



Councilmember Janeese Lewis George

1 A PROPOSED RESOLUTION

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5 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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9 To declare the existence of an emergency with respect to the need to reduce the building
10 restriction line along the southern side of Fern Street NW, on lots 847, 973, 1016 to 1033,
11 and 1062 to 1072 in Square 2950 from 15 feet to 9.5 feet.

12 RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
13 resolution may be cited as the “Adjustment of Building Restriction Line in Square 2950 along
14 the southern side of Fern Street NW, S.R. 23-06301 Emergency Declaration Resolution of
15 2023”.

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

20 (b) The Project has been fully designed and infrastructure serving the townhomes has
21 been installed in reliance with the understanding that there is no Building Restriction Line along
22 the south side of Fern Street.

23 (c) There is no BRL shown in the District’s survey database on SurDocs and there is no
24 shown in the ALTA survey prepared for the District in December 2014. The homes, as currently
25 designed, extend five feet beyond the BRL in question and feature porches which extend an
26 additional five feet beyond the BRL in question and feature porches which extend an additional
27 five feet six inches. They cannot be constructed as designed and approved by HPRB and ANC
28 4A without removal or the reduction of the BRL to 9.5’.

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

34 (e) Phase I of the land development, which accounts for 38% of all units, has been
35 completed by the Master Developer on the basis of plans there were permitted and approved by
36 the Department of Buildings, Department of Energy and Environment, DC Water, Pepco, and
37 Washington Gas. The site has been graded and new facilities have been installed over the past
38 year at a substantial investment.

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

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

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

51
52 Chris Shaheen directed Toll Brothers and the civil engineer to a survey from 1972
53 indicating a 15' BRL on the south side of Fern Street NW between Georgia Avenue NW and
54 Alaska Avenue NW.

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

63 (i) Toll Brothers' townhomes are designed such that the face of the house is ten feet back
64 from the property line, meaning 5 feet of the townhomes are within the BRL.

65 As indicated previously, the BRL did not show up in the ALTA survey that AMT
66 prepared for the District in December 2014. Additionally, when searched on SurDocs, no such
67 BRL is shown on the south side of Fern Street NW.

68 (j) There are no public utilities within the fifteen foot BRL, which is also within the
69 fenceline of the former Army Medical Center campus that would be impacted by removal and
70 and no public purpose served by retention of the BRL.

71 (k) TPWR Developer and Toll Brothers are seeking the removal of a fifteen foot Building
72 Restriction Line on the south side of Fern Street NW between Alaska Avenue NW and George
73 Avenue NW and establishment of a 9.5 foot BRL so that the only projection are on the stairs and
74 porch.

75 Both parties have invested years of effort and significant expense to advance the land
76 development and design of the Project. TPWR Developer and Toll Brothers deployed this capital
77 based on assumed credible surveys. The Project will deliver much-needed family sized homes
78 with 3+ bedrooms, including 12 affordable. As mentioned above, the Project went thru an HPRB
79 approval process as well as a community design review process gaining support from ANC 4A,
80 whose constituents' homes, including our former ANC 4A Commissioner, face the Project on
81 Fern Street. The Master Developer will have to repeat these protracted processes with an
82 uncertain outcome in the event that the BRL is not adjusted and the Project has to be redesigned
83 to accommodate the BRL.

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

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

91 Sec. 4. This resolution shall take effect immediately.