



NATIONAL TRUST
for HISTORIC PRESERVATION®

January 18, 2008

VIA E-MAIL (ncr_georgetownboathouse@nps.gov) AND FIRST-CLASS MAIL

Mr. Kevin Brandt, Superintendent
C & O Canal National Historical Park
1850 Dual Highway, Suite 100
Hagerstown, MD 21742

**Re: Scoping Comments on Georgetown University Boathouse
Environmental Impact Statement**

Dear Mr. Brandt:

The National Trust for Historic Preservation appreciates the opportunity to provide scoping comments for the National Park Service's Georgetown University Boathouse Environmental Impact Statement (EIS). While we commend the National Park Service (NPS) for concluding that the construction of the proposed Georgetown University Boathouse will have significant environmental impacts and for committing to the more rigorous full EIS process in accordance with the National Environmental Policy Act (NEPA), we believe the NPS has a duty to reevaluate previously rejected alternatives and examine new alternatives that would avoid or minimize impacts to the C & O Canal National Historical Park and the other affected historic designations.

The boathouse site proposed by Georgetown University would be physically located within three historic districts: the Georgetown Historic District (which is a National Historic Landmark), the C&O Canal National Historical Park, and the Potomac Gorge/Potomac Palisades. In addition, the proposed boathouse would have adverse visual effects on a number of additional historic properties, including the Alexandria Aqueduct, the Washington Canoe Club, Key Bridge, the George Washington Memorial Parkway, and Healy Hall. Since the site proposed by Georgetown University is within a National Historic Landmark (NHL) District, Section 110(f) of NHPA requires that the NPS must take steps to minimize harm to the NHL "to the *maximum extent possible*." 16 U.S.C. § 470h-2(f) (emphasis added). This stringent standard must serve as the context within which the NEPA review takes place.

Protecting the Irreplaceable



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Our comments below are not exhaustive, but instead focus on several lingering issues and concerns about the project, which the NPS must resolve through the EIS process. These include: (1) redefining the “need” for the facility as proposed by Georgetown; (2) consideration of additional alternatives; (3) the need for timely compliance with Section 106 and Section 110(f) of the National Historic Preservation Act (NHPA); and (4) adequate consideration of direct, indirect, and cumulative impacts. We also would like to reiterate our previous request – dating back to our June 15, 2006 EA comment letter – to participate as a “consulting party” in the Section 106 review process for this project, pursuant to 36 C.F.R. §§ 800.2(c)(5) and 800.3(f)(3).

Interests of the National Trust. The National Trust was chartered by Congress in 1949 as a private nonprofit organization to “facilitate public participation” in historic preservation, and to further the purposes of federal historic preservation laws. 16 U.S.C. §§ 461, 468. With the strong support of our 287,000 members around the country, including more than 34,000 members in the District of Columbia, Maryland, and Virginia, 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 eight regional and field offices around the country, including our Southern Field Office, which is responsive to preservation concerns in the District of Columbia, Maryland, and Virginia.

1. The NPS Should Reevaluate Georgetown University’s “Needs” for the Proposed Boathouse.

The National Trust strongly urges the NPS to reevaluate Georgetown University’s asserted need for a boathouse as large as the one proposed in the EA. The purpose and need statement is a critical component of the NEPA process because it establishes limits on whether an alternative is or is not feasible. 40 C.F.R. § 1502.13. The agency has discretion to define the goals of a project, although it “may not define the goals of its projects so narrowly that only its preferred alternative will meet those goals.”¹ The NPS is not obligated to accept Georgetown University’s definition of

¹ *Environmental Protection Information Center v. U.S. Forest Serv.*, 234 Fed. Appx. 440 (9th Cir. 2007) (citing *City of Carmel-by-the-Sea v. U.S. Dep’t of Transp.*, 123 F.3d 1142, 1155 (9th Cir. 1997)); see also *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 196 (D.C. Cir. 1991) (“an agency may not define the objectives of its action in terms so unreasonably narrow that only one alternative from among the environmentally benign ones in the agency’s power would accomplish the goals of the agency’s action, and the EIS would become a foreordained formality”) (citing *City of New York v. Department of Transp.*, 715 F.2d 732, 743 (2d Cir. 1983)).

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needs. In particular, the agency must have a substantial degree of discretion to question the needs of a project when the agency is considering a possible transfer of public property to a private entity.

