

Paul Harrison
3007 Albemarle St NW
Washington DC 20008
202-270-5727 paul@3lobos.com

July 25, 2022

via IZIS & email to bzsubmissions@dc.gov

Mr. Frederick Hill, Chairman
Board of Zoning Adjustment
441 4th Street, NW, Suite 210S
Washington, DC 20001

Re: Applicant's Closing Argument – Case #20594, 3007 Albemarle St NW

Dear Chair Hill, Vice-Chair John, members of the Board of Zoning Adjustment,

Thank you for the opportunity to submit closing argument in writing, as well as for your already-significant time and attention to this case.

You have before you our request to be allowed to subdivide our 30,618 square foot lot in the R-8 zone of Forest Hills and build two new homes – one for use by our multigenerational family, another for sale to a new family. As you heard in the testimony, these proposed homes comply with the height, side yard, rear yard, lot size, lot occupancy, permeable surface, and access requirements of the R-8 zone. In fact, they are substantially smaller and further removed from their neighbors than what is allowed. **If they were built together and attached by an enclosed volume they could be built as-of-right. The house of concern to party opponents, the eastern house, could be built as-of-right or even closer and more intensely if the western part of the property were left undeveloped.**

You heard from the Office of Planning that they recommended theoretical lot subdivision after reviewing closely all of the relevant factors in Subtitle C §305 and finding no substantive concerns other than DDOT's permitting-level request that we update the width of the Albemarle Street curb cut to current standards. You heard from three ANC commissioners – two in testimony and another in the record at Exhibit 158 – that the issues of impact on our ten adjoining neighbors and the larger community had been fully and fairly reviewed at several public hearings as well as through extensive on-site meetings with our experts and other negotiations. Only after this did the ANC discuss our plan and vote unanimously to support it.

Nevertheless, the three parties in this case have sought to delay and oppose our plan over the course of approaching a year through the two ANC hearings, the Public Space Committee meeting, through several opponent-initiated continuances, and again before the Board last week. None of the opposing parties presented substantive evidence that they would experience undue impact from the Board granting our request for approval of subdivision. Indeed no such evidence exists in a city where it is not

Board of Zoning Adjustment
District of Columbia
CASE NO.20594
EXHIBIT NO.169

only fully normal to have a neighbor's house in the lot behind yours, but where what we propose to build is further away from their properties than what the zoning allows as-of-right.

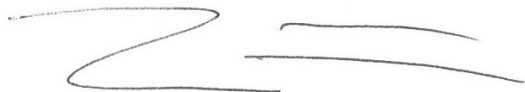
Instead, they tried to distract the board with non-issues. First, opponents asked you to dismiss this case based on an assertion that Theoretical Subdivision could not be granted without further variances. Noting the self-certification doctrine, the board passed a preliminary motion dismissing this claim. Moreover, Ms. Vitale from the Office of Planning testified that Theoretical Subdivision included no requirement for a lot width or lot frontage variance. Her analysis is backed up by an opinion from Zoning Administrator Matt LeGrant, which is in evidence at Exhibit 153A.

Second, opponents tried to argue that the Board could not proceed because our 30,618 square foot lot with over 75 feet of Appleton Street frontage and a 216 feet wide by 130 feet deep volume across the bulk was not currently a record lot. As Ms. Vitale and Ms. Prince testified, an earlier record lot was altered slightly so that a new record lot needs to be recorded. See also Exhibits 164 and 165. The Board has previously approved Theoretical Lot cases starting from zoning-compliant tax lots. See, e.g., BZA #16086 (property consisted of several record lots and tax lots, cited earlier by Ms. Giordano for other purposes), BZA #17837 (parent property consisted only of parcels, cited earlier by Ms. Giordano for other purposes), BZA #20078 (January 2020 theoretical subdivision approval from a tax lot, ATT subdivision plat and quitclaim deed attached below showing that this lot was physically different than the original record lots). No facts were presented suggesting that the subject lot here does not meet the standards as a record lot. This is similarly a matter for the self-certification doctrine as we will not be able to pull permits based on theoretical subdivision until the record lot is re-established. Moreover, the Applicant has applied to the Surveyor's Office and secured the attached plat depicting the record lot that will be divided into two theoretical lots. The plat will be fully processed and recorded prior to the issuance of any building permits.

