



**BALTIMORE CITY COUNCIL
ECONOMIC AND COMMUNITY DEVELOPMENT
COMMITTEE**

Mission Statement

On behalf of the Citizens of Baltimore City, the Committee on Economic and Community Development (ECD) is responsible for supporting strong thriving communities. ECD will review proposed zoning and land use changes, tackle issues related to economic development, oversee housing policy, and promote equitable economic opportunity for all Baltimore residents.

The Honorable Sharon Green Middleton

PUBLIC HEARING

July 9, 2024

2:00 PM

CLARENCE "DU" BURNS COUNCIL CHAMBERS

22-0303

City Streets - Closing - A Portion of Marion Street

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BILL SYNOPSIS

Committee: Economic and Community Development

Bill: 22-0303

Title: City Streets – Closing a Portion of Marion Street

Sponsor: Administration – City Council

Introduced: December 12, 2022

Purpose: For the purpose of condemning and closing air rights above a portion of Marion Street, extending Westerly 103 feet, more or less, from Kimmel Alley beginning at a horizontal plane of 14 feet above street level, and closing subterranean rights below a portion of Marion Street extending Westerly 62.5 feet, more or less, from Kimmel Alley, beginning at a horizontal plane at elevation 62 feet based on Baltimore City Survey Control System, as shown on a plat numbered 330-A-28A, Sheets 1 and 2, dated June 20, 2022, prepared by the Survey Section and filed with the Department of Transportation; and providing for a special effective date

Effective: On the day it is enacted

Agency Reports

City Solicitor	Approve for from & sufficiency
Dept of Planning	No Objection
Dept of Transportation	Favorable
Dept of Housing & Community Development	Favorable
Baltimore Development Corporation	Favorable

Analysis

Background

City Law

Article 1 Section 4 Baltimore City Charter Condemnation Interest

This section of the City Charter requires when the City condemns property it does so in a specific manner to eliminate other claims on the property.

Article 2 Section 2 Baltimore City Charter Condemnation

This section of the City Charter describes the City's power to condemn property and to acquire and sell near or adjoining properties. It also includes a subsection regarding the acquisition of property via purchase or condemnation property that has been owned by sports franchises.

Article 2 Section 34 Baltimore City Charter Streets, bridges, and tunnels

This section of the City Charter describes the City's power to construct, improve, or close streets, bridges, tunnels or other public ways. The section also provides for the City to regulate their use as well as the naming and number of these public ways, the trees, poles, wires, and conduits that run with them.

Article 2 Section 35 Baltimore City Charter Streets, lanes, alleys, etc..

This section of the City Charter allows for the City to regulate the construction and installation of streets, lanes, and alleys both public and private which are used by or intended to be used by the public. It includes provisions for preventing encroachments and obstructions, closing or gating an alley, & towing vehicles that block access.

Bill Analysis

This bill if enacted would close the air rights above a portion of Marion Street 14 feet above street level from Kimmel Alley and extending 103 feet approximately westerly. This bill would also close the subterranean rights of Marrion Street at an elevation of 62 feet beginning at Kimme Alley and extending westerly for approximately 62.5 feet. This would affect a building located at 300 West Fayette Street which has a bridge over Marion Street and subterranean vaults.

Additional Information

Fiscal Note: Not Available

Information Source(s): Agency Reports, 22-0303 1st reader, Baltimore City Charter,

Analysis by: Anthony Leva

Direct Inquiries to: 410-396-1091

Analysis Date: July 8, 2024

**CITY OF BALTIMORE
COUNCIL BILL 22-0303
(First Reader)**

Introduced by: The Council President
At the request of: The Administration (Department of Transportation)
Introduced and read first time: December 5, 2022
Assigned to: Economic and Community Development Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Finance, Department of Housing and Community Development, Department of Real Estate, Department of Planning, Board of Estimates, Planning Commission, Baltimore Development Corporation, Department of Transportation

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **City Streets – Closing – A Portion of Marion Street**

3 FOR the purpose of condemning and closing air rights above a portion of Marion Street,
4 extending Westerly 103 feet, more or less, from Kimmel Alley beginning at a horizontal
5 plane of 14 feet above street level, and closing subterranean rights below a portion of Marion
6 Street extending Westerly 62.5 feet, more or less, from Kimmel Alley, beginning at a
7 horizontal plane at elevation 62 feet based on Baltimore City Survey Control System, as
8 shown on a plat numbered 330-A-28A, Sheets 1 and 2, dated June 20, 2022, prepared by the
9 Survey Section and filed with the Department of Transportation; and providing for a special
10 effective date.

