch = 40 feet S.O. No. 21-02992

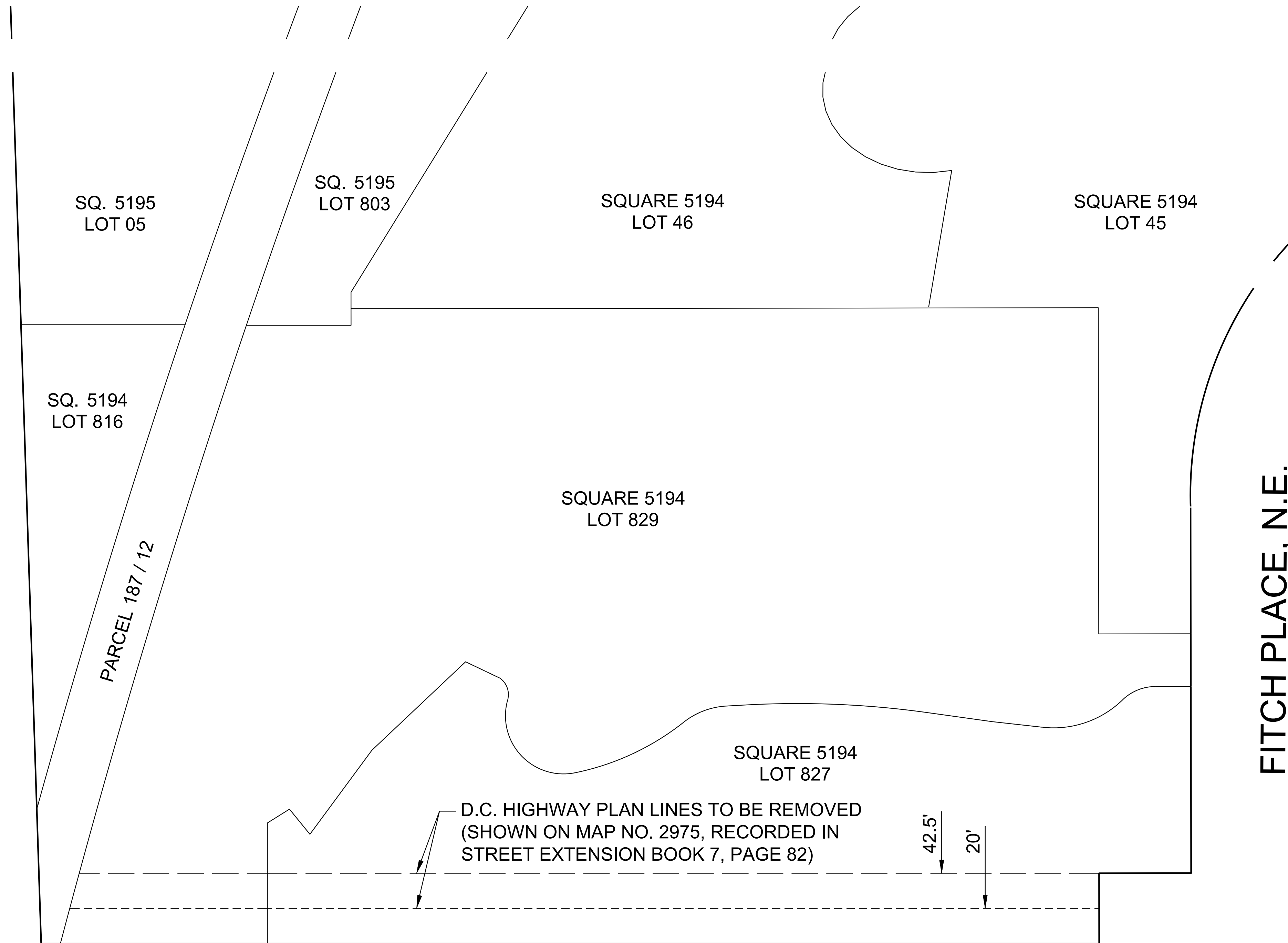
I CERTIFY THAT THIS PLAT IS CORRECT AND IS RECORDED.