In summary, we humbly request that you approve our theoretical lot subdivision special exception as:

- Height, side yard, rear yard, and access requirements are met;
- No evidence was presented to rebut the great weight deference due to the Office of Planning in its determination that this application should be approved after its substantive review of the required considerations;
- The ANC voted unanimously in favor of our plans after a robust and targeted public engagement effort reviewing them for undue impact to either the neighborhood or the neighbors; and,
- No evidence was presented that our proposed plans had undue impacts on the neighbors, our party opponents, or the zoning code.

Respectfully submitted,



Paul Harrison
Applicant

The undersigned certify that they are owners in fee simple of the property to be subdivided and are in peaceful occupation thereof; that there are no pending suits or actions that affect title to the property; that parties to any deeds of trust have hereon indicated their assent; and that there are no interests or claims affecting title to the property other than such deeds of trust. The undersigned hereby subdivide the remainder of Lot 12, Square 2041 (Book 163 Page 189) into one Lot and request that this subdivision be recorded in the Office of the Surveyor of the District of Columbia.

WITNESSES	OWNERS
WITNESS SIGNATURE	PAUL EDWARD HARRISON
WITNESS SIGNATURE	
WITNESS SIGNATURE	NEZAHAT OZMEN HARRISON
WITNESS SIGNATURE	

Subscribed and sworn before me this _____ day of _____ 2022

Notary Public _____ My Commission Expires _____

(NOTARY SEAL)

NUMBER OF TRUSTS: _____

ASSENT BY TRUSTEES:

SURVEYOR'S OFFICE, D.C.

Made for: D. HERNDON/GOULSTON & STORRS

Drawn by: L.E.S. Checked by: EM AS

Record and computations by: B. MYERS

Recorded at: _____

Recorded in Book _____ Page _____ SR-22-05946

Scale: 1 inch = 30 feet

2022/SUBS/SR-22-05946-SQ.2041

OFFICE OF TAX AND REVENUE

_____, 2022

I certify that the following statements relating to this subdivision are correct.

1. Ownership agrees with our records: _____

2. Real estate taxes are paid to: _____

3. There are no unpaid assessments: _____

Chief Assessor, Assessment Division

I acknowledge for the owners that this is not a tax certificate as intended by D.C. Code Section 47-405.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

_____, 2022

I certify that this subdivision complies with all applicable provisions of DCMR11, Zoning Regulation of the District of Columbia.

Zoning District: _____

Zoning Administrator

DEPARTMENT OF THE ENERGY & ENVIRONMENT (DOEE)

_____, 2022

I certify that this subdivision complies with all applicable provisions of DCMR20, Chapter 31 - Flood Hazard Rules, of the District of Columbia.