11 BY authority of
12 Article I - General Provisions
13 Section 4
14 and
15 Article II - General Powers
16 Sections 2, 34, 35
17 Baltimore City Charter
18 (1996 Edition)

19 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
20 Department of Transportation shall proceed to condemn and close air rights above a portion of
21 Marion Street extending Westerly 103 feet more or less, from Kimmel Alley beginning at a
22 horizontal plane of 14 feet above street level and closing subterranean rights below a portion of
23 Marion Street, extending Westerly 62.5 feet, more or less, from Kimmel Alley beginning at a
24 horizontal plane at elevation 62 feet, based on Baltimore City Survey Control System, and more
25 particularly described as follows:

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 22-0303

**DESCRIPTION OF
AIR RIGHTS ABOVE A PORTION OF MARION STREET**

Beginning for Parcel 1 at the point formed by the intersection of the east side of Bridge No. 1 and the north side of Marion Street, 20 feet wide, said point of beginning being distant Westerly 74.5 feet, more or less, measured along the north side of said Marion Street from the west side of North Howard Street, 82.5 feet wide, thence leaving the north side of said Marion Street and binding on the east side of Bridge No. 1 Southerly 20 feet, more or less, to intersect the south side of said Marion Street; thence binding on the south side of said Marion Street Westerly 62.77 feet, more or less, to the west side of Bridge No. 1; thence crossing said Marion Street and binding on the west side of Bridge No. 1 Northerly 20 feet, more or less, to intersect the north side of said Marion Street and thence binding on the north side of said Marion Street Easterly 62.77 feet, more or less, to the place of beginning.

Containing 1,255.4 square feet or 0.0288 acres more or less

Beginning for Parcel 2 at the point formed by the intersection of the east side of Bridge No. 2 and the south side of Marion Street, 20 feet wide, said point of beginning being distant Westerly 62.77 feet, more or less, measured along the south side of said Marion Street from the west side of Kimmel Alley; thence binding on the south side of said Marion Street Westerly 40.65 feet, more or less, to the west side of said Bridge No. 2; thence crossing said Marion Street and binding on the said west side of side bridge No. 2 Northerly 20 feet, more or less, to intersect the north side of Marion Street; thence binding on the north side of said Marion Street Easterly 40.65 feet, more or less, to the east side of said Bridge No. 2 and thence crossing said Marion Street and binding on the said east side of said bridge No. 2 Southerly 20 feet, more or less, to the place of beginning.

Containing 813.0 square feet or 0.0187 acres more or less

**DESCRIPTION OF
SUBTERRANEAN RIGHTS BELOW A PORTION OF MARION STREET**

Beginning for Parcel 1 at the point formed by the intersection of the east side of Tunnel No. 1 and the north side of Marion Street, 20 feet wide, said point of beginning being distant Westerly 97.4 feet, more or less, measured along the north side of said Marion Street from the west side of North Howard Street, 82.5 feet wide, thence leaving the north side said of Marion Street and binding on the east side of Tunnel No. 1 Southerly 20 feet, more or less, to intersect the south side of said Marion Street; thence binding on the south side of said Marion Street Westerly 15.5 feet, more or less, to the west side Tunnel No. 1; thence crossing said Marion Street and binding on the west side of Tunnel No. 1 Northerly 20 feet, more or less, to the north side of said Marion Street and thence binding on the north side of said Marion Street Easterly 15.5 feet, more or less, to the place of beginning.

