

STAFF RECOMMENDATION

D Hamilton
NCPC File No. 5907



MARTIN LUTHER KING, JR. MEMORIAL TIDAL BASIN, WEST POTOMAC PARK Washington, D.C.

Submitted by the National Park Service

November 23, 2005

Abstract

The National Park Service (NPS), on behalf of the Martin Luther King, Jr. National Memorial Project Foundation, Inc. (MLK Foundation) has submitted a design concept for the Martin Luther King, Jr. Memorial to be located in West Potomac Park at the Tidal Basin.

Commission Action Requested by Applicant

Approval of concept design plans pursuant to Public Law 104-333, Public Law 105-201, and Public Law 99-952, as amended and the Commemorative Works Act (40 U.S.C. 8905)

Executive Director's Recommendation

The Commission **comments favorably** on the overall design concept for the Martin Luther King, Jr. Memorial **except for**:

- The horizontal bridge of the Memorial Walk, adjacent to the "Mountain of Despair," which destroys the intended strong visual relationship between the signature "Mountain of Despair" and "Stone of Hope."
- The narrow entrance portal through the "Mountain of Despair" because it creates the potential to impede visitor movements through the memorial's main entrance.
- The Ranger and Visitor Information Kiosk.

Recommends that, the NPS and the MLK Foundation, as they develop preliminary design plans for the memorial:

- Redesign the entrance portal between the Mountain of Despair to remove the bridge of the Memorial Walk that interrupts views to the Stone of Hope and beyond, and to provide more space for visitor movement in this entry area.
- Provide more detailed photo simulations that clearly indicate the visual impact that the berm of the proposed memorial would have on views to the Tidal Basin and beyond.
- Coordinate with NPS on the size, location, and programmatic requirements for the Ranger and Visitor Information Kiosk.

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BACKGROUND AND STAFF EVALUATION

DESCRIPTION OF PROPOSAL

Background

The NPS has submitted, on behalf of the MLK Foundation, a design concept for the Martin Luther King, Jr. Memorial. The authorizing legislation was signed by President Clinton on November 12, 1996. The Commission approved the site for the memorial at its December 2, 1999 meeting.

Site

The site for the memorial is a four-acre, triangular-shaped parcel of land located in West Potomac Park on the northwestern side of the Tidal Basin. The boundaries generally include Independence Avenue on the north, the Tidal Basin along the south and east, and a realigned West Basin Drive on the west. The larger setting includes views of the Washington Monument and across the Tidal Basin to the Jefferson Memorial. Views to the Lincoln Memorial are obstructed. The most memorable aspect of the site is the expansive view across the Tidal Basin while at the same time, the inlet of the Tidal Basin provides a sense of enclosure and intimacy.

Design Concept

The design concept for the Martin Luther King, Jr. Memorial is centered on an overall geometric relationship of a crescent superimposed within a triangle. The arching arms of the crescent visually embrace the adjacent Tidal Basin. The primary vehicle entrance to the memorial is from Independence Avenue on the north and from West Basin Drive on the west. Parking for four tour buses and six handicapped parking spaces are provided curbside along West Basin Drive.

The primary memorial pedestrian access is provided from the intersection of Independence Avenue and West Basin Drive. Additional access points are from a connecting walkway from Independence Avenue and from West Basin Drive. Finally, three access points are provided from the existing Tidal Basin walkway.

