

DC Board of Zoning Adjustment
441 4th Street NW, Suite 200 South
Washington, DC 20001
bzsubmissions@dc.gov

DC for Reasonable Development
Daniel Wolkoff, member
Cynthia Carson, member
Melissa Peffers, member
Jerome Peloquin, member,
James Fournier, member
Linwood Norman, member,
Jimmie Boykin, member

Appellant,

v.

DC Department of Consumer and
and Regulatory Affairs,

Respondent.

BZA Appeal No. 20191

EMERGENCY MOTION PURSUANT TO 11-Y DCMR 407.1, .2, et. seq., and 11-Y DCMR 408.1(b), 11-Y DCMR 506.1(b),(h) TO SUPPLEMENT THE RECORD WITH CRITICALLY IMPORTANT INFORMATION NOT OTHERWISE KNOWN UNTIL RECENTLY OR IN THE ALTERNATIVE TO ACCEPT THIS INFORMATION PURSUANT TO 11-Y DCMR 302.13

Appellants come now as an emergency pursuant to BZA regulations, 11-Y DCMR 407.1, .2, et. seq., and 11-Y DCMR 408.1(b), 11-Y DCMR 506.1(b), (h).

All parties have been served per 11-Y DCMR 205, et seq. Since this motion is being filed as an emergency and given the timing of submission, none of the opposition parties have actively granted consent to this motion, and we presume they will oppose. We understand opposition parties are allowed to respond to this motion pursuant to BZA regulation 11-Y DCMR 407.4, that is before the August 5, 2020 hearing that was noticed to all parties by BZA staff on Thursday afternoon, July 23, 2020.

The Applicant and Respondent Have Hidden From the Record Information Important to BZA Order Requesting Demolition and Community Center Plans, Prejudicing Appellants

Since the beginning of this appeal, Appellant Exhibit Nos. 1 through 8 lay bare our claims as to why the issuance by DCRA of the a Demolition Permit (Exhibit No. 7) and a Foundation Permit (Exhibit No. 4) was made in error.

One of these appeal claims centers in on the fact that the Permits were issued to the Applicant prematurely upon the approval of the DCRA Zoning Administrator who ignores the intersection between the Zoning Regulations and the Historic Preservation Act.

New information has been obtained that informs Appellants' claim that the Permits have been issued prematurely as it regards the Zoning Regulations and intersecting key historic preservation requirements associated McMillan Park.

The United States Commission of Fine Arts (“CFA”) is in the administrative process of changing the plans for the Community Center which is part of the McMillan Master Plan and by which the Foundation Permit was erroneously issued by DCRA now under appeal here.

This recently discovered information has prior to now been closeted away by the Applicant, DMPED and the Respondent, DCRA, who were responsible in noticing parties, including the public who stand in opposition to the Applicant's project, however public notice was never given. See Attachment A & B.

And while not necessarily a new issue per 11-Y DCMR 302.13, although in the alternative the BZA can accept it as such, this newly discovered information so far has not been explicitly produced for the record by the Applicant and Respondent but is certainly critical for the BZA to know especially given the BZA’s request for the Applicant and DCRA to produce foundation and demolition plans for the record. See Exhibit No. 43 and all of its attachments, Exhibit No. 44 and all its attachments, and Exhibit No. 45 and all its attachments.

The US Commission on Fine Arts will be changing the Community Center plans shown in the Exhibits put on the record, and these changes will likely be reaffirmed at the Second Stage PUD review by the Zoning Commission and again by the Historic Preservation Review Board, or the very least by the Historic Preservation Office. This newly discovered information clearly shows the Permits have been issued prematurely and unlawfully so.

The facts are the same as they have been since this appeal was initiated (except a new fact, No. 7 below):

1. The Zoning Administrator approved the DCRA issuance of the Permits and did so without providing any written Letter of Determination on the public record.

2. The Zoning Administrator received several emails from Appellants seeking written explanation as to why applicable Zoning Regulations did not apply to his review when approving the issuance of the Permits. The Zoning Administrator never replies to the substance of the Appellants inquiry.

3. The Appellants inquiry to the Zoning Administrator listed specific citations to applicable Zoning Regulations that were bypassed during the Permit review process behind closed doors at DCRA.

4. The Permits were issued based on the Zoning Administrator's approval founded on his position that the Permits would not contradict the Zoning Regulations in any way. Again the ZA's position is never expressed in writing at all despite requests seeking as such.

