

ORDINANCE NO. 3811

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, ENTITLED "AN ORDINANCE TO PROVIDE FOR THE CLOSURE OF THE PORTION OF AN ALLEY, SOUTH SPRUCE PLACE, LOCATED BETWEEN GREENE STREET AND PACA STREET, SAID PORTION OF SPRUCE PLACE BEING CLOSED LYING BETWEEN THE LANDS OWNED BY R.J. SEPCO, INC. (AS DESCRIBED IN THE DEED RECORDED AMONG THE LAND RECORDS OF ALLEGANY COUNTY, MARYLAND IN DEED LIBER 559, FOLIO 535) ON THE WEST SIDE OF THE NORTHERN PORTION OF THE ALLEY BEING CLOSED, VALLEY FOX, INC. (AS DESCRIBED IN THE DEED RECORDED AMONG THE SAID LAND RECORDS IN DEED LIBER 609, FOLIO 809) ON THE EAST SIDE OF THE NORTHERN PORTION OF THE ALLEY BEING CLOSED, THE HOUSING AUTHORITY OF THE CITY OF CUMBERLAND, MARYLAND (AS DESCRIBED IN THE DEED RECORDED AMONG THE SAID LAND RECORDS IN DEED LIBER 442, FOLIO 132) ON THE WEST SIDE OF THE SOUTHERN PORTION OF THE ALLEY BEING CLOSED, AND CCSAC FEDERAL CREDIT UNION, NOW KNOWN AS POTOMAC FEDERAL CREDIT UNION, (AS DESCRIBED IN THE DEED RECORDED AMONG THE SAID LAND RECORDS IN DEED LIBER 615, FOLIO 128) ON THE EAST SIDE OF THE SOUTHERN PORTION OF THE ALLEY BEING CLOSED, THE PORTION OF THE ALLEY BEING CLOSED BEING SHOWN ON THE PLAT OF THE ORIGINAL TOWN LOTS OF THE CITY OF CUMBERLAND, THE PORTION OF SAID ALLEY BEING CLOSED BEING LOCATED IN THE CITY OF CUMBERLAND, MARYLAND."

WHEREAS, the Mayor and City Council of Cumberland received a petition from Sheetz, Inc. dated May 20, 2015 requesting the closure of the portion of the alley generally described in the titling of this Ordinance;

WHEREAS, the City Clerk served a personal notice in writing upon each property owner to be affected by the passage of the proposed Ordinance more than ten (10) days before October 18, 2016;

WHEREAS, in the opinion of the Mayor and City Council of Cumberland, the public welfare and convenience require that the aforesaid portion of the aforesaid alley be closed; and

WHEREAS, as provided for in Section 127A of the Charter, upon the closure of the portion of South Spruce Place which is the subject of this Ordinance, title to the same shall vest in the entities owning the property on each side thereof in equal proportions according to the length or breadth of such land as the same may border thereon as provided for hereinafter.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND AS FOLLOWS:

SECTION 1: The portion of South Spruce Place described in the metes and bounds descriptions attached hereto as Exhibits A, B, C and D and depicted as Parcels A, B, C and D in the plat attached hereto as Exhibit E is closed. The said closure is not subject to the reservation of any easements in favor of the Mayor and City Council of Cumberland or public utility companies.

SECTION 2: The said Mayor and City Council of Cumberland shall ascertain whether any and what amount in value of damage shall be caused by the aforesaid closure for which the owners or possessors of any property located along said alley, or portions thereof, should be compensated, and shall assess and levy generally on the property of the persons benefitted by the closure of the alley the whole or any part of the expense which shall be incurred in closing the same.

SECTION 3: The City Administrator or his designee shall, within fifteen (15) days of the passage of this Ordinance, submit a report to the City Clerk setting forth his findings regarding what amount of damages shall have been caused by the aforesaid alley closure, and the names of the owners or possessors of such property along which said streets now pass, and the amount of damages for which they shall be compensated or benefits for which they shall be assessed, and whether said damages arising from the closure shall be assessed generally on the whole assessable property within the City of Cumberland or specially on the property of the person benefitted by the closure; and, in the event of any of said damages being assessed and levied in whole or in part on any property of the persons benefitted, the names of the owners of the property specially benefitted, with a description of said property by reference to the Land Records of Allegany County, and the amount so levied and assessed. The Mayor and City Council shall consider the matter of the City Administrator's/designee' report and shall make determinations regarding the subject matter of the said report at a meeting held no sooner than fifteen (15) days after the date of the passage of this Ordinance.

