

Testimony IN FAVOR of Appeal, BZA Case No. 20191  
August 5, 2020

Dear Commissioners:

I support the appeal in BZA Case No. 20191. In granting a permit for demolition and foundation at the McMillan Sand Filtration Site and Park, the DC Zoning Administrator did not follow the law with regard to ensuring preservation and zoning requirements were met.

All existing historic preservation covenants that run with the site in perpetuity must be included in the land covenants that are recorded, according to zoning regulations. The Zoning Administrator did not ensure this.

Moreover, the McMillan Master Plan requires another look by the Zoning Commission in a Second-Stage Planned Unit Development review before any demolition can begin, per the first Zoning Order, No. 13-14(6). The Zoning Administrator didn't ensure the Commission saw the plans under Second-Stage review, or waive those requirements, per the law.

From the point of view of a preservationist, good-government advocate, and nearly lifelong DC resident, voter, and taxpayer, I could speak for hours about the ways in which my government has betrayed all of us at historic McMillan Park. The hog-tying of McMillan could be used as a case study of bad government.

The competitive processes mandated by DC law were ignored in handing the development rights, and promising the property, to the development team.<sup>1</sup>

No planning informs this project--transportation, environmental, health, displacement impacts were not seriously considered, let alone addressed, by the government. How will the ambulances that regularly jump the median on North Capitol Street to avoid bottlenecks cope with the tens of thousands of additional daily vehicular trips that this development is projected to engender?

From the start, the DC government has acted as though there is no historic preservation covenant on the deed by which the U.S. General Services Administration transferred ownership to D.C. that rides with site forever. The government (Mayor, HPRB under DMPED, and the Mayor's Agent) has also circumvented the protections conferred upon the site by the DC Historic Preservation Act; indeed, the city's actions have undermined that Act. Now the

<sup>1</sup> Council Chair Phil Mendelson pushed through legislation retroactively exempting the 25 acres at McMillan from DC's competition-in-contracting requirements. Auditor Kathy Patterson wrote a letter to him expressing the opinion that the project should have been re-bid at multiple points when the scope and nature of the work changed significantly.

misdeeds continue, with DCRA ignoring the zoning regulation that requires a land covenant be recorded before permits are issued. The land covenant produced for the record by DCRA does not contain the existing historic land deed and restrictive preservation covenants shown on the record in Exhibit No. 42, Appellants Attachment E. How is this lawful in the face of the plain reading of the regulations?

The government claims that redevelopment trumps preservation because it will bring affordable housing where there is none. Yet the amount and depth of affordability falls short of what DC law has required since 2014 when public property adjacent to major bus routes is redeveloped.

There is African-American history at McMillan Park that the government and the developers deny. They claim McMillan Park was never a park,<sup>2</sup> which negates the fact that during much of the first half of the 20th century, controlled by the Army Corps of Engineers rather than the agency that enforced segregation of parks in the city, McMillan Park was a rare expansive DC green space that did not bar Black Washingtonians.<sup>3</sup> This place matters. It should be honored, not erased.

Public access to McMillan Park has been denied for 79 years. The park has called to me since I was a teenager, mystified by the fenced-off green expanse dotted with towers. I didn't know that the water I had drank and bathed in was filtered in sunlit vaults below. By the time I learned this, 42 years later, the DC government was already finagling to erase it for a developer giveaway that ignores the needs and desires of the city and community, and the history and soul of an iconic Washington landmark.

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<sup>2</sup>The site was part of a 118-acre complex designated as a public park in 1906 by President Taft. Documentary evidence (newspaper articles, photographs, real estate advertisements), and living memory prove the government/developers' statements to be disinformation. Of a piece with the disinformation campaign, after a century of doing so, maps of DC no longer show McMillan Park in green.)

<sup>3</sup>Some people think it is not a random coincidence that the Supreme Court case, *Hurd v. Hodge*, which decided that courts could not enforce racial covenants pertaining to home ownership, was handed down in 1948; and that the water filtration site was never reopened after World War II ended, having been fenced against sabotage in 1941. Notably the house that triggered the *Hurd v. Hodge* case is located one block from McMillan.