

FORM 140 - PARTY STATUS REQUEST

Before completing this form, please review the instructions on the reverse side.

PLEASE NOTE: YOU ARE NOT REQUIRED TO COMPLETE THIS FORM IF YOU SIMPLY WISH TO TESTIFY AT THE HEARING. COMPLETE THIS FORM ONLY IF YOU WISH TO BE A PARTY IN THIS CASE.
(Please see reverse side for more information about this distinction.)

NAME: Last First Middle I.
Friends of McMillan Park

ADDRESS: Street Apt. # (if any) City State Zip Code
16 Franklin Street, N.E. Washington D.C. 20002

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(202) 234-0427 restoremcmillan@gmail.com

I hereby request to appear and participate as a party.

Signature: *[Handwritten Signature]* Date: **16 APR 2014**

Will you appear as a(n) Proponent Opponent Will you appear through legal counsel? Yes No

If yes, please enter the name and address of such legal counsel.

NAME: Last First Middle I.
Pozen Thorn

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WITNESS INFORMATION:

On a separate piece of paper, please provide the following witness information:

1. A list of witnesses who will testify on the person's behalf;
2. A summary of the testimony of each witness (Zoning Commission only);
3. An indication of which witnesses will be offered as expert witnesses, the areas of expertise in which any experts will be offered, and the resumes or qualifications of the proposed experts (Zoning Commission only); and
4. The total amount of time being requested to present your case (Zoning Commission only).

PARTY STATUS CRITERIA:

On a separate piece of paper, please answer all of the following questions referencing why the above entity should be granted party status:

1. How will the property owned or occupied by such person, or in which the person has an interest be affected by the action requested of the Commission/Board?
2. What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee)
3. What is the distance between the person's property and the property that is the subject of the appeal or application before the Commission/Board? (Preferably no farther than 200ft.)
4. What are the environmental, economic or social impacts that are likely to effect the person and/or the person's property if the action requested of the Commission/Board is approved or denied?
5. Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Commission/Board is approved or denied.
6. Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public.

Except for the applicant, appellant or the ANC, to participate as a party in a proceeding before the Commission/Board, any affected person shall file with the Zoning Commission or Board of Zoning Adjustment

Zoning Commission Case No. 13-14

Vision McMillan Partners LLC and the District of Columbia – First Stage and Consolidated PUD and Related Map Amendment at 2501 First Street, N.W. (Square 3128, Lot 800).

Party Status Request of Friends of McMillan Park

Attachment to Form 140

April 17, 2014

Introduction

Pursuant to 11 DCMR §3022.3, the Friends of McMillan Park (“FOMP”), a nonprofit membership organization dedicated to preserving, restoring, and adaptively reusing historic McMillan Park in Washington, D.C., hereby petitions to appear as a party in opposition to the above-referenced application by Vision McMillan Partners LLC and the District of Columbia (through the Office of the Deputy Mayor for Planning and Economic Development (“DMPED”) (collectively, the “Applicant”). The Applicant is seeking approval of a First Stage and Consolidated Planned Unit Development (“PUD”) and Related Map Amendment at 2501 First Street, N.W. (Square 3128, Lot 800) (“Proposed Development Site” or “McMillan Park”). The hearing scheduled for May 1, 2014, will address “Master Plan, Open Spaces and Parks, Community Center (Parcels 6 and 7).

In addition to seeking party status for the May 1, 2014, hearing, FOMP intends to seek to be a party in opposition at each of the scheduled hearings. However, FOMP is troubled by the suggestion that the impacts of the development will only be addressed on a parcel by parcel basis without any attention to the overall impacts. Given that this is a consolidated PUD application for most of the parcels, an overall assessment of impacts is imperative.

Summary

I. The Master Plan As Implemented by the PUD Application Will have Serious Adverse Effects on the Traffic, Open Space, the Environment, and Historic Properties

As a party in opposition, FOMP will present witnesses and testimony that demonstrate that the Master Plan implemented by the PUD application will eliminate open space, destroy the majority of the historic structures on the Proposed Development Site, degrade the environment, dramatically increasing traffic congestion and traffic delays, and, in so doing, significantly worsen the quality of life for FOMP members and supporters, the majority of whom live within a mile of the Proposed Development Site

(many within 200 feet of the site). FOMP will demonstrate that these adverse impacts far outweigh the vague “public benefits” and amenities that will purportedly be offered on the site.

