

Zoning Commission Limited Scope Public Hearing, Thursday, April 6, 2017, 6:30pm, concerning issues in the remand from the D.C. Court of Appeals re: ZC 13-14

I am Kirby Vining, Treasurer and a Board Member of the Friends of McMillan Park and will be addressing the five points identified in the notice calling this hearing on the remand of the McMillan case in that capacity. As an elected officer of the McMillan Advisory Group and the Stronghold Civic Association I am in a position to address questions concerning prior testimony submitted by those groups that is referred to in this testimony but I do not speak on their behalf tonight. I was involved in crafting, editing, and vetting of each of these documents.

Prefatory to these specific remarks, I would like to assert the Friends of McMillan Park's positions on development of the McMillan site, which have often been misunderstood, and are directly related to the responses below. **ATTACHMENT 1** is an OpEd the Friends wrote for the Washington Post earlier this year, and on the back is a statement of the Friends' positions and concerns about the McMillan development. The Friends considers existing city regulations and the specific recommendations in the Comprehensive Plan for the McMillan site to be excellent guidance on development of McMillan, and we wonder why these recommendations and regulations have not been followed. The Friends' positions also accord nicely with the Office of Planning's 2002 "Summary of Recommendations for (McMillan) Site Revitalization," (exhibit 72) containing observations and recommendations for the site based on extensive community dialog. Both these are remarkably consistent with a neighborhood survey of community likes and dislikes for any development of the site done under ANC auspices in 2012 (summarized in exhibit 112). The Friends also have a widely-circulated petition requesting that the District consider 'more creative, alternatives' to the current plan (see a sample blank page in **ATTACHMENT 2**). The petition has over 8,000 signatures so far, testimony to broad public appreciation of these issues. These points have apparently fallen on deaf ears, except at the D.C. Court of Appeals.

Issue 1: Could other policies be advanced if limited to med/mod-density use?

The Applicants present an exhaustive reliance on policies other than those specific to the McMillan site in the Comprehensive Plan, so I will mostly avoid those and focus on McMillan-specific recommendations beyond a brief comment. Why was medium- to moderate-density not considered in the original plans? Such lower density, consistent with the Comprehensive Plan and consistent with development that would likely win the support of the community and the Friends, should be considered. The density and scale recommended by the Comprehensive Plan takes into consideration that of existing row houses in Stronghold and Bloomingdale and does not dwarf them as the proposed plan does. Important sections of the Comprehensive Plan recommending conservation of existing neighborhoods, such

as LU-2.1.3, LU-2.1.5, and specifically LU-2.1.7 (Conservation of Row House Neighborhoods) would all be much better served if the current proposed development were shelved entirely and a much more moderate scheme considered.

Issue 2: Other Comp. Plan policies cited by FOMP weigh against PUD approval

Several of the McMillan-specific policies in MC-2.6 could be advanced that are not by the current proposal. But those specific to the McMillan site should take primacy over the more general policies under rules for application of the Comprehensive Plan. Because the Applicant has suggested advancing many policies other than these site-specific policies, my comments here will concern MC-2.6 only.

MC-2.6.1: Open Space on McMillan Reservoir Sand Filtration Site. Early on in the development of the 1st Stage PUD, the McMillan Advisory Group (MAG) asked DMPED why the development team included only a small park hidden behind townhouses in the center of the development site. The MAG learned that the exclusive rights agreement DMPED signed with the VMP team (then unbeknownst to the MAG) stated that no more park need be offered (exhibits 75-78). In late 2012, following catastrophic flooding in Bloomingdale, DC Water requested and obtained permission from the DC Council to use the entire southern section of the site, below the south service court, as a staging area for digging the 1st Street Tunnel, part of DC Water's proposed solution to the flooding. With Council approval to use that portion of the site, which had previously been dedicated for proposed townhouses, the VMP plan changed and shifted north entirely out of that southern sector. So what is now touted as the huge park amenity is merely a backhanded way of acknowledging that the VMP project was forced out of that portion of the site by a Council action at the request of DC Water. As things stand now, that southern area of the site is DC-owned land, not part of the VMP plan, but it would seem to be available for reuse, now that the DC Water project is over. But in no sense should a park on DC-owned land, with a community center planned for construction with DC tax money, be considered an amenity of the VMP project. It is merely adjacent to the project.

As documented in the Applicant's historic preservation study and the Comprehensive Plan recommendations, the open space and viewsheds are key elements of what is important about McMillan. The Applicant has shown flexibility before, when forced to design around the DC Water project, and it would seem possible that the plans could be modified again, as the DC Water project is over, to include meaningful park space in the center of the site where it would most dramatically accentuate the entire existing open space. Such an initiative could, in my mind, address the court's concern on this issue.

MC-2.6.2: Historic Preservation at McMillan Reservoir. This section of the Comprehensive Plan recommends exploring 'adaptive reuse' of some of the underground cells. The Applicant's plan to demolish all but about two of those cells, without regard to the fact that the most stable cells are in the center of the center

section of the site, is glaringly in opposition to this policy recommendation. The only underground cells that would remain are one or two of the cells in the worst condition at the SE corner of the site, which the Applicant's historic preservation expert could not confirm are salvageable at all, and one cell in the extreme NE corner of the site that is to remain under the control of DC Water as part of a storm water retention project. No plan has been considered to reuse the dozen or so cells that the Applicant's engineering study found to be in the best shape, all located in the center portion of the site. The Comprehensive Plan's recommendations concerning the preservation of existing viewsheds would support such consideration.

In June, 2015 testimony before the Mayor's Agent for Historic Preservation, Friends' historic preservation expert Ms. Anne Sellin presented testimony noting that the Applicant's development is inconsistent with this policy that states in part "Restore key above-ground elements of the site in a manner that is compatible with the original plan, and explore the adaptive reuse of some of the underground "cells" as part of the historic record of the site" (**ATTACHMENT 3**) As the Applicants' historic preservation plan filed with their prehearing submission acknowledges, nine of the historic filter bed portals, which this Plan identifies as a "key" resource, will be demolished. The Applicants would also destroy the key historic open space features of the McMillan site—the spatial organization between the open space surrounding the sand towers and the other historic structures, which the Applicants own expert historic preservation report submitted to the Mayor's Agent for Historic Preservation (excerpt in **ATTACHMENT 4**) identifies as a "key" resource. (Oddly, the impacts on the site's spatial organization are not discussed in the Applicants' historic preservation plan.) See also Ms. Sellin's prior testimony to the ZC in exhibits 298 and 532.

MC-2.6.3 Mitigating Reuse Impacts specifically recommends 'improv(ing) transportation options to the site and the surrounding neighborhood.' Yet the proposed plan does just the opposite: creates an unmitigated and possibly not capable-of-mitigation 31,000-vehicle-trips-per-day nightmare. See the testimony of Friends' traffic expert, MCV Associates, in exhibits 531 and 696 documenting the traffic problems this development would cause and the unlikelihood that the situation could be mitigated in any reasonable manner, in spite of DDOT claims to the contrary.

MC-2.6.4, Community involvement in reuse planning: Be responsive to community needs and concerns in reuse planning for the site. Not only has the consistent voice of the community not received the responsiveness that the Comprehensive Plan instructs, but the Applicant hired a Baltimore, Maryland PR firm to carry out a campaign to discredit opposition to the project. This is aggressive, willful, demonstrable contempt for this particular Comprehensive Plan policy and the community at larger. **ATTACHMENT 5** is an email from DMPED hiring Fontaine & Company to "discredit and create a sense of mistrust" concerning opposition to the DMPED/VMP project for McMillan. Three pages of the Fontaine

grassroots plan are included, as is the bill presented for payment of Fontaine's work. The email further states that DMPED has asked several press organizations to back off coverage of opposition to the project. Apparently these press organizations complied. This is our tax dollars at work, in rather clear and direct violation of policy MC-2.6.2. **ATTACHMENT 6** is a copy of a portion of a spreadsheet the Friends prepared from bills submitted for reimbursement by DMPED under the Development Management Agreement (DMA) from the beginning of the project until October, 2016, obtained via FOIA request. DMPED has reimbursed over \$14 million in bills submitted by the VMP contractor firms, (under TOTALS in red), over \$4 million of which was reimbursed during the period when this case was under judicial review (yellow column). Note that in addition to the Fontaine bill, it includes bills from two other firms, Chesapeake Public Strategies and Create Communitas, engaged in similar work (circled in black on this **ATTACHMENT 6**). The reason why the Fontaine total is zero is that the sum DMPED reimbursed to Fontaine was ordered repaid by Council Chairman Mendelson when he learned of this "PR disaster" (as he characterized the Fontaine work to DMPED during an oversight hearing). The complete so-called VMP Grassroots Plan crafted by Fontaine under contract to discredit and neutralize the community and the Friends of McMillan Park – paid for by DMPED -- is in exhibit 115.

Our elected officials have stated many times that the Friends just wants to keep the fence up. But they never asked our position, which mirrors positions long held by the community at large, and ignored the detail of our public statements. The Friends currently has a Change.org petition requesting that the Mayor take down the fence and let us into our park, for example. The Comprehensive Plan recommendations for medium/moderate density use are supported broadly in the community, based on documents cited above. There has long been a community desire for such things as a grocery store, a police substation, community meeting rooms, recreation facilities, and perhaps a branch library, but not at the expense of high-density development and the traffic problems it would bring.

The community recommendations of the McMillan Advisory Group or MAG have been ignored in the so-called dialog with DMPED concerning the project and the MAG has stated many times its objection to ignoring the wishes of this community partner group to keep the development lower in density in order to avoid negative impacts such as destruction of viewsheds and increased traffic – both, again, recommendations found in policy MC-2.6. The communities surrounding McMillan, including Stronghold and Bloomingdale, immediately adjacent to the site, and several others, have never supported the high-density, high-rise buildings proposed for the project. The McMillan Advisory Group carefully prepared a lengthy Community Benefits Agreement draft (exhibit 79) that was ignored in spite of the MAG Letter of Commitment that describes the key role the MAG is supposed to play, guiding and informing the project. **ATTACHMENT 7** is a sample of more recent MAG letters and testimony showing that the MAG's community-consensus positions on the development have consistently been ignored at every level of the city government, including a letter to newly-elected Mayor Bowser requesting that she urge DMPED and VMP to reengage with the MAG.

MC-2.6.5: Scale and Mix of New Uses. Emphasizing retention of the existing viewsheds and open space, while recommending moderate- to medium-density housing, retail and other uses has clearly been ignored completely. No alternatives to the proposed development have been considered, and this is perhaps the greatest opportunity cost of all: does reuse of the site require this much destruction of it to achieve reasonable policy goals and benefits? And, if so, are those policy goals and benefits reasonable?

Issue 3: Is High-density development the only feasible way to retain substantial park

Without the consideration of alternative proposals, precluded by the explicit decision NOT to bid out the vertical development for McMillan, this is a moot point and we are left with only the Applicant's self-serving arguments that nothing else is reasonable or possible. I suppose I'd do the same if I had an exclusive rights agreement. The Friends has presented the work of a Catholic University architect and team who prepared a design for the McMillan site that is literally consistent with (rather than simply 'not inconsistent with') the Comprehensive Plan, the "Summary of Recommendations...", and the community survey cited above. Testimony on this subject is found in exhibit 529 and this design was presented to the Commission. The Friends' position has not been to push for the substitution of this alternative plan over the current VMP plan, but to push for a design competition and an open RFP process, on the condition that the RFP specify the Comprehensive Plan recommendations, the constraints the site's historic designation place on development of the site, and of course the various recommendations of the community.

Aside entirely from the lack of alternative plans proposed, according to correspondence obtained via FOIA DMPED has received an unsolicited proposal to apply 'conservation financing' possibilities for the site or parts of it, valuing the McMillan land at \$21 million per acre for land set aside under such a proposal (**ATTACHMENT 8**). This proposal was discarded as, in the words of a DMPED official, "a non-starter." Throwing out such an offer without evaluation makes a mockery of any argument that no more park or open space is feasible, or that other alternatives could satisfy city and Comprehensive Plan policy goals better.

Issue 4: Will the PUD result in adverse impacts, environmental, destabilization of land values & displacement of neighboring residents, increased demand for public services. If so, how to balance/reconcile.

Traffic problems associated with the proposed development have been by far the most serious concern to the surrounding communities. No convincing mitigation of the impact of an additional 31,000 vehicle trips per day has been presented to these communities. Traffic problems the project would cause and the lack of realistic mitigation have been highlighted in resolutions by the Stronghold and Bloomingdale Civic Associations, as well as the MAG, in testimony provided to

the Commission in this case (see specifics in **ATTACHMENT 7**). The environmental impact of the traffic alone is of great concern as well.