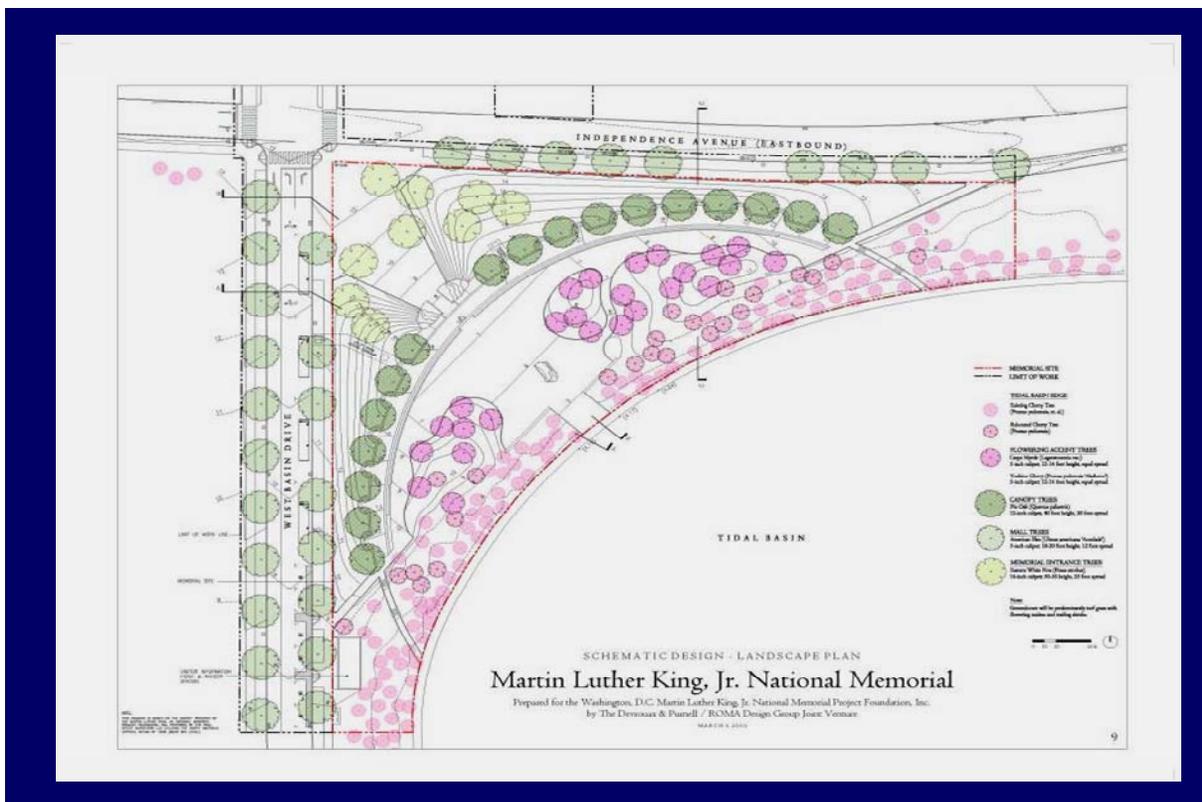
The memorial is comprised of several major elements:

