



**National Trust for
Historic Preservation**
Save the past. Enrich the future.

**Testimony of Elizabeth S. Merritt,
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Before the
National Capital Planning Commission
First Stage and Consolidated PUD
and Related Map Amendment @ 2501 First St. NW
Square 3128, Lot 800,
the McMillan Reservoir Sand Filtration site
ZC 13-14
November 6, 2014**

Background on the National Trust for Historic Preservation

The National Trust for Historic Preservation in the United States is a private nonprofit organization chartered by Congress in 1949 to promote public participation in the preservation of our nation's heritage, and to further the historic preservation policy of the United States. *See* 16 U.S.C. § 468. With an estimated 800,000 members and supporters around the country, the National Trust works to protect significant historic sites and to advocate historic preservation as a fundamental value in programs and policies at all levels of government.

The National Trust has a broad, long-standing interest in the protection of the McMillan Park site, dating back almost 25 years. In 1990, we joined as a plaintiff in a lawsuit against the National Capital Planning Commission (NCPC) to enforce compliance with Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470f, in connection with the federal transfer of this historic property to the District of Columbia and the NCPC's review of an amendment to the D.C. Comprehensive Plan to allow development on the site. *See McMillan Park Comm., et al. v. National Capital Planning Comm'n*, 759 F. Supp. 908 (D.D.C. 1991), *rev'd in part on other grounds*, 968 F.2d 1283 (D.C. Cir. 1992).

More recently, the National Trust testified before the Historic Preservation Review Board in June and October of 2013, and testified before the Zoning Commission in May 2014, and the National Trust is presently a party before the D.C. Mayor's Agent on Historic Preservation in opposition to the proposed development. The basis of our opposition has been that the density and magnitude of the proposed development, and the magnitude of the proposed demolition, would be inconsistent with the purposes of the D.C. Landmarks and Historic District Protection Act, inconsistent with the D.C. Comprehensive Plan, and inconsistent with the requirements of the legally binding historic preservation covenants that run with the property.

In addition, the National Trust's interest arises from our specific role in managing President Lincoln's Cottage on the grounds of the Armed Forces Retirement Home (AFRH). The National Trust protects and promotes a diverse collection of 27 Historic Sites around the country that are open to the public. One of those Historic Sites is President Lincoln's Cottage. In 1862, President Lincoln and his family were invited to stay in this Gothic-Revival cottage on the grounds of the Soldier's Home. The Cottage served as Lincoln's family residence during the summers of 1862, 1863 and 1864, and it is where he was living when he developed the Emancipation Proclamation. Erin Carlson Mast, the Executive Director of President Lincoln's Cottage, will testify about this in more detail.

Beginning in 2000, the National Trust assumed the stewardship of President Lincoln's Cottage under a 50-year lease from the AFRH, and began an eight-year capital project to preserve, restore, sustainably rehabilitate, and conduct archaeology at the property. After a \$15 million restoration by the National Trust, President Lincoln's Cottage opened to the public for the first time in 2008, giving Americans an intimate, never-before-seen view of Abraham Lincoln's presidency and family life. In addition to President Lincoln's Cottage, the adjacent Administration Building – the Robert H. Smith Visitor Education Center -- features related exhibits and media presentations.

Summary of the National Trust's Position.

In the National Trust's view, the proposed map amendment is fundamentally inconsistent with the D.C. Comprehensive Plan, including the federal interest in the AFRH, and with the NCPD's own guidance regarding building heights. In addition, the development plan violates the binding historic preservation covenants developed by the General Services Administration when it sold the site to the District of Columbia to ensure that any development on the site would have "no adverse effect" on the historic character and features of the site.

