

**Testimony of Kirby Vining before the Zoning Commission, May 13, 2014,
concerning the Master Plan of Case #13-14**

Kirby Vining, 16 Franklin St NE, Washington, DC 20002, 202 213-2690,
restoremcmillan@gmail.com

I am Kirby Vining My home is on the unit block of Franklin St NE, about 250 feet across North Capitol Street from the McMillan Park fence I'm speaking as a person in opposition to the Applicant's proposed master plan

ANC 5E has consistently ignored the position of our neighborhood in plans for development of the McMillan site The Bloomingdale Civic Association (BCA), the Stronghold Civic Association (SCA), and the McMillan Advisory Group (MAG) have all held several public meetings over the past two years and submitted detailed positions on the McMillan site development, which have been ignored by ANC 5E The BCA position is laid out in exhibit 31 (Resolution of the BCA), exhibit 69 (BCA's Objections to and Request to Rescind ANC 5E's Letter of Support for McMillan), and exhibit 80 (BCA Resolution of No Confidence), the SCA position is explained in exhibit 33 (Letter in Opposition from the SCA), and the MAG position is clearly stated in exhibit 79 (MAG Community Benefits Agreement and Position) Exhibit 111 is the testimony of a respected ANC 5E Commissioner who recently resigned over the failure of ANC 5E to respect the position of the community on this matter ANC 5E's letter of support for the Applicant's plan (exhibit 40) demonstrably does not have the backing of the community and is diametrically opposed to it

The results of a survey of about 1,000 households in the immediate neighborhood of the site done in conjunction with the MAG is shown in exhibit 112 The Friends of McMillan Park has gathered about 6,500 signatures requesting that the Mayor consider more creative, alternative plans for the site than the one the Applicant has produced This thumb drive contains about 6,400 of those signatures collected as of May 1st, of which 2,121 are from Ward 5 residents The McMillan site was purchased from the federal government with DC taxpayers' money, not Ward 5 money, and the site's DC Historic Landmark designation is not a Ward 5-only designation While the western edge of the McMillan site is the boundary between Wards 1 and 5, that same line bisects McMillan Park Reservoir Historic District This landmark belongs to the people of the District of Columbia and we deserve better than high-rise buildings on it

The Applicant has made it difficult for the public to obtain details of this very unusual development process Many of the documents submitted by persons and parties in opposition in this case were obtained only through several FOIA requests, one of which resulted in a two-year court case before documents were divulged Two other attempts to obtain related documents will be heard by the Superior Court on July 11th and 18th (see attachment) Among these documents is a detailed plan, paid for by the Applicant, to hire a firm in Baltimore to discredit and neutralize the Friends of McMillan park (exhibit 115)

There is no storm water runoff from the McMillan site Drains concealed in each vertical column of the underground filtration chambers channel surface water into those chambers, as shown in a diagram (exhibit 539, attached) from page 121 of the Applicant's Historic Preservation Report (exhibit 538) Surface water runoff would be visible as erosion on the south end of the site But there is none So for the Applicant to claim as a benefit proposed improvements to zero storm water runoff is a preposterous fiction

Maps in the 2014 District of Columbia Parks and Recreation Master Plan Vision Framework graphically show the dearth of public park space near the McMillan site (exhibit 540, attached). The DPR report cites the McMillan Plan and the work of Frederick Law Olmsted Jr as the inspirational and guiding principals behind DPR's parks philosophy McMillan was our public park. Please don't grant the zoning application before you and privatize it