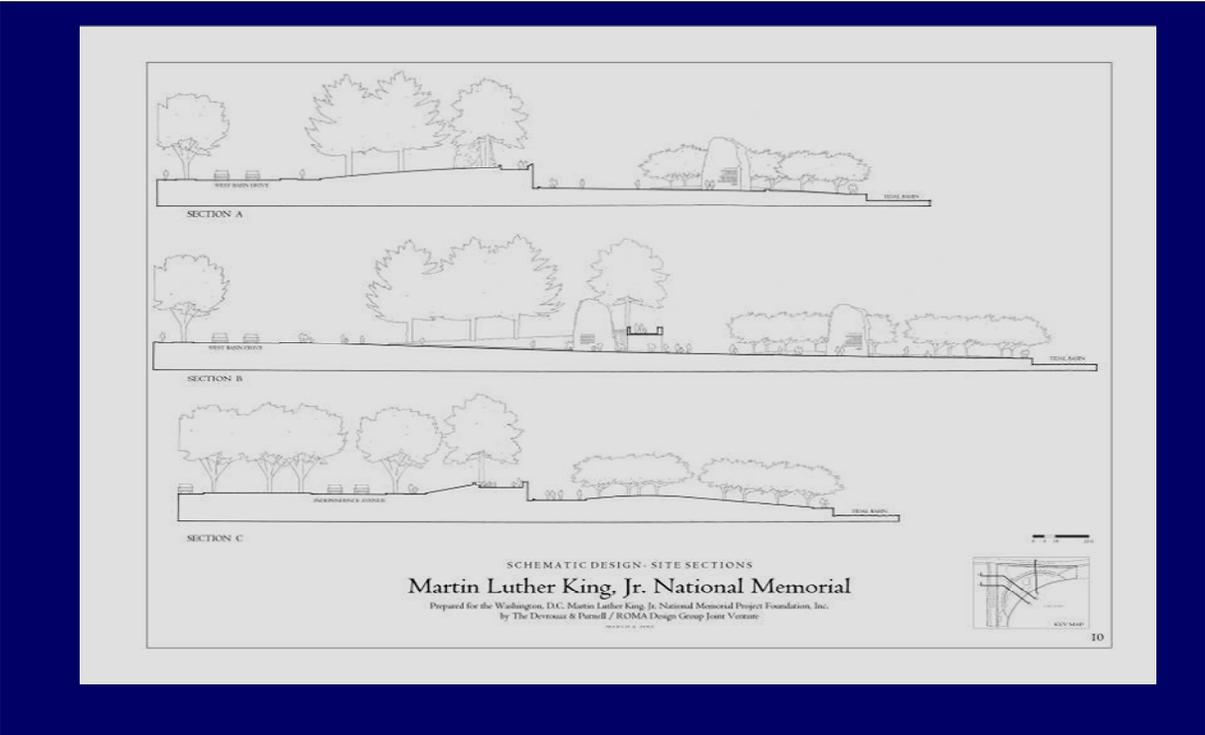
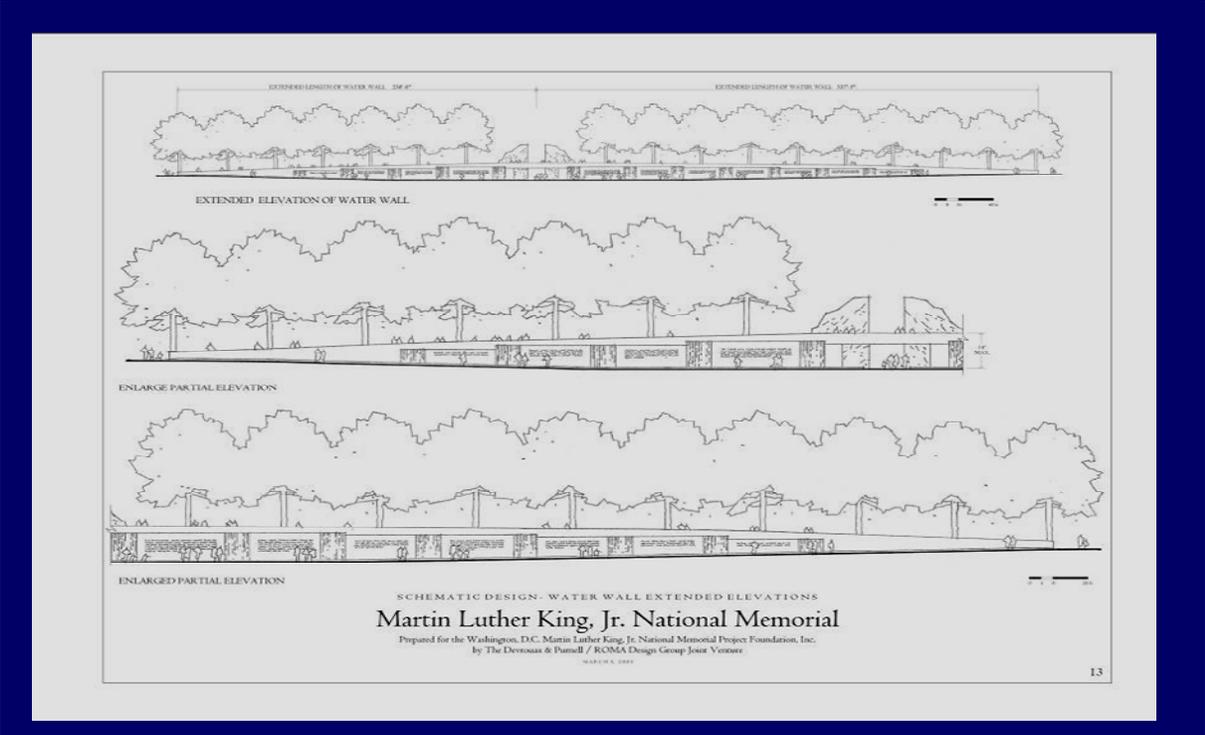
- *Mountain of Despair* – This element is a large stone that is approximately 30 feet high and forms a portal for the main entrance to the memorial. This stone would be sliced open to provide an approximately 12-foot wide entry portal. The intention is to channel visitors through a narrow entrance that would open to the principal grand memorial space and the vista beyond to the Tidal Basin and the Jefferson Memorial.
- *Memorial Walk* – This element forms the crescent geometry of the memorial. It would be elevated to a maximum height of 14 feet as it forms a bridge in front of the opening of the mountain of despair. It would add to the feeling of being channeled and confined in the narrow principle entrance to the memorial plaza. This walkway would be 12 feet wide and incorporate 15 semi-circular niches along its northern side. As the crescent-shaped memorial walk lowers in height to approximately 3.5 feet at the ends of its arching arms, connecting walkways are attached and lead visitors to either the principal memorial plaza, West Basin Drive, Independence Avenue, or to the existing Tidal Basin walkway.
- *Water Wall* – This element forms the south side of the arching elevated memorial walk. It would extend approximately 468 feet. The intent of this wall is to provide a series of quotes from Dr. King’s orations that would be inscribed on the wall. There would be approximately 11 polished granite wall panels that would contain inscriptions. These inscribed panels would be separated by a series of agitated waterfalls. The waterfalls would become more and more agitated as they increase in height as the visitors move toward the central entrance near the mountain of despair. A thin, calm sheet of water would flow over the inscriptions.
- *Niches* – The niches are intended to be places of repose, reflection, and observation. They would provide space to look out beyond the memorial towards the Tidal Basin and beyond. There would be a total of 15 niches, each with a radius of 7 feet, 6 inches and spaced approximately 34 feet apart.
- *Stone of Hope* – The Stone of Hope is the principal element of the Memorial. This stone will be “sliced” from the Mountain of Despair and positioned within the memorial plaza.