The negative impacts of the Applicant’s plans on the surrounding community are significant. First, regarding traffic, public comments from the Applicant indicate that the proposed development will bring a minimum of approximately 6,000 new vehicle trips per day to the principal intersection adjacent to the site. That massive influx of cars and congestion will simply overwhelm the existing transportation infrastructure in and serving the surrounding neighborhoods.

Regarding historic preservation, the Applicant’s development plans call for the total destruction of over 90 percent of the historic landmark site’s historic resources, including all but three of the historic underground water filtration cells on the site, the architectural elements most closely linked to the historic purpose and function of the former McMillan Sand Filtration facility. Of those remaining three cells, only one cell is proposed to be preserved in full, with the other two only partially maintained. The plans also call for the destruction of virtually all of the service court walls along the north maintenance corridor, preserving a single 20-foot high masonry base.

The massive height and bulk of the proposed apartment building would loom over and dominate the sand filtration towers in the northern maintenance corridor of the site. The proposed siting and design of 161 townhouses are also too close to the south maintenance corridor and are not compatible with the character of the McMillan Park Reservoir Historic District.

Moreover, the massive and intensive development contemplated by the Master Plan destroys the vast majority of open space and landscape features on the site. The National Register nomination for McMillan Park (see Exhibit A, attached hereto) makes crystal clear that “[t]he landscaped grounds were designed by the nationally acclaimed landscape architect, Frederick Law Olmsted, Jr.”; that “the notion of the reservoir as a park open to the public contributes to a complete understanding of the site;” and that the “site is significant as a park that “opened the waterworks up for public use and contributed to the civic beauty of the city.” NR Nomination, at 14.

The Applicant’s plans propose to maintain only approximately 440,000 of open space out of the entire over-1,075,000 square foot development site. And, of that 440,000 square feet of open space, only about 348,800 square feet in the back of the site are to be dedicated as a “park” space. Further, as we believe the Mayor’s Agent will hold, that level of demolition and the alteration of this historic landscape is wholly inconsistent with the historic preservation laws and policies in the District of Columbia, including the policies in the D.C. Comprehensive Plan and the requirements of the D.C. Historic Landmarks and Historic Districts Protection Act, D.C. Code § 6-1100 *et seq.*

Finally, regarding the environment, the Applicant’s plans will exacerbate the significant downstream flooding experienced by residents in neighborhoods immediately to the south of the Proposed Development Site.

II. The Applicant Has Not Satisfied Its Burden of Demonstrating That the Relative Value of the Public Benefits and Amenities Outweigh the Adverse Impacts of the Master Plan.

FOMP does not believe that, as presented, the Applicant has satisfied its burden of proving that the impacts of the project contemplated by the Master Plan for McMillan Park on the surrounding area are outweighed by the public benefits and amenities. First and foremost, the token preservation of a few historic structures and landscape elements does not constitute a public benefit or private amenity of the PUD that outweighs the unmitigated destruction of the vast majority of historic structures and significant open spaces and landscapes on the site contemplated by the project. Put another way, mitigating a small fraction of the harm that the Project itself causes is not a public benefit. Given this level of harm, the Commission simply cannot find that this project contemplated by the Master Plan affords the public any benefit in terms of “urban design, architecture, site planning, landscaping, and open space” (11 DCMR §§ 2403.9(a) and (b)).

As for the Applicant’s proposed public benefits, the application is unacceptably vague and conclusory and makes no attempt to quantify these alleged benefits, measure their impact, or demonstrate any demonstrable commitment on the part of public agencies responsible for these benefits, as required by the PUD regulations, 11 DCMR 2304.6.

For example, while the recently filed Transportation Impact Study (“TIS”) relies on a host of “proposed transit improvements” including a new street car line, private shuttle buses, and Circulator buses to mitigate the existing traffic impacts that will be exacerbated by the site’s intensive development, there is no evidence that the Washington Metropolitan Area Transportation Authority (“WMATA”) has made any commitment to implement any of these transit improvements or that these improvements are “able to be completed or arranged prior to issuance of a Certificate of Occupancy,” as required by the PUD regulations, 11 DCMR § 3403.7. Nor does the TIS demonstrate that the benefits afforded by these possible amenities are “measurable.” *Id.* Likewise, there is no evidence that any commitment has been made to install three new CapitalBikeshare stations on the site. Since this is a consolidated PUD application with respect to all of the parcels except Parcels 2 and 3, this level of vagueness is wholly unacceptable. Accordingly, the Commission cannot justify the PUD based on the vague proffered “transportation features” (11 DCMR § 240.3.9(f)).