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

Kirby Vining,

Plaintiff,

v

District of Columbia,

Defendant

2013 CA 008189 B

Judge Stuart Nash

Next Date July 11, 2014

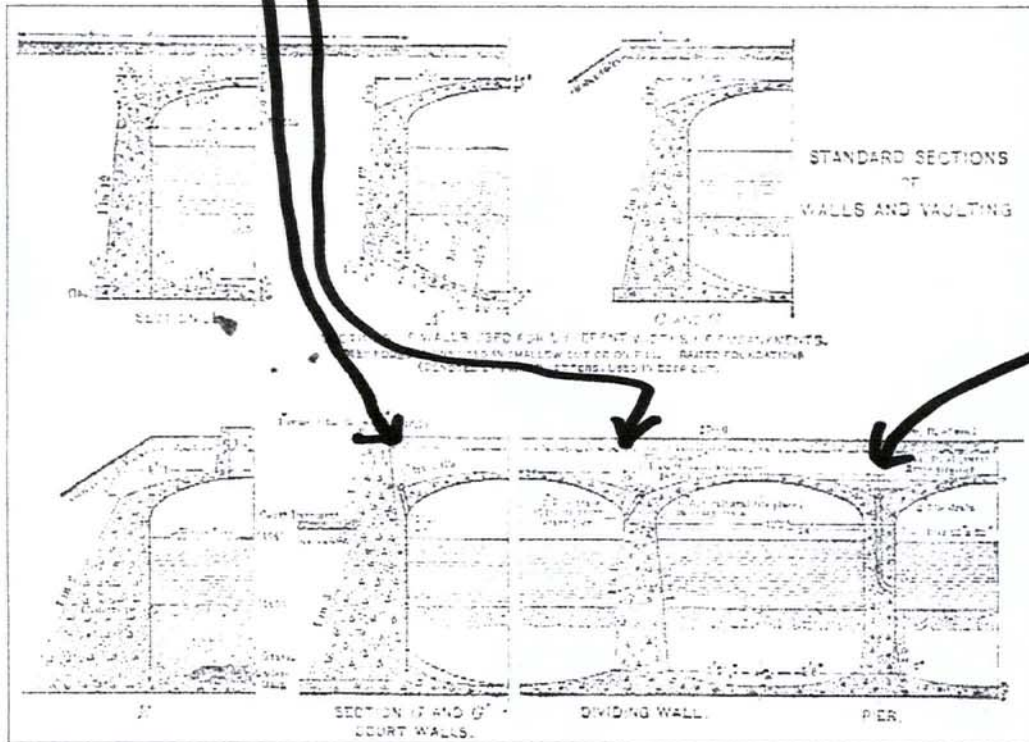
Status Hearing

**PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS FOR
LACK OF JURISDICTION**

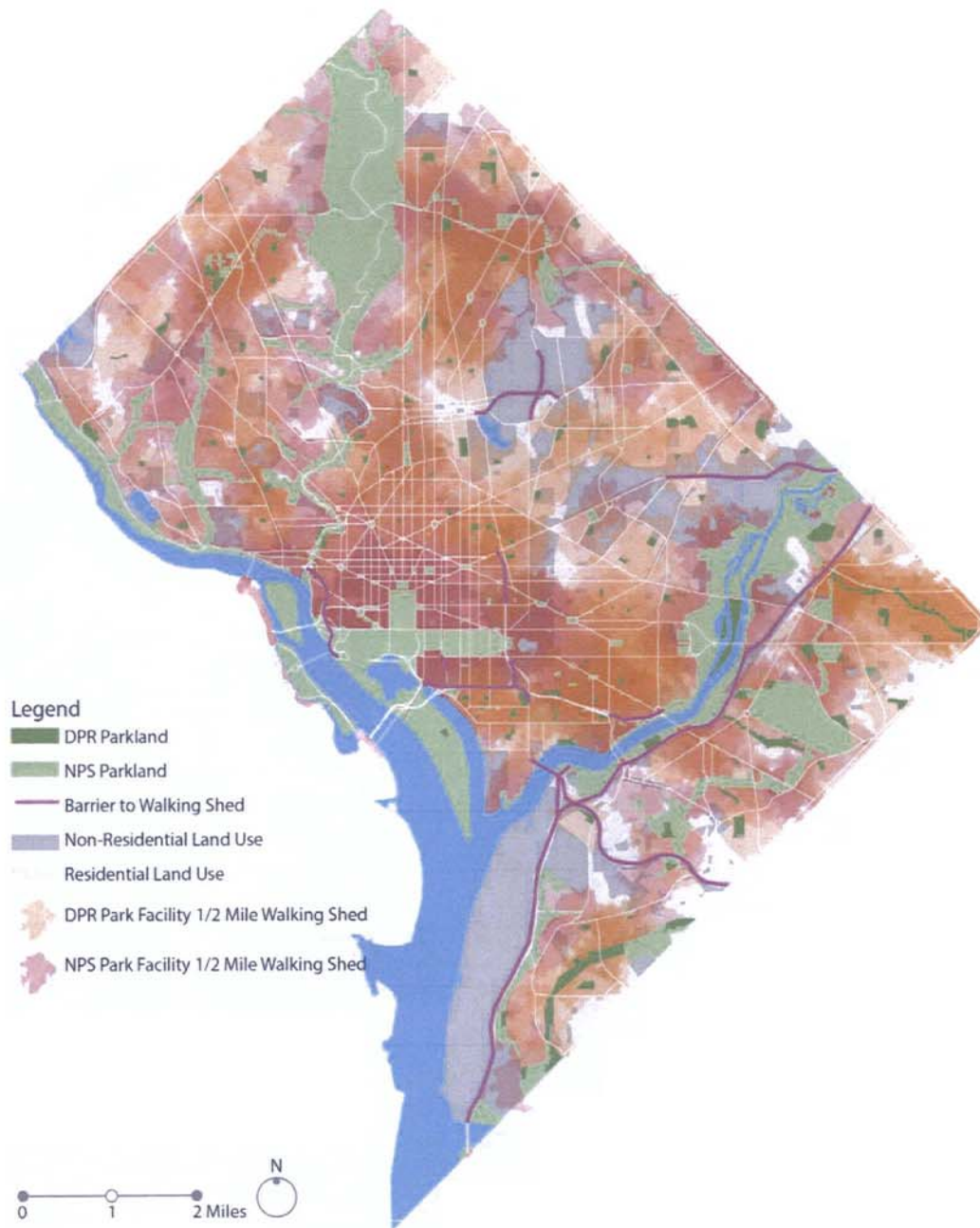
Plaintiff, Kirby Vining, by and through undersigned counsel, respectfully opposes Defendant's Motion to Dismiss for Lack of Jurisdiction. As laid out in more detail in the attached Memorandum, Defendant's motion should be denied because Defendant has not produced all non-exempt documents responsive to Mr. Vining's FOIA request.