5. The Demolition Permit and Foundation Permits rest upon the McMillan "Master Plan" which still requires Second Stage PUD zoning review and approvals.

6. The covenants recorded on the record per the Zoning Regulations do not include the existing historic preservation covenants that run with the McMillan Park deed in perpetuity.

7. Recently discovered information shows that the US Commission of Fine Arts is still deliberating the Community Center component of the McMillan "Master Plan" and that the design as approved by the Zoning Commission is still being changed. *See Attachment A & B; See also* Commission on Fine Arts website: <https://www.cfa.gov/records-research/project-search/cfa-18-jun-20-6>

The CFA will be changing the plans, providing more than sufficient information to affirm the appeal

Clearly here, the CFA requires further review of the Community Center design at a future meeting and thus the Permits and Construction documents will likely need update. *See Fact No. 7* above. *See also* Attachments A & B.

The CFA revisions will likely be integrated into the Zoning Commission review during the Second Stage PUD approval of the McMillan "Master Plan" per Zoning Commission Order No. 13-14(6).

The key facts listed above (Nos. 1 - 7) are indeed the "sufficient information" needed to compare to the applicable zoning regulations that Appellants have cited throughout our filings with.

The CFA's administrative review and changing of the plans shows clearly the intersection of the DC Historic Preservation Act and the Zoning Regulations as a question of law

On June 24, 2020, BZA Commissioners claimed that the D.C. Historic Preservation Act ("HPA") does not apply and isn't in their purview. This is a question of law that was explored by Appellants in the June 18, 2020, APPELLANT'S RESPONSE TO DCRA AND DMPED'S MOTIONS TO DISMISS PER THE MAY 28, 2020 BZA MEMORANDUM REGARDING APPEAL OF RESPONDENT'S, DCRA PREMATURE & ERRONEOUS ISSUANCE OF PERMITS D1600814 & PERMIT FD1800040, at page 6 (Exhibit No. 38).

However, Appellants arguments were wholly ignored by the Chair of the BZA and Commissioners at the BZA's June 24, 2020 meeting and ignored again in the June 26, 2020 written decision (Exhibit No. 40). This issue is heightened now that we have the newly discovered information that the CFA is indeed changing the plans submitted to the record. See Fact No. 7 above.

ADDITIONAL KEY FACT & LAW: At some point the changes made by the CFA will need further review by the Historic Preservation Review Board and the Zoning Commission. 11-Y DCMR 405.8(c), 11-A DCMR 407.1 and 11-X DCMR 203.6, among others.

The issue of the intersection between the Zoning Regulations and the DC Historic Preservation Act has been raised since Appellants filed Form 125 at the start of the appeal (Exhibit Nos. 1 – 8). Moreover, Appellants clearly demonstrate that when zoning relief involves historic sites consisting of restrictive deed covenants, these existing covenants and all new deed covenants must be affirmed in writing on the record by the Zoning Administrator with the help of the Office of the Attorney General per 11-X DCMR § 311.3 and 11-Z DCMR 702.10. They were not, in error as demonstrated by the evidence put on the record by the Respondent, DCRA in their March 4, 2020 filing (Exhibit No. 23 & 23A).

Appellants seek a trial to show how the regulations and the DC Historic Preservation Act ("HPA") cross a threshold of inter-related preservation law (D.C. Code § 6–1104 [h]) and relevant zoning code that the BZA is authorized to consider, just as the OAH is simultaneously considering the HPA's role within the scope of the DC Construction Codes. And, as shown above again, this issue is heightened by the recently discovered ongoing review by the US Commission on Fine Arts.

CONCLUSION

When agencies like DCRA ignore the regulations and pretend that administrative processes don't matter, such as the review at the CFA ongoing now, they are imminently threatening the well

being of Appellants as well as our interests in this very important historic site and public property at McMillan Park.

We ask the Commission consider this emergency motion and references to new information and to zoning regulations to more fully inform this issue before making any decisions in this case. We ask the BZA grant this emergency motion pursuant to BZA regulations, 11-Y DCMR 407.1, .2, et. seq., and 11-Y DCMR 408.1(b), 11-Y DCMR 506.1(b), (h).

This motion is submitted as an emergency on July 29, 2020.