Stronghold and Bloomingdale community homes are experiencing rapid increase in real estate assessed and sales value, partly due to low interest rates and general gentrification, but arguably partly also due to realtors' boasts of the coming McMillan development and predicted increase in local real estate values that would come with it. For long-time residents, this is both an increased real estate tax burden – unwelcome for those who simply hope to spend their final years in their home of many decades, though conceivably welcome to homeowners who want to leave – and a daily barrage of offers to purchase their homes. Pop-ups and similar conversions have become rampant in the area along with the increased market value of our homes. This impact is less in Stronghold than in Bloomingdale because Stronghold is an entirely R-3 row house neighborhood where Accessory Dwelling Units are permissible but splitting into condos is not. This point was not made in the RCLO report presented by the Applicant, and indeed Stronghold was not mentioned at all.

My own home, for which I have never obtained any building permits though I have maintained the house in excellent condition for about 30 years, has seen an 8% increase in assessed value this year alone. I note that this rate increase is common and perhaps the minimum assessment increase in Stronghold this year. Challenging this increased assessment, I learned that the primary driver of this increase is the sales of 237 new townhouses in the Chancellor's Row development, located in the same cluster of houses for real estate tax purposes. Higher assessments are encouraging predatory speculative interest in our neighborhood. If you purchase a Lamborghini, you pay the requisite taxes appropriate for such a luxury car, but the taxes on my old Ford pickup truck remain unchanged. I wish that DC policy allowed this same principle to govern house assessments for the sake of fairness in levying real estate taxes. I know this is well beyond the power of this Commission, but I think it is a factor the Court of Appeals expressed interest in, asking what the displacement pressures are in neighborhoods near large planned developments.

Among my neighbors are families that have been in Stronghold since the 1950s, soon after the Hurd vs. Hodge case nullified the racial exclusionary clauses in the deeds of many Stronghold houses. In some of these cases, I see families hoping merely to remain in their extended family home as long as possible. The pressure on these families puts them in a precarious state, unnecessarily I think. Many factors contribute to some of the cases I see in my neighborhood where relatives or descendants of the original homeowner are essentially camping out in what was once a thriving, stable family home. While an increased property assessment is just one of the pressures on these people, these are indeed factors that I think should be considered in how our city changes, what such changes as this development does to the ability of those least able to cope with change to adapt.

Issue 5: PUD impact on city services/facilities; if not, mitigatable/acceptable given the quality of public benefits?

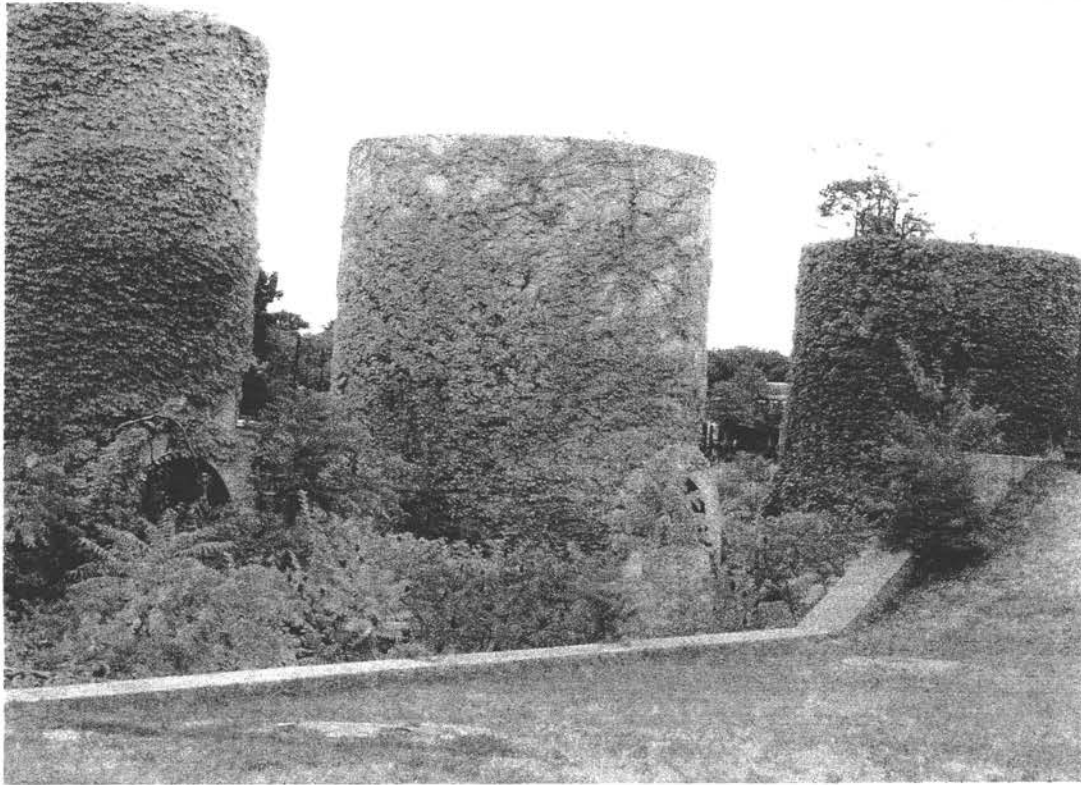
Traffic, as noted several times above, is the primary concern of my neighborhood. Stronghold residents currently find it challenging to get out onto or across North Capitol Street and the proposed development would increase traffic by several orders of magnitude. We perceive that any additional bus or shuttle bus service added to the area would just be stuck in the increasing traffic volume, which routinely grinds to a complete halt during the highest use periods now, at least three times each day.

I fail to see how construction of such a massive project could improve rainwater run-off at the site. The entire site is covered with at least 3' of topsoil, the groin of each vault contains a spout carrying excess surface rainwater down through the columns into the vaults, and there are no signs of erosion on the berms along each side of the site (see exhibit 539). This cannot be improved on with such a massive proposed development.

The McMillan site was deliberately excluded from the Mid-City East Small Area Plan, I learned at an OP presentation. Why? Small Area Plans guide coordinated growth and development in coherent communities. Excluding McMillan from such a plan is an affront to best planning practices.

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The McMillan sand filtration site.

CLAIRE BEDAT/AMERICAN SOCIETY OF LANDSCAPE ARCHITECTS

KIRBY VINING WASHINGTON

A chance to get McMillan right

DC. Mayor Muriel E. Bowser (D) recently held a “groundbreaking” ceremony for the long-embattled development of the 25-acre parcel of land known as McMillan Park, a historic location in the heart of the District along North Capitol Street that should be an inspiring, world-class public space that would make us proud. But the District’s handling of the development of McMillan Park has been a slow-motion train wreck.

One day after the groundbreaking, the D.C. Court of Appeals issued a unanimous decision overturning the District’s zoning and historic preservation approvals for the project at the old McMillan sand filtration site. The court’s resounding rejection of the agency approvals sends the entire process back to D.C. officials to reconsider how to proceed with the project.

The court’s decision vindicates the arguments of the community that the approvals “failed to adequately explain why it was necessary to disregard” certain key policies in the Comprehensive Plan, which should “guide executive and legislative decisions.” The court also found that

agency approvals failed to comply with D.C.’s historic preservation law, which prohibits harming landmark sites such as McMillan except under very limited circumstances.

The District’s disregard for its own preservation and planning laws in the McMillan Park case is only the tip of the iceberg of flaws in this project. Consider:

There was essentially no competition on the project, as pointed out by the D.C. auditor in an October 2015 letter to the D.C. Council chairman warning that the entire project should be rebid. In response, the chairman authored an “emergency” bill in April 2016, retroactively waiving the requirement for bidding out this project.

The District has signed an exclusive rights agreement with its selected development team, precluding competition for any aspect of the project. Residents were presented with a single, high-density “spec” development project whose impacts are grossly disproportionate to its public benefits. The location of this high-density development, about a mile from the nearest Metro station, in an area that

already suffers from severe traffic congestion, is asking for trouble. The court decision correctly criticized the District’s failure to undertake any consideration of alternative designs that could achieve the same public benefits — a park, a grocery and affordable housing — while reducing the level of harm to this iconic site.

The McMillan site is assessed by the city to be worth approximately \$100 million, as is. Nevertheless, the District has agreed to pay all the predevelopment costs for the project, estimated to be approximately another \$100 million, thereby assuming the developers’ risk, so that the developers can build for an undisclosed rate of return almost a million square feet of commercial space that no one wants or needs. And here is the real kicker: The council has agreed to sell this land — assessed at \$100 million plus the additional \$100 million taxpayer-funded upgrade — back to the developers for only \$17 million. What a bargain.

What can we do now? First and foremost, this is not, as D.C. officials have said, a mere “bump in the road” toward approval of this development.

Changes to the project must be made in order to comply with D.C. law. And let me also be clear: The opponents of the current development want a design and development that raises our game, not lowers our sights. We recommend three simple steps:

- Rebid the project in an open and transparent manner as outlined by the auditor and consistent with D.C. laws;

- Ensure that there is a world-class design competition commensurate with the historic and land value of the site; and

- Demand a clear and binding accounting from the winning bidder to clearly establish the benefits to the District and taxpayers of the project.

Bowser has a huge opportunity here to undo years of misguided and secretive backroom dealings and irresponsible spending that she inherited from her predecessors. She should let the sunshine in and ensure that the site is developed in a manner consistent with the unique character of the District, our history and the law.

The writer is treasurer of Friends of McMillan Park.



FRIENDS OF McMillan Park

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Friends of McMillan Park Positions and Concerns

The Friends of McMillan Park (FOMP), a non-profit organization incorporated in the District, was formed to preserve, improve, and beautify the 25-acre District-owned portion of McMillan Park (also known as the McMillan Reservoir Sand Filtration Site and McMillan Park Reservoir Historic District), educate the public about the history and potential of the Park, and work with the city to find the best potential for it. We are not opposed to development of the site but we do ask that any development be consistent with the Comprehensive Plan recommendations for the site, the historic designation of the site, and long-held community wishes for certain general and specific amenities. Thus:

We support:

- The recommendations of the Comprehensive Plan for the site, including:
 - Substantial contiguous surface park/recreation space
 - Adaptive, creative reuse of the underground vaults
 - Consideration of monuments, memorials, or museums on the site
 - Maintenance of viewsheds and vistas from and across the site
- Long-held community wishes for amenities on the site, for example:
 - A neighborhood grocery store, a library, and community meeting rooms
 - Appropriate scale moderate- to medium-density housing /affordable housing and/or other beneficial commercial and cultural functions
 - Avoid excessive parking, traffic, and noise impacts on the neighborhood

We oppose the following aspects of the District's current plan:

- Destruction of 80-90% of the surface open space and virtually all the underground vaults
- City funding of all the predevelopment and site preparation costs for the sole-sourced development team to build 1 million square feet of speculative commercial office space
- Sale of the site land for only 17% of the its assessed value without any competitive bidding
- The 30,000 additional car trips per day this plan would bring to an area one mile from the nearest Metrorail Station

The Friends of McMillan Park, Inc., is a 501(c)3 non-profit organization, EIN# 46-0977224.

Please consider signing our petition asking that Mayor Bowser take down the fence at McMillan, here: <https://www.change.org/p/mayor-bowser-reopen-the-district-of-columbia-s-mcmillan-park-let-us-in> and please consider making a donation to the Friends of McMillan Park here: <https://www.crowdrise.com/SaveMcMillanPark/fundraiser/hughyoungblood>

EB #3

TESTIMONY OF ANNE SELLIN, EXPERT WITNESS ON
HISTORIC PRESERVATION
MAYOR'S AGENT HEARING ON McMILLAN PARK RESERVOIR
June 3, 2015

The applicants have presented a document purporting to represent a subdivision, Dobbins, a paper subdivision form 1887 of the property that family never owned. The Baist Atlases which show platted subdivisions do not show this subdivision: the property was never developed before 1902, remaining as part of the southern federal reservation of the Soldiers Home. It was transferred to the Army Corps of Engineers and was developed for water filtration and as park on the east part of McMillan Park. The Dobbins paper speculative subdivision was never approved by the Historic Preservation Review Board. Giving any weight to that paper would be as foolish as it would be today of taking into legal consideration the actual property lines of the 13 original farms that made up our city before L'Enfant designed his plan of Washington.