The Proposed PUD Would Have a Negative Impact on Historically Significant Viewsheds from President Lincoln's Cottage

As you will hear in more detail from the Director of President Lincoln's Cottage, the Applicant's development plans would adversely impact the viewshed from two specific locations at President Lincoln's Cottage: the south lawn of the Cottage, and the main entrance to the Visitor Education Center. The Cottage lawn was Lincoln's historic view. Both of these are important views for the visitors, programs, and education at President Lincoln's Cottage. In addition, from inside the Cottage, the proposed development would adversely impact the historic viewsheds from the second floor. President Lincoln developed the Emancipation Proclamation while he was living at the Cottage, through numerous conversations he held throughout the Cottage, from the veranda, as he walked the grounds, including the cemetery, and along his commute. The proposed development would represent a visual intrusion on the historic views that Lincoln would have seen as he was developing the Emancipation Proclamation.

President Lincoln believed that the view of the Capitol Dome was extraordinarily meaningful to the country as a whole. In July 1863, when he was living at the Cottage, and

construction of the Capitol Dome was ongoing, President Lincoln is known to have said, “If people see the Capitol going on, it is a sign that we intend the Union shall go on.” To obscure the view of that symbol of our democracy would be a significant blow.

The letter submitted by the Armed Forces Retirement Home to the NCPC dated August 21, 2014 explains in detail why several of the viewsheds from the AFRH are important, and describes the extensive planning effort undertaken by the AFRH to manage the future development of its property in a way that will minimize harm to those viewsheds. The proposed development at the McMillan Park site threatens to undermine all of that careful planning by obstructing the very viewsheds that the Armed Forces Retirement Home has worked so hard to preserve. Citing this letter and relying on its own viewshed analysis, the NCPC staff initially advised the Zoning Commission, on August 25, 2014, that the building heights proposed in the plan would have “substantial impacts” on these publicly accessible historic viewsheds.

The subsequent letter sent to the Zoning Commission by NCPC staff on September 15, 2014 attempts to back away from the staff’s earlier concerns about the 115-foot-high medical office building proposed for the McMillan Park site, and its negative impacts on the historic viewsheds from the AFRH grounds, because the Applicants agreed to move the elevated section of the building’s western wing 15 feet to the east. However, the NCPC’s September 15 letter (and the shifting of the medical office building) focuses solely on the viewshed from the Scott Statue, to the exclusion of the other highly significant historic viewsheds (the Meadow, President Lincoln’s Cottage, and the National Historic Landmark district generally).

The NCPC’s September 15 letter states that the view from the Scott Statue “is the primary view identified in the 2008 AFRH-W Master Plan, and the one we consider most important to the federal interest.” However, two significant changes have occurred since the AFRH Master Plan was completed in 2008, which make these other historic viewsheds *more* significant than the viewshed from the Scott Statue, in our opinion.

First, under the stewardship of the National Trust, through a lease from the AFRH, President Lincoln’s Cottage is now open to the public, together with the Visitor Education Center in the nearby Administration Building. Since that time, this Historic Site now receives more than 30,000 visitors every year. Second, as described on page 3 and Attachment C of the AFRH letter, the viewsheds from President Lincoln’s Cottage and the National Historic Landmark district were previously blocked by the non-contributing Scott Building. However, the Armed Forces Retirement Home has now demolished the non-contributing building subsequent to 2008, and thus has since reopened these significant viewsheds.

Because of these two significant changes in the past five years (the National Trust’s opening of President Lincoln’s Cottage to the public, and the reopening of the historic viewsheds from the Cottage and the NHL district) the fact is that *far* more people (tens of thousands more) now have the opportunity to see these historic viewsheds than those who may see the historic view from the Scott Statute. So in terms of the federal interests, and the level of impact on the public interest, it is imperative that the Commission refrain from

approving the PUD and map amendment until the development's impact on these historic viewsheds from President Lincoln's Cottage and the National Historic Landmark district in the AFRH has been thoroughly evaluated -- which has NOT been done to date -- and that the Commission require the proposed development to be modified in order to avoid and minimize the negative impact on these historic viewsheds.