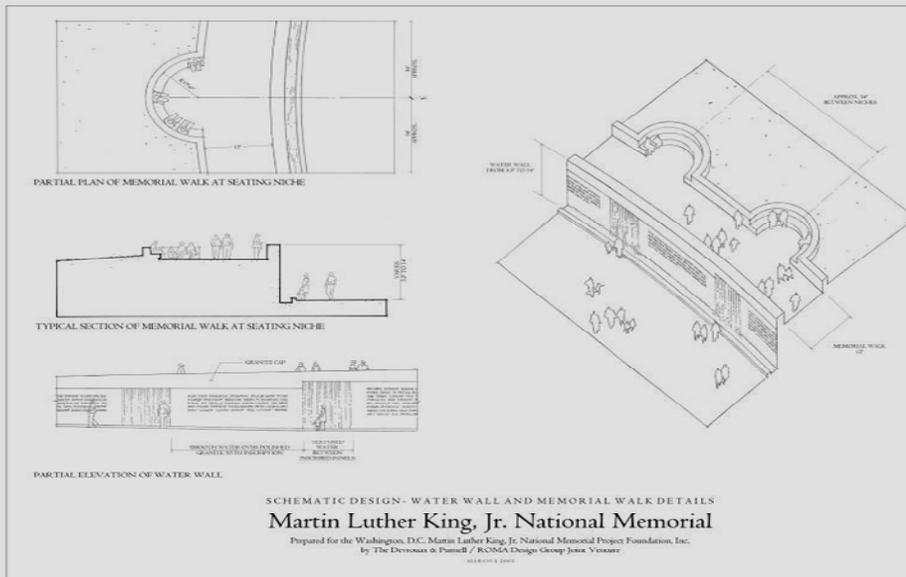
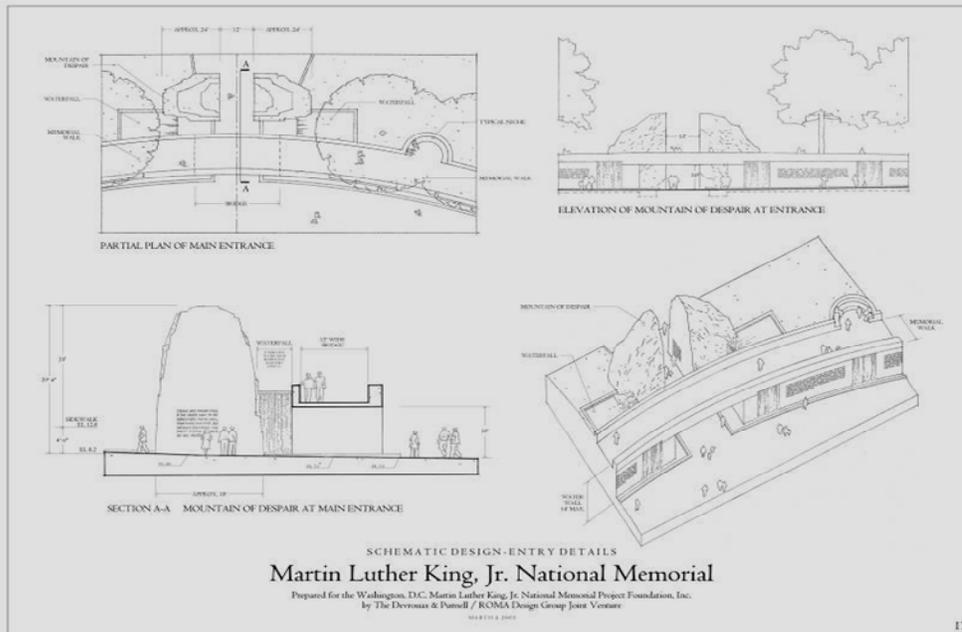
This element is also approximately 30 feet high. Two sides of the stone would be polished with inscriptions and the rough side facing the Tidal Basin would have a carving of Dr. King looking towards the Jefferson Memorial.