This hearing's focus now is on the proposed subdivision of McMillan Park Reservoir to be broken into six parcels. McMillan occupies a plinth which surmounts vaults and encompasses almost 25 acres. It is laid out in three parts, symmetrically, with the northern section somewhat reduced by the diagonal of Michigan Ave. Its central section, the widest, is a large open field and is flanked by two courts which each house 10 sand towers, 2 regulator houses and the washing hoppers. Beyond the courts to the north and south of the site lie wide open fields. Under these fields are groin vaults with centered oculi; two feet of turf above the vaults provide the dirt of the the fields.

Comprehensive Plan Policy MC 2.6.55 "McMillan *requires* that any development on the site should maintain viewsheds and vistas in a way that minimizes impacts on historic resources and adjacent development."

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Comprehensive Plan Policy Hp 2, 3, 2 “is to protect and enhance the views and vistas, both natural and designed which form an integral part of Washington's historic image. Preserve the historic skyline formed by the region's natural features and topography and significant buildings, and monuments from intrusions.”

Ms. Eig considers the views from McMillan itself to be more important than those from outside. Both viewsheds from inside and outside are important but Policy Hp 2,3,2 protects significant buildings and monuments from intrusions and the sand towers are certainly significant buildings. The unusually rich array of views and viewsheds McMillan provides both inside the site and outside are required to be protected. In fact, virtually all views would be destroyed by the overpowering buildings proposed in this project. I list them below.

- 1 The panoramic view of the rows of sand towers would be obliterated from the thousands of people who pass the site on Michigan Avenue everyday and to those people on North Capitol, on First Streets, or on the north edge of the grounds or on the parts of the walk around McMillan. The 115 feet high medical towers on the north west, the 77 high tower of the grocery store/senior housing building on the center court would block these viewsheds. (Exhibit 1)
- 2 This view of the Washington Monument from the north field of McMillan would be destroyed by the medical buildings, the row houses and the two mixed use buildings that would flank the north court. (Exhibit 2)
- 3 This view of the tower of the old Post Office from the north field of McMillan would be destroyed by buildings that would be built on the north court. (Exhibit 3)
- 4 This view of the Capitol dome from the north field would be destroyed by the buildings that would be built on the north court. (Exhibit 4)

5 This view of the towers of National Cathedral from the north field would be destroyed by buildings that would occupy the north court. (Exhibit 5)

6 The view looking east to the dome and bell tower of the National Shrine of the Immaculate to be destroyed by buildings that would occupy the center field. (Exhibit 6)

7 This view of the dome of Trinity University from the middle field of McMillan would be destroyed by buildings that would occupy the the middle field. (Exhibit 7)

8 This view of the Capitol dome from the south windows of the Lincoln Cottage on the Armed Services Retirement Home would be obliterated by the medical buildings. Not pictured.

On the west side a person looking east up First St. would see miniaturized towers that would appear like bollards at the bottom of a canyon, so dwarfed would they be by the looming medical building at 115 feet in height and the mixed use building across the court at 88 feet. In this VMI rendering of the project the arrow indicates a sand tower that is barely visible as it peeks out at the western edge of the north court. The medical buildings would loom at least ninety feet higher than the sand towers, dwarfing them! (Exhibit 8)

A number of specific directives in the DC Comprehensive Plan and by NCPC have been written to ensure sensitive treatment of McMillan, all of which have been ignored by the planners:

NCPC in its planning document regarding McMillan under Historic Preservation states **“We find that ...any structure to be introduced with the district owned part of McMillan Park should be widely spaced, not exceed the four story height of the Veterans Hospital and preferably have lower transitional heights and picturesque roof lines to blend with the immediate landscape and the park environs.”**

The Comprehensive Plan Policy MC 2.6.55 prescribes **“moderate to medium**

density housing, retail and other compatible uses.”

These specific directives were ignored by the developers. Moderate to medium heights in the zoning regulations are 40 to 60 feet. The two medical buildings are to be 115 feet, over twice the higher prescribed height. The linked office buildings facing First St. are to be 88 feet high and the grocery store/retirement apartments is to be 77 feet high. Only the row houses are 46 feet and lower .

The Comprehensive Plan's **Mitigating Reuse Impact Policy for McMillan, Policy MC 2.6.3** reads “**Any change in use of the site should increase connectivity between Northwest and Northeast neighborhoods as well as the hospital complex to the north.**” The project is a self contained island of high buildings that have no relation to their neighbors to the east in the Stronghold neighborhood or to the Park View neighborhood west of 4th St. NW. The row houses in both neighborhoods are two stories, lower than 30 feet in height, and would have no connection or affinity with proposed plan.

McMillan's broad open spaces, arranged in three parts, with its rows of mysterious towers rising from two matching courts present a striking and intriguing vision. The developers knew this to be an historic site but chose to turn a blind eye to the numerous city directives in the Comprehensive Plan as well as the federal guidelines specific to development on McMillan.

The question before you is whether the subdivision is consistent with the District of Columbia Preservation Act and that Act is guided by the Secretary of Interior's Standards for Rehabilitation of a historic site. When federal ownership of McMillan was conveyed to the DC government in the 1980s, attached was a Covenant requiring that the Secretary of Interior Standards for development on the site. I cite those Standards that are relevant with their original numbering.

1. ***The property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.*** The historic purpose was a park and a filtration site. Seventeen acres of the filtration groin vaults, a defining feature of the site, would be destroyed as well as about 19 acres of the open field which to be occupied by buildings and their settings which differ markedly from the park's signature open fields. The great part of the site, declared a park by in 1909 and made a National Park by Taft when he was president in 1911, would be destroyed.
2. ***The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that that characterize a property shall be avoided.*** The high rise buildings from and 77 to 115 feet in height and the 46 foot high row houses around the northern court would completely overwhelm and engulf that court: the buildings' footprints would consume the wide open spaces.
Destroyed completely would be the integrity of the site's original tripartite composition.
The two rows of those sand towers would no longer be able to be seen as twin rows. The continuous walk around McMillan would be partly destroyed along Michigan Ave. by an intrusive street.
9. ***New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.*** The incompatible footprints and scale of the new buildings would deform the site beyond all recognition. Its open spaces and one's perception of its schematic layout would be totally destroyed.
The remnant of open land at the south end would be overwhelmed by the massing and towering height of buildings on the north side.

10. *New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.* McMillan's integrity would be undermined by the destruction of all but three of its original groin vault compartments with no attempt to save those identified as salvageable in Mr. Silman's written study. The alteration of the site's original elevation for a pad to accommodate the high rises, the footprints of the large new buildings and the interjection of four new streets that would cut through McMillan, Evard St., ½ St., 1/4th St. and ¾ St. would forever preclude the retrieval of the site's historic integrity.

The violence inflicted to the site with over 80% of its historic fabric destroyed would likely result in the unlisting of McMillan from the National Register of Historic Places. This project is entirely inconsistent with the purpose of the Act.

Mr. Calcott brought up Tregaron at the preservation hearing on McMillan. The historic Tregaron site at Macomb St., a PUD of many historic acres, was resolved in a Mayors Agent hearing, presided over by Mr. Quander in 2006 and yielded fortuitous results. 10 open acres were preserved in perpetuity and recently three more acres have been made open for public enjoyment. Only part of the site was subdivided with only seven house lots created, instead of the 120 originally proposed. Now only houses will occupy the site due to lack of access to now closed Klingel Rd. The developers donated liberally to create the Tregaran Conservancy which maintains the gardens. The difference is that the Tregaron developers worked with the community over several years and were ultimately sensitive to the site and kept it almost entirely intact. Despite hundreds of public meetings on McMillan, many of which I attended, the VMP developers consistently turned a deaf ear to citizens. Nor did the city ever open the site for competitive bidding, designs of which would very probably have resulted in a far

more salubrious solution.

Finally, the “affordable housing” as justification of Special Merit. An examination of the testimony of Mr. Thaakar, one of the developers, who testified at the PUD hearing before the Zoning Commission on May 5, 2014 bears serious consideration.

on page 160, line 2 during his cross examination

Mr. Pozen asks, “for both the multi-family and the townhomes, what's the length of affordability that's required and what's the mechanism for enforcing affordability over time?”

Mr. Thaakar, one of the developers, “So I can start? So, with regard to the rowhomes?”

Mr. Pozen, “Yes, sir.”

Mr. Thaakar, “The District has an inclusionary zoning covenant that goes along with each of these homes. I believe, and I will get back to you, *that the time period is 20 years* and the enforcement is actually through a covenant that runs with the land enforced by, I believe, the Department of Housing and Community Development, as with all inclusionary zoning units throughout the city.”

Mr. Pozen, “Okay.”

Mr. Thaakar, “So, counsel, before I forget, the affordability is the life of the project pursuant to the IZ comment that I just mentioned.”

Mr. Pozen, page 161, “What is the life of the project? I'm sorry. Sorry for the confusion.”

Ms. Brown, “I don't want to be answering a question because I'm not the fact witness. But it's in the DC, Chapter 26 of the inclusionary zoning regulations.”

Mr. Thaakar, “I'm not sure what you mean by beyond but it is compliant with, as it should be.”

Mr. Pozen, “Okay. Thank you. And is that, what's the same for the multi-family?”

Mr. Lynch, one of the developers, “The multi-family/senior has several covenants that will have to be meshed together as part of the land disposition agreement, including the

covenants related to affordable housing projects.”

Mr. Pozen, “So that's not yet been finalized at this point?”

Mr. Lynch, “Correct” (Exhibit 10)

The affordable housing projects have not yet been finalized???? We have found In the Corrected Zoning Order of the McMillan PUD Case No. 13-14 the verification of the developers' real intent in the testimony cited above. On page 20 under d. “The applicant will be requesting the Zoning Administrator to *grant an exemption from the Inclusionary Zoning requirements* of Chapter 26 pursuant no. 2602.3 (f). The provision exempts to “any development financed, subsidized, or funded in whole or in part by the federal or District government and administered by the Department of Housing and Community Development (DHCD), the District of Columbia Housing Finance Agency, or the District of Columbia Housing Authority and that meets the requirements set forth in no 2602.7.”

The developers have stated their intent to get a waiver from IZ housing requirements. The second bullet of the law reads, “The Exempt Affordable Units shall be reserved for the Targeted Households and sold or rented in accordance with the pricing structure established by the federal or District funding source, or financing or subsidizing entity, *for so long as the project exists.*” (Exhibit 11)

So the affordable housing units that are proffered, may not be affordable in the end, or at least for only a short period of 20 years, in explicit contradiction of developers' testimony before the Zoning Commission and before you, the Mayor's Agent. In fact we have no idea just how much of the affordable housing might be excused by this tactic. And in a private deal with the city, a waiver would be given with no public participation.

Affordable housing is the decisive element touted to justify Special Merit, a finding of Special Merit that would permit the destruction of at least 80% of this historic park. The law stipulates that the affordable units **“should be reserved for targeted Households...for so long as the project exists!”** pages 21 and 22 of the Zoning Commission Order, (Exhibit 12)

The applicants have bifurcated this case with two hearings, one mainly focused on the destruction of the 17 vaults and a second hearing on the subdivision, that is, the site arrangement. The Mayor's Agent must balance his opinion based on the cumulative effect of these two presentations weighed against McMillan's historic importance. The benefits of “affordable housing units” of unknown quantity and limited duration simply can not be balanced by the destruction of some 80% or more of this large and unique landmark.

I am including in the record an article from the National Trust Magazine *Preservation* on McMillan (**Exhibit 13**)

Frederick Law Olmsted Jr., who landscaped McMillan, wrote in 1914 in the periodical *Landscape Architecture*

A thing which many people have held to be of great and peculiar beauty and which cannot be replaced, even if the predominant men of the day fail to appreciate its beauty or are inclined to think its beauty would be increased by 'improvements', ought not to be destroyed or radically altered except under pressure of unavoidable necessity or after the most deliberate searching and humble inquiry as to whether the predominate opinion of the day is really right or is perhaps a passing phase colored by unconscious prejudices.

McMillan is “a thing of great and peculiar beauty which cannot be replaced.”

Curriculum Vitae Anne Sellin

From 1979 has appeared before the BZA, the Zoning Commission and the Historic Preservation Review Board many dozens of times for Dupont Circle Citizens Assoc. (serving as Zoning Chair for 7 years), for the Residential Action Coalition and the Committee of 100 on the Federal City (serving as Preservation Chair for four years): participated in four separate rezonings of the Dupont Circle neighborhood from 1978 to 2006: participated in writing zoning code in collaboration with the DC planning staff: qualified as an expert witness before the Zoning Commission in a PUD office building case in the West End for Phil Brown in the 1980s.