The sole issue before this Court is, essentially, a legal question. Mr. Vining's request included a request for emails sent or received by Advisory Neighborhood Commissioner Dianne Barnes using an email account hosted by Yahoo ("Barnes Yahoo account"). Mr. Vining has good reason to believe that Commissioner Barnes uses the Barnes Yahoo account to conduct official business. Defendant has not searched the Barnes Yahoo account for responsive documents because the District asserts that non-government hosted email accounts are not covered by the Freedom of Information Act ("FOIA"). Thus, the legal question before this Court – a question of first impression in this jurisdiction – is: under the Freedom of Information Act, is a government official's email account that is not hosted on a government-owned server (e.g. Yahoo or Gmail

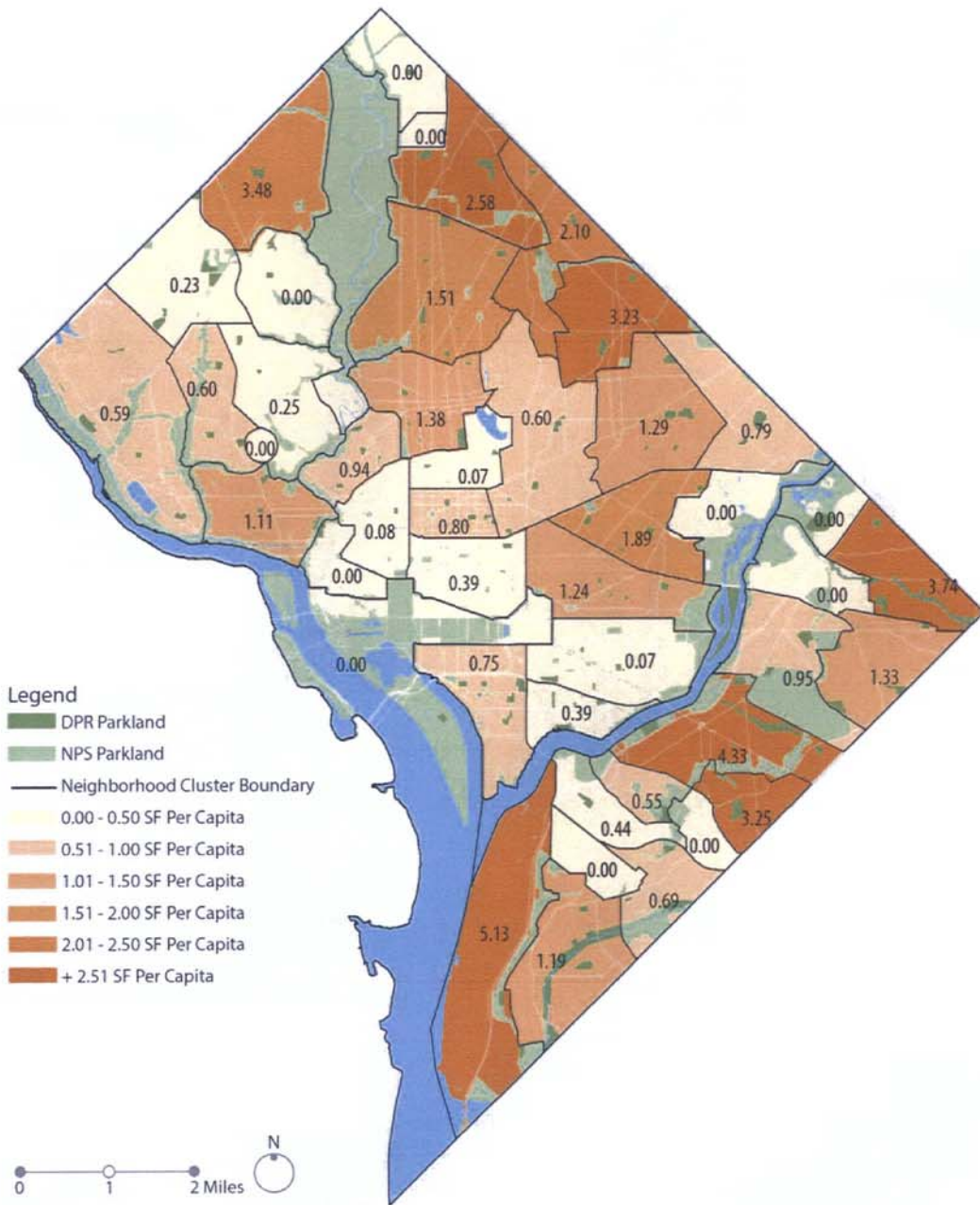
DRAIN PORTS



A-24: McMillan Park: Standard Sections of Walls and Vaulting (1902)
Purification of the Washington Water Supply, courtesy of the Historical Society of Washington



Access Level of Service for DPR and NPS Parkland, from District of Columbia Parks and Recreation Master Plan, Vision Framework, March, 2014, showing in grey the lack of public park space accessible to persons living near the McMillan site, page 27.



Page 31 of same, recreation center square footage per capita by neighborhood cluster, 2020 population, showing 0.07 – 0.60 square feet per capita for the residents of areas adjacent to the McMillan site.

PETITION TO SAVE