SECTION 4: Any person feeling aggrieved or injured by the decision of said Mayor and City Council of Cumberland regarding the subject matter of the aforereferenced report shall have the right of an appeal to the Circuit Court at a trial by jury, as provided in Section 128 of the Charter of the City of Cumberland (1991 Edition), upon filing a written notice of appeal with the City Clerk within thirty (30) days after the Mayor and City Council of Cumberland shall have made their return.

SECTION 5: The benefits assessed by said Mayor and City Council of Cumberland shall be liens upon the property of the persons benefitted to the extent of such assessment, and shall be payable within fifteen (15) days after the date of the meeting at which the Mayor and City Council of Cumberland makes its determinations regarding the subject matter set forth in the City Administrator's report, and the collection of the same shall be enforced by *scire facias* in the same manner as paving liens are collected by the Mayor and City Council; and a written record of the said Mayor

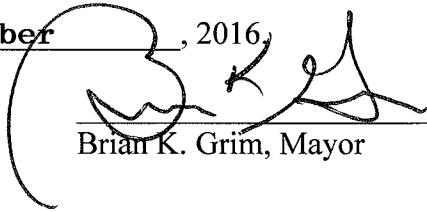
and City Council's determinations shall be filed for record and reported in the Mechanics' Lien Record in the Clerk's Office in the Circuit Court for Allegany County, and the assessment therein shall be liens upon the properties respectively assessed from the time of such recording, such recording to be effected no sooner than the expiration of the aforesaid fifteen (15) day period.

SECTION 6: Upon the collection of all benefits assessed and the payment of the damages ascertained, or the waiver of this provision by the parties interested, if applicable and upon the recordation of agreements for the relocation of rights of way for Columbia Gas of Maryland, Inc., Verizon and Atlantic Broadband in the Land Records of Allegany County, Maryland or the execution of such documents as will reasonably be expected to obligate the applicable parties to execute and record such agreements, the said alley particularly described in Section 1 hereof shall be closed and the Mayor shall be empowered to execute deeds effecting the following conveyances:

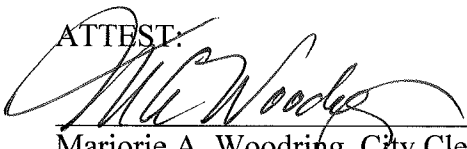
- (a) The property described in Exhibit A to the Housing Authority of the City of Cumberland, Maryland;
- (b) The property described in Exhibit B to Potomac Federal Credit Union, formerly known as CCSAC Federal Credit Union;
- (c) The property described in Exhibit C to R.J. Sepco, Inc.; and
- (d) The property described in Exhibit D to Valley Fox, Inc.

SECTION 7: This Ordinance shall take effect from the date of its passage.

Passed, the 18th day of October, 2016,



Brian K. Grim, Mayor

ATTEST:


Marjorie A. Woodring, City Clerk

1st reading: 10/4/16
2nd reading: 10/18/16
3rd reading: 10/18/16
Passed on a vote of: 3-0

EXHIBIT A

Description for Parcel A, the southwestern portion of the right of way of a public alley known as South Spruce Place, to be conveyed by the City of Cumberland to the Housing Authority of the City of Cumberland, Maryland.

Situate along the north side of Paca Street approximately 200 eastward from its intersection with South Lee Street in Election District No. 6, City of Cumberland, Allegany County, Maryland and being more particularly described in accordance with a survey by Frederick, Seibert and Associates, Inc. dated April 8, 2014 as follows:

Beginning at a point at the intersection of the northern right of way of Paca Street and the western right of way of South Spruce Place, thence leaving Paca Street and running with the western right of way of South Spruce Place and along lands now or formerly of the Housing Authority of the City of Cumberland (Liber 442, folio 132) with bearings to match Maryland Grid North NAD 83 N08°45'22"E 168.00 feet to a point, thence by two new lines of division now made S81°34'18"E 8.25 feet to a point in the centerline of South Spruce Place, thence with said centerline S08°45'22"W 168.00 feet to a point on the northern right of way of Paca Street, thence with said right of way N81°34'18"W 8.25 feet to the place of beginning;

Containing 1,386 square feet or 0.0318 acres of land more or less;

Said lands being further shown and defined as Parcel A on a plat titled "Right of Way Abandonment Plat for South Spruce Place", a copy of which is attached hereto. Said lands are conveyed subject to and together with the conditions and restrictions shown thereon as well as to any and all other easements or rights of way of record and applicable thereto.