Council Bill 22-0303

1 Containing 310.0 square feet or 0.0071 acres more or less

2 Beginning for Parcel 2 at the point formed by the intersection of the east side of Tunnel
3 No. 2 and the south side of Marion Street, 20 feet wide, said point of beginning being
4 distant Westerly 44 feet, more or less, measured along the south side of said Marion
5 Street from the west side of Kimmel Alley; thence binding on the south side of said
6 Marion Street Westerly 18.5 feet, more or less, to the west side of said Tunnel No. 2;
7 thence crossing said Marion Street and binding on the west side of Tunnel No.2 Northerly
8 20 feet, more or less, to the north side of said Marion Street; thence binding on the north
9 side of said Marion Street Easterly 18.5 feet, more or less, to the east side of said Tunnel
10 and thence crossing said Marion Street and binding on the east side of Tunnel No. 2
11 Southerly 20 feet, more or less, to the place of beginning.

12 Containing 370.0 square feet or 0.0085 acres more or less

13 As delineated on a plat numbered 330-A-28A, Sheets 1 and 2, prepared by the Survey Control
14 Section and filed on June 20, 2022 in the Office of the Department of Transportation.

15 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the proceedings for the condemnation and
16 closing of air rights above a portion of Marion Street extending Westerly 103 feet more or less,
17 from Kimmel Alley beginning at a horizontal plane of 14 feet above street level, and closing of
18 subterranean rights below a portion of Marion Street extending Westerly 63 feet from Kimmel
19 Alley beginning at a horizontal plane at elevation 62 feet based on Baltimore City Survey Control
20 System and the rights of all interested parties shall be regulated by and in accordance with all
21 applicable provisions of state and local law and with all applicable rules and regulations.

22 **SECTION 3. AND BE IT FURTHER ORDAINED,** That after the closing under this Ordinance, all
23 subsurface structures and appurtenances now owned by the Mayor and City Council of Baltimore
24 continue to be the property of the Mayor and City Council, in fee simple, until their use has been
25 abandoned by the Mayor and City Council. If any person wants to remove, alter, or interfere with
26 them, that person must first obtain permission from the Mayor and City Council and, in the
27 application for this permission, must agree to pay all costs and expenses, of every kind, arising
28 out of the removal, alteration, or interference.

29 **SECTION 4. AND BE IT FURTHER ORDAINED,** That no building or structure of any kind
30 (including but not limited to railroad tracks) may be constructed or erected in or on any part of
31 the street closed under this Ordinance until all subsurface structures and appurtenances owned by
32 the Mayor and City Council of Baltimore have been abandoned by the Mayor and City Council
33 or, at the expense of the person seeking to erect the building or structure, have been removed and
34 relaid in accordance with the specifications and under the direction of the Director of
35 Transportation of Baltimore City.

36 **SECTION 5. AND BE IT FURTHER ORDAINED,** That after the closing under this Ordinance, all
37 subsurface structures and appurtenances owned by any person other than the Mayor and City
38 Council of Baltimore shall be removed by and at the expense of their owners, promptly upon
39 notice to do so from the Director of Transportation.

Council Bill 22-0303

1 **SECTION 6. AND BE IT FURTHER ORDAINED,** That at all times after the closing under this
2 Ordinance, the Mayor and City Council of Baltimore, acting by or through its authorized
3 representatives, shall have access to the subject property and to all subsurface structures and
4 appurtenances used by the Mayor and City Council, for the purpose of inspecting, maintaining,
5 repairing, altering, relocating, or replacing any of them, without need to obtain permission from
6 or pay compensation to the owner of the property.

7 **SECTION 7. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it is
8 enacted.

Economic and Community Development Committee

22-0303

**City Streets - Closing - A Portion of Marion
Street**

Agency Reports

CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor



DEPARTMENT OF LAW
EBONY THOMPSON
ACTING CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

March 2, 2023

The Honorable President and Members
of the Baltimore City Council
Attn: Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 22-0303 – City Streets – Closing – A Portion of Marion
Street

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 22-0303 for form and legal sufficiency. The bill condemns and closes air rights above and subterranean rights below a portion of Marion Street.