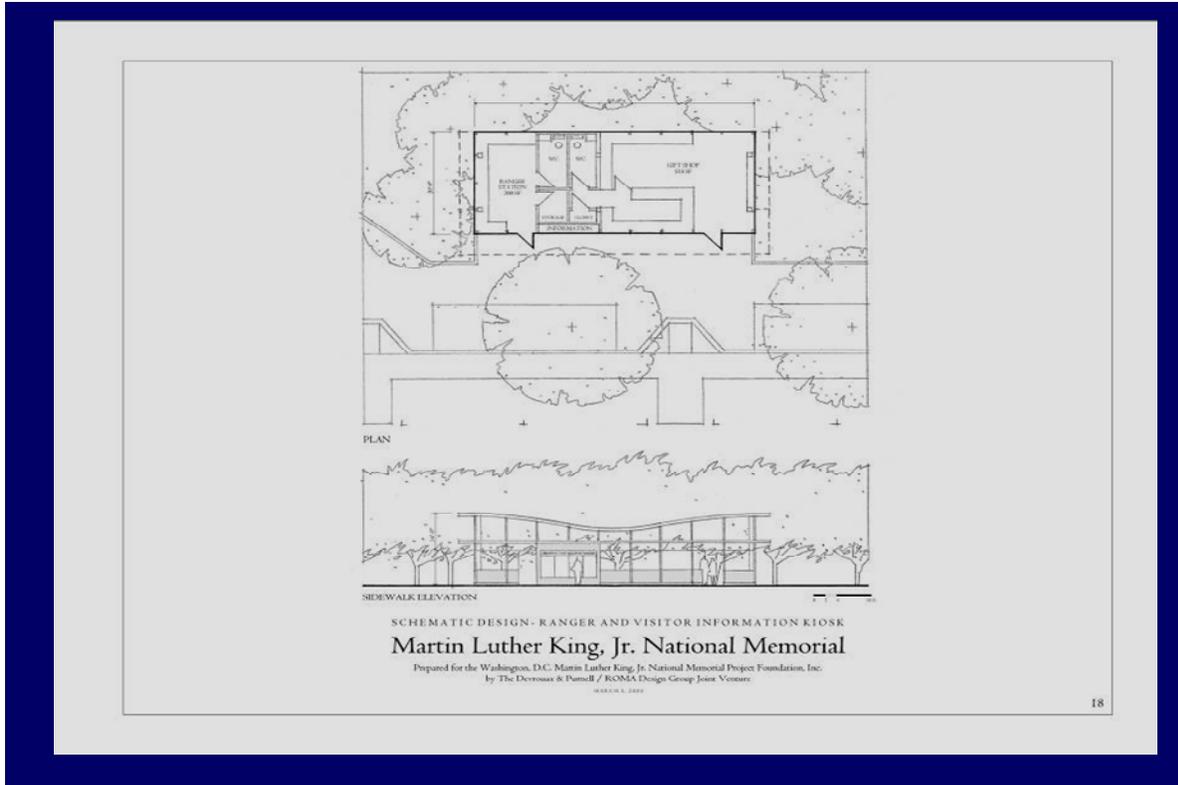
- *Landscaping* – Landscaping proposals for the memorial would provide a variety of new plant materials that include additional Yoshino Cherry trees, Crape Myrtle trees, Eastern White Pines, and American Elms. Several existing cherry trees would be relocated. Groundcover would be predominantly turf grass with flowering azaleas and trailing shrubs.

In addition to the memorial elements described above, the MLK Foundation is proposing a ranger and visitor information kiosk that would include space for a NPS ranger station, two restrooms, information dispensing area, and a gift shop.