/s /n

Chris Otten, co-facilitator

DC for Reasonable Development

202-656-5874

dc4reality@gmail.com

ATTACHMENT A

PERMIT APPROVALS LIST (SEE PAGE 5 OF 9)

PRE-FILE NUMBERS	ZONING DISTRICT	FILE NUMBER	PERMIT NUMBER



GOVERNMENT OF THE DISTRICT OF COLUMBIA
BLRA-33 (Rev.10/2011)

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION PERMIT SERVICE CENTER
DCRA.DC.GOV



APPLICATION FOR CONSTRUCTION PERMITS ON PRIVATE PROPERTY
(PRINT INK OR TYPE, DO NOT WRITE IN SHADED AREAS)

ERASING, CROSSING OUT, WHITING OUT, OR OTHERWISE ALTERING ANY ENTERED INFORMATION WILL VOID THIS APPLICATION

CLEARANCE TO FILE
By _____ Date _____

(A) ALL APPLICANTS MUST COMPLETE ITEMS 1 THRU 35

1. Address of Proposed Work: 2940 NORTH CAPITOL ST NW		Suite No:	2. Lot: 0872	3. Square: 0542	4. Application Date: 09/09/2019																														
5. Owner of Building or Property: Usgbf Waterfront Station Llc		6. Address (Include Zip Code) Usaa Real Estate Company, 9830 Colonnade Blvd Ste 600, San Antonio, TX 78230-2209			7. Phone																														
8. Agent for Owner (if applicable) Clifford Dixon		9. Address (Include Zip Code)			10. Phone																														
11. Type of Proposed Work (Select only one)																																			
New Building(B)		Awning (G)		Observation Stand (L)																															
Addition (B)		Sign (Z)		Scaffolding Information (M)																															
<input checked="" type="checkbox"/> Addition Alteration Repair(B)		After Hours (H)		Soil Borings(N)																															
Raze Building(C)		Demolition (I)		Tower Crane(O)																															
Retaining Wall (D)		Capacity Placard (AA)		Foundation Only(P)																															
Fence (E)		Christmas Tree Stand (J)		Underground Storage Tank(Q)																															
Shed (F)		Fireworks Stand (J)		Civil Site Work Only (K)																															
New Building(B)		Garage (F)		Antenna (W)																															
12. Description of Proposed Work DGS MCMILLAN REVISION TO PERMIT D1600814 TO CHANGE THE DESIGN TEAM AND ENGINEERS OF RECORD WITH MINOR REVISIONS TO SELECTIVE SHEETS.					13. Do you have an Elevation Certificate <input type="checkbox"/> Yes <input type="checkbox"/> No																														
14. Existing Use(s) of Building or Property Other (Specify)		15. Ex. No of Stories of Bldg 0	16. Ex. No of Dwelling Units 0		OFFICIAL USE ONLY Miscellaneous FEE \$																														
17. Proposed Use(s) of Building or Property Other (Specify)		18. Prop. No of Stories of Bldg 0	19. Prop. No of Dwelling Units 0																																
20. Starting Date		21. Completion Date of work		22. Method of Removing Construction Debris <input checked="" type="checkbox"/> Pick-up Truck <input type="checkbox"/> Dumpster <input type="checkbox"/> Other (specify)																															
23. Does the proposed work involve disturbing the earth or razing a building? <input type="checkbox"/> Yes. answer a.24 <input checked="" type="checkbox"/> No. SKIP a.24-29																																			
24. Is the area of disturbed earth more than 50 sq.ft? <input type="checkbox"/> Yes. answer a.26-27 <input type="checkbox"/> No. SKIP a.26-27		26. Soil Erosion Control Methods		27. Area of Offsite Drainage																															
25. Is the area disturbed earth more than 5000 sq.ft? <input type="checkbox"/> Yes. <input checked="" type="checkbox"/> No.		30. Existing Stories Plus		32. Existing Penthouse <input type="checkbox"/> Yes. <input checked="" type="checkbox"/> No.																															
34. 3rd Party Review <input type="checkbox"/> Yes. <input checked="" type="checkbox"/> No.		35. 1st time Tenant Build <input type="checkbox"/> Yes. Ours <input type="checkbox"/> No.		36. Floors Involved in Proposed Construction LOT																															
				OFFICIAL USE ONLY																															
		31. Proposed Stories Plus		33. Proposed Penthouse <input type="checkbox"/> Yes. <input checked="" type="checkbox"/> No.																															
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				PLANS																															
				<input type="checkbox"/> No. <input type="checkbox"/> Sm. <input type="checkbox"/> La.																															