THE MCMILLAN PARK RESERVOIR HISTORIC DISTRICT

⑨

TO: Mayor Vincent Gray, Members of the City Council, Members of the Historic Preservation Review Board

We, the undersigned, agree:

1. The McMillan Park Reservoir Historic District — both its above and below ground structures — is a tremendous asset for our city;
2. The status quo benefits no one and action must be taken to return this valuable space to public use;
3. Any plan approved for the site's development must provide for community amenities and public benefits and must preserve and enhance the historic integrity of this engineering marvel and national landmark park.

We strongly urge you to (1.) reject the current plan proposed by Vision McMillan Partners and (2.) consider more creative, alternative proposals that will result in a destination worthy of this unique historic site and our nation's capital.

NAME ADDRESS EMAIL/PHONE SIGNATURE

Kou Comer	1931 17th St NW #101	Kramer9@bellSouth.net	Kou Comer
✓ Jerom McCoy	2434 Georgia Ave NW	Jerom@... .com	[Signature]
Jonathan Curry	4201 Commercial Ave.	jchunyc@architek.com	[Signature]
Jaqueline Ellison	1001 First St NW #309	elli@... .com	[Signature]
Thomas Smeot	351 Massachusetts Ave	thomssmeot@yahoo.com	Thomas Smeot
Jermal Brown	1365 Wisconsin Ave NW	Jbrownstudent@verizon.net	[Signature]
Buddy Brown	1365 Wisconsin Ave NW	Jbrownstudent@verizon.net	Buddy Brown
Dave White	700 Adair Ave SE	seeds@... .com	[Signature]
Braniff Lawson	4100 Georgia Ave NW	TAZZYGARLOR@HOTMAIL	[Signature]
Paul Cleveland	1917 Varnum NW	pac@yahoo.com	[Signature]