SURVEYOR, D.C.

D.C. HIGHWAY PLAN ELIMINATED SQUARE 5194, LOTS 827, 828, 829, AND 830



NANNIE HELEN BURROUGHS AVENUE, N.E.



50th STREET, N.E.

SURVEYOR'S OFFICE, D.C.

Made for: _____

Drawn by: AMT Checked by: B. MEYERS

Record and computations by: AMT

Recorded at: _____

Recorded in Book _____ Page _____

Scale: 1 inch = 40 feet S.O. No. 21-02992

I CERTIFY THAT THIS PLAT IS CORRECT AND IS RECORDED.

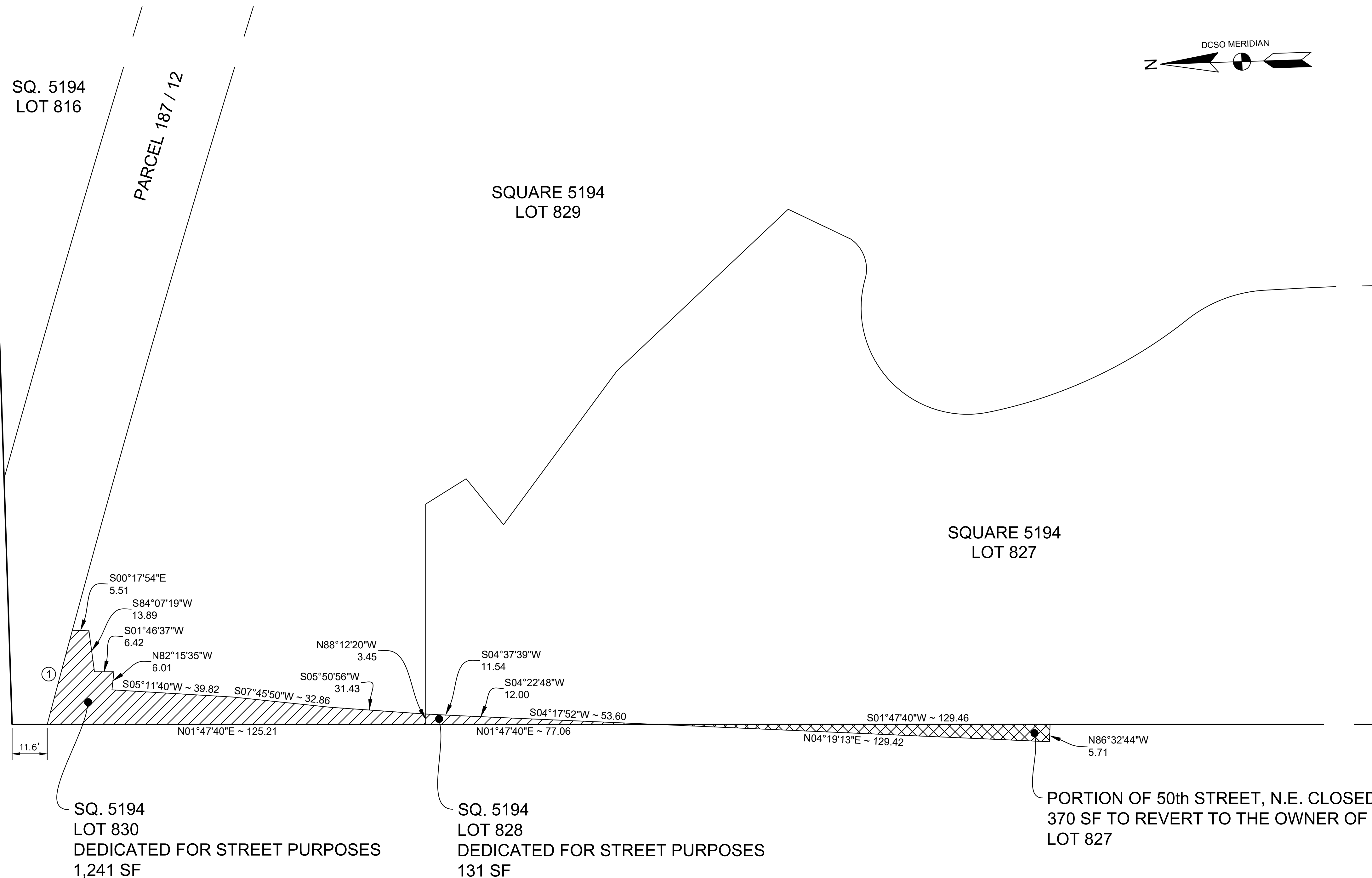
SURVEYOR, D.C.