(H) SIGN (COMPLETE ITEMS 1 THRU 22)

1. Number:	2. Electric Signs: Yes. Answer 3 to 10 No. SKIP 3 to 10	3. Type: Incandes Fluoresc Neon LED	4. Power: Va	5. Electrical Contractor:	6. Business License Number:				
7. Address of Electrical Contractor: (include zip)		8. Signature of Licensed Electrician:		9. Phone No.	10. Electrician License No.				
11. Height relative to building and ground			12. Material of Sign:	13. Type of Sign:		14. Color of Sign:			
			15. Width of Sign: 0	16. Length of Sign: 0	17. Area of Sign:	18. Width of Business frontage:			
19. Certificate of Occupancy No. for Bldg.:		20. Sign Contractor Name:		OFFICIAL USE ONLY					
				Sign FEE:		Elect FEE:		Total FEE:	
21. Sign Contractor's Address:		22. Phone No.:		By	Date	By	Date	By	Date

SOLAR SYSTEM (COMPLETE ITEMS 1 THRU 27)

1. Type of System:	2. System Connection:	3. Inverter Type	4. Number of modules/collectors:	5. Single-Module Rated Output:
6. Mounting system: <input type="checkbox"/> Rafter <input type="checkbox"/> Parapet to Parapet <input type="checkbox"/> Ballasted <input type="checkbox"/> Other	7. Angle with Respect to Roof:	8. Year House Built.	9. Number of Neighbor Notification	10. Year Roof Replaced.
				11. Roof Area: Sq.Ft
12. Total Surface Area of Panels/Collectors:	13. Height of the System Above Roof: Ft In	14. Type of Financing:	15. Solar Renewable Energy Credits (SREC):	
16. General Contractor's First Name:	17. General Contractor's Last Name:		18. General Contractor's Company Name:	
19. General Contractor's Street Address:	20. General Contractor's Suite or Unit:		21. General Contractor's City:	
22. General Contractor's State:	23. General Contractor's Zip Code:		24. General Contractor's Phone:	
25. General Contractor's Email:	26. General Contractor's DC License Number:		27. System Size:	

APPLICANT'S SIGNATURE

A. OWNER: I hereby certify that I am the owner of the property, that the application and plans are complete and correct to the best of my knowledge, that if a permit (or permits) is issued, the construction will conform to the D.C. Construction Codes, the Zoning Regulations, and other applicable laws and regulation of the District of Columbia.

Signature of Owner _____ Address _____ Date _____

B. AGENT: I hereby certify that I have the authority of the owner to make this application. I declare that the application and plans are complete and correct to the best of my knowledge. The owner has assured me that if a permit (or Permits) is issued, the construction will conform to the D.C. Construction Codes, the Zoning Regulations, and other applicable laws and regulation of the District of Columbia.

Signature of Agent _____ Address _____ Date _____

APPROVALS (DO NOT WRITE ON THIS PAGE; OFFICIAL USE ONLY)

A. PERMIT CONTROL

- 1. Fine Arts bv: _____ Date: _____
2. Historic Bv: _____ Date: _____
3. Cap. Gateway bv: _____ Date: _____
4. NCPC: _____ Date: _____
5. W.H./Obs. Precinct bv: _____ Date: _____
6. Flood Control bv: _____ Date: _____
7. WMATA bv: _____ Date: _____
8. Condem. bv: _____ Date: _____
9. Rental Accom bv: _____ Date: _____
10. Chinatown Dist. bv: _____ Date: _____
11. Utility Clearance bv: _____ Date: _____
12. General Liability Ins. Policy Clearance by: _____ Date: _____

B. CLEARANCE TO FILE PLANS

- 1. Zonina bv: _____ Date: _____
2. DDOT - Permit and Records Division
Access to Parkina Street [] Street [] Allev
Cleared bv: _____ Date: _____
3. DDOT - Consumer Engineer
Cleared bv: _____ Date: _____
4. ERA - Erosion Control
Cleared bv: _____ Date: _____