Education: Tulane University BA 1962; University of Pennsylvania in Art and Architectural History MA 1965; University of Freiburg (DAAD German Government Grant) 1960-61; Universitat of Cologne (Fullbright Scholarship) 1967-68

Occupation: Archeological excavations, Winchester, England, 1964, 1965
Lecturer in Art History, University College, Tulane University 1970
Curatorial Assistant, Yale University Art Museum 1971-1972
Staffer at the League of American Pen Women 1985-87
Partner, Sellin Fine Arts, Washington 1988-2006

Historical Designations in Washington DC: McMillan Park Reservoir for the McMillan Park Committee and the National Trust for Historic Preservation; St. Elizabeths National Landmark Designation (with Carolyn Pitts, Marilyn Harper and Frank Milligan) ; Greater U St. Historic District (with Paul Williams) for the Historic Preservation Office, Washington DC

Boards service with groups involved in land use cases: Dupont Circle Citizens Association; Citizens Planning Coalition (on the DC Comprehensive Plan); Midway Civic Association; Committee of 100 on the Federal City; Residential Action Coalition

Exhibitions: The American Chair, 1971 Wesleyan University; The Seat of American Invention, 1972, Smithsonian Traveling Exhibition Service, Charles Fromuth American Painter, 2008 Schwarz Gallery, Philadelphia

Lectures on Washington architecture: numerous walking tours for the Smithsonian; Smithsonian History Museum; Wesleyan University; Colgate University; Buffalo NY Preservation Society

SITE RESOURCES

RESOURCE TYPE	CONTEXT	SIGNIFICANCE	INTEGRITY	A	B	C	TOTAL	RLS	INTEGRITY
Site Boundaries	The boundaries of the Site are defined by: First Street to the west, North Capitol Street to the east, Channing Street to the south, and Michigan Avenue to the north. These streets existed before the facility's construction, and the arrangement of the filter beds was dictated by the trapezoidal footprint created by these boundaries. Although bounded by city streets, the Site spans approximately five blocks north-to-south and does not continue the city street grid within its footprint.	<ul style="list-style-type: none"> A: The boundaries convey the context in which the location for the filtration plant was chosen. B: The boundaries of the Site were an important part of the historic experience of McMillan Park by making the Site distinct and special place within the Bloomingdale neighborhood. C: The boundaries of the Site create a distinct footprint that dictated the design and arrangement of the filter beds. 	The McMillan Site retains its original boundaries.	1	2	2	5	Supporting	High
Spatial Organization and Site Plan	In aerial views, the Site has a tripartite organization created by two paved service courts that run east-to-west and divide the Site into three horizontal sections of open space. From the ground level, this tripartite organization is expressed through the linear arrangement of built resources within the service courts that rise above the horizontal plane of the adjacent open spaces. Olmsted's landscape plan reinforced this tripartite organization by focusing new plantings around the Site's perimeter and within the service courts. The spatial organization of built resources and open space on the McMillan Site is distinct from that of adjacent areas, with dense urban residential development to the south and east, the city reservoir to the west, and the complex of large hospital buildings to the north.	<ul style="list-style-type: none"> A: The spatial organization of the built resources and open space conveys their operational relationships as components of the sand filtration process. B: The organization of the built resources and open space on the Site is legible from the ground and was a key aspect of the public experience of McMillan Park. C: The Site's spatial organization distinguishes it from adjacent and was used by Olmsted as the framework for the Site's landscape plan. 	The McMillan Site retains its original spatial organization of built resources and open spaces.	3	3	3	9	Key	High

#4

From: "Newaldass, Shiv (EOM)" <shiv.newaldass@dc.gov>
Subject: FW: Background on McMillan
Date: December 12, 2013 10:47:25 AM EST
To: "Jamie Fontaine-Gansell (jamie@fontainecompany.com)" <jamie@fontainecompany.com>, "Anne Corbett (alc@envisionmcmillan.com)" <alc@envisionmcmillan.com>, "Tania Jackson (create_communitas@yahoo.com)" <create_communitas@yahoo.com>, "aweers@trammellcrow.com" <aweers@trammellcrow.com>, "Aakash Thakkar (athakkar@eya.com)" <athakkar@eya.com>, "Jair Lynch (jkl@jairlynch.com)" <jkl@jairlynch.com>, "Brian Jackson (bjackson@eya.com)" <bjackson@eya.com>

#5

All,

In order to address misconceptions about the site, I've used the attached documents to help. The first explains how the confusion around the moniker "Park" was even apparent then and that the sand filtration site was always an industrial space. The second document is from the McMillan Reservoir nominating document. You'll note that under the reservoir, the name McMillan Park and Playground. The Sand Filtration is across the street. This is as apparent in the second page, but you'll need to rotate the file to get a more familiar view. We've had journalist from the Post, the City Paper, and some blogs reach out to us, sometimes with a very biased angle that they would like to pursue. When shown these and engaged further, it becomes a matter of how much integrity these journalist have continuing with a story that they know is inaccurate. The ones I've communicated with have all backed off of the biased angles and one even wrote a somewhat favorable editorial this past summer. I know Anne and others have had various engagements as well.

I think it's very important to address misconceptions head on. When ignored in the past, it didn't have the believed effect of simply going away. In fact, it seemed to have further inspired the perpetrators of these myths and left some of the project's supporters in the community, arguing against a mounting crowd.

Also, I've made a concerted effort to address recommendations that are simply infeasible, like doing the Skyline or building some homage to European/Mid-East architecture. For many who are not involved in development, the idea of doing more than what's practical, might seem plausible if presented right. Look at what happened during the HPRB process with the "People's Plan".


The idea of hiring your company Jamie was always meant to change the dynamics a bit. Doing more of the same and ignoring blatant misrepresentations doesn't do this. Thanks.


Shiv


Shiv Newaldass | Project Manager


Government of the District of Columbia
Office of the Deputy Mayor for Planning & Economic Development
1350 Pennsylvania Ave, NW Suite 317 | Washington, DC 20004
| W 202.674.2336 | F 202.727.6703 | Shiv.Newaldass@dc.gov

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 McMillan Reservoir Nomination...
407.1 KB

 McMillan-Preliminary Research...
711.5 KB

 Untitled attachment 00018.htm
714 bytes

 Untitled attachment 00021.htm
688 bytes

This is excellent information to have - thank you. Please rest assured, one of our key priorities is to tackle misconceptions head on. The plan has been to use the community and key stakeholders/thought leaders to do this - instead of just VMP - because it is significantly more impactful to have the community spreading our message. Our first meeting of the new "Neighbors for McMillan" coalition is this coming week. We will arm them with a toolkit that includes various tactics and strategies to assist them in "fighting back" against inaccuracies online, in the media and at hearings, meetings, etc. We will be encouraging and aggressively facilitating their vocal participation over the coming months.

One of our primary strategies is to discredit the opposition and create a sense of mistrust with regard to their motives. A key pillar of our messaging with the coalition is that the opposition has been hijacked by self-serving, special interest groups who care very little about this community specifically. In order to further their objectives, they have resorted to spreading misinformation and mischaracterizing the redevelopment efforts. We need to stand up, reclaim this conversation and get the truth out there - so the community does not lose out on this tremendous opportunity.



Jamie Fontaine-Gansell
Fontaine & Company
o. 410.366.3940
f. 410.497.1133

WE'VE MOVED!
2423 Maryland Avenue
Suite 300
Baltimore, MD 21218

twitter: @JamieFontaine
linkedin: [linkedin.com/in/jamiefontaine](https://www.linkedin.com/in/jamiefontaine)



VMP GRASSROOTS PLAN

GOALS

- Facilitate the passage of all necessary approvals from the Mayors Agent, Zoning Commission and City Council;
- Shift community dialogue and general perception to that of majority local support for VMP plans;
- Provide continuous political cover to local elected officials;
- Nurture and grow deep grassroots support among a wide variety of local stakeholders and residents by strengthening existing and creating new relationships.

STRATEGY

- Mobilize grassroots supporters to communicate with the above listed decision-making bodies and the media;
- (Re) educate residents on elements of VMP plans;
- (Re) energize current supporters and identify/mobilize new supporters;
- Neutralize opposition;
- Engage and leverage the support of third-party validators (thought/faith/institution leaders).

TACTICS

- Develop new messaging that bolsters and contrasts local support vs. special interest opposition, and use multi-layered communication to disseminate messaging;
- Create a community coalition, empowered with the tools to advocate on behalf of VMP plans and to organize local support;
- Create a business coalition, educated on the benefits of McMillan redevelopment and prepared with the tools to advocate on behalf of VMP plans;
- Leverage the support of allied organizations, thought leaders and local institutions as third party validators in the media, with elected officials and community members and collaborate to garner new, diverse support;
- Use regular communication and interaction through social media to inform and engage new audiences and provide a platform for active interaction with local media and elected officials;
- Maintain communication with ANCs, faith based groups/churches, minority groups, local economic/business orgs, non-profits, allied organizations and community leaders through regular electronic updates, occasional meetings, mailings, and/or telephone townhalls and personalized outreach;
- Attend and monitor local community, civic, ANC and opposition events.



MESSAGE

In order to achieve our goal of mobilizing new supporters, reenergizing current supporters and neutralizing/diminishing the impact of opposition, we must employ consistent messaging that:

- Contrasts local resident, business and 3rd party support for VMP with special-interest, non-local opposition;
- Speaks to resident's most pressing concerns about the redevelopment; and
- Allows supporters to visualize the end goal of final approval and creation of this new place.

Key Messages:

- The community wants redevelopment of the McMillan Sand Filtration site and supports VMP plans;
- Friends of McMillan has been hijacked by non-local, special interests and is spreading misinformation to further its agenda;
- The site was never a park. VMP plans are the only viable solution to bring a world-class, large park to the community;
- HPRB's recommendation that VMP move forward in the approval process is significant and sets the stage for plans to move through the final approval process.

Themes

We will name the local coalition and brand local support with themes that highlight these key messages:

- **Coalition:** Neighbors of McMillan (*as opposed to Friends of McMillan*)
- **Signs & rally call:** Create McMillan Park (*as opposed to Save McMillan Park*)

We envision slightly different messaging priorities for certain stakeholder groups:

TO Neighbors of McMillan (messaging used to energize the coalition)

- The community needs a voice that truly represents its best interests;
- With movement through the HPRB, we now have a clear path to final approvals;
- There is a plan of action in place and your commitment to/support of this plan will carry this over the finish line;
- The local community should decide what happens to McMillan, not outside special interest groups;
- A small minority is currently misrepresenting the views of the larger community.

FROM Neighbors of McMillan (messaging used by the coalition to energize local support, impact public opinion and influence decision-makers)

- People who live adjacent or very close to the site need a voice that truly represents us;
- Our voice is currently being hijacked by people who live outside the community or outside DC with a special interest agendas that has nothing to do with specific benefit to this community;
-



- We are invested in the community and are interested in concepts/ideas that will add value to our community;
- We care about the long-term viability, sustainability and benefit of and to our community;
- We are not concerned with single-issue agendas – we are looking at the bigger picture;
- We must *create* a park and a special place where neither currently exists.

McMillan Business Coalition

- Economic benefit of redevelopment – new traffic, activity, shopping destination, new residents and daily employees

Public Health

- Benefit of walkable communities to promote healthy lifestyles

Eds & Meds

- Creating a more desirable location for current and potential staff/students
- Local investment and economic opportunity

KEY AUDIENCES & STAKEHOLDER GROUPS

See attached Communication Flow Chart for detail on communication to and from Key Audiences and Stakeholder Groups

Neighbors of McMillan (NOM)

This coalition group will be the central focus of our organizing efforts in the community. We will create a plan for the group and establish buy-in from a core group of leaders to lend credibility, be the face of the coalition and establish the effort in the community. We will create a toolkit for leaders to use and disseminate to resident supporters that will facilitate communication with the media and decision-makers. The goal will be to have a representative sampling of people from each community serving as leaders of the Coalition. (Fontaine team will execute all work on behalf of the coalition – making it as easy as possible for people to engage and solicit support from their neighbors) Coalition leaders/members will be asked to:

- Host and/or identify hosts for house parties
- Send neighbor-to-neighbor letters
- Express ownership of social media presence
- Engage in/attend earned media events
- Disseminate “Create McMillan” signs to neighbors – identify sign locations
- Follow-up with supporters identified through our mail and phone outreach
- Identify people who will write letters to the editor and to decision-makers
- Identify a group of people who can respond online to blogs and media
- Attend events where there will be opportunity for intercept with Council Members
- Attend community and civic meetings and display support for VMP plans

5/6



December 23, 2013

Mr. Jeff Miller
Office of the Deputy Mayor for Planning
And Economic Development of the Controller/Agency CFO
1100 4th Street, S.W., Suite E500
Washington, DC 20024
Telephone: (202) 727-8111

Re: DCEB-DMPED-11-C-0023 - Vision McMillan Partners, LLC - DMA-3 Application #2
P.O No:48752

Dear Mr. Miller:

In accordance with Article 10 (Contract Price and Payment) of the Contract for Development Management Services executed in April 2010 between the District of Columbia (the District) and Vision McMillan Partners, LLC. (the Contractor) for the **Land & Vertical Development of McMillan Sand Filtration Site**, please find our Application for Payment.