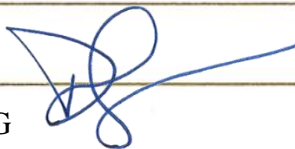

Section (34) of Article II of the City Charter grants the Mayor and City Council the power to “construct, open, extend, widen, straighten or close streets, bridges, tunnels or approaches to them and other public ways of every kind within the bounds of the City.” Generally, “the owner of land in fee holds all the complex elements of a single right, a bundle of sticks, if you will, which include not only the right to use the surface, but so much of the superjacent airspace as he can use, as well as the subjacent reaches below.” *Macht v. Dep't of Assessments of Baltimore City*, 266 Md. 602, 604 (1972). Section 116(b)(2) of Article VII of the City Charter requires that the Department of Transportation prepare all ordinances for the opening and closing of streets. Thus, this is the appropriate bill to effectuate the closing of the air rights over and subterranean rights under the street. The Law Department approves it for form and legal sufficiency.

Sincerely,

Jeffrey Hochstetler
Chief Solicitor

cc: Ebony Thompson, Acting City Solicitor
Nina Themelis, Mayor's Office of Government Relations
Elena DiPietro, Chief Solicitor, General Counsel Division
Hilary Ruley, Chief Solicitor

Ashlea Brown, Chief Solicitor
D'Ereka Bolden, Assistant Solicitor
Michelle Toth, Special Solicitor
Teresa Cummings, Assistant Solicitor

FROM	NAME & TITLE	CHRIS RYER, DIRECTOR 	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #23-0303/ CITY STREETS – CLOSING – A PORTION OF MARION STREET		

TO The Honorable President and
Members of the City Council
City Hall, Room 400
100 North Holliday Street

DATE: January 31, 2023

The Department of Planning is in receipt of City Council Bill #23-0303, which is for City the closing of a portion of Marion Street, both air rights and subterranean rights. This will facilitate a sale for the property that includes both a connecting bridge over the right of way, and underground utility tunnels.

The Department of Planning has **no objection** to City Council Bill #23-0303.

If you have any questions, please contact Mr. Eric Tiso, Division Chief, Land Use and Urban Design Division at 410-396-8358.

CR/ewt

cc: Ms. Nina Themelis, Mayor's Office
Mr. Ethan Cohen, Mayor's Office
The Honorable Eric Costello, Council Rep. to Planning Commission
Ms. Nikki Thompson, City Council President's Office
Mr. Colin Tarbert, BDC
Ms. Rebecca Witt, BMZA
Mr. Geoffrey Veale, Zoning Administration
Ms. Stephanie Murdock, DHCD
Ms. Elena DiPietro, Law Dept.
Mr. Francis Burnszynski, PABC
Mr. Liam Davis, DOT
Ms. Natawna Austin, Council Services



MEMORANDUM

DATE: March 28, 2024
TO: Economic & Community Development Committee
FROM: Colin Tarbert, President and CEO
POSITION: Favorable
SUBJECT: Council Bill # 22-0303 – City Streets – Closing – A portion of Marion Street

INTRODUCTION

The Baltimore Development Corporation (BDC) is reporting on City Council Bill #22-0303 introduced by The Council President.

PURPOSE

The purpose of this bill is to close and condemn the air rights above, and subterranean rights below a portion of Marion Street in the public right of way between North Howard Street and North Eutaw Street in the Market Center neighborhood in Downtown Baltimore.

BRIEF HISTORY

This bill was introduced in connection with a Settlement Agreement between the City and the owner of 300 West Fayette Street (Block 0619, Lot 001), which helped facilitate the sale of the property for the purpose of private development. The building had previously been constructed with a multi-story bridge over Marion Street, which connects it to the adjacent building. As the bridge is over the public right of way, the building owners were subject to assessed air rights franchise fees. The Settlement Agreement contemplated the permanent sale of air and subterranean rights to extinguish the annual fee for encroachment into the public right of way, the costs of which precluded the sale and redevelopment of the property from taking place. This bill will allow for the closure of those air rights, as well as the subterranean rights associated with the vaults below the building.

FISCAL IMPACT

None.