Restriction of the Permits

TO REPORT WASTE, FRAUD, OR ABUSE BY ANY D.C. GOVERNMENT OFFICIAL, CALL THE D.C. INSPECTOR GENERAL AT 1-800-521-1639

C. PLANS AND APPLICATION APPROVAL

- 1. Information Counter bv: _____ Date: _____
2. Information Center bv: _____ Date: _____
(a) ABRA bv: _____ Date: _____
(b) Noise Control bv: _____ Date: _____
(c) Industrial Safetv bv: _____ Date: _____
(d) Vector Control bv: _____ Date: _____
(e) D.C. Animal bv: _____ Date: _____
(f) Police Dept. bv: _____ Date: _____
3. Zonina bv: _____ Date: _____
Zonina Update bv: _____ Date: _____
Zonina Overlav approval bv: _____ Date: _____
4. DDOT - Permit and Records Division/Deposit #
Sidewalk Deposit \$ _____ Driveway Deposit \$ _____
by: _____ Date: _____
5. Water/Sewer Design Branch
Consumer Eng. by: _____ Date: _____
6. Environmental Regulation Administration
Environmental Policv Review
Control No. _____
bv: _____ Date: _____
Erosion Control bv: _____ Date: _____
Storm Water Mamt. bv: _____ Date: _____
Plan No. _____
Air Quality bv: _____ Date: _____
Underground Storage bv: _____ Date: _____
7. Mechanical Eng. Review bv: _____ Date: _____
8. Plumbing Eng. Review bv: _____ Date: _____
9. Electrical Eng. Review bv: _____ Date: _____
10. Health Plan Review
(a) Food Plan Review bv: _____ Date: _____
(b) Medical X-Ray Plan Rev.
by: _____ Date: _____
11. Fire Protection Plan Review
by: _____ Date: _____
12. D.C. Fire Dept. (Fire Prevention Plan Review Section)
bv: _____ Date: _____
13. Elevator Plan Rev. Sec. bv: _____ Date: _____
14. Plumbing Insp Rev. bv: _____ Date: _____
15. Construction Insp. Branch (field Check)
bv: _____ Date: _____
16. Historic Pres. Div bv: _____ Date: _____
17. EISF bv: _____ Date: _____
18. Structural Eng. bv: _____ Date: _____
19. Permit and Certificate Issuance Counter
bv: _____ Date: _____
20. QC bv: _____ Date: _____

ZONING

CofO Number _____ Date: _____
Existing Use(s) _____
Proposed Use(s) _____

Job No. _____ BZA Case No. _____

DDOT - PUBLIC SPACE

[] New Bldd.
[] P.O.D.
[] File in Room 2124
Street Name _____
Street Width _____
Road Width _____
Sidewalk Width _____
Parking _____

PUD Order No. _____

ATTACHMENT B

EMAILS BETWEEN
COMPLAINANTS AND
CFA



SaveMcMillan ActionCoalition <smac.dc@gmail.com>

CFA REVIEW: MAP BOUNDARIES

SaveMcMillan ActionCoalition <smac.dc@gmail.com>
To: Frederick Lindstrom <flindstrom@cfa.gov>

Tue, Jul 7, 2020 at 4:28 PM

Appreciate this message and instruction Fredrick.
Will do as guided.
Thanks
Chris, SMAC, DC4RD

On Tue, Jul 7, 2020 at 4:09 PM Frederick Lindstrom <flindstrom@cfa.gov> wrote:

Chris,

I have made a note on my list of potential submission for this coming September to contact you if the McMillan Recreation Center project is submitted to the Commission for review. If you do not hear from me after the submission deadline on the 3rd of September, please feel free to send me a email to confirm. Also, if at that time you would like to submit comments on the project to the Commission, please send them to me at FLindstrom@cfa.gov and with a copy to our staff email box (CFAStaff@cfa.gov), and we will make sure that your comments are circulated to our Commission members and placed in the case file.

Regards,

Frederick J. Lindstrom
Assistant Secretary
U.S. Commission of Fine Arts
401 F Street, NW, Suite 312
Washington, DC 20001-2637
www.CFA.gov
Voice: 202-504-2200
Cell: 202-489-8940
Fax: 202-504-2195

"Behind the cloud, the sun is still shining."

- Abraham Lincoln

From: SaveMcMillan ActionCoalition <smac.dc@gmail.com>
Sent: Tuesday, July 7, 2020 11:31 AM
To: Thomas Luebke <tluebke@cfa.gov>
Cc: Frederick Lindstrom <flindstrom@cfa.gov>
Subject: Re: CFA REVIEW: MAP BOUNDARIES

Thank you Thomas.

On Tuesday, July 7, 2020, Thomas Luebke <tluebke@cfa.gov> wrote:

Chris:

DMPED did not file for review of this project for the 16 July meeting of the CFA. There is no August meeting, so the next possible review would be 17 September. I have asked Frederick Lindstrom, Assistant Secretary, to follow up with you on questions of public comment. Best regards, Tom Luebke

From: SaveMcMillan ActionCoalition <smac.dc@gmail.com>
Sent: Tuesday, July 07, 2020 1:06 AM
To: Thomas Luebke <tluebke@cfa.gov>
Subject: Re: FW: CFA REVIEW: MAP BOUNDARIES

Mr. Luebke,

Hope you had a nice 4th.