Per the contract, the following items are included:

10.2 – Invoices: copies of invoices for this payment application are attached.

sw ok

Please review this package and let me know of any issues or questions you may have.

Please provide us notification of approval for our total submission of **\$538,200.34** to Idee Odubayo @ **iodubayo@eya.com** or at the address or phone number below. Please send funding to **Vision McMillan Partners, LLC** per our wire instruction on file.

Sincerely,

Received by: _____

Aakash Thakkar
Aakash Thakkar
Sr. Vice President
Authorized Signature

Date:

Ok to pay \$538,200.34
Jan 1/22/14
Jeff Miller

Contact:
Idee Odubayo
4800 Hampden Lane, #300
Bethesda, MD 20814
Telephone: 301-634-8661

FEIN: 272378019

Enclosures: Noted above

cc: Adam Weers, Trammel Crow Co. (1 copy)
Jair Lynch, LDP (1 copy)

VISION MCMILLAN PARTNERS, LLC
 DMA - 3
 Site Development - Application #2

Budget Code	Name of Contractor	Invoice #	Amount
9	Perkins Eastman	0031-03.K-06	1,840.98
1	Perkins Eastman	0031-03.K-05	75,000.00
9	Perkins Eastman	0031-03.K-05	1,763.36
6	Nelson Byrd Woltz Landscape Architects	13-579	36,000.00
6	Nelson Byrd Woltz Landscape Architects	13-196	25,080.00
6	Nelson Byrd Woltz Landscape Architects	13-550	44,000.00
3	Bowman Consulting	165050	730.50
3	Bowman Consulting	166203	12,905.00
5	Gorove Slade Associates, Inc.	32469	4,650.00
5	Gorove Slade Associates, Inc.	32577	10,075.00
5	Gorove Slade Associates, Inc.	32576	8,075.00
12	ECS	415460	1,872.50
13	ECS	415462	6,255.00
4	Holland & Knight	2970995	1,591.24
4	Holland & Knight	2983603	20,917.84
4	Holland & Knight	2995345	44,082.23
7	EHT Traceries, Inc.	20130939	1,143.75
7	EHT Traceries, Inc.	20131036	1,143.75
9	EHT Traceries, Inc.	20131036	17.36
7	EHT Traceries, Inc.	2013121	1,143.75
11	Anne Corbett	117	11,440.00
9	Anne Corbett	117	214.83
11	Anne Corbett	118	11,440.00
9	Anne Corbett	118	267.86
11	Anne Corbett	119	11,440.00
9	Anne Corbett	119	169.12
14	Tania Jackson	509	2,200.00
8	Tania Jackson	509	8,459.11
14	Tania Jackson	510	2,525.00
14	Tania Jackson	511	4,012.50
15	Cultural DC	1783	7,437.50
9	Cultural DC	1783	132.17
2	Lessard Design Inc	6007515	7,500.00
9	Lessard Design Inc	6007211	8,192.50
2	Lessard Design Inc	6007210	20,625.00
9	Lessard Design Inc	6007210	213.59
2	Lessard Design Inc	6007516	12,750.00
9	Lessard Design Inc	6007516	532.67
2	Lessard Design Inc	6007517	5,048.75
9	Lessard Design Inc	6007517	37.15
2	MV & Associates	12086.01.11	27,830.00
9	MV & Associates	12086.01.11	36.03
2	MV & Associates	12086.01.12	33,228.08
16	Fontaine & Company	775	10,000.00
8	Fontaine & Company	775	7,517.09
16	Fontaine & Company	785	10,000.00
8	Fontaine & Company	785	939.13
8	Interface Multimedia	13IFM399	28,000.00
8	Interface Multimedia	13IFM400	6,750.00
4	Vision McMillan	2013-001	975.00
Total			<u>538,200.34</u>

#6

		Total 2016	TOTAL ALL		Juridical Review \$ (May15-Oct16)
DMA 3.5 D 5	DMA 3.5 D 6				
*9/7/16	*10/24/16				
				Community Outreach	
			89,976.76	Create Communitas	
			0	Fontaine & Company	
			1,915,163.11	Chesapeake Public Strategies	
				Architecture	
	27,395.70	501,270.20	1,915,163.11	Perkins Eastman	1,004,463.75
			191,248.76	EE & K	
			393,399.63	Shalom Baranes	
			272,293.91	MV&A	
			380,569.04	WDG Architecture, PLLC	
	37,539.93		792,169.77	Nelson Byrd Woltz Landscape Architects	511,137.11
			492,726.26	Lessard Design	
			24,776.00	George Sexton Associates	
	47,995.00		47,995.00	ETM Associates	47,995.00
			290.83	Trammell Crow	
			26,371.69	Detroit Collab. Design Center	
			2,668.43	Maurice Cox Associates	
				1,563,595.86 during juridical review	
				Civil Engineer	
	70,739.02		816,658.72	Bowman Consulting	426,583.76
				Structural Engineer	
	109,940.00		411,034.33	Robert Silman Associates	388,678.43
				Haynes Whaley Associates	
				Traffic and Transit	
			145,895.72	Symmetra Design	
			247,000.00	Gorove/Stade	
				Historical Record	
	31,373.00		1,024,025.30	EHT Traceries	154,973
				Legal	
	139,520.39		1,069,670.73	Holland & Knight	226,306.06
			510	Greenstein Delorme & Luchs	
	134,993.34			Castro Haase	134,993.34
				361,299.40 during juridical review	
				Project Director	
	12,959.99		531,983.18	Anne L. Corbett	115,622.37
	94,649.25		94,649.25	Building Creative	94,649.25
				210,271.62 during juridical review	
				Art	
			57,624.39	CulturalDC	
				Other	
			197.24	Trans Time Express	
			1,500,000	Dariussh Watercolors	
			\$213.91	Herron Inc.	
			22,505.00	Merrick & Towle Communications	930
	35,025.00		347,884.75	ECS Capital Services	121,272.50
24,500.00	70,500.00		200,750.00	Interface Multimedia	138,500.00
	59,000.00		59,975.00	Vision McMillan	59,000.00
			\$36,178.10	EYA LLC	
			212,513.00	Hearing fee (HPRB? 26jun 2013, surplus 3jun13)	
	4,578.42		104,748.74	Jeffrey S. Henry	41,281.01
			1,000.00	Answer Title	
			600	All Nations Church	
			466.26	Revision Auto	
			70,500.00	Streetsense	
			9,950.00	Robert Charles Lesser & Co.	
	59,063.00		430,681.50	Alpha Corporation	392,718.50
	\$7,540.00		23,465.00	Davis Utility	23,465.00
\$9,370.00	\$1,560.00	79,605.00	99,026.12	Belle & Wissell	99,026.12
		72,450.00	72,450.00	GEI Consultants (engineering)	72,450.00
			\$12,519.00	Green Door Advisors	
			\$20,425.01	Ryan Harris	
33,870.00	28,955.70	1,513,401.92	14,169,912.55		4,054,045.02

#7

March 6, 2015

To: Council of the District of Columbia, Committee of the Whole (but with reference to the predecessor and now defunct Committee on Government Operations, Committee on Economic Development)

From: McMillan Advisory Group

Re: DMPED Agency Performance Oversight Hearing

Dear Chairman Mendelson and Councilmembers:

The McMillan Advisory Group (MAG) has long expressed significant concerns about the DMPED and Vision McMillan Partners (VMP) development plan for the McMillan Sand Filtration Site. Based on over seven years of engagement and interaction with multiple offices within the DMPED umbrella, we appreciate the opportunity to share the following concerns broadly related to the project's process, impact on the community, and finances. Since the DMPED and VMP are co-applicants for the project and DMPED is the office that holds VMP's contract, ultimately DMPED is the responsible group for the below listed concerns. We hope that the newly appointed DMPED leadership will not only review and, if appropriate, rectify what we believe are inappropriate past actions but also be more transparent and accountable to the surrounding communities moving forward.

MAG Background

The MAG was formed in 2006 under District government auspices to join representatives of several nearby communities, VMP, and the District government (represented by DMPED) to foster a consensus-based development project for the McMillan Site. According to the founding charter, the MAG "acts as voice for the community in its interaction with the development partners, throughout the pre-development and land development phases for the McMillan Sand Filtration Site," "communicates the community's perspective throughout the master planning of the Site," and "serves as a mechanism for shaping the creation of the master plan by participating in the on-going dialogue with the development partners." We have met continuously since our founding, holding monthly meetings (and adding additional meetings for large projects like the Community Benefits Agreement discussions with the community), coming to consensus, and submitting testimony throughout the PUD phases of this process.

Process concerns

The MAG agreed to support VMP as the Master Developer for the project in the Letter of Commitment (attached) signed by the MAG, VMP, and DMPED, on the condition that the terms in this letter were fulfilled. As we have shared in testimony before the Zoning

Commission, in an open letter to Jeff Miller (attached), and with the current McMillan POC Gilles Stucker, we remain concerned that DMPED has not held VMP as its contractor accountable to its obligations. The intention of the MAG and that letter is to obtain the best possible outcome for the benefit of this project, for the city, and the community. The letter's terms, among other items, (1) include the development—in conjunction with the MAG, and other parties—of a detailed community amenities package and (2) afford the MAG, and other parties, the opportunity to review and comment on the PUD before submission to regulatory agencies. However, VMP repeatedly does not give the MAG an opportunity to review and comment on the PUDs or project materials before submission to District committees. In fact, VMP has since stopped participating in MAG meetings for the past 10 months. Likewise, because a central tenet of the MAG's function is to represent and to advocate for community interests, *nothing justifies VMP's exclusion of the MAG or affected civic associations from participating directly in the CBA process including creation, negotiation, and signing the final CBA*. Since the Zoning Order has not yet been issued, we encourage DMPED to hold VMP accountable to the community and advise Zoning to not move forward with the CBA until there has been adequate community input as outlined in the Letter of Commitment. Likewise, moving forward, we would expect DMPED to hold VMP accountable with its commitment to work with the MAG throughout the preconstruction and construction phases of the project.

The MAG is also concerned (for this and future DC developments) with the structure of the PUD review process when DC is a co-applicant. Using McMillan as an example, there appears to be an inherent conflict of interest due to DMPED and VMP serving as co-applicants for the project; potentially preventing less objectivity in the PUD review and entitlement processes as the plan is reviewed by DMPED offices. The MAG recommends that DC consider policy changes to obtain objective vetting of District development projects. Particular attention could be paid to who controls or manages development of District-owned land, e.g., DMPED or the Developer(s), and who is responsible for scrutiny of the proposed project as well as any potential conflicts of interest.

Community Impact Concerns

VMP's proffers submitted to Zoning to fund job training and educational programs do not go into effect until the certificate of occupancy, so residents are not afforded the opportunity to be prepared for construction or other certificate requiring jobs on the site. The proffers for affordable housing for the site fall substantially short of the Council's recently approved affordable housing levels. We find it difficult to understand why the McMillan project is not being required to conform to current DC affordable housing law. Given that this project is touted to bring jobs and affordable housing to the District, we encourage DMPED to review the entire proffers package to ensure that the community benefits are in the spirit of the claims and in alignment with current DC law, before the Zoning order is issued.