STREET DEDICATION AND PORTION OF PUBLIC STREET CLOSED SQUARE 5194, LOTS 827, 828, 829, AND 830



NANNIE HELEN BURROUGHS AVENUE, N.E.

CURVE TABLE						
CURVE NO.	RADIUS	DELTA	LENGTH	TANGENT	CHD BEARING	CHORD
1	5701.42'	0.32	32.07'	16.04'	N73°15'22.91"W	32.07



50th STREET, N.E.

SURVEYOR'S OFFICE, D.C.

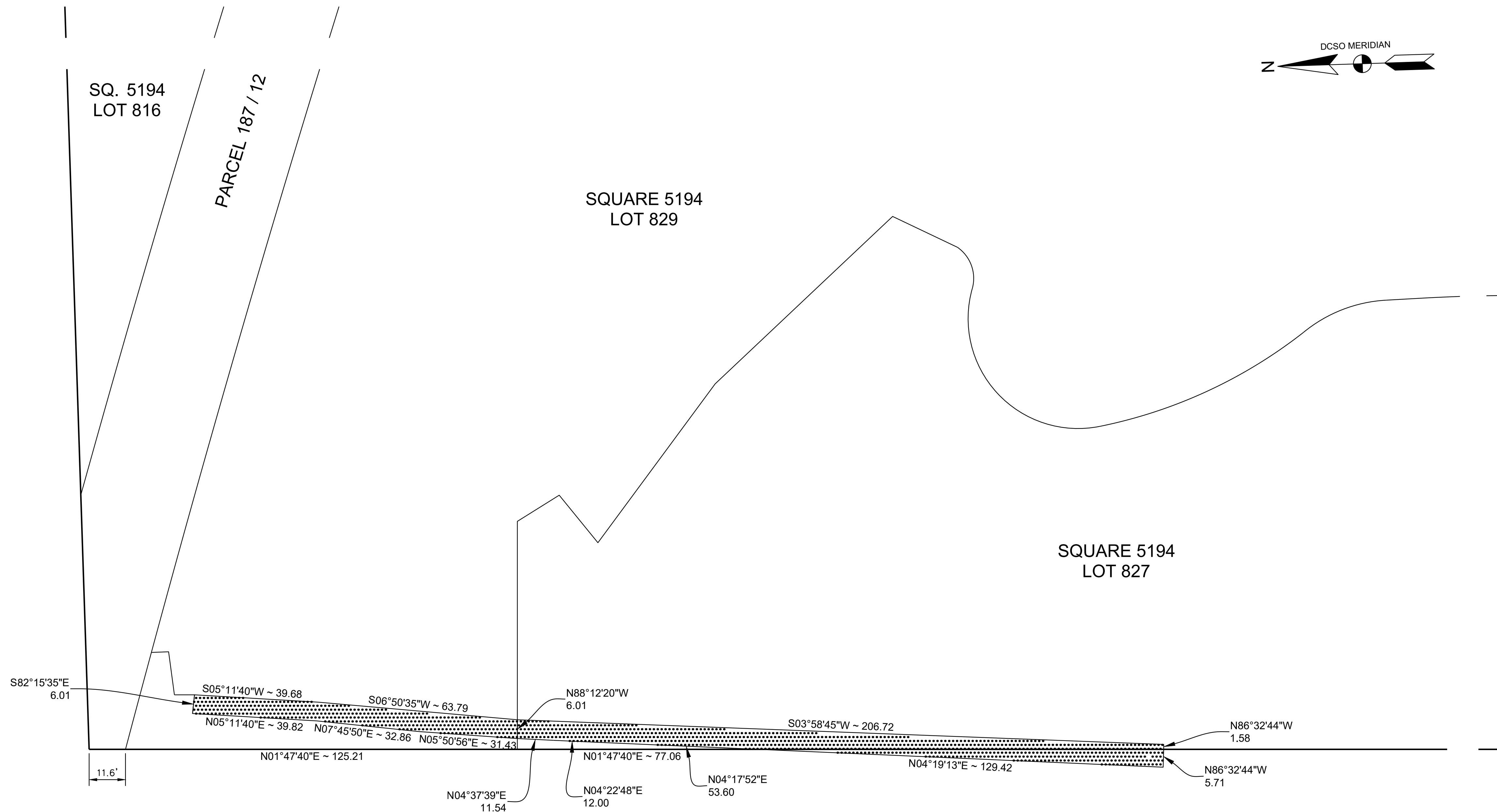
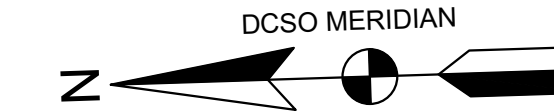
Made for: _____
 Drawn by: AMT Checked by: B. MEYERS
 Record and computations by: AMT
 Recorded at: _____
 Recorded in Book _____ Page _____
 Scale: 1 inch = 20 feet S.O. No. 21-02992