PREVIOUS COMMISSION ACTION

At its December 2, 1999 meeting, the Commission approved a four-acre site adjacent to the Tidal Basin for the Martin Luther King, Jr. Memorial. The Commission also approved design parameters for the eventual development of the memorial on this site that were jointly developed by NPS, NCPC, and the MLK Foundation:

- The size of the site will be approximately four acres. No less than three acres, excluding West Basin Drive, and no more than four acres, including West Basin Drive, shall be devoted to the MLK Memorial.
- The Tidal Basin side of the site will be defined by the western edge of the existing walkway along the Tidal Basin (i.e. where pavement meets grass), thereby excluding the walkway from the site; the northern boundary of the site shall be approximately 19 feet south of the curb along Independence Avenue.
- The Foundation, in collaboration with NPS, will provide a general design for and construction of a relocated West Basin Drive.
- All of the cherry trees along the Tidal Basin must be preserved with the understanding that three trees may be removed or repositioned if absolutely necessary for the purposes of access between the Tidal Basin walkway and the MLK Memorial at the location of the existing access way.

- No MLK Memorial element shall be placed in the Tidal Basin.
- The existing visual transparency from Independence Avenue to the Tidal Basin shall be maintained.
- The relationship of hardscape to softscape shall be no greater than one-third hardscape and no less than two-thirds softscape (this does not include West Basin Drive or the Tidal Basin walkway).
- No single element of the MLK Memorial shall exceed a height of 20 feet.
- There shall be no restroom facilities in the MLK Memorial.
- There shall be no vehicle parking at the MLK Memorial; however, space for no less than three buses and six disabled spaces must be accommodated along West Basin Drive, or other locations as specified by NPS.

PROJECT ANALYSIS

Staff is generally pleased with the overall design concept for the memorial and recommends that the Commission comment favorably on several elements of the design that include:

- The Mountain of Despair and the Stone of Hope are the signature elements of the memorial. At the entry portal, two stones are parted, and a single stone is pushed back in the horizon, appearing as the missing piece of what was once a single bolder. The Stone of Hope with the carving of Dr. King emerging, as the Stone of Hope emerged from the Mountain of Despair is a powerful relationship that is well conceived.
- Staff is particularly pleased with the landscape proposal in that it appears to seamlessly integrate the memorial's landscaping with the existing landscaping around the Tidal Basin. The landscape proposal would provide additional cherry trees, new Crape Myrtles, Pin Oaks, American Elms, and Eastern White Pines.
- The water wall, with its gradation of water intensity, is an effective metaphorical reference to Dr. King's orations. The use of "calm" and "agitated" water flow along the water wall provides both auditory and visual relief and variety. Further, the water elements of the memorial visually relate to the water of the Tidal Basin.
- The overall crescent-shape of the memorial creates a dynamic tension with this form superimposed within a triangular-shaped site. This shape also embraces the Tidal Basin.
- The provision of tour bus parking and handicapped parking along West Basin Drive is compatible with similar activities along West Basin Drive near the Franklin Delano Roosevelt Memorial. This is a good relationship in that all of these types of activities would be located along West Basin Drive and serve both memorials.

Although staff believes that the Martin Luther King, Jr. Memorial will be welcomed addition to, and compatible with other existing memorials in the area, there are several elements of the memorial that raise concern:

- As proposed, the bridge portion of the Memorial Walk adjacent to the Mountain of Despair has a major adverse impact on this signature element. The strength of the Mountain of Despair and Stone of Hope relationship is that the visitor should be able to clearly “see” that the Stone of Hope has emerged from the Mountain of Despair. The bridge element severely interrupts the dynamic visual tension that is intended to be created by these elements. Additionally, the horizontality of the bridge diminishes the necessary strong visual verticality of these stones. The bridge would also provide a place for visitors to stand above the primary important entrance to the memorial, thereby, further reducing the strong relationship between the Mountain of Despair and the Stone of Hope. NPS and the MLK Foundation should remove the bridge portion of the memorial walk.
- The main entrance walk area to the memorial goes from approximately 90 feet wide and narrows to approximately 10 feet wide when the visitor reaches the Mountain of Despair. This narrow passageway creates a high potential to create a bottleneck as visitors pause in the narrowest portion to read inscriptions that would be located on the flanking polished sides of the Mountain of Despair.
- Although the design parameters for the development of the memorial indicated that there shall be no museum facilities or restrooms at the memorial site, the proposal calls for a Ranger and Visitor Information Kiosk that would include a ranger station, two restrooms, information dispersing window, and a gift shop. Staff believes that there is a need for a ranger station and information dispersing window because similar activities are provided at other memorials. However, the gift shop component is not necessary nor is it encouraged. The MLK Foundation should coordinate with the NPS on size, location, and programmatic requirements for the Ranger Station and Visitor Information Kiosk.