Financial Concerns

Planning Costs

Over the course of the project’s pre-construction planning, the financial investment of the planning phases and site preparation have shifted from VMP onto the District. Specifically, the amended Summary Term Sheet¹ dated February 12, 2009 (referenced sections attached), states that VMP shall be solely responsible for paying for all costs and fees associated with obtaining the Historic Preservation Review Board (“HPRB”) and Planned Unit Development (“PUD”) approvals. Yet, the District and the taxpayer is now responsible for over \$6 million dollars to cover these costs. And although the planning process has not been completed, DMPED continues to reimburse VMP well beyond the original cost projects. Based on information from FOIA requests, it remains unclear how much oversight is given to the reimbursements and if there is a dividing line between DMPED and VMP. The most troubling cost overruns include:

- Architects: Projected \$611,000. Spent \$2,769,344.44 for an increase of 350%.
- Legal: Projected \$100,000. Spent \$646,154.77 for an increase of 546%.
- Traffic Study/Engineer: Projected \$100,000. Spent \$392,895.72 for an increase of 293%.
- Historic/Other Consultants: Projected \$50,000. Spent just for a historic consultant (not including other consultants) \$182,149.93 for an increase of 264%.

Site Preparation Costs

The Summary Term Sheet further states that VMP will be responsible for completing all land development work, including but not limited to, demolition, earthwork, grading, installation of trunk utilities and spine roads and implementation of traffic improvement. Yet, the District and the taxpayer has committed over \$50 million in additional funding for this work. The MAG has serious concerns why DMPED has advocated for these cost shifts. Why have the costs shifted from the VMP to the District? Why has DMPED not provided a public explanation for the justification of this cost shift? And ultimately, why is the taxpayer being asked to fund the profits of a private business entity?

Community Impact Costs

Related to the financial aspects of the CBA, the MAG is concerned that the proposed Community Recreation Center remains unfunded and based on recent DMPED financial statements, the project is about \$10 million dollars short for costs overall. The MAG questions why DMPED continues to let the process move forward in the absence of funded amenities. Likewise, the necessary improvements in traffic mitigation recommended by DDOT for improved public transit also remain unfunded. VMP has stated before Zoning that it will bear the costs of shuttles in lieu of public buses until funded. If VMP was not held accountable for prior financial commitments, the MAG questions the likelihood that they will be held accountable in this case, and thus the project moves forward without the necessary improvements in public transit.

¹ Please see reference documents at: <http://mcmillanadvisorygroup.wordpress.com/mcmillan-development-plans/community-benefits-agreement-working-draft/cba-supporting-documentation/>

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Land Sale Value

The MAG remains concerned with the sale price to VMP of approximately \$30 million when the DC Tax and Revenue has assessed the property near \$100M in its current state of condition. This purchase price is even more questionable since the District is adding another \$60M to complete the PUD process and site preparation. Based on a single outside value assessment, the conclusion was that 25 acres of prime DC real estate is worth a negative \$3 million! Since assessed values are almost universally much lower than market values, we continue to raise questions why there is such a large disparity. With a difference of over \$100 million, the MAG encourages DMPED to review these findings and to make public a detailed justification for vast difference between the DC Tax and Revenue assessed value and the consultant's assigned negative market value.

In closing, while we are encouraged by the collaborative and thoughtful approach Mr. Stucker has recently brought to the project, we are hopeful that a careful review of past actions will take place and become public.

Thank you for the consideration.

Sincerely,

Chris Leptak
MAG Vice-chair on behalf of the McMillan Advisory Group

McMillan Advisory Group (MAG)

March 13, 2015

Mayor Muriel Bowser (eom@dc.gov)
Info: Ward 5 Councilmember McDuffie, Ward 1 Councilmember Nadeau
Brian Kenner, DMPED (dmped.eom@dc.gov)
Gilles Stucker, DMPED (gilles.stucker@dc.gov)
Dion Townley DMPED(dion.townley@dc.gov)

Re: MAG/DMPED Requesting Collaboration on the McMillan Site Project

Dear Mayor Bowser,

As the District's newly elected Mayor, we welcome the 'fresh eyes' of your stewardship of the development of the McMillan Sand Filtration Site, a designated DC Historic Landmark, and take this opportunity to share the perspectives and concerns of the McMillan Advisory Group, which was authorized by the District. The hope of this letter is to encourage the start of a constructive dialogue with your office.

Background: As you are likely aware, the 25-acre portion of McMillan Park Reservoir Historic District acquired by the District in 1986 from the federal government (also known as the McMillan Sand Filtration Site) is the subject of the 2002 "Summary of Recommendations for [McMillan site] Revitalization" (**copy attached**) issued by the Office of Planning. This "Summary" set out direction for development of the site compatible with city and community needs and desires. The 2006 "Solicitation for Land Development Partner" issued by the National Capital Revitalization Corporation (NCRC, DMPED's predecessor in this project) was the first effort to implement goals for development of the McMillan site. In 2007, Vision McMillan Partners (VMP) was "selected" to be the District's development partner for the site, subsequent to but arguably not as a direct result of the 2006 "Solicitation," which was intended merely to request feasibility studies concerning development possibilities for the site.

The McMillan Advisory Group (MAG) was formed under District government auspices in 2007 to join representatives of several nearby communities, VMP, and the District government (represented by DMPED) to foster a consensus-based development project for the McMillan Site based on the "Summary of Recommendations." The MAG agreed to support VMP as the Master Developer for the project in the Letter of Commitment (**copy attached**) signed by the MAG, VMP, and DMPED, on the condition that all parties abided by the Terms of Concurrence in that Letter of Commitment. The intention of the MAG and that letter is to obtain the best possible outcome for the benefit of this project, for the city and the community, consistent with that Letter of Commitment.

The MAG is concerned that DMPED/VMP and the District government are not adhering to the terms of the agreement and that the relationship has acquired a less collaborative aspect than is conducive to an optimal outcome for all interested parties. The MAG is committed to reviving a workable relationship for the sake of the community and for the viability of the project. The MAG is also concerned (for this and future DC developments) with the structure of the PUD review process when DC is a co-applicant. Using McMillan as an example, there appears to be an inherent conflict of interest due to DMPED and VMP serving as co-applicants for the project; potentially preventing less objectivity in the PUD review and entitlement processes. The MAG recommends that DC consider policy change to obtain objective vetting of District development projects. Particular attention could be paid to who controls or manages development of District-owned land, e.g., DMPED or the Developer(s), and who is responsible for scrutiny of the proposed project as well as any potential conflicts of interest.

This project requires the engagement of all parties and the MAG requests your assistance in reviving this relationship to that end. As an example of MAG commitment to the project and consistency of MAG positions with larger development principals, the Historic Preservation Review Board on January 29, 2015 agreed with MAG testimony concerning the subdivision of the site and the need to modify aspects of the Phase II buildings.

VMP and the District have not abided by the Terms of Commitment, for example:

- The MAG is to review the PUD and/or Master Plan before submission.
 - The final PUD did not address any primary recommendations of the MAG.
- The MAG is to review environmental impact studies such as traffic impact
 - The MAG was not permitted to respond to any of the studies , and a comprehensive traffic impact study for the greater area surrounding the site has not been done. A comprehensive study of automobile trip generation by this and other adjacent projects is crucial to mitigate traffic, which is already problematic for neighboring communities..
- The Office of Planning's "Summary of Recommendations for [McMillan Sand Filtration Site] Revitalization" is to serve as a blueprint or baseline for revitalization
 - In no sense does the proposed development accord with these recommendations. Prominent among ignored recommendations are:
 - ◆ Use currently stable cells as a historic record of the site
 - ◆ Coordinate area-wide planning and developmental efforts
 - ◆ Uses found undesirable for the site include: high rise office, high rise residential, hospital/medical facilities
 - ◆ Recommended desirable uses include: formal park, gardens, outdoor theater, farmer's market, below-ground shops, gymnasium, police substation
 - ◆ A minimum of 50% of the McMillan site should be revitalized as public open space.
 - ◆ McMillan should be zoned to accommodate uses at low-moderate density.
 - ◆ Vistas from the site are significant and should be preserved in conjunction with the development of public open space.
 - ◆ The District should retain ownership of the site.
- VMP, the District, and the MAG maintain a continual dialogue
 - VMP and DMPED have rarely worked with the MAG in the past year, resulting in disengagement between the MAG and DMPED/VMP. The PUD was not reviewed by the MAG in the form it was submitted to the HPRB and Zoning, and the MAG's carefully-crafted Community Benefits Agreement (CBA) was ignored entirely; VMP/DMPED negotiating the CBA exclusively with ANC 5E. On the contrary, DMPED/VMP have gone so far as to hire a firm in Baltimore to 'discredit and neutralize' community reactions to the DMPED/VMP plan, creating an adversarial relationship with the community.

The MAG would like to resume a regular, mutually beneficial relationship with VMP and DMPED to the end of achieving a development for the site that is acceptable to the communities represented by the MAG. We ask that you use your good offices to enforce the Letter of Commitment and the Terms of Concurrence contained therein.

The MAG recommends, consistent with the Terms of Commitment, that:

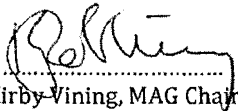
- A representative from DMPED/VMP participate in all future MAG meetings throughout the course of the planning and development process.
- The District consider an independent city Planning Commission that does not report to DMPED to oversee McMillan and other developments involving District-owned land. DMPED currently oversees directly or indirectly all offices that are part of the entitlement process – HPRB, Office of Planning, DDOT, DDOE, etc. – and thus there is currently no objectivity in the review of planned developments.

- The District articulated policy that would clarify DMPED's responsibilities when it is co-applicant on a PUD such as is the case with VMP and the McMillan site. The MAG rightfully assumed that both DMPED and VMP would directly negotiate the Community Benefits Agreement and associated amenities with the MAG, but DMPED was silent in this dialogue. This left the community wondering what the District's role is in both crafting the PUD and related documents, and what recourse the community has if VMP fails to satisfy such agreements.

The MAG requests that:

- DMPED/VMP explain why the final PUD and requested zoning differ so extremely from the recommendations and explain how the project will accommodate these still-relevant concerns.
- DMPED/VMP indicate how they will work with the MAG, especially on the community center, other District-owned or managed assets of the development and in abating current and future traffic problems in the community.
- DMPED/VMP assure that a comprehensive traffic study including all large planned developments in the area, such as the Soldier's Home, be conducted to form the basis for traffic management solutions.
- DMPED/VMP come first to the MAG, prior to ANC 5E with plans and proposals in order to repair the MAG's perception that the MAG is often blindsided and that only ANC approval is necessary to fulfill the Letter of Commitment Terms. The MAG represents a consensus of all neighborhood civic groups in this process. To date 5E has approved all DMPED/VMP proposals for the site, in spite of and counter to documented, constructive concerns raised by the MAG and its constituent community groups.

The MAG looks forward to resuming engagement with DMPED on the McMillan project and to a response from your office. We warmly extend an invite to you or a designee to our next monthly MAG meeting to discuss the matters included in this letter.

On behalf of the MAG,  (03/13/2015)
 Kirby Vining, MAG Chair

McMillan-Area Development Traffic Impact

Summary: Multiple, large-scale developments have either been approved or planned within less than one mile from each other along the North Capital Street corridor, between Channing Street to the South and the Armed Forces Retirement Home to the North; and along Michigan Avenue to Brookland Metro Station to the East and Howard University to the West. To date, we are not aware of a completed comprehensive, regional traffic study that looks at the impact of additional vehicular traffic on the existing communities. Below is a summary of traffic/vehicle-related data collected from publically available sources.

1. McMillan Sand Filtration Site

Source of information: VMP Traffic Impact Study 2014

- 2530 parking spaces (majority for commercial use for the healthcare buildings)
- 2000 additional vehicular trips per each peak AM and peak PM hour

2. Armed Forces Retirement Home (Soldier's Home)

Source of information: VMP TIS 2014 and AUSFRH Record of Decision, Master Plan Selected Alternative 3A, AFTH COO.

- Over 5000 parking spaces
- 3900 additional vehicular trips per peak AM hour and 4600 trips per peak PM hour

3. Veteran's Affairs Hospital Expansion

Source of information: VMP TIS 2014 and DC VAMC Master Plan Transportation Management Plan 2010

- New multi-story garages (number of parking spaces not found)
- 424 additional peak AM trips and 638 additional peak PM trips per hour

4. Clover Leaf Development (N. Cap and Irving)

Source of information: ZC Order 08-33 (Note: This development was NOT included in VMP Traffic Impact Study)

- 600+ parking spaces
- A traffic study with vehicle counts was not available/found, but site will include a 9-story hotel, conference center, and retail uses

5. Monroe Street Market Complex: Not included in VMP TIS and came online after the traffic counts for the VMP TIS were conducted.

