

Mr. Kevin Brandt, Superintendent
C&O Canal National Historical Park
1850 Dual Highway, Suite 100
Hagerstown, MD 21740-6620

June 14, 2006

Dear Mr. Brandt:

Re: Draft Environmental Assessment – Georgetown University Boathouse

The enclosed paper represents the comments on the draft Environmental Assessment for the Georgetown University Boathouse on the Potomac River, submitted by the Committee of 100 on the Federal City. *[Updated mission statement.]*

We look forward to working with the Park Service on the Section 106 review, which we hope will include the related projects at the George Washington University boathouse site and on the Georgetown University Canal Road entrance.

Sincerely,

Don Alexander Hawkins
Chairman

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The Committee of 100 on the Federal City
June 14, 2006

The Committee of 100 has long held that transfers of public parkland to private hands should be extraordinarily rare and, where proposed, should meet every test of equity and impact. In this case, those tests have not been applied, much less satisfied. Rather, any number of special – favorable – arrangements have been made to move forward a huge new structure on the edge of the Potomac, in a National Park, in a National Historic Landmark.

Because of the many flaws, both procedural and substantive, we could not support any of the “build” alternatives; all are unreliable and carry unreasonable risks of harm to National Historic Landmarks and National Parks. We call for a new process that truly satisfies National Historic Preservation Act (“NHPA”) and National Environmental Policy Act (“NEPA”) requirements, producing an accurate environmental document that meets the legal requirements for completing §106 reviews and that corrects the errors and misstatements in the EA produced by NPS. Only such a document can help a decision-maker properly discern among options.

Further, the Committee of 100 believes that a full Environmental Impact Statement (“EIS”) is required because of the severity of the adverse effects on nationally-important historic resources and National Parks, including the C&O Canal Historical Park, the Georgetown Historic District, and the Capital Crescent Trail, resulting from a structure of this size at this location. The decision to produce a long but incomplete, inaccurate, and misleading EA was a mistake and a waste of resources, both for NPS and for the affected communities. It falls far short of the “reasonable and good faith effort” required of Federal agencies.

Procedural Flaws

As the EA itself acknowledges, the EA was not intended – and does not --- satisfy the NPS’s independent obligations to comply with the National Historic Preservation Act and its implementing regulations. EA, at IV-15. The language of the binding Section 106 regulations (36 C.F.R. §800.8) provides guidance on how to consolidate reviews that can meet both NEPA and NHPA requirements, including the requirement to identify consulting parties; clearly that regulatory formula was not employed for this EA.

While the NPS need not consolidate its NEPA and §106 review, the Committee of 100 is troubled by the decision to release the draft EA without completing even the most basic steps in the Section 106 process, including the lack of determination of areas of potential effect, the naming of consulting parties, making a determination of adverse effect, and describing the treatment of National Historic Landmarks.

The area of potential effect as defined in §800.16 means “the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties ... The area of potential effect is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.” Reasonably foreseeable effects must be considered. In this case, no such process was undertaken.

At the initiation of the current study, the NPS represented that the §106 procedures would be followed. C100, along with several other groups, filed requests to be consulting parties. NPS representatives indicated several groups, including C100, would be named. Ultimately, none have been named, not even the Federal C&O Canal National Historic Park Advisory Commission, whose interest in the C&O Canal National Historic Park is unquestionable.

The EA does not even mention the effects of the boathouse on National Historic Landmarks, a status that the Georgetown Historic District has held since 1967. National Historic Landmark status is the federal government's highest recognition of historic value, reserved for those properties or districts with "exceptional" significance to the nation as a whole 36 C.F.R. §65.1 (b)(1). The special requirements for protecting National Historic Landmarks in §800.10 require agency officials to undertake such planning and actions as may be necessary to minimize harm to any National Historic Landmark that may be directly and adversely affected by an undertaking, "to the maximum extent possible." NHPA §110 (2)(E)(f) uses parallel statutory language.

As a result, the EA does not satisfy the Department of the Interior's own Handbook for implementing it Director's Order-12. The DO-12 Handbook advises that "Section 106 review and NEPA are two separate, distinct processes. They can and should occur simultaneously, and documents can be combined, but one is not a substitute for the other ... The information and mitigation gathered as part of the 106 review must be included in the NEPA document, and the 106 process must be completed before a FONSI or an ROD can be signed on a proposal that affects historic properties" (§2.13 (C)(3).

It goes on to state that the Organic Act creating NPS directs the service to "... conserve the scenery and the natural and historic objects and the wildlife therein and ... provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." The DO-12 Handbook (§5.5) urges NPS to "always make a 'diligent' effort to involve the interested and affected public ..." and cautions that "Court battles on EAs have been lost on the basis that the EA included undocumented information, that methods or data were controversial, or that the EA depended on mitigation to reduce impacts to below a 'significance' threshold" (§5.4 (F)(2).