Finally, although there were visual simulations of views to the Tidal Basin from Independence Avenue, staff requests that more detailed simulations from Independence Avenue be developed to clearly indicate where the important views to the Jefferson Memorial are located and how they would be impacted by the proposal

CONFORMANCE

Comprehensive Plan

The proposal is consistent with the Comprehensive Plan for the National Capital. Specifically, policies contained in the Parks and Open Space Element state that the federal government should:

Enhance the great cross-axes of the Mall, and protect them from inappropriate development (policy # 4, page 109).

Use monumental parks and landscapes to provide settings for public buildings, monuments, and memorials, and to create special environments for limited activities (policy # 5, page 109).

Site memorials in monumental and designed landscape parks in compliance with the Memorials and Museums Master Plan (policy #6, page 109).

Maintain East and West Potomac Park as an extension of the Mall, as a valuable recreational open space, and as a space that can be used for outdoor cultural events, gatherings, and celebrations (policy # 8, page 109).

National Environmental Policy Act

NCPC staff has analyzed, in conformance with the requirements of NEPA, the prepared Environmental Assessment (EA) of July 2005 completed by the Park Service. After complying with the procedural requirements of the Commission's Environmental and Historic Preservation Policies and Procedures, staff has prepared a Finding of No Significant Impact based on adoption of the EA.

The EA reviews two alternatives for implementing the Martin Luther King Jr. National Memorial; the preferred alternative to locate the memorial at a site at the Tidal Basin and the "No Action" alternative. Other alternative site locations are also reviewed by the EA, but the evaluation describes the judgment that the alternate locations did not achieve the purpose and need to establish and operate a national memorial to Dr. Martin Luther King, Jr. in Washington, D.C., that is envisioned as a contemplative space for the memorial.

With implementation of the proposed design, approximately two acres of the site would consist of green softscape and one acre of hardscape area (an additional one acre would be dedicated to the realignment of West Basin Drive and its associated sidewalks to the west). A bus drop-off area, with three bus parking spaces and six disabled parking spaces, would be provided. The entire memorial would be compliant for accessibility pursuant to the Americans with Disabilities Act.

With the No Action alternative, all existing features of the three-acre site would remain in their current available condition and use. There would be no new development or re-configuration of the site boundaries or open space. The existing configuration of the roadways and parking would also be maintained. The existing trees, including cherry trees, would not be affected and no new plantings would be added to the site. West Basin Drive would remain in its current configuration, as would the surrounding recreational fields. The existing pathways, fence lines, and site furniture would remain in their existing locations, without any improvements. The potential environmental consequences of a No Action Alternative have been considered in the NCPC staff review of the EA analysis.

Issues of the NCPC environmental evaluation of the EA focused primarily on alteration of site topography, cultural/architectural resource effects (including viewshed impacts), and the potential erosion and water resource impacts from construction of the memorial. The possible impacts and the identified National Park Service mitigation measures that will be included in the project development address the following:

Topography and Geology: Construction would primarily occur in previous fill material and disturbed soils. The topography, soils, and groundwater would be minimally affected in constructing the memorial. Soil cut-and-fill operations would be conducted particularly at the semicircular water wall, the Mountain of Despair, and the Stone of Hope. Land area slopes would be altered starting at Independence Avenue and extending through the Memorial Plaza (elevation eight feet) and ending at the cherry trees to avoid the Tidal Basin edge (elevation four feet). The Memorial Plaza would consist of hardscape and softscape altering the current road and grass terrain. However, at least 87,120 square feet (67%) of the memorial would consist of green space. Surface soils will be reworked and recompacted under structures, paving, and soil fill. The soils that would be disturbed are fill soils that were previously added to the site when the retaining wall for the Tidal Basin was created. Site grading would be balanced to the extent possible to minimize the need for importing or exporting soils during construction, and no storage of soil will be allowed on site. Ground settlement that may occur due to fill and loading would be controlled to an acceptable level by engineering techniques such as control of compaction, subgrade modification, and foundation design.