Traffic Mitigation: When provided, each of these developments proposes mitigating vehicular traffic through encouraging public transit/ride sharing, walking, biking, and private shuttle services. Although there is acknowledgement that existing Metro bus services (there is not a Metrorail stop within walking distance to then McMillan area) have already or are near to exceeding capacity under present conditions, our understanding is that there is no funding in the DDOT budget to expand metro bus capacity to the region, especially after the above mentioned developments come online. Since the assumptions in the traffic studies do not mirror current conditions (e.g., assuming 20 – 40% of trips will be non-private vehicle or public transit despite

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June ____, 2015

To: (DDOT Representative)

From: McMillan Advisory Group

Re: Request for McMillan-area development traffic impact study

Dear (DDOT Representative):

We write to bring the attached information to your attention and to invite you to join us at our August McMillan Advisory Group (MAG) meeting (Thursday, August 13th). To help guide the discussion, we can develop and share some specific topic areas and questions in advance. In addition, if you can share in advance any DDOT reports or assessments of traffic/parking/transportation for McMillan or the other area developments listed, we could use the face-to-face time more efficiently.

Thank you in advance for your consideration of this invitation.

Sincerely,

Kirby Vining
MAG Chairman, on behalf of the MAG

the findings of surveys of hospital employees which indicate less than 10% of those employees use modes of transportation other than car), the communities are left with private shuttles trying to absorb 7000+ additional trips PER PEAK HOUR!

Proposal:

Since it does not appear that a regional traffic study has been conducted for the McMillan area that includes all of the approved and planned developments and that includes recent current traffic assessments, we suggest that DDOT consider the creation of a McMillan Area Traffic and Transportation Pact. The goal of the Pact will be two-fold. Part A will include all of the current and future development within a two mile radius of McMillan. Part B will identify necessary traffic amelioration needs in order to successfully mitigate the impact of the developments coming online. As part of the mitigation strategy, it is important that DDOT's budget include the funds necessary to expand existing public transit options as well as introduce new ones (e.g., circulator bus routes, trolley lines, etc.). We do not believe that traffic mitigation can successfully rely on shuttles funded by private interests and strongly recommend that the District fulfill its direct role in public transportation, a necessary city service, through a comprehensive and fully funded plan.

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McMillan Advisory Group

| January 16, 2015

Council of the District of Columbia
Committee of the Whole, Evan Cash, ecash@dccouncil.us
| _____ (info Ms. Tai Meah, tmeah@dccouncil.us)

Re: Request by the McMillan Advisory Group (MAG) for amendment of inaccurate references to the MAG in PR20-1082 (R20-0705).

Dear Mr. Cash, info Ms. Meah,

Two Council committees held a Public Roundtable on the Surplus and Disposition of the McMillan Sand Filtration Site on November 12, 2014, to consider PR 20-1081 (McMillan Surplus Declaration and Approval Resolution of 2014), -1082, -1083, and -1084 (concerning specific parcels of the development). The Council Committee on Economic Development met on November 25, 2014, to consider PR20-1082 (McMillan – Residential Townhomes Parcel Disposition Approval Resolution of 2014), which was approved and forwarded to the Council Committee of the Whole where the Resolution was passed on December 2, 2014.

| PR20-1082 contains two sections concerning the role and actions of the MAG that are incorrect. The MAG requests correction/revision of these two sections, as follows:

Pg. 6 “The Committee recognizes that it has long been a community concern that a separate request for proposals was not issued to find a vertical developer. However, the MAG was consulted and did sign the Letter of Commitment, affirming its support for VMP’s assumption of the responsibilities as vertical developer. Members of the MAG also testified to that effect and brought no objection to VMP’s role as vertical developer during the Joint Hearing held by this Committee and the Committee on Government Operations on November 12, 2014.”

| The MAG Letter of Commitment referred to above contains and is contingent upon the specified Terms of Commitment contained in that letter which have not been adhered to by DMPED/VMP in this process. See the Terms of Commitment attached to the Letter of Commitment here:

http://mcmillanadvisorygroup.files.wordpress.com/2013/10/mag_ltr_of_commitment.pdf

| **In addition, the oral and written testimony of the MAG Representatives at the Surplus Hearing included statements that invalidate the representation of the MAG’s position as follows:**

- **Portion of Oral Testimony presented by MAG member Elizabeth Floyd:**
"The MAG has expressed significant concerns about VMP's Plan....For this Roundtable, the MAG provides a letter and support documentation as testimony and our urgent request and recommendation that the Surplussing of the Sand Filtration Site not be completed until more robust and meaningful requirements for the development be detailed, and funded in some significant areas..."
- **Portion of Written Testimony in letter from MAG member and acting MAG Chair Chris Leptak:** **"To date, VMP has not been held accountable for not fulfilling its commitment to the MAG as part of its selection as land developer for the site..."**

The MAG respectfully requests striking the underlined portion of text and inserting :

"Members of the MAG have repeatedly communicated in oral and written testimony that the MAG has concerns that VMP failed to fulfill obligations outlined in the Terms of Commitment. "

Pg. 11 **"In addition, the MAG submitted a lengthy request to the ANC including a wish list of items valued at tens of millions of dollars. The ANC sat with the MAG and reviewed the entire list and presented to VMP the items they felt were the most appropriate. VMP was an active listener in that meeting and fully reviewed all of the MAG's requests."**

The MAG notes that the VMP proposed Community Benefits Agreements (CBA) bears little resemblance to the Terms of Commitment approach and the documented and provided MAG suggestions for CBA. The MAG, as part of its responsibility as defined in the Letter of Commitment, combined recommendations for a CBA inclusive of the wishes and desires of the communities surrounding the McMillan site represented on the MAG and presented it to the ANC and to the development team. But almost all those recommendations were ignored when the ANC met with VMP to create a final CBA for the project. The MAG respectfully requests striking the underlined portion of text above and inserting:

"The MAG's position is that no formal notification of the meeting between the ANC and VMP on the Community Benefits Agreement (CBA) was provided, and the MAG Representatives were not provided full and fair opportunity to provide meaningful input throughout the CBA negotiating process. MAG states that the members believe they were excluded from the final CBA negotiations between VMP and the ANC; this exclusion would be in violation of the Terms of Commitment. "

Thank you, on behalf of the MAG, Kirby R. Vining, MAG Chair

Request by the McMillan Advisory Group (MAG) for amendment of inaccurate references to the MAG in PR20-1082 (R20-0705) - Kirby Vining/MAG Chair

Email correspondence.

Xxxx

On January 20, 2015 at 5:12:15 PM, Kirby Vining (magchairman@gmail.com) wrote:

Mr. Cash,

Thank you for your prompt and thoughtful response to our letter. I am going to bring this to the attention of the MAG membership at our February scheduled meeting for discussion, which may result in further correspondence.

On behalf of the MAG membership, thank you, -Kirby Vining/Chair.

--

Kirby Vining
Sent with Airmail

On January 20, 2015 at 12:29:30 PM, Cash, Evan W. (Council) (ecash@dccouncil.us) wrote:

Mr. Vining-

I am CCing the Committee's new planning and land use staffer, Ms. Cynthia LeFevre.

We will take a look at the attached information, but you should be advised that the Council has very little ability to amend a Proposed Resolution submitted by the Mayor to the Council for consideration. That being said, now that the measure passed in a previous council period, the Council has no way of amending the approved resolutions. In addition, the measure did come through the Committee of the Whole last year not for its passage, but for its consideration of completeness of the record, legal sufficiency, and

adherence to the District's budget, all of which the Committee determined were in order. The Committee of the Whole does not consider substantive matters related to legislation under review from other committees, instead that is a function of the Full Council meeting to consider the resolution after the above mentioned checks conducted by the Committee of the Whole.

Finally, there is no way to amend a Committee Report on legislation after it has been approved by the committee which reported it, in this case the Committee on Government Operations (surplus) and the Committee on Economic Development (disposition).

We will certainly take a look at any concerns that the MAG continues to raise in relation to this ongoing development project. With Economic Development now under the purview of the Committee of the Whole, we look forward to continuing to do our oversight of the project as it is implemented.

Evan Cash

Committee Director, Committee of the Whole
Chairman Phil Mendelson

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7/15

From: Kirby Vining [mailto:magchairman@gmail.com] **Sent:** Tuesday, January 20, 2015 12:19 PM **To:** Cash, Evan W. (Council) **Cc:** Meah, Turia "Tai" (Council) **Subject:** Request by the McMillan Advisory Group (MAG) for amendment of inaccurate references to the MAG in PR20-1082 (R20-0705) - Kirby Vining/MAG Chair

Attached please find a request from the McMillan Advisory Group (MAG) to amend inaccurate references to the MAG in McMillan Surplus Declaration and Approval Resolution PR20-1082, now known (after Council approval) as R20-0705. Also attached is a letter from the MAG to Mr. Jeff Miller, then interim DMPED head, dated November 6, 2014, referenced in this document.

Thank you, on behalf of the MAG, Kirby Vining, MAG Chair.

-- Kirby ViningSent with Airmail

7/16

October 21, 2015

To: Council of the District of Columbia
Committee of the Whole
c/o Ms. Cynthia Levefre

From: McMillan Advisory Group

Re: PR 21-307, **McMillan Townhomes Parcel, Commercial Parcel, and Multifamily Parcels Disposition Extension Approval Resolution of 2015**

Dear Members of the Council Committee of the Whole:

The McMillan Advisory Group (MAG) has long expressed significant concerns about Vision McMillan Partners' development plan for the McMillan Sand Filtration Site. And in light of the fact that VMP has ceased engagement with the MAG for more than a year, despite signing a Letter of Commitment (attached), we ask you to help us to continue to advocate on behalf of the community as we were originally tasked to do.

The MAG was founded in 2006 as an unincorporated non-profit through the support of the District of Columbia via the National Capital Revitalization Corporation (NCRC). According to the founding charter, the MAG "acts as voice for the community in its interaction with the development partners, throughout the pre-development and land development phases for the McMillan Sand Filtration Site," "communicates the community's perspective throughout the master planning of the Site," and "serves as a mechanism for shaping the creation of the master plan by participating in the on-going dialogue with the development partners." We have met continuously since our founding, holding monthly meetings (and adding additional ones for large projects like the Community Benefits Agreement discussions with the community), coming to consensus, and submitting testimony throughout the PUD phases of this process. Please find attached a composite PDF that documents prior input including a draft of our community-generated CBA.

The most recent PUD and proffers submitted by VMP still do not address many of the MAG's longstanding concerns with this project. The decision to surplus this property in November 2014 was made despite many significant and long-standing community concerns being addressed. We urge you to help us in addressing many of these serious and significant concerns

The MAG does not support the extension of the LDA for an additional five years as proposed, especially since VMP has repeatedly failed to meet its obligations and commitments to the communities surrounding McMillan:

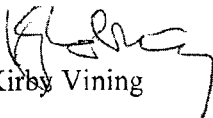
- VMP has failed to meet its obligations to the community and the MAG as outlined in the letter to DMPED (attached). In fact, VMP has not attended a monthly MAG meeting for over a year and has broken communications for reasons that remain unanswered by the DMPED POC Gilles Stucker.
- VMP has failed to comply with its financial obligations to the District as described in the attached Summary of Terms agreement. The \$60million+ for the PUD process and land preparation, originally the responsibility of VMP, has been transferred to the DC taxpayer. For additional details, please see attached MAG testimony of March 6, 2016 submitted to DMPED Agency Performance Oversight Hearing.
- VMP's proffers do not address nor include much of the community input as put forward in our attached Draft MAG Community Benefits Package. Highlights include:
 - There has not been a comprehensive regional traffic study that includes the already approved neighboring developments including: Armed Forces Retirement Home, North Capitol Cloverleaf, VA Medical Center Expansion, and area university expansions. Once such a study is completed and the public transportation needs assessed, we would expect such needs to be fully funded and implemented before McMillan or other developments in the area are approved.
 - The funding for job training and educational programs do not go into effect until the certificate of occupancy, so residents are not afforded the opportunity to be prepared for construction or other certificates requiring jobs on the site.
 - The affordable housing for the site falls short of the Council's recently approved bill. Since the District still owns the land, why was McMillan excluded from this legislation?
 - The construction mitigation plan filed by VMP with Zoning did not have a single community public hearing. For a construction project that will span 6-7 years, we demand that one be negotiated between the MAG, project-adjacent Neighborhood Civic Associations and VMP, ratified by all parties, and submitted to replace the plan currently in place.
 - Thus far, the McMillan project has yet to complete an Environmental Impact Study. We would expect that one would be completed before any construction begins on the McMillan site.
 - It remains unclear if there will be existing community membership on the governance body for the community center and park. We continue to request that a hybrid public/private partnership model be established so that Dept. of Parks and Recreation activities for children, adults, and seniors would be available alongside the opportunity to fund raise for additional maintenance and other requirements of these public features.
- If the land is surplus and VMP takes ownership, we would hope that the purchase would be a true assessment of market value. Since the DC Tax and Revenue has assessed the property at near \$100 million in its current state and the District is adding another \$60 million to complete the PUD process and site

preparation, why is VMP purchasing the property for approximately \$30 million under an exclusive rights agreement with DMPED?