Here, the primary impacts of the proposed boathouse are on historic resources, including resources of national importance, such as the C&O Canal Historical Park and Georgetown Historic District. Yet the EA concludes that the boathouse will have "no negative impacts" on historic properties without any compliance with the Section 106 process, the only way to reliably and credibly assess the impacts of the boathouse on historic properties.

Particular Flaws in the EA

A. The EA Fails To Adequately Evaluate Alternatives

- The EA evaluates only three design options, and the "no action" alternative, with no evaluation of alternative sites. The EA's elimination, without evaluation, of a number of alternative sites is based on an unquestioning acceptance of the private user's rather grandiose perception of what its "needs" are and will be in "the next 100 years." Appendix L, consisting of a summary of a 1989 Special Study of Non-Motorized Boating on the Potomac and Anacostia Rivers, with a 2000 update, is cited as a bulwark of information about alternative sites, yet this assessment has never been the subject of review by any planning or zoning agency, to our knowledge. In any event, this assessment in fact demonstrates that there are a number of

viable alternative sites other than the single site that is the subject of the land exchange agreement with Georgetown University. Moreover, several of the sites are rejected for inappropriate reasons unrelated to whether they would satisfy the purpose and need for the project, such as the cost of acquiring the site, or selective environmental impacts on the site.

Further, the EA's conclusion that Alternative C is the "preferred" alternative boathouse design is highly questionable. In 1997, the NPS agreed to Alternative B, consisting of a significantly smaller footprint for the boathouse, and Georgetown University executed the preliminary land exchange agreement with full knowledge and awareness of the restrictions imposed by the 1997 MOA. The Committee of 100 would find the impacts of Alternative B objectionable; however, it is clearly a less harmful alternative than either Alternative A or C. Georgetown University's present desire for a larger boathouse is simply no reason to renege on the original bargain struck with the university.

B. The EA Understates the Environmental Impacts

- We strongly disagree with the EA's assessment that Alternatives A and C would have no negative impacts on historic properties and/or only minor impacts on the C&O Canal National Historical Park. This conclusion is at odds with the 1997 MOA, signed by the D.C. Historic Preservation Officer, the NPS, and the Advisory Council on Historic Preservation, which recognizes that the boathouse has potential adverse effects on historic resources. Moreover, as noted above, this conclusion is premature, as it is not informed by the Section 106 process.

Further, there is no evidence that the "criteria of adverse effect" set forth in the Section 106 regulations was applied by the NPS in making its determination of "no negative impact" and/or only "minor" impacts on historic resources. Examples of adverse effects provided in these regulations include the introduction of visual elements "that diminish the integrity of the property's significant historic features," and "changes ... in physical features within the property's setting that contribute to its historic significance." 36 C.F.R. § 800.5 (a)(2). The unobstructed views of the Potomac River from the C&O Canal towpath are an important feature of the setting of the C&O Canal Historical Park that significantly contribute to the park's historic significance. These views will be obstructed by the boathouse designs proposed by Georgetown University and depicted in design Alternatives A and C, resulting in an adverse effect on this nationally significant resource.

Contrary to the EA's cheery assessment of impacts, effects can only be seen as adverse. The proposal is to construct an oversized private boathouse in a floodplain that is part of a National Historic Landmark and a national park, immediately adjacent to a fragile and highly valued historic landmark (the C&O Canal) and to use motorized equipment to service the facility and its teams. Haulers for scores of shells up to 60 feet long for both "away" races and for the shells of regatta visitors will cause immense wear and tear – and conflict with the nonmotorized hikers, walkers, joggers, and others who enjoy the peaceful character of the towpath and the Capital Crescent Trail. The huge building, well out of proportion to the adjacent landmark Washington Canoe Club, will block views and change the character of this special site in ways that, under §800.5, would be seen as adverse: *diminishing the integrity of the site in setting, association, feeling, visual impact, and wear and tear.*

- The EA also fails to reflect the impact of the potential reconstruction of Canal Road as part of the Georgetown University entrance project, developed at the same time as plans for the Georgetown Waterfront Park. In fact, the EA misrepresents that project, responding to a request to produce at least a graphic representation of how the current project site would appear with

the road project completed; NPS responds that Canal Road will not be widened. However, the FEIS for the road project repeatedly refers to widening Canal Road, including the taking of a 6.5' strip from the C&O Canal Park, and a total of 800 square feet of C&O parkland. Other exchanges of easements and parcels are anticipated between GU and NPS as part of that project.

