

A RESOLUTION

25-377

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

December 5, 2023

To declare the existence of an emergency with respect to the need to reduce the building restriction line along the southern side of Fern Street, NW, on Lots 847, 973, 1016 to 1033, and 1062 to 1072 in Square 2950 from 15 feet to 9.5 feet.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Adjustment of Building Restriction Line in Square 2950 along the southern side of Fern Street, NW, S.O. 23-06301 Emergency Declaration Resolution of 2023”.

Sec. 2. (a) The redevelopment of the former Walter Reed Army Medical Center campus, the Parks at Walter Reed, includes the development of 141 townhomes and stacked townhome flats fronting the south side of Fern Street NW on Parcels A-G of the Master Plan, called Veranda at the Parks (“Project”).

(b) The Project has been fully designed and infrastructure serving the townhomes was installed with the understanding that there was no building restriction line along the south side of Fern Street, NW.

(c) There is no building restriction line shown in the District’s survey database on SurDocs or in the ALTA survey prepared for the District in December 2014. The homes, as currently designed, extend 5 feet beyond the building restriction line and feature porches, which extend an additional 5 feet 6 inches. They cannot be constructed as designed and approved by the Historic Preservation Review Board (“HPRB”) and ANC 4A without removal or the reduction of the building restriction line to 9.5 feet.

(d) The Project design received unanimous approval from the HPRB on February 24, 2022, after a months-long community engagement process that resulted in revisions to the plans prior to approval. The front yards and front porches along Fern Street were key design elements, including a few follow up revisions that were addressed in the March 2022 HPRB resubmission package.

(e) Phase I of the land development, which accounts for 38% of all units, has been completed by the Master Developer on the basis of plans there were permitted and approved by the Department of Buildings (“DOB”), Department of Energy and Environment, Water and

Sewer Authority, Pepco, and Washington Gas. The site has been graded and new facilities have been installed over the past year at a substantial investment.

(f) In parallel to the land development work being completed by the Master Developer, Toll Brothers has advanced its design documents. It submitted its permit set for Building 12 and Building 13 to DOB, which make up 2 of 6 impacted buildings along Fern Street, NW. Upon permit approval, Toll Brothers plans to commence construction this year.

(g) Toll Brothers, with its civil engineer, applied for a District Department of Transportation construction permit for stairs and leadwalks in Public Space along Fern Street, NW. Chris Shaheen with the Office of Planning issued the following comment:

*“Office of the Surveyor records show there is a 15' building restriction line on Fern Street that is not indicated on site plans submitted with this application. Revise plans and application to include the building restriction line and include all work in this area as part of the public space permit OR provide documentation showing that the building restriction line has been removed.”*

Chris Shaheen directed Toll Brothers and the civil engineer to a survey from 1972 indicating a 15' BRL on the south side of Fern Street, NW between Georgia Avenue, NW and Alaska Avenue, NW.

(h) The Master Developer consulted with the Office of the Surveyor as to whether there was a building restriction line given the ALTA survey and SURDocs maps upon which they relied did not show it. The Surveyor indicated that, in his opinion, when the District created a new parcel to convey the Walter Reed campus from the US Army to the District, the building restriction line was likely eliminated consistent with several other building restriction lines nearby. However, the documents pursuant to the parcel creation were not specific as to its elimination. As a result, the Surveyor advised that the building restriction line would need to be removed or reduced by the District for the project to move forward as approved.

(i) Toll Brothers' townhomes are designed such that the face of the house is 10 feet back from the property line, meaning 5 feet of the townhomes are within the BRL. As indicated previously, the BRL did not show up in the ALTA survey that AMT prepared for the District in December 2014. Additionally, when searched on SurDocs, no such BRL is shown on the south side of Fern Street NW.

(j) There are no public utilities within the 15-foot building restriction line which is also within the fenceline of the former Army Medical Center campus, which would be impacted by removal.

(k) TPWR Developer and Toll Brothers are seeking the removal of the 15-foot building restriction line and the establishment of a 9.5-foot building restriction line so that the only projection are the stairs and porch. Both parties have invested years of effort and significant expense to advance the land development and design of the Project. TPWR Developer and Toll Brothers deployed this capital based on assumed credible surveys. The Project will deliver much-

needed family sized homes with 3+ bedrooms, including 12 affordable units. The Master Developer will have to repeat these protracted processes with an uncertain outcome in the event that the building restriction line is not adjusted and the Project has to be redesigned.

(1) In conclusion, the Project is meritorious in providing new housing and affordable housing, the Master Developer relied in good faith on the ALTA survey and SurDocs which did not show the building restriction line and no public interest is served with the retention of the building restriction line.

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Adjustment of Building Restriction Line in Square 2950 along the southern side of Fern Street NW, S.O. 23-06301 Emergency Act be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.