AGENCY POSITION

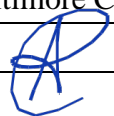
The Baltimore Development Corporation respectfully submits a **favorable** report on City Council Bill # 22-0303. If you have any questions, please contact Kim Clark at 410-837-9305 or KClark@baltimoredevelopment.com.

cc: Nina Themelis, Mayor's Office of Government Relations

[TW]



CITY OF BALTIMORE
MAYOR BRANDON M. SCOTT

TO	The Honorable President and Members of the Baltimore City Council
FROM	Alice Kennedy, Housing Commissioner 
DATE	March 28, 2024
SUBJECT	22-0303 - City Streets - Closing - A Portion of Marion Street

The Honorable President and
Members of the City Council
City Hall, Room 400

3/28/24

Position: Favorable

Introduction

The Department of Housing and Community Development (DHCD) has reviewed City Council Bill 22-0303 City Streets - Closing - A Portion of Marion Street for the purpose of condemning and closing air rights above a portion of Marion Street, extending Westerly 103 feet, more or less, from Kimmel Alley beginning at a horizontal plane of 14 feet above street level, and closing subterranean rights below a portion of Marion Street extending Westerly 62.5 feet, more or less, from Kimmel Alley, beginning at a horizontal plane at elevation 62 feet based on Baltimore City Survey Control System, as shown on a plat numbered 330-A-28A, Sheets 1 and 2, dated June 20, 2022, prepared by the Survey Section and filed with the Department of Transportation; and providing for a special effective date.


If approved by the City Council, this ordinance would formally close both the subterranean and air rights over a segment of Marion Street, an alley street located on the west side of downtown Baltimore. This will facilitate a sale for the property that includes both a connecting bridge over the right of way, and underground utility tunnels. If approved, this ordinance would become effective the day it is enacted.

DHCD Analysis

Both the subterranean and air rights are currently being utilized by existing tunnel and building infrastructure for what was previously a department store spanning the street. The street segment to be closed does not lie within any of DHCD's Impact Investment Areas, Community Development Zones or Streamlined Code Enforcement Areas. This bill is unlikely to have an operational or fiscal impact on DHCD.

Conclusion

DHCD respectfully requests a **favorable** report on the passage of City Council Bill 22-0303.

F R O M	NAME & TITLE	Corren Johnson, Director	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Department of Transportation (DOT) 417 E Fayette Street, Room 527		
	SUBJECT	Council Bill 22-0303		

DATE: 9/7/2023

TO: Mayor Brandon Scott
TO: Economic and Community Development Committee
FROM: Department of Transportation
POSITION: **Support**
SUBJECT: Council Bill 22-0303

INTRODUCTION - City Streets - Closing - A Portion of Marion Street

PURPOSE/PLANS - For the purpose of condemning and closing air rights above a portion of Marion Street, extending Westerly 103 feet, more or less, from Kimmel Alley beginning at a horizontal plane of 14 feet above street level, and closing subterranean rights below a portion of Marion Street extending Westerly 62.5 feet, more or less, from Kimmel Alley, beginning at a horizontal plane at elevation 62 feet based on Baltimore City Survey Control System, as shown on a plat numbered 330-A-28A, Sheets 1 and 2, dated June 20, 2022, prepared by the Survey Section and filed with the Department of Transportation; and providing for a special effective date.

COMMENTS - Council Bill 22-0303 seeks to formally close the subterranean rights and air rights over a portion of Marion Street, an alley street located within the western portion of downtown Baltimore. The subterranean rights and air rights are currently being utilized by existing tunnel and building infrastructure, originating back to when this area of downtown was a vibrant retail district filled with department stores.

AGENCY/DEPARTMENT POSITION - The Baltimore City Department of Transportation has concluded that this impacted portion of subterranean and air rights over Marion Street are of public need. As such, the department **supports** the advancement of Council Bill 22-0303.

If you have any questions, please do not hesitate to contact Liam Davis at Liam.Davis@baltimorecity.gov or at 410-545-3207

Sincerely,

Corren Johnson,
Director