The Proposed PUD Application is Not Consistent with Other Elements and Policies in the Comprehensive Plan.

The impact of this development on the important viewsheds discussed above illustrates the problem here: the proposed PUD and Map Amendment are fundamentally inconsistent with the Comprehensive Plan designation of the McMillan Park site, which was approved by the NCPC in 1990, for a "mix of uses: medium density residential, moderate density commercial and parks, recreation and open space." See Future Land Use Map, Comprehensive Plan. The record is clear that, when the NCPC approved the 1990 amendment to the Comprehensive Plan, which allowed *some* development at the McMillan Park site, the Commission clearly intended that the development be limited to a dramatically lower scale than what is proposed here.

The NCPC staff specifically evaluated the potential adverse visual impact of development on the significant character-defining features of the site. That analysis included specific recommendations for ensuring that future development would reduce adverse visual impacts:

[W]e find that . . . any structure to be introduced with the District owned part of McMillan Park should be widely spaced, not exceed the 4 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.

Memo from Donald E. Jackson, Architect, Planning Services Div., NCPC, to Robert E. Gresham, Ass't Exec Director for Operations, NCPC (Feb. 12, 1990).

In the National Trust's view, a development plan consistent with these recommendations could well be compatible with the historic character of the site, and could be an enormous asset to the City. But the current proposal does not even come close. Instead, the massive scale of the proposed development would overwhelm and dominate the historic character of the site -- especially the north service court.

Despite the very specific limiting language in the Comprehensive Plan itself and in the NCPC's associated guidance, the proposed map amendment would adopt a high-intensity commercial zone district of C-3-C for a portion of the site, allowing building heights of 115 feet, and a CR zone district allowing building heights of up to 75 feet. That proposed zoning, and those proposed heights, are fundamentally inconsistent with the Comprehensive Plan's moderate-median density designation, and with the four-story building heights recommended by the NCPC to protect the federal interests in key views of federal monuments.

While the Applicants have agreed to move a portion of the 115-foot-high medical office building 15 feet to the east, in order to reduce adverse effects on the view from the Scott Statute, this change would not address – and we believe may exacerbate – the visual impact of the medical office building on the viewsheds from President Lincoln’s Cottage and the National Historic Landmark district on the grounds of the Armed Forces Retirement Home. While neither the NCPC’s 1990 visual impact analysis nor the 2008 Master Plan for the AFRH specifically articulated this federal interest (for the simple reason that President Lincoln’s Cottage was not then open to the public), the public investment in the restoration and re-opening of President Lincoln’s Cottage, and the level of public access to this portion of the AFRH, makes this viewshed a significant federal interest that must be protected.

As a result of these impacts, the proposed PUD and map amendment also violates Comprehensive Policy MC 2.6.5: Scale and Mix of New Uses. This Comprehensive Policy provides that:

Where development takes place, it should consist of moderate to medium density housing, retail, and other compatible uses. *Any development on the site should maintain viewsheds and vistas and be situated in a way that minimizes impacts on historic resources and adjacent development.*

(Emphasis added.) In addition to the impact on the views from Lincoln’s Cottage, there are also significant internal views from the McMillan Park site itself, such as those of the Capitol dome, the dome of the Catholic Basilica Shrine, and the Founders’ Library clock tower of Howard University, which would no longer be visible due to the height of the proposed buildings on the site. Certainly, the massive scale of the proposed development would overwhelm and dominate most of the significant character-defining features of the site, especially the North Service Court, and would obliterate important views of the striking rows of sand towers from Michigan Avenue.

In particular, the height, mass, and scale of the new development would overwhelm, obscure, dominate, and distract from those features. In particular, the shape and bulk of the medical office buildings include upper floors that extend out to dominate the space, rather than transition back (as recommended by NCPC staff in 1990), which echoes the architecture of the urban renewal era, rather than bearing any relationship to the historic character of the site. The arches and curves of the historic structures are virtually nowhere to be seen in the rectangular shapes of the proposed new construction.