The National Trust does not oppose Georgetown University's expressed interest and need for a new boathouse. Rather, we believe the size and scale of the proposed boathouse is too large, especially in light of the significant impacts to the National Historical Park and other historic resources. The fact that Georgetown University's preferred boathouse requires the transfer of federal public land managed by the NPS, and is also within a National Historic Landmark District, should raise the stakes for approval only what is absolutely necessary and should certainly give the NPS the necessary leverage to protect the public's interest in the use and enjoyment of the public resources. In other words, the NPS should not simply capitulate to Georgetown University's desires or preferences.

The EA dismissed the possibility that a smaller boathouse could accommodate Georgetown University's needs, without much support or analysis. The NPS simply accepted Georgetown's assertion that a 33,771-square-foot boathouse is necessary to meet the long-term needs of the University's current and future programs and to "enable the program to successfully compete in National Collegiate Athletic Association (NCAA) rowing events." As a direct consequence, the NPS rejected all alternatives that failed to meet Georgetown's preferred size and scale as infeasible and not viable, meaning that only one location could satisfy the University's needs.

As we discussed in our EA comments, a 33,771-square-foot boathouse is much larger than necessary.² Indeed, it would give Georgetown the *largest* collegiate boathouse on the east coast. A comparison with other collegiate rowing programs simply does not support the contention that Georgetown's rowing teams cannot be competitive without a facility of this size. A survey of east coast university boathouses, which we included with our EA comments and resubmit here, illustrates that Georgetown's proposed Boathouse would be considerably larger than the boathouses of the most successful and recognized collegiate rowing programs in the

² It is interesting to note that Georgetown University's 1992 feasibility study determined that a boathouse approximately 27,400 square feet could be built on Georgetown University's Tract 102-109. Georgetown's stated reasons for not pursuing this alternative have nothing to do with the smaller size. See EA at II-18. Thus it is fair to assume that a boathouse roughly twenty percent smaller than the proposed boathouse could accommodate Georgetown's "need."

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United States. *See* Attachment A. For example, although Princeton University has a new boathouse of comparable size, 33,500 square feet, it is also used as the training center for the U. S. National Rowing Team. Georgetown's argument that it needs a boathouse of this size is simply not substantiated.

We strongly urge the NPS to reexamine the need for a boathouse as large as the one proposed by Georgetown. Such a reexamination could lead to a broader range of reasonable alternatives, including alternatives that would avoid and/or minimize impacts to the significant historic resources threatened by the proposed site. Moreover, it would assist the NPS to minimize harm to National Historic Landmarks "to the maximum extent possible," pursuant to Section 110(f) of the NHPA, and to meet the requirements of Section 106 of the NHPA.

2. The NPS Should Evaluate Additional Alternatives and Reexamine Alternatives Rejected in the EA.

The NPS's determination to prepare a full EIS provides the NPS with the opportunity – and in our view, the requirement – to evaluate additional alternatives for the boathouse and reexamine alternatives that were rejected or dismissed in the EA. While we support the evaluation of alternatives in the EIS, we are concerned that the range of alternatives identified in the Scoping Notice is too limited. Several of the alternatives listed appear to be "straw men," which are likely to be found inadequate.

The EA rejected alternatives that are both reasonable and viable. For example, the EA rejected an alternative referred to as "**Jack's Boathouse**," which is the site between the Potomac Boat Club and Key Bridge. EA at II-22. This alternative was rejected based on the unsubstantiated conclusion that a boathouse at the Jack's site would not be large enough to meet Georgetown's needs. However, the EA failed to provide any details about the size of the boathouse that the Jack's site could accommodate.

In our view, the assumptions that defined and constrained the Jack's Boathouse alternative in the EA are inappropriate. If this alternative were properly redefined, we believe it would represent a better approach than the other alternatives to balancing the competing policies involved in this EIS, and would minimize harm to significant resources beyond the other alternatives.

First, the Jack's Boathouse alternative as defined in the EA assumed that the current rental activities at Jack's would have to be incorporated into the new

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Georgetown Boathouse. This assumption is unfounded and unnecessary. Instead, we believe the rental operation at Jack's could be moved to another location, such as the currently vacant Dempsey boathouse site, just downstream from the Washington Canoe Club.