I CERTIFY THAT THIS PLAT IS CORRECT AND IS RECORDED.

SURVEYOR, D.C.

PUBLIC EASEMENT SQUARE 5194, LOTS 827, 828, 829, AND 830

NANNIE HELEN BURROUGHS AVENUE, N.E.



SQ. 5194
LOT 816

PARCEL 187 / 12

SQUARE 5194
LOT 829

SQUARE 5194
LOT 827

50th STREET, N.E.

SURVEYOR'S OFFICE, D.C.

Made for: _____

Drawn by: AMT Checked by: B. MEYERS

Record and computations by: AMT

Recorded at: _____

Recorded in Book _____ Page _____

Scale: 1 inch = 20 feet S.O. No. 21-02992


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



Fitzroy Lee
Acting Chief Financial Officer

MEMORANDUM

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

FROM: Fitzroy Lee
Acting Chief Financial Officer 

DATE: November 15, 2021

SUBJECT: Fiscal Impact Statement – Omnibus Progressive National Baptist
Convention Redevelopment Act of 2021

REFERENCE: Bill 24-291, Draft Committee Print as provided to the Office of Revenue
Analysis on November 8, 2021

Conclusion

Funds are sufficient in the fiscal year 2022 through fiscal year 2025 budget and financial plan to implement the bill.

Background

The bill removes a planned extension of 50th Street, N.E.¹ from the District’s Highway Plan, closes a portion of the land, and dedicates it to public street purposes. The changes will facilitate the construction of a 93-unit multifamily housing project². The developer has agreed to certain easements and improvements to satisfy the requirements of the District Department of Transportation for the road closure and dedication.

Financial Plan Impact

Funds are sufficient in the fiscal year 2022 through fiscal year 2025 budget and financial plan to implement the bill. A portion of the property dedicated to the development may become taxable to

¹ Located within Lots 827, 828, 829 and 830 in Square 5194, south of Nannie Helen Burroughs Avenue, N.E., and north of Fitch Place, N.E., as shown on the Surveyor’s Plat filed under S.O. 21-02992.