Flood Zone & Flood Elevation: _____

DOEE Official

_____, 2022

HISTORIC PRESERVATION

OFFICE OF THE SURVEYOR

_____, 2022

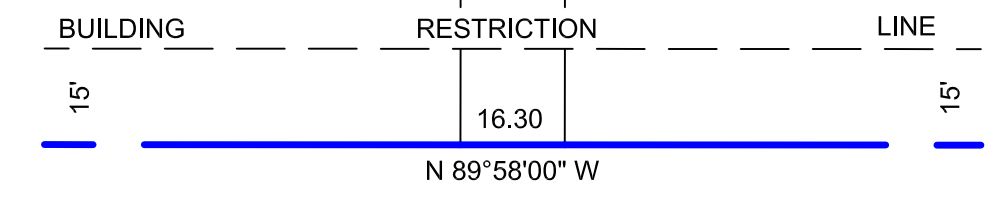
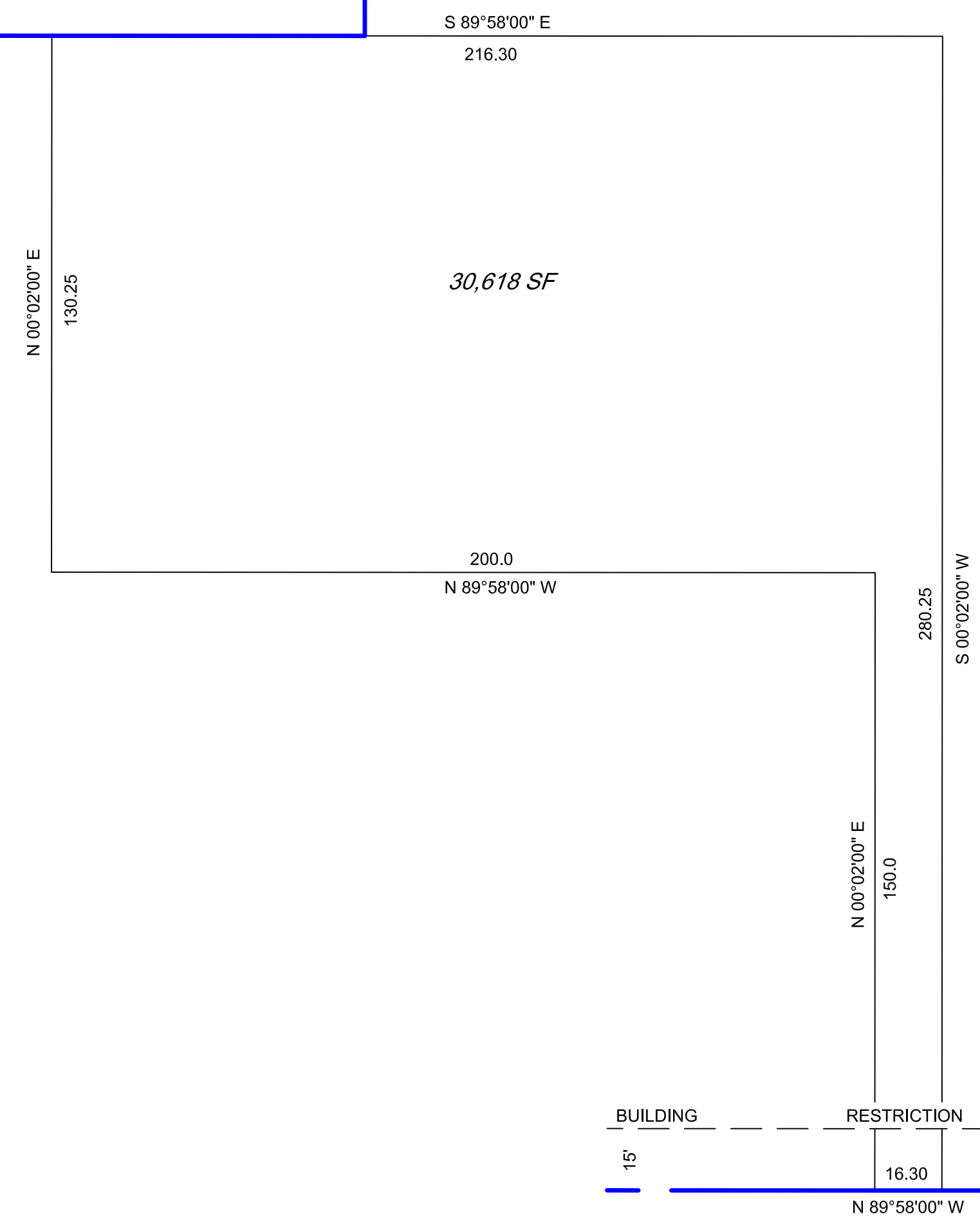
I certify that this plat is correct and is hereby recorded.

Surveyor, D.C.

**SUBDIVISION
SQUARE 2041**

APPLETON STREET, N.W.

16



ALBEMARLE STREET, N.W.