As noted above, the Master Plan will result in exacerbation of the serious flooding problems affecting the surrounding neighborhoods as well as loss of open space. The Applicant’s planned LEED certification for the buildings on site, presented as an “environmental benefit” (11 DCMR § 2403.9(h)), is not a sufficient public benefit to outweigh environmental impacts of the project.

The suggested employment opportunities, the vast majority of which are short-term construction jobs, do not constitute sufficient “employment and training opportunities” (11 DCMR § 2403.9(e)) that outweigh the adverse impacts of the project as a whole. No substantiation is provided describing the “520 indirect jobs” that will be allegedly created by the PUD project, nor is there any attempt to explain how these jobs will be “measurable” and “quantifiable,” as required by the PUD regulations, *id.* § 3403.7.

Finally, as FOMP will demonstrate, the housing and affordable housing opportunities (11 DCMR § 2403.9(f)) can be achieved without destroying virtually all of the below-ground historic vaults and open

space on this historic site. Only a very small percentage of the affordable housing provided on the site goes beyond what would be required under matter of right zoning and thus the housing component of the Master Plan does not satisfy the PUD requirement that it “exceeds what would have been required through matter-of-right development.” *Id.*

III. The Applicant’s Proposal is Inconsistent With the District’s Comprehensive Plan

In the Mid-City component of the Comprehensive Plan, a substantial section is devoted to the McMillan site. In that component, the plan states that any “reuse plans for the McMillan Reservoir Sand Filtration site [shall] dedicate a substantial contiguous portion of the site for recreational and open space. The open space should provide for both active and passive recreational uses, and should adhere to high standards of landscape design, accessibility, and security. Consistent with the 1901 McMillan Plan, connectivity to nearby open spaces such as the Armed Forces Retirement Home, should be achieved through site design” (11 DCMR § 2016.5).

Chapter Eight of the Comprehensive Plan (the Recreation and Open Space Element) picks up on, not just the need for the creation and preservation of open space, but on the importance of ensuring the interconnectedness of that space to other parks and open spaces in the area. Chapter Eight of the plan, in discussing “Other significant open space networks,” states, “A unique open space network comprised of major federal facilities, cemeteries, and institutional uses is located just north of the city’s geographic center, in an area otherwise lacking in public parkland. The network includes McMillan Reservoir, the Armed Forces Retirement Home, Rock Creek Church Cemetery, and Glenwood, Prospect Hill, and St. Mary’s Cemeteries. This area was already established as a major recreational ground for Washington in the 19th century. Its role as such was confirmed by the 1901 McMillan Plan, which recognized the dual functions of these lands as functional facilities and passive open spaces.” The chapter then states that “As detailed plans are developed for these sites, the District must take an active role in conserving the connected open space network as an historic, ecological, aesthetic, and recreational resource.” That chapter section concludes that, going forward, the District government must “Work with the federal government, NCRC [former custodians of the McMillan site], and institutional and open space landowners to create a linear system of parks and open space extending from Bryant Street on the south to Fort Totten on the north. This system should be created from exiting largely publicly-owned institutional tracts, as well as adjacent triangle parks, cemeteries, and rights-of-way” (Action PROS-3.3.A: Creating “Washington Central Park”).

FOMP believes that the intensity of the development contemplated as part of the PUD application is inconsistent with the Comprehensive Plan. Of particular note, in 1990, when the National Capital Planning Commission reviewed and approved the amendment to the Comprehensive Plan that allowed some development at the McMillan Park site, the staff specifically evaluated the potential adverse visual impact of development on the significant character-defining aspects of the site. That analysis included specific recommendations for ensuring that the development would minimize or reduce adverse visual impacts. The analysis concluded:

“[W]e find that . . . any structures to be introduced with the District-owned part of McMillan Park should be *widely spaced*, [should] *not exceed the 4-story height* of the Veterans Hospital, and preferably have *lower transitional heights and picturesque rooflines* to blend with the immediate landscape and

the park environs.”

See Exhibit B, attached hereto [Emphasis added].

The current proposal does not even come close to that. To the contrary, the height, mass, and scale of the new development would overwhelm, obscure, dominate, and distract from those features. Accordingly, FOMP believes that the development, as proposed, is inconsistent with the Comprehensive Plan.

Witness Information

Pursuant to 11 DCMR §3022.3(e), FOMP provides the following list of witnesses who will testify at the hearing on its behalf, FOMP reserves the right to supplement this list of witnesses and the scope of their testimony as FOMP has the opportunity to review and consider in more detail Applicant’s pre-hearing submissions, including the documents just recently filed. See Exhibit C, attached hereto for the resumes of our proposed expert witnesses.