- Similarly, the Georgetown Waterfront Park plan calls for an additional collegiate boathouse just east of Key Bridge, for use by George Washington University and its crew program. We and other organizations called for inclusion of this facility in the evaluation of impacts of boathouse construction on the Potomac River in the Georgetown Historic District National Historic Landmark, providing a better reading of potential impacts. Including both boathouse projects and the road project on Canal Road in the study would be a superior – and essential – way to assess the cumulative effects of the several projects.

- Separating this site's evaluation from other developments in the immediate area precludes any fair assessment of adverse effects to the riverfront from the collective impact of the additional boathouses that are planned. DO-12 cautions: "Significance cannot be avoided by terming an action temporary or breaking it down into small component parts." (§4.2 (B)(7))

- The technical report done for the Georgetown University Canal Road Entrance Project DEIS recommended a number of steps, including:

"4.1 The existing wall along Canal Road is stable and exhibits no apparent distress; however, it does not meet the minimum factors of safety for allowable bearing capacity, overturning and sliding that are required by AASHTO along the portions of the wall that are not founded on relatively sound granite rock. Based on the results of this study, do not subject the wall to additional loading from any of the proposed renovation alternatives for the Georgetown University Entrance Road.

"4.2 Determine whether or not the wall must be upgraded to meet the required (AASHTO, FHWA or others) minimum safety factors. If the project's scope includes rehabilitation of the wall to meet all existing AASHTO requirements, further study is necessary to evaluate methods of improving the wall to meet the AASHTO requirements. This should be performed during preliminary design.

"4.3 Because the rock line is not well defined at this point in the investigation, drill additional borings to locate rock, determine rock and weathered rock strengths and evaluate the rock for excavatability behind the existing wall. Key this work to the selected alternative ...

"4.5 Evaluate the effects on drainage behind and through the existing wall for the various options. At present, several large diameter storm drains pass through the wall to drain the storm water into the canal ..."

These are the kind of previous studies it is presumed would have been evaluated in an EIS, with such mitigation as were deemed necessary; no reference to the potential impacts to the Canal wall have been included in the EA.

- The EA misstates the hydrological impacts on the embankment of the C&O Canal. Rather than a finding of minimal impact, the data in the EA have to be interpreted as proof that, during the frequent flooding of the Potomac, the flow velocities against the embankment in the area opposite the new boathouse would increase from 40% to 100%.

- The EA references a public benefit in the freeing up of storage spaces that GU uses at Thompson's Boathouse once the GU boathouse is built. A closer look indicates that the rowing public benefits from the freeing up of a score of storage locations at Thompson's Boathouse – a benefit achievable from a smaller boathouse or a boathouse at an alternative location – while it is the University, not the public, that primarily benefits from a facility that adds roughly five times that number of spaces, plus a huge in-river structure that impedes use of the river by others.
- The Federal elements of the Comprehensive Plan until very recently discouraged additional “built” environment near the site. The Federal element language quoted in the EA bespeaks balance, and improvement of park utilization in the Georgetown portion of the park. It could never be argued that the C&O Canal and the CCT are underutilized. Indeed, the proposed massive boathouse would diminish enjoyable use of these recreational facilities, in order to allow a private institution to use the water.
- The District's Land Use element encourages utilization of water-based activities; the Ward 2 plan encourages non-motorized boating facilities along the waterfront. Yet none of these citations calls for private buildings on public land, development at this site, or development on this scale.
- The Master Plan, to the extent it retains relevance for decisions at this time, called for a public boathouse, not a private one.
- The EA does not disclose what controls it proposes to protect the site within the NHL and NP after ownership is transferred to the private entity. The requirement to protect adjacent NPS resources (including the Georgetown Historic District, the C&O Canal National Historical Park, the Capital Crescent Trail, and the Potomac Gorge) demand protections against harm after the proposed transfer of the GU boathouse site. Especially because NPS proposes to allow easement across some or all of these resources, it needs to clarify, through covenants, what activities would be permanently prohibited or allowed.

Indications that GU is already advertising the capacity for alumni or GU “family” to rent the boathouse facilities for private social activities suggests that NPS should have clarified the controls it would require as part of the transfer in order to protect both this site and the surrounding historic assets.

Conclusion

The National Park Service's own handbook on preparing environmental documents cites “the degree to which the action may adversely affect historic properties in or eligible for listing in the National Register of Historic Places, . . .” The DO-12 Handbook, §4.2 (B)(8), at 47. We look forward to working with the Park Service, with the SHPO, with the Advisory Council, and with other concerned organizations to achieve a more realistic assessment of adverse effects and a more responsible basis for decisions at this highly visible, historically important site on an American Heritage River. We would join with NPS in working toward the goal it posts on its website: *Fostering conservation-based decision-making through consultation, cooperation and communication.*