Although some members of the DC Council and DC government employees are new to the McMillan project, the request for extension of the LDA timeline requires that all involved take a serious look at the history of the McMillan project under the VMP/DMPED collaboration to ask the questions and to demand the answers that ensure that the city as a whole, not just a single development corporation, is benefited to the maximum and appropriate extent possible.

Thank you for the consideration.

Sincerely,



Kirby Vining

Chairman,
McMillan Advisory Group,
on behalf of the MAG

#8

From: Newaldass, Shiv (EOM)
To: Miller, Jeff (EOM)
Subject: FW: McMillan Meeting w/Jair Lynch & Kirk Sykes - Next Steps
Date: Monday, September 30, 2013 5:27:00 PM

I thought this was a non-starter? Just wanted to double check with you before responding. Thanks.

Shiv Newaldass | Project Manager
Government of the District of Columbia
Office of the Deputy Mayor for Planning & Economic Development
1350 Pennsylvania Ave, NW Suite 317 | Washington, DC 20004
| W 202.674.2336 | F 202.727.6703 | Shiv.Newaldass@dc.gov

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New, expanded library hours start **Oct. 1**. More hours for story time. More hours for community meetings. More hours to use free computers. Check out the library's new hours at dclibrary.org/newhours.

From: Kirk A. Sykes [mailto:kirksykes@comcast.net]
Sent: Monday, September 30, 2013 2:40 PM
To: Kirk Sykes; joel.miller@wscf.net; Jair K. Lynch; alc@envisionmcmillan.com; Newaldass, Shiv (EOM)
Subject: Re: McMillan Meeting w/Jair Lynch & Kirk Sykes - Next Steps

Jair, Anne & Shiv,

Thanks for following up. We had a great meeting with Shiv after meeting with Victor & Jeff. I confirmed today that they are comfortable with us working directly with the development Team (hopefully Shiv and Anne feel the same). We need to be engaged to execute this strategy. I know there was some concern as to where the short money that is on the front end to put the mechanics in place to do the conservation. I am sure there is a way to deal with this, as we are most focused on the value created by the conservation syndication.

My suggestion is that we are enlisted to execute the strategy, start meeting with Anne & Shiv and others to make sure there are no mis-steps in the zoning process to allow us to harvest the value, and then we begin the process of syndication the conservation. I have added Joel to the email loop so he can chime in on the more granular aspects of engaging and executing. Please do so Joel.

Lets get going on this so we are not looking back on an opportunity we missed. DO you agree?

Sincerely

Kirk

From: "Kirk Sykes" <ksykes@newbostonfund.com>
To: "Kirk Sykes" <kirksykes@comcast.net>
Sent: Monday, September 30, 2013 2:36:33 PM
Subject: FW: Meeting w/Jair Lynch & Kirk Sykes

From: Jair Lynch [mailto:jkl@jairlynch.com]
Sent: Thursday, September 26, 2013 2:06 PM

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To: Kirk Sykes; Anne Corbett (alc@envisionmcmillan.com)
Cc: Shiv Newaldass (Shiv.Newaldass@dc.gov)
Subject: RE: Meeting w/Jair Lynch & Kirk Sykes

Kirk ♦ your timing was impeccable last week. We need to have a call in the coming weeks with Anne, the Project Director, and DMPED about these conservation easements. If we are going to get serious about them then we have to create documents and strategies that will assist in the ability to secure these credits. For example.

DMPED has released an appraiser to value the land. After a meeting with them this week it seems they are going to value the development pads which are only 40% of the site. I don♦ know what they are going to do with the remainder of the site. Not only parks but also streets, etc. This appraisal will be part of land disposition agreements for each of the pads

VMP, on behalf of DMPED, will submit this week a new Historic Preservation Review Board package for a hearing October 24th. We expect this fall to get approval of the master plan and the buildings which will include the parks.

VMP, on behalf of DMPED, will submit in November the zoning PUD package which will include the parks.

If the everyone is serious about this as it will bring capital to the District to lower their investment then they need to spin up the lawyers (both their internal and the ones we have retained, on their behalf) to make sure the LDA and all the submission packages are carefully crafted to ensure the IRS will see the 12+ acres of parks as developable land that will be conserved.

Thanks

Jair

Jair Lynch | President/CEO
JAIR LYNCH Development Partners
1508 U Street NW Washington DC 20009
202.462.1092;JKL@JAIRLYNCH.com
www.jairlynch.com

-----Original Appointment-----

From: Tanesha Bailey
Sent: Tuesday, September 17, 2013 8:07 AM
To: 'Kirk Sykes'; Large Conference Room; Jair Lynch
Subject: Meeting w/Jair Lynch & Kirk Sykes
When: Tuesday, September 17, 2013 2:00 PM-3:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: JLDP; 1508 U Street, NW; WDC 20009

From: [Anne Corbett](#)
To: [Newaldass, Shiv \(EOM\)](#); [Jair Lynch](#)
Cc: [Miller, Jeff \(EOM\)](#); aweers@trammellcrow.com; [Aakash Thakkar](#)
Subject: RE: McMillan-Conservation Finance
Date: Thursday, October 03, 2013 3:22:57 PM

We don't disagree with your points.
Please contact them and let them know you/we are not interested.

Anne L. Corbett
Project Director

VISION MCMILLAN PARTNERS
EYA | JAIR LYNCH Development Partners | Trammell Crow Company
202.494.7523 | alc@envisionmcmillan.com

From: [Newaldass, Shiv \(EOM\)](#) [<mailto:shiv.newaldass@dc.gov>]
Sent: Thursday, October 03, 2013 3:12 PM
To: [Jair Lynch](#)
Cc: [Anne Corbett](#); [Miller, Jeff \(EOM\)](#); aweers@trammellcrow.com; [Aakash Thakkar](#)
Subject: Re: McMillan-Conservation Finance

Understood and appreciated. If you guys disagreed with the issues I identified below, then there would be reason to pursue, but from what I gather, you all don't seem to disagree. Am I incorrect. I don't want to be combative, just didn't want Carolyn to go on a wild goose chase. Thanks.

Shiv Newaldass | Project Manager
Government of the District of Columbia
Office of the Deputy Mayor for Planning & Economic Development
[1350 Pennsylvania Ave, NW Suite 317 | Washington, DC 20004](#)
| W [202.674.2336](tel:202.674.2336) | F [202.727.6703](tel:202.727.6703) | Shiv.Newaldass@dc.gov

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On Oct 3, 2013, at 3:01 PM, "Jair Lynch" <jkl@jairlynch.com> wrote:

Shiv

Don't think we are trying to push this idea but rather trying to be respectful of your needs and to be good stalwarts of public dollars by quickly chasing down an idea presented to dmped. If you are satisfied with your due diligence then feel free to contact them and shut it down.

8/4

Jair Lynch | President CEO
JAIR LYNCH Development Partners
1508 U Street NW Washington DC 20009
202.462.1092|JKL@JAIRLYNCH.com
www.jairlynch.com
Sent from my mobile device

On Oct 3, 2013, at 2:55 PM, "Newaldass, Shiv (EOM)" <shiv.newaldass@dc.gov> wrote:

Anne,

I think it's a waste of time and money to get H&K involved. I'm pretty certain this stuff isn't illegal and the last thing we'll want to do with this group is argue the legality of their business. Also, what if H&K says its completely legal. What then?

I've spoken to Jeff about this and we are not interested in this approach. If VMP wants to, then all fees including Carolyn's research will not be our obligation. Thanks.


Shiv Newaldass | Project Manager

Government of the District of Columbia
Office of the Deputy Mayor for Planning & Economic Development
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On Oct 2, 2013, at 1:06 PM, "Anne Corbett" <alc@envisionmcmillan.com> wrote:

Shiv,

This is a land-use puzzle. A challenge of deal structure that could only work with a properly synchronized set of actions. H&K should know whether the execution of such a complex puzzle is possible or be able to validate our intuition that says it s probably not.

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Again, I get the constraints. I just want to do some quick due diligence before I tell these guys, ♦no, thank you.♦

Hope this makes sense.

Anne L. Corbett
Project Director

VISION MCMILLAN PARTNERS

**EYA | JAIR LYNCH Development Partners | Trammell
Crow Company**

202.494.7523 | alc@envisionmcmillan.com

From: Newaldass, Shiv (EOM) [<mailto:shiv.newaldass@dc.gov>]

Sent: Tuesday, October 01, 2013 5:17 PM

To: Anne Corbett

Cc: Miller, Jeff (EOM); Jair Lynch; aweers@trammellcrow.com;
Aakash Thakkar

Subject: Re: McMillan-Conservation Finance

Anne,

I don't necessarily believe that there are specific legal issues prohibiting this (and having an attorney take a gander is always a good thing), rather my concerns as outlined below matter more along how we proceed knowing these non-legal related limitations.

All said, I also don't think the District will advance \$400k for this either. Thanks.

Shiv Newaldass | Project Manager

Government of the District of Columbia

Office of the Deputy Mayor for Planning & Economic

Development

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On Oct 1, 2013, at 3:19 PM, "Anne Corbett"
<alc@envisionmcmillan.com> wrote:

Shiv,

I completely understand your issues. I think this is one of those great ideas in theory, that would only create additional complexities for a project already pretty fraught with complexity. So I would intend to engage Holland & Knight to get them up to speed then have them sit down with us and WSCP. Assumption being that within a couple of hours of legal time, all will realize this can't work at McMillan.

Please confirm this tactic.

Thanks,

Anne L. Corbett

Project Director

VISION MCMILLAN PARTNERS

EYA | JAIR LYNCH Development Partners |

Trammell Crow Company

202.494.7523 | alc@envisionmcmillan.com

From: Newaldass, Shiv (EOM)

[<mailto:shiv.newaldass@dc.gov>]

Sent: Tuesday, October 01, 2013 12:14 PM

To: Anne Corbett (alc@envisionmcmillan.com);

Jair Lynch (jkl@jairlynch.com);

aweers@trammellcrow.com; Aakash Thakkar

(athakkar@eya.com)

Cc: Miller, Jeff (EOM)

Subject: McMillan-Conservation Finance

VMP,

A few weeks back, I met with Joel Miller and Kirk Sykes with Wall Street Capital Partners to discuss their interest with McMillan. Their company specializes in something called Conservation Finance and helps jurisdictions and developers capture

◆forgone◆ value in order to permanently preserve developable parcels as park and/or green space. While they have a solid pitch and I recognize the benefits to this approach, there are a few McMillan specific challenges:

1. The ◆forgone◆ value can only be achieved if the identified pads could be developed. I took this to mean that we would not be able to present our current plans for park and green space, but as parcels that we intend to develop to their highest and best uses. Given the fact that we◆ve been marketing these pads as park and green space and that this marketing aspect would continue to be something of prominence for the development as we move through the entitlement phase, I believe that suddenly taking it off the table and offering ◆more density◆ in its place presents a significant challenge. I truly see no way around this. Either we mask the truth from the general public or we mask the truth from the IRS. Either is not an option for me personally and I◆m also certain for the District as well.

2. The estimated value per conserved acres are based on the assumption that each acre is worth about \$21 million. While this is terrific as a theoretical exercise, the reality is that the appraised value most likely will be substantially less given the condition of the site, the deed restriction, the infrastructure required, and the host of other constraints with this site. To promote such a value as this runs a double edge risk for the District. First, if this is the value or becomes associated with the per acre value of McMillan, then the Council and public will have a lot of reasons to question the deal structure that DMPED and

8/8

VMP has negotiated. If this isn't the value, then we run the risk of not generating enough from the deal structure for this conservation finance approach to make sense given the astronomical fees associated with it.

3. The District will have to advance \$400k to even get this process started with no guarantees of what the final net recovery is for us. This will eat into the development budget for FY14. We will not be able to allocate funds specific for this purpose.

Jair or Anne, if I've misstated or missed anything, please correct. Thanks much.

Shiv

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