Following up, and out of curiosity, has DMPED resubmitted final comprehensive designs for the community center as needed by the CFA for the July meeting, or will they by chance do that for August?

Thanks for your time and patience,

Chris Otten

On Thu, Jul 2, 2020 at 5:21 PM SaveMcMillan ActionCoalition <smac.dc@gmail.com> wrote:

Received and understood.

So as I understand, DMPED will have to resubmit redesigned drawings per the CFA comments as an application for a future meeting based on the comments from the June meeting. Is that right? Will you inform us when they refile designs for the CFA to review again.

Thank you.

Chris Otten

On Thu, Jul 2, 2020 at 5:17 PM Thomas Luebke <tluebke@cfa.gov> wrote:

You are welcome to comment at any time. However, the CFA has already reviewed and commented on what was presented at the June meeting, so your group's comments at this point would most usefully be directed to DMPED/DPR instead of CFA (which can't do anything more with the comments until a new design is submitted). You can copy us for the record, and the comments would still be circulated to the CFA members in advance of the next review of the project.

From: SaveMcMillan ActionCoalition [<mailto:smac.dc@gmail.com>]

Sent: Thursday, July 02, 2020 5:05 PM

To: Thomas Luebke <tluebke@cfa.gov>

Subject: Re: FW: CFA REVIEW: MAP BOUNDARIES

Thank you Mr. Luebke,

Seems the CFA is expecting DMPED come back with design changes, some of them major as to the building layout and entrances and such. We'd like to send in comments as to the latest round of comments the CFA has sent to DMPED regarding the community center and more. Is that possible?

Chris O.

On Thu, Jul 2, 2020 at 4:32 PM Thomas Luebke <tluebke@cfa.gov> wrote:

Chris:

Today's filing deadline is for a case to be submitted for review by the Commission at its next meeting, scheduled for 16 July. For public comment on agenda cases, you can send in comments to the staff email address (cfastaff@cfa.gov) that you used earlier. If we receive the comments prior to

the meeting, we circulate the comments to the Commission members for their consideration.

From: SaveMcMillan ActionCoalition [mailto:smac.dc@gmail.com]
Sent: Thursday, July 02, 2020 4:09 PM
To: Thomas Luebke <tluebke@cfa.gov>
Subject: Re: FW: CFA REVIEW: MAP BOUNDARIES

Mr. Luebke,

Thank you for this explanation. Very clear.

Please clarify just a couple more issues if you could:

1. When you say they may be filing again by COB today, filing as to what?
2. How and when can the community comment on these filings as we feel left out so far.

Thank you,
Chris Otten

On Thu, Jul 2, 2020 at 1:41 PM Thomas Luebke <tluebke@cfa.gov> wrote:

Chris:

Thanks for your question. The simple answer is that the Commission of Fine Arts (CFA) reviews public projects in Washington, D.C., both for the federal and District of Columbia governments. The McMillan Reservoir community/recreation center is a public building within this redevelopment site, and the CFA is reviewing it as it does many other DC facilities across the city. For your information, the Shipstead-Luce Act applies only to private development and would not be involved in this case, even if it were located within the area of jurisdiction.

Finally, regarding public comment, the burden of public notice is on the District of Columbia, not CFA; we routinely get public comment on other public projects (such as neighborhood rec centers, schools, libraries, parks, etc.) because the various neighborhood groups have been notified by the relevant DC agency (DPR, DGS, DCPS, etc.); you may want to ask the project management team—in this case managed by Gilles Stucker at DMPED—why your group was not informed about the CFA review. I note that CFA posts its agendas publicly via its website in advance of its public meetings.

Please let me know if you have any further questions about the CFA review of the McMillan Reservoir project; I am not sure but the applicants may be submitting for another review for the 16 July meeting of the CFA—the deadline for filing is COB today. Sincerely,

Thomas Luebke, FAIA

Secretary, U.S. Commission of Fine Arts

401 F Street, NW

Suite 312

Washington, DC 20001

(202) 504-2200

www.cfa.gov

From: SaveMcMillan ActionCoalition <smac.dc@gmail.com>

Date: Thursday, July 2, 2020 at 12:29 AM

To: CFA Staff <cfastaff@cfa.gov>

Subject: CFA REVIEW: MAP BOUNDARIES

To whom it may concern, or Shipstead-Luce Act staff architect:

My name is Chris. I am with the Save McMillan Action Coalition. We are curious as to this case >> <https://www.cfa.gov/records-research/project-search/cfa-18-jun-20-6>

Recently heard, the CFA made comments as to the Community Center on Parcel 7 within the McMillan Master Plan "Town Center."