Second, the conceptual scheme considered in the EA included a large turn-around drive, which would substantially cut into the potential footprint of a new boathouse at the Jack's site. There is no need to include such a road at this site because, in contrast to Georgetown University's preferred site, the Jack's site is close to K Street, and vehicular access could be accommodated without this kind of additional road paving.

Third, the conceptual scheme considered in the EA did not appear to take advantage of space underneath the arch of the Key Bridge, which could also be incorporated into the complex.

In other words, the Jack's Boathouse alternative as defined in the EA was clearly a straw-man, designed to fail. The NPS should redefine this alternative in a way that would accommodate a larger boathouse exclusively for Georgetown University, not for outside rentals. The Jack's Boathouse site is within the zone for non-motorized boathouses, in contrast to the Georgetown University proposed site.

We believe that a properly defined alternative at the Jack's site would be a much more sensitive and appropriate way to accommodate the Georgetown rowing program without unduly harming historic and natural resources. This alternative must be fully and thoroughly evaluated in the EIS.

3. The NPS Should Fully Comply with Section 106 and Section 110(f) of the NHPA Prior to Completion of the EIS.

The NPS has an affirmative obligation to meet the requirements of Section 106 of the NHPA, 16 U.S.C. § 470f. The purpose of Section 106 is to provide a consultation process to "avoid, minimize, or mitigate" adverse impacts on historic properties. 36 C.F.R. § 800.1. Section 106 places a duty on federal agencies to assess the effects of any "undertaking" on historic properties, and to give the Advisory Council on Historic Preservation (ACHP) an opportunity to comment on the project. 16 U.S.C. § 470f; 36 C.F.R. Part 800.

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As explained in our comments on the EA, the NPS cannot rely on the Memorandum of Agreement (MOA) executed for this project in 1997 under Section 106. The 1997 MOA was not only based on a smaller boathouse than the one currently proposed by Georgetown University, but it is no longer consistent with current Section 106 regulations because of significant changes in the regulatory requirements in the intervening years.

It is not clear whether the NPS has initiated the Section 106 process or identified or invited consulting parties to participate in the process pursuant to 36 C.F.R. § 800.3(f). The NPS should approach its Section 106 obligations differently than it did in the EA, which appeared to postpone the consultation process indefinitely. We also urge the NPS to adequately assess all adverse effects that the proposed boathouse may have on historic properties, which includes those effects that alter “directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property’s location, design, setting, materials, workmanship, feeling, or association.” *Id.* § 800.5(a)(1). Further, we urge the NPS to use the Section 106 process to assist in the development of alternatives as a way to “avoid, minimize, or mitigate any adverse effects of the undertaking on historic properties.” *Id.* §§ 800.8(c)(1)(v).³

It is especially important for the NPS to initiate Section 106 consultation early in the process, i.e., immediately, “so that a broad range of alternatives may be considered during the planning process,” *id.* § 800.1(c), and so the information gathered through consultation can inform the NEPA analysis. Unfortunately, the National Capital Region of the NPS has a history of belated Section 106 consultation, which results in undue restrictions on the consideration of alternatives to avoid, minimize, or mitigate adverse effects on historic properties. We urge the NPS *not* to follow its usual practices for this project.

Additionally, we remind the NPS that the NHPA places more stringent management obligations upon federal agencies with respect to historic resources designated as National Historic Landmarks (NHLs). Section 110(f) of NHPA requires that, prior to the approval of an undertaking that may directly and adversely affect a

³ If the NPS plans to use the NEPA process to satisfy the requirements of Section 106, it must do so in accordance with 36 C.F.R. § 800.8. Under § 800.8(c), the agency can use NEPA documentation to satisfy Section 106 only if the agency gives advance notice of its intention to do so both to the SHPO and the ACHP. Moreover, the Section 106 regulations require that the NEPA documentation itself must satisfy the specific requirements outlined in § 800.8(c).

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NHL, a federal agency must undertake the necessary planning and actions to minimize harm to a NHL “to the *maximum extent possible*” and allow the ACHP to comment on the undertaking. 16 U.S.C. § 470h-2(f) (emphasis added). The proposed location of the Georgetown University Boathouse will be entirely within the boundaries of an NHL District – the Georgetown Historic District. The boathouse will directly and adversely affect the NHL District, which triggers the stringent standards of Section 110(f). The EA failed to demonstrate compliance with the obligation to “minimize harm” to the NHL District “to the maximum extent possible,” and therefore, we strongly urge the NPS to comply with this legal requirement as the EIS is developed.