1. Anne Sellin.

Ms. Sellin will testify as an expert in historic preservation. She will address the Master Plan’s inconsistency with the PUD standards, and historic preservation requirements.

2. Gwen Southerland, McMillan Park Committee representative to the McMillan Advisory Group, former ANC Commissioner for the SMD containing the McMillan Park Site.

3. Miriam Gusevich, Professor, The Catholic University of America, Gusevich-Miles Studio LLC Founding Principal.

Ms. Gusevich will testify as an expert in architecture and urban design and will address divergence of the Master Plan with both PUD and historic preservation requirements.

4. Katherine Adams, Executive Director, National Association for Olmsted Parks.

5. Tony Norman, Chairman, McMillan Park Committee.

6. Joe Mehra, President and Founder, MCV Associates.

Mr. Mehra, will testify as an expert and an authority on traffic engineering and planning. He will discuss the inadequate efforts of the Applicant’s plan to mitigate traffic flows exacerbated by the proposed plan.

Total time requested: 60 minutes

Party Status Criteria

- 1. How will the property owned or occupied by such person, or in which the person has an interest, be affected by the action requested of the Zoning Commission (the "Commission")?*

FOMP is a grassroots membership organization formed by District of Columbia residents from the Stronghold, Bloomingdale, and surrounding neighborhoods adjacent to the Proposed Development Site, which was incorporated as a D.C. nonprofit in 2013. The mission of FOMP is to support sustainable development and long-term planning for McMillan Park and the group is dedicated to preserving, restoring, and adaptively reusing historic McMillan Park for the benefit of the public. FOMP has collected over 6,300 signatures from community members on a petition that has been presented to the Council of the District of Columbia, the Historic Preservation Review Board, and the Mayor asking that more creative alternative plans for the site that are consistent with historic character of the site, be considered for the Proposed Development Site (a copy of the petition is attached hereto as Exhibit D and a copy of the sheets containing the petition signatories will be provided to the Commission prior to the hearing). As FOMP will show, approval of the PUD application will defeat those goals and will do so in a manner inconsistent with both PUD standards and the District's Comprehensive Plan.

- 2. What legal interest does the person have in the property (i.e. owner, tenant, trustee, or mortgagee)?*

FOMP members and supporters are both homeowners and home renters, most in the neighborhoods surrounding the Proposed Development Site.

- 3. What is the distance between the person's property and the property that is the subject of the application before the Commission?*

The majority of FOMP members and supporters live within 5,000 feet of the Proposed Development Site, many, living (and owning property), within 200 feet of the site. Specifically, FOMP Board of Directors member and Treasurer Kirby Vining lives in and owns his home at 16 Franklin Street, N.E., approximately 200 feet from the Proposed Development Site. Other FOMP members who live and own their homes within 200 feet of the Proposed Development Site include: Medhi Mansouri, 62 Channing Street, N.W.; Donald McKinnon, 229 – 1st Street, N.W.; and Cheryl Wagner, 3103 Hawthorne Drive, N.E.

- 4. What are the environmental, economic, or social impacts that are likely to affect the person and or the person's property if the actions requested of the Commission is approved or denied?*

Members of FOMP use, enjoy, and appreciate the open space and unique historic structures on the McMillan Park site. FOMP will show that the Applicant's plan will eliminate open space, destroy the fabric of the historic structures on the Proposed Development Site, degrade the environment, dramatically increasing traffic, and exacerbate the serious existing flooding problems, and, in so doing, significantly worsen the quality of life for FOMP members, many of whom live close to the Proposed Development Site. These adverse impacts will also affect FOMP members' health and the value of their homes.

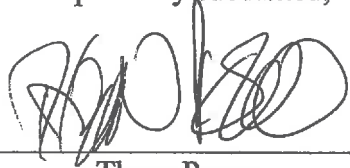
5. Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Commission is approved or denied?

The loss of the historic structures and historic fabric of McMillan Park, as currently envisioned in the Applicant's plans, would disturb the cultural identity and history of the neighborhoods which surround it.

6. Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public?

McMillan Park is a physical and cultural asset to its surrounding neighbors. FOMP is dedicated to preserving and protecting it. Accordingly, FOMP's unique mission and function would be destroyed and the direct interests of each FOMP member and supporter directly violated, if the Applicant is allowed by the Commission to proceed.

Respectfully submitted,



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