What I am seeking clarity on is straightforward, given the boundaries of the Shipstead-Luce Act map we see here <https://www.cfa.gov/project-review/shipstead-luce> -- we find it curious why the McMillan Master Plan and this community center component would come before the CFA for review and approval.

Please explain as we've been watching this project closely and no one has informed us of the CFA process and review underway, and we imagine that is why there isn't a lot of public comment on the record in this case. Right?

Thanks for any insights.

Chris Otten

OPERATING STATUS AND PROJECT REVIEW

Due to the Covid-19 public health emergency, the U.S. Commission of Fine Arts has made several changes to its meeting schedule and project submission procedures. [Click here](#) for the latest information, including temporary submission procedures. For general inquiries, please email cfastaff@cfa.gov or call (202) 504-2200.

CFA 18/JUN/20-6

LOCATION:

North Capitol Street and Channing Street, NW
Washington, DC

OWNER:

D.C. Office of the Deputy Mayor for Planning and Economic Development

PROPERTY:

McMillan Community Center

DESCRIPTION:

New community and recreation center

REVIEW TYPE:

Final

PREVIOUS REVIEW:

[CFA 15/SEP/16-6](#)

SUBMITTED DOCUMENTS:

[McMillan Community Center presentation](#)

Letter

25 June 2020

Dear Mr. Falcicchio:

In its public meeting of 18 June conducted by videoconference, the Commission of Fine Arts reviewed a final design submission for a new park and community center building on the southern portion of the historic McMillan Sand Filtration Site at North Capitol and Channing Streets, NW. The Commission approved the proposed landscape design, contingent on the resolution of the issues raised in its review; however, it did not take an action on the proposal for the community center building, requesting additional study and documentation of the design for this component of the project.

The Commission members expressed their continued enthusiasm for the adaptive reuse of this outstanding urban site and historic industrial relic, commenting that its redevelopment and interpretation has the potential to be significant, both locally and nationally. They expressed appreciation for the responsiveness of the new project team and endorsed the progress made on the landscape design since the project was last reviewed. However, while accepting the general concept and massing of the proposed building, they observed that it was not adequately documented in the presentation, and they requested the submission of additional drawings and renderings for review; specific items that should be documented include the proposed material palette, the projecting shade structures, and how the new interventions meet the existing historic elements of the site, such as at the earthen berm and at filter cell 28. In addition, they raised concern with the proposed arrangement of the building program and the resulting decision to locate the only building entrance on the upper level of the site at the South Court, which would isolate the building from its outdoor program spaces and the surrounding park. They advised that the project would benefit from the inclusion of entrances at the upper-level playground on the west and at the lower-level plaza on the east; this lower-level entrance would also facilitate more pedestrian movement between the street, the public plaza and water garden, and the building, making the relatively secluded plaza feel safer.

For the design of the site, the Commission members expressed strong support for the proposed revisions to the landscape, and they provided several suggestions for its refinement. Regarding the plaza, they recommended repositioning the bioretention areas outward, possibly integrating them with the tree planting beds and reducing the width of the outer walkway, in order to avoid subdividing the central space and to improve the relationship to the plaza's perimeter of stepped berms. Although they expressed some support for open, half-circular benches surrounding the trees, they also suggested substituting moveable seating for the circular benches to improve the function and clarity of the central space. They questioned the extensive use of concrete retaining walls and terracing that would support the earthen berm, particularly at the southern gateway along North Capitol Street, recommending instead the use of structural soil and geotextiles to bring the steep, simply planted slopes of the berm underneath the pedestrian bridge and into the site. For the planting palette, they suggested the reconsideration of the proposed lindens in the playground, as these trees tend to attract bees; while this is a desirable characteristic for promoting biodiversity, it may be inappropriate where children are playing. They also advised further study of the blooming patterns of the various small trees proposed along the Olmsted Walk to ensure that the resulting rhythm of color appears intentional; they recommended further study of the placement of the proposed exercise stations along the walk, commenting that using them may be challenging due to their close proximity to the narrow path.

The Commission commends this redevelopment project to create a public facility that supports its surrounding community and is an exemplary treatment of historic resources. To complete the final review of the community center building, the Commission looks forward to the review of an additional submission that provides comprehensive documentation and addresses its recommendations; please coordinate with the staff for the resolution of the comments regarding the landscape design. As always, the staff is available to assist you with the next submission.