Finally, we reiterate our request to participate as a consulting party in the Section 106 process pursuant to 36 §§ 800.2(c)(5) and 800.3(f)(3). The National Trust has extensive experience as a consulting party in a broad range of Section 106 reviews. We believe this knowledge and experience can provide important information and a valuable perspective as a consulting party in this Section 106 process, helping to advance a dialogue about the proposed Georgetown University Boathouse.

4. The NPS Should Adequately and Fully Consider Direct, Indirect, and Cumulative Impacts.

The National Trust strongly reminds the NPS to take a “hard look” at the direct, indirect, and cumulative impacts of each alternative on historic properties. 40 C.F.R. § 1502.16. Our comments on the EA raised concerns that the NPS understated and underestimated the direct, indirect, and cumulative impacts of the proposed boathouse to historic properties. For example, the EA stated that the boathouse would have only a “minor impact” on the C&O Canal National Historical Park because the boathouse is consistent with the “existing urban views of Georgetown already present along the canal.” EA at IV-11. With respect to cumulative impacts, the EA failed to consider the cumulative effects of the future construction of the George Washington University boathouse, an NPS boathouse, the widening of Canal Road at the entrance to Georgetown, and the cumulative loss of vegetation. *Id.* at IV-64. The proposed boathouse will have adverse physical effects on the Georgetown Historic District, the C&O Canal National Historical Park, and the Potomac Gorge/Potomac Palisades and also adverse visual effects on the Alexandria Aqueduct, the Washington Canoe Club, Key Bridge, the George Washington Memorial Parkway, and Healy Hall, in addition to the three historic districts. Therefore, the NPS must ensure that it adequately and fully considers these impacts in the context of the NEPA document.

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In conclusion, the National Trust appreciates the opportunity to submit these scoping comments for the Georgetown University Boathouse EIS. We strongly urge the NPS to reevaluate and examine additional alternatives that would avoid, mitigate and minimize negative impacts rather than simply discuss those impacts in detail. We believe the location of the proposed site within a National Historical Park and a National Historic Landmark District warrants such an approach. Please include the National Trust for Historic Preservation in your distribution list for public notices of any meetings, and for the circulation of any other documents for comment.

We look forward to working with the NPS and other parties as the both the NEPA and NHPA processes move forward.

Respectfully submitted,



Elizabeth S. Merritt
Deputy General Counsel

cc: David Maloney, DC SHPO
Kathleen Kilpatrick, VA SHPO
Martha Catlin, ACHP
Kelly Yasaitis, ACHP
Barbara Zartman, Comm. Of 100 on the Federal City
George Clark, DC Federation of Civic Associations
Sally Strain, DC Coordinator, Defenders of Potomac River Parkland
Rebecca Miller, DC Preservation League
Washington Canoe Club

Attachment A

		<u>Year Built or Renovated</u>	<u>Student Body</u>	<u># of Rowers in Program</u>	<u>Total Square Footage</u>	<u>Boathouse Holding Capacity</u>	<u>Includes Tanks</u>
Georgetown's Proposal			6418	107	33,771	60	Yes
Boston Univ.	DeWolfe	1999	17,819	94	20,000	68	
Brown	Marston	1966 1994	6,029		25,000		Yes
Cornell	Collyer	1957 & 1970s	8,381		21,000		
Columbia	Class of 1929	2001	6,623		10,000		
Dartmouth	Friends	1986	4,047		11,400		
Harvard	Newell	1900	9,884		19,000		Yes
Harvard	Weld	1906	9,884		20,000		
MIT	Pierce	1958	4,258		17,100		Yes
Northeastern	Henderson	1990	19,588	91	18,000	5 bays	
Princeton	Shea	1887 & 2001	4,663	182	33,500	7 bays	Yes
Rutgers	Class of 1914	1961	3,717		10,000		
Syracuse	Ten Eyck	1937 & 1988	12,386		15,000		
Univ. of Penn	Penn	1876	11,686	99	12,000		
USNA	Fisher	1930	4,172		17,600		Yes
Wisconsin	Crewhouse	2003	29,697		52,000		Yes
Yale	Gilder	1999	5,286	133	22,400	84	