For these reasons, we urge the Commission to disapprove the intensive zoning proposed in the map amendment.

The Proposed Development Does Not Comply with the Covenants That Conditioned the Sale of the Land from the Federal Government to the City.

Finally, the McMillan Park site is subject to a set of historic preservation covenants, which were imposed by the General Services Administration (GSA) when it transferred the land

to the District of Columbia in 1987. Among other things, that legally binding covenants specifically require that all rehabilitation and renovation work at the site will comply with the *Secretary of the Interior's Standards for Rehabilitation*.

In our view, the Applicant's development plan is not in compliance with the requirements of the covenants. Although compliance with the covenants is not a specific issue before the Commission, it is important background information that helps to provide context to the current proposal. It is worth stepping back to recall that the whole purpose of the preservation covenants was to support a finding by the GSA and the federal Advisory Council on Historic Preservation that the sale of the property to DC, and the future development of the site, would have "no adverse effect" on its historic character. Ironically, it is worth pointing out that, in the federal litigation challenging the NCPC's compliance with Section 106 in connection with its 1990 approval of the Comprehensive Plan change, the appellate court relied on the fact that the property was subject to these binding historic preservation covenants to protect the property from adverse effects, in holding that the NCPC was not required to initiate a second round of Section 106 review.

However, that finding of "no adverse effect" on which the sale and covenant were predicated cannot be reconciled with the currently proposed plans. The vast majority of the historic structures within the site will be demolished (i.e., 11 out of 12 sand washers, & 19 out of 20 underground vaults), and its contributing open space character and landscape features will be destroyed.

The proposed plans do not comply with the *Secretary's of the Interior's Standards*, because the new construction is *not* compatible with the features, size, scale, proportion, and massing of the historic structures (i.e., the sand towers). More importantly, the "related new construction" on the site "*will destroy*" highly significant historic materials and features of the site—namely, the vast majority of the underground vaults.

The Applicants take the position that the *Secretary of the Interior's Standards* only apply if they voluntarily decide to retain a historic structure (i.e., the sand towers), and that the *Standards* only apply to the treatment of those structures, not to anything they decide to destroy, and not to anything new that might destroy or be incompatible with its spatial relationships and setting, or obliterate its views. In other words, under their interpretation, they could choose to demolish *everything*, and they would not be in violation of the covenants. In our view, that interpretation is not defensible, because the covenants were explicitly intended and legally required to support a finding that the conveyance of the property, and the future development of the site, would have "no adverse effect" on its historic character.

The National Trust has a special interest in enforcing compliance with these historic preservation covenants, because Congress has designated the Chairman of the National Trust as a member of the Advisory Council on Historic Preservation (ACHP), 16 U.S.C. § 470i(a)(8), and the ACHP is responsible for implementing Section 106 of the Historic Preservation Act. *Id.* § 470s. The National Trust was the party that first brought the historic preservation covenants to the attention of the Historic Preservation Review Board in 2013. The covenants were not mentioned in the 2006 solicitation issued by the NCRC

(not even in the section of the document regarding “Historical Preservation Considerations”), and City staff admitted that they had forgotten about the existence of the covenants. Regardless of whether the *Applicants* were unaware of the covenants, or simply hoped the City wouldn’t notice, these plans were not developed with the covenants in mind, and they are not consistent with the covenants. At a minimum, the development proposal warrants a supplemental Section 106 review and consultation with the Advisory Council on Historic Preservation.

Conclusion

In conclusion, the National Trust urges the Commission to find that the proposed PUD application and map amendment would have a negative impact on the interests or functions of the Federal Establishment in the National Capital — most particularly the historic viewsheds from President Lincoln’s Cottage and from the National Historic Landmark district at the Armed Forces Retirement Home — and would be inconsistent with the Comprehensive Plan and incompatible with the historic character of the McMillan Park site.