Sincerely,

/s/Thomas E. Luebke, FAIA

Secretary

John Falcicchio, Acting Deputy Mayor
D.C. Office of the Deputy Mayor for Planning and Economic Development
1350 Pennsylvania Avenue, NW, Suite 317
Washington, DC 20004

cc: Tom Jester, Quinn Evans Architects
Elliot Rhodeside, Rhodeside & Harwell



OPERATING STATUS AND PROJECT REVIEW

Due to the Covid-19 public health emergency, the U.S. Commission of Fine Arts has made several changes to its meeting schedule and project submission procedures. [Click here](#) for the latest information, including temporary submission procedures. For general inquiries, please email staff@cfa.gov or call (202) 504-2200.

RECORDS & RESEARCH

- RECORD OF CFA ACTIONS
- PROJECT SEARCH
- RESEARCH COLLECTIONS
- ACCESSING CFA RECORDS
- RESEARCH POLICY & COSTS

CFA 18/JUN/20-6

LOCATION:
North Capitol Street and Channing Street, NW
Washington, DC

OWNER:
D.C. Office of the Deputy Mayor for Planning and Economic Development

PROPERTY:
McMillan Community Center

DESCRIPTION:
New community and recreation center

REVIEW TYPE:
Final

PREVIOUS REVIEW:
CFA 11/SEP/18-6

SUBMITTED DOCUMENTS:
[McMillan Community Center presentation](#)

Letter

28 June 2020

Dear Mr. Falckoch:

In its public meeting of 18 June conducted by videoconference, the Commission of Fine Arts reviewed a final design submission for a new park and community center building on the southern portion of the historic McMillan Island Filtration Site at North Capitol and Channing Streets, NW. The Commission approved the proposed landscape design, contingent on the resolution of the issues raised in its review; however, it did not take an action on the proposal for the community center building, requesting additional study and documentation of the design for this component of the project.

The Commission members expressed their continued enthusiasm for the adaptive reuse of this outstanding urban site and historic industrial relic, commenting that its redevelopment and interpretation has the potential to be significant, both locally and nationally. They expressed appreciation for the responsiveness of the new project team and endorsed the progress made on the landscape design since the project was last reviewed. However, while accepting the general concept and massing of the proposed building, they observed that it was not adequately documented in the presentation, and they requested the submission of additional drawings and renderings for review, specific items that should be documented include the proposed material palette, the projecting shade structures, and how the new interventions meet the existing historic elements of the site, such as at the northern term and at their end 20. In addition, they raised concern with the proposed arrangement of the building program and the resulting decision to locate the only building entrance on the upper level of the site at the South Court, which would isolate the building from its outdoor program spaces and the surrounding park. They advised that the project would benefit from the inclusion of entrances at the upper-level playground on the west and at the lower-level plaza on the east; this lower-level entrance would also facilitate more pedestrian movement between the street, the public plaza and water garden, and the building, making the relatively secluded plaza feel safer.

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Sincerely,

/s/Thomas E. Luebke, FAIA
Secretary

John Falckoch, Acting Deputy Mayor
D.C. Office of the Deputy Mayor for Planning and Economic Development
1350 Pennsylvania Avenue, NW, Suite 317
Washington, DC 20004

cc: Tom Jender, Quinn Evans Architects
Elise Rhoadside, Rhoadside & Harwell

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CFA Meeting — 18 June 2020

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Research Policy & Costs

U.S. Commission of Fine Arts
401 F Street NW, Suite 912
Washington, DC 20001-2720
(202) 504-2200



CERTIFICATE OF SERVICE

I, Chris Otten, attest to serving the above EMERGENCY MOTION PURSUANT TO 11-Y DCMR 407.1, .2, ET. SEQ., AND 11-Y DCMR 408.1(B), 11-Y DCMR 506.1(B),(H) TO SUPPLEMENT THE RECORD WITH CRITICALLY IMPORTANT INFORMATION NOT OTHERWISE KNOWN UNTIL RECENTLY OR IN THE ALTERNATIVE TO ACCEPT THIS INFORMATION PURSUANT TO 11-Y DCMR 302.13 on July 29, 2020, as follows:

RESPONDENT DCRA

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Matthew.Legrant@dc.gov
Esther.McGraw2@dc.gov

APPLICANT DMPED

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Mayor Muriel Bowser,

By email: eom@dc.gov

Courtesy copies to all complainants:

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