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TO: Valerie Rosenson, Legislative Officer, Board of Representatives

FROM: Michael Toma, Esq., Assistant Corporation Counsel *MST*

DATE: October 25, 2022

RE: Review of Petitions for Street Acceptance – Revised

In response to your inquiry, this memo lays out the process that the Board of Representatives should follow when it receives a petition for acceptance of a private street. This process can be applied to the Mill Brook Road petition that was recently received as well as other petitions that the Board receives in the future. This memo supersedes the memo that I sent to you on October 12, 2022; Paragraph 1 now addresses the need for all owners of property to sign the petition, and the final paragraphs add references to the involvement of the Planning Board in the process. Generally, the Charter grants the Board of Representatives authority over public improvements, such as accepting a street, per Charter Sections C8-60-1, et seq. The process of accepting a street is further defined in Chapter 214, Article III of the Code of Ordinances (Section 214-32, et. seq.). A review of these Charter and Code provisions reveals the following process:

1. Upon receipt of a petition for acceptance of a private street signed by all owners of each property on the street (unless in a specific instance the law provides otherwise, for example when a trust is an owner), the Board of Representatives (Board) may vote on a resolution requesting the administration to assess the work required, if any, to bring the private street up to City standards, assess the cost of such work, and assess the need for and cost of any pertinent legal matters (for example, verification through title search of owners of street). This resolution should also declare whether such costs shall be the responsibility of the petitioners/owners or of the City. This resolution may be voted on without a prior vote of the Planning Board or Board of Finance.
2. The Board need not have any of the engineering, title, or cost information before passing such a resolution. But such a resolution would not commit the City to accept the private street.
3. If the Board passes the resolution, the Engineering Bureau, Law Department, and other relevant staff would do the investigation and cost determination work after the Mayor directs such work.

4. The administration may make a recommendation to the boards on whether to accept the street and whether conditions should be attached to such acceptance, such as for example, conveyance of title of the street to the City.
5. The owners of the street take whatever steps deemed necessary by the City Engineer, at their own expense if required by the Board in its resolution, to meet the City's standards for acceptance.
6. Once the City Engineer certifies that the street meets City specifications, the petition shall be referred to the Planning Board and the Board of Finance (see C6-30-13 and C8-60-2, respectively).
7. The failure of the Planning Board to report within sixty days shall be taken as an approval. In the event of a disapproval by the Planning Board, the reasons for disapproval shall be transmitted to the Board of Representatives. A petition disapproved by the Planning Board shall thereafter only be approved by a two-thirds vote of the Board of Representatives.
8. The Board of Finance must approve the acceptance of the street before the Board of Representatives approves the acceptance of the street.
9. The Board of Representatives has sixty days from the date of certification by the City Engineer to act on the petition, or the street is deemed accepted.