EXHIBIT B

Description for Parcel B, the southeastern portion of the right of way of a public alley known as South Spruce Place, to be conveyed by the City of Cumberland to Potomac Federal Credit Union, formerly known as CCSAC Federal Credit Union.

Situate along the north side of Paca Street approximately 220 eastward from its intersection with South Lee Street in Election District No. 6, City of Cumberland, Allegany County, Maryland and being more particularly described in accordance with a survey by Frederick, Seibert and Associates, Inc. dated April 8, 2014 as follows:

Beginning at a point at the intersection of the northern right of way of Paca Street and the eastern right of way of South Spruce Place, thence running with said right of way of Paca Street with bearings to match Maryland Grid North NAD 83 N81°34'18"W 8.25 feet to a point in the centerline of South Spruce Place, thence with said centerline with two new line of division now made N08°45'22"E 175.04 feet to a point, thence S81°42'30"E 8.25 feet to a point on the eastern right of way of South Spruce Place, thence with said right of way and along lands now or formerly of CCSAC Federal Credit Union "Potomac Federal Credit Union" (Liber 615, folio 128) S08°45'22"W 175.06 feet to the place of beginning;

Containing 1,444 square feet or 0.0331 acres of land more or less;

Said lands being further shown and defined as Parcel B on a plat titled "Right of Way Abandonment Plat for South Spruce Place", a copy of which is attached hereto. Said lands are conveyed subject to and together with the conditions and restrictions shown thereon as well as to any and all other easements or rights of way of record and applicable thereto.

EXHIBIT C

Description for Parcel C, the northwestern portion of the right of way of a public alley known as South Spruce Place, to be conveyed by the City of Cumberland to R.J. Sepco, Inc.

Situate along the south side of Greene Street approximately 200 eastward from its intersection with South Lee Street in Election District No. 6, City of Cumberland, Allegany County, Maryland and being more particularly described in accordance with a survey by Frederick, Seibert and Associates, Inc. dated April 8, 2014 as follows:

Beginning at a point at the intersection of the southern right of way of Greene Street and the western right of way of South Spruce Place, thence running with said right of way of Greene Street with bearing to match Maryland Grid North NAD 83 S81°36'04"E 8.25 feet to a point in the centerline of South Spruce Place, thence with said centerline with two new line of division now made S08°45'22"W 177.86 feet to a point, thence N81°34'18"W 8.25 feet to a point on the western right of way of South Spruce Place, thence with said right of way and along lands now or formerly of R.J. Sepco, Inc. (Liber 559, folio 535) N08°45'22"E 177.86 feet to the place of beginning;

Containing 1,467 square feet or 0.0337 acres of land more or less;

Said lands being further shown and defined as Parcel C on a plat titled "Right of Way Abandonment Plat for South Spruce Place", a copy of which is attached hereto. Said lands are conveyed subject to and together with the conditions and restrictions shown thereon as well as to any and all other easements or rights of way of record and applicable thereto.

EXHIBIT D

Description for Parcel D, the northeastern portion of the right of way of a public alley known as South Spruce Place, to be conveyed by the City of Cumberland to Valley Fox, Inc.

Situate along the south side of Greene Street approximately 220 eastward from its intersection with South Lee Street in Election District No. 6, City of Cumberland, Allegany County, Maryland and being more particularly described in accordance with a survey by Frederick, Seibert and Associates, Inc. dated April 8, 2014 as follows:

Beginning at a point at the intersection of the southern right of way of Greene Street and the eastern right of way of South Spruce Place, thence running with said eastern right of way and along lands now or formerly of Valley Fox, Inc. (Liber 609, folio 809) with bearings to match Maryland Grid North NAD 83 S08°45'22"W 170.80 feet to a point, thence leaving said right of way with two new lines of division now made N81°42'30"W 8.25 feet to a point in the centerline of South Spruce Place, thence with said centerline N08°45'22"E 170.82 feet to a point on the southern right of way of Greene Street, thence with said right of way S81°36'04"E 8.25 feet to the place of beginning;

Containing 1,409 square feet or 0.0323 acres of land more or less;

Said lands being further shown and defined as Parcel D on a plat titled "Right of Way Abandonment Plat for South Spruce Place", a copy of which is attached hereto. Said lands are conveyed subject to and together with the conditions and restrictions shown thereon as well as to any and all other easements or rights of way of record and applicable thereto.