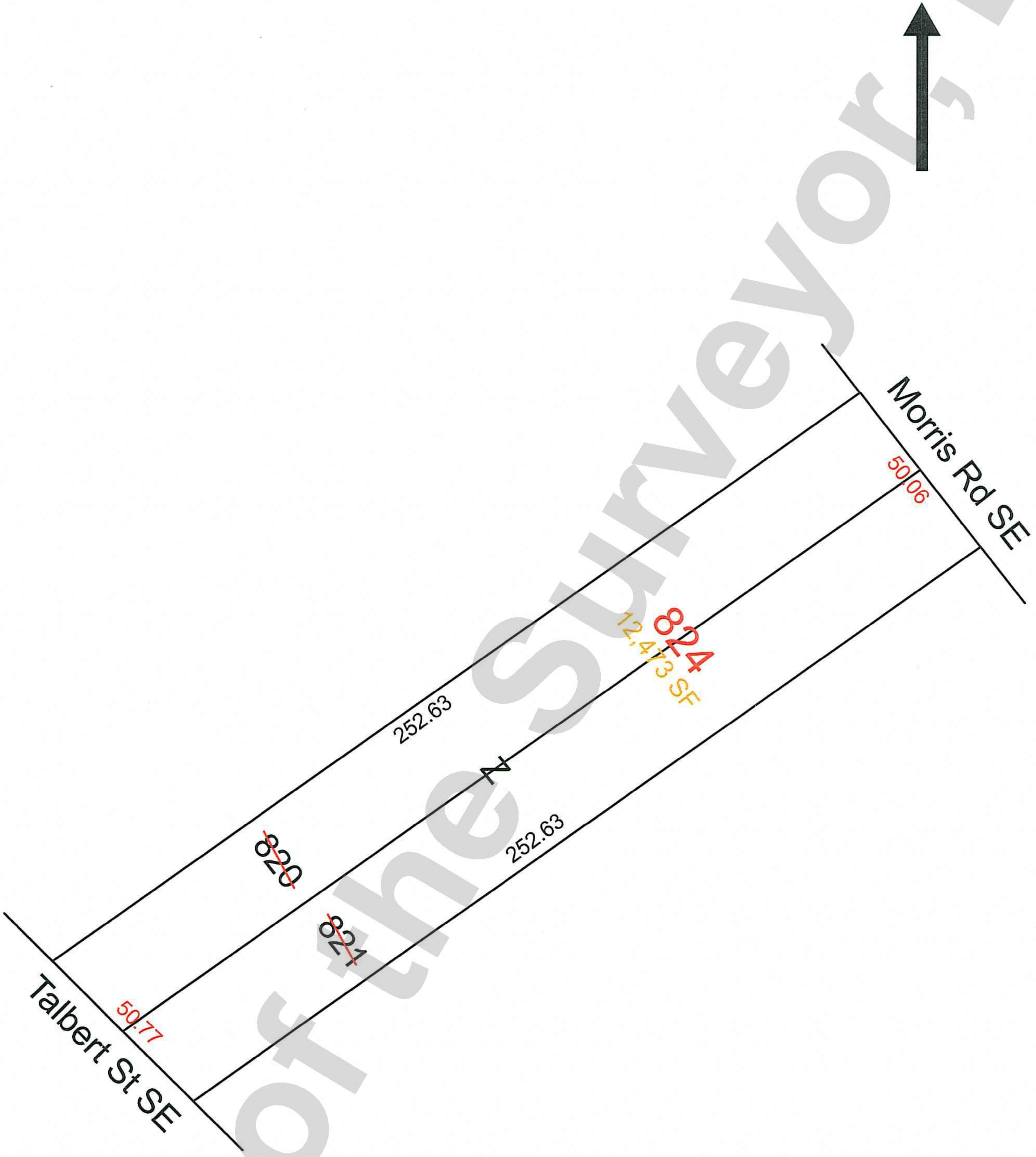
818

OFFICE OF TAX AND REVENUE
ASSESSMENT DIVISION

3840-R



ASSESSMENT AND TAXATION PLAT
Square 5805



Drew Wold
Draftsman

Combination
Reference

10/2/08
Date

Scale, 1 inch 40 ft.

The Office of Surveyor of the District of Columbia shall admit this plat to record under the provisions of Chapter 7 of Title 47, District of Columbia Code, Designation of Real Property for Assessment and Taxation, and for other purposes.

De - - Clark for
Chief Assessor, Office of Tax and Revenue



2018061120-4

Quitclaim Deed

RECORDING REQUESTED BY _____

AND WHEN RECORDED MAIL TO:

JAMES L. HOPE ^{Grantor}, Grantee(s)

1256 Talbert St. S.E.

WASH. D.C. 20020

Consideration: \$ _____

Property Transfer Tax: \$ _____

Assessor's Parcel No.: SQUAN 5805 Lot 824

PREPARED BY: JAMES L. HOPE certifies herein that he or she has prepared this Deed.