² The development was approved as the Providence Place planned unit development pursuant to Zoning Commission Order No. 17-08.

The Honorable Phil Mendelson

FIS: Bill 24-291, "Omnibus Progressive National Baptist Convention Redevelopment Act of 2021," Draft
Committee Print as provided to the Office of Revenue Analysis on November 8, 2021

the District, but any tax revenues generated will depend on the final assessed value of the properties once the title is transferred.

1
2 **COMMITTEE PRINT**
3 **Committee of the Whole**
4 **November 16, 2021**
5

6
7 A BILL

8
9 24-291
10
11 _____

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

16 To remove from the plan for the extension of a permanent system of highways a portion of 50th
17 Street, N.E., located within Lot 825 in Square 5194; to order the closing of a portion of
18 50th Street, N.E., between Fitch Place, N.E. and Nannie Helen Burroughs Avenue, N.E.,
19 adjacent to Square 5194; and to accept the dedication of Lots 828 and 830 in Square 5194
20 for public street purposes.
21

22 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
23 act may be cited as the “Omnibus Progressive National Baptist Convention Redevelopment Act
24 of 2021”.

25 Sec. 2. (a) Pursuant to section 404 of the District of Columbia Home Rule Act, approved
26 December 24, 1973 (87 Stat. 787; D.C. Official Code § 1-204.04), and consistent with An Act to
27 provide a permanent system of highways in that part of the District of Columbia lying outside of
28 cities, approved March 2, 1893 (27 Stat. 532; D.C. Official Code § 9-103.01 *et seq.*), the Council
29 amends the plan for the extension of a permanent system of highways to remove a portion of
30 50th Street, N.E., located within Lot 825 in Square 5194, south of Nannie Helen Burroughs
31 Avenue, N.E., and north of Fitch Place, N.E., as shown on the Surveyor’s Plat filed under S.O.
32 21-02992.

33 (b) Pursuant to section 404 of the District of Columbia Home Rule Act, approved
34 December 24, 1973 (87 Stat. 787; D.C. Official Code § 1-204.04), and consistent with the Street
35 and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law
36 4-201; D.C. Official Code § 9-201.01 *et seq.*) (the “Act”), the Council finds that a portion of 50th
37 Street, N.E., between Fitch Place, N.E., and Nannie Helen Burroughs, N.E., and adjacent to
38 Square 5194, as shown on the Surveyor’s plat filed in S.O. 21-02992, is unnecessary for street
39 purposes and orders it closed with title to the land to vest as shown on the Surveyor’s plat.

40 (c) Pursuant to sections 302 and 402 of the Act (D.C. Official Code §§ 9-203.02 and 9-
41 204.01), and notwithstanding the requirements set forth in sections 303 and 421 of the Act (D.C.
42 Official Code §§ 9-203.03 and 9-204.21), the Council accepts the dedication of Lots 828 and 830
43 in Square 5194 for public street purposes and designates the dedicated land as a portion of 50th
44 Street, N.E., as shown on the Surveyor’s plat filed under S.O. 21-02992.

45 (d) The ordering of the removal a portion of 50th Street, N.E., from the plan for the
46 extension of a permanent system of highways set forth in subsection (a) of this section, the
47 closure of a portion of 50th Street, N.E., set forth in subsection (b) of this section, and the
48 dedication of land for public street purposes set forth in subsection (c) of this section is
49 contingent upon satisfaction of the conditions set forth by the District Department of
50 Transportation in the official file for S.O. 21-02992.

51 Sec. 3. Fiscal impact.

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

55 Sec. 4. Effective date.

56 This act shall take effect following approval by the Mayor (or in the event of veto by the
57 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
58 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
59 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
60 Columbia Register.