James L. Hope
Signature of Preparer

June 6, 2018
Date of Preparation

JAMES L. HOPE
Printed Name of Preparer

THIS QUITCLAIM DEED, executed on _____ in the County of _____

_____, State of WASHINGTON, D.C.

by Grantor(s), JAMES LINN HOPE,

whose post office address is 1256 TALBERT STREET, S.E. WASHINGTON, D.C.

to Grantee(s), MOORISH SCIENCE TEMPLE OF AMERICA,

whose post office address is 1050 EAST 33RD STREET, SUITE 206 BALTIMORE, MD. 21218

WITNESSETH, that the said Grantor(s), _____,

for good consideration and for the sum of _____

(\$ _____) paid by the said Grantee(s), the receipt whereof is hereby acknowledged,

does hereby remise, release and quitclaim unto the said Grantee(s) forever, all the right, title

interest and claim which the said Grantor(s) have in and to the following described parcel of land, and improvements and appurtenances thereto in the County of Washington, D.C., State of Wash. D.C. and more specifically described as set forth in EXHIBIT "A" to this Quitclaim Deed, which is attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, the said Grantor(s) has signed and sealed these presents the day and year first above written. Signed, sealed and delivered in presence of:

GRANTOR(S):

James L. Hope
Signature of Grantor

JAMES L. HOPE
Print Name of Grantor

Signature of Second Grantor (if applicable)

Print Name of Second Grantor (if applicable)

Signature of First Witness to Grantor(s)

Print Name of First Witness to Grantor(s)

Signature of Second Witness to Grantor(s)

Print Name of Second Witness to Grantor(s)

GRANTEE(S):

Trustee/Sheik Hakim Emanuel
Signature of Grantee

HAKIM EL. AMENUEL
Print Name of Grantee

Signature of Second Grantee (if applicable)

Print Name of Second Grantee (if applicable)

Signature of First Witness to Grantee(s)

Print Name of First Witness to Grantee(s)

Signature of Second Witness to Grantee(s)

Print Name of Second Witness to Grantee(s)

NOTARY ACKNOWLEDGMENT

State of _____

County of _____

Washington D.C.

On *6 June, 2018*, before me, *Tamara McArthur*, a notary public in and for said state, personally appeared, *Hakim Elammanal &*

James Hope

who are known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

Tamara McArthur
Signature of Notary

Affiant Known _____ Produced ID

Type of ID *Driver's License & ID*

(Seal)

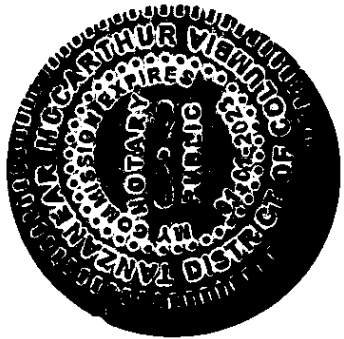


EXHIBIT "A"

Lot numbers two hundred and ninety-three (293) and two hundred and ninety (290) in John L Warren's Subdivision of Lots in Talburt's Subdivision of "Chichester" as per plat of First Mentioned Subdivision recorded in the Office of the Surveyor for the District of Columbia in Liber County 23 at Folio 6: Said land being known for purposes of assessment and taxation as Lot 293 and Lot 290 respectively in Square 5805, later taxed as Lots 820 and 821. Both lots 820 and 821 are currently combined into the single lot 824 in Square 5805.

Doc #: 2018061120 Fees: \$5,082.48
06/19/2018 10:34 AM Pages: 4
Filed and Recorded in Official Records of
WASH DC RECORDER OF DEEDS IDA WILLIAMS

RECORDING FEES	\$25.00
SURCHARGE	\$6.50
RECORDATION TAX FEES	\$2,525.49
TRANSFER TAX FEES	\$2,525.49

Certificate of Service

I hereby certify that I, Paul Harrison, of 3007 Albemarle Street NW, Washington DC 20008, served a copy of my Case Number 20594 Written Closing Argument via electronic mail to:

Office of City Planning, Elisa Vitale, Development Review Specialist, elisa.vitale@dc.gov

ANC 3F, commissioners@anc3f.com and to Chair Claudette David at 3f05@anc.dc.gov

ANC 3F03 SMD Commissioner Dipa Mehta, 3f03@andc.dc.gov

Ms. Deborah Hernandez and her attorney Cynthia Giordano, debhdz@hotmail.com and Cynthia.Giordano@saul.com

Dr. Mary Lee and her attorney Andrea Ferster, drmaryrlee@gmail.com and aferster@railstotrails.org

Mr. John (Jack) Baringer via his attorney David Brown (as directed by Mr. Brown) brown@knopf-brown.com