Geologic resources would not be adversely altered by the proposed memorial. Foundation piles would be driven 45 to 50 feet to reach bedrock and strengthen the stability of the area. The pilings and grade beams would be located to provide a sound and sufficient foundation for the memorial, particularly with respect to the Water Wall, Mountain of Despair, and Stone of Hope. The use of the noted foundation structures would also avoid settlement of the berm, and eliminate any shear condition for any utilities that may be routed within the berm and pass into the retaining wall.

Site soils would be subject to clearing and grubbing of vegetation and surface grading to prepare the site for the new facilities. Therefore, the preferred alternative would have a moderately minor impact on site topography, a minor impact on site soils, and no impact on site geology.

Mitigation

Temporary soil erosion impacts due to disturbed soil and vegetation would be mitigated by implementation of the measures described for water resources by the Park Service (see next paragraph). If encountered, contaminated soils would be collected, transported, and disposed of using appropriate best management practices (BMPs).

Water Resources: The proposed memorial will result in increased impervious surfaces; therefore, stormwater management will be required under current District of Columbia water quality regulations. The National Wetlands Inventory (NWI) categorizes the Tidal Basin as a lacustrine unvegetated wetland. The proposed memorial will not alter or impact the Tidal Basin, and there will be no dredging or filling of wetlands. The proposed memorial will not adversely

impact the floodplain of the Potomac River. Due to the lowering of the plaza from the existing level, there would be a very minimal net gain in flood storage area.

Staff review of the submitted project design has found the proposed alternative entails no significant displacement of floodplain storage area but that project elements will be subject to inundation during flooding. Site grading restrictions are being enforced by the National Park Service to minimize ground surface modifications; consequently, the flooding characteristics of the Potomac River at this location are not altered. Proposed memorial amenities included in the proposal will be designed to withstand flooding impacts. Natural landscape features and ground surface grading would allow positive drainage of the site and would adhere to the National Park Service objectives of minimizing flood effects to Park Service facilities. Establishment of the memorial within the floodplain is the only viable alternative given the locations available within West Potomac Park and the Mall for its creation. No long or short-term adverse impacts are associated with the occupancy and modification of Park floodplain area. NCPC staff has determined that the proposed action, to the maximum extent practicable, avoids indirect floodplain development through the design established for the memorial.

A critical action is defined by the Water Resources Council Floodplain Management Guidelines, developed to implement Executive Order 11988, Flood Plain Management. As defined, these are activities for which even a slight chance of flooding is too great. For example, if an action would create an added dimension to the flood, as would be the case for facilities producing or storing volatile or toxic materials, or if the occupants of a building located in the floodplain (hospitals, schools) were not sufficiently mobile to evacuate, the planned project would be regarded as a critical one. The loss of irreplaceable records or emergency services involved in a planned action would also be considered critical actions. NCPC has determined the proposed memorial is not a critical action as required by the evaluation of floodplain actions, in accordance with the Executive Order.

Mitigation

Prior to beginning construction activities, erosion and sedimentation control plans and a stormwater management plan would be prepared by the construction contractor and submitted to the D.C. Department of Consumer and Regulatory Affairs (DCRA). The erosion and sedimentation control plan would include measures to prevent erosion of cleared areas and the transport of soil and sediment.

To minimize the potential impact of the additional stormwater runoff that the increased surface area would generate, appropriate BMPs would be implemented by the National Park Service to control stormwater quality and quantity on the project site maintaining current stormwater discharge rates near the Tidal Basin watershed. Stormwater runoff collection and roadway drainage systems would be upgraded by the demolition and replacement of failing pipeline and appurtenances on-site.

To mitigate the periodic flooding of the memorial, provisions in the design would include design materials, element configurations, and the location of electrical and mechanical systems that would withstand the impacts of flooding, consistent with specifications of Executive Order 11988, Flood Plain Management. The Park Service anticipates that it will except the memorial

construction and operation as an action under its compliance procedures for floodplain review. That review indicates the action has no long-term impact to the functional aspects of the floodplain and will not involve critical loss of human life or activities should flooding occur.

Vegetation: Within the site construction of the memorial the plans would involve the disturbance of trees and grasses including approximately 85 existing deciduous trees. However, except for one specimen tree, the on-site trees are immature and small, and no habitat of rare, threatened, or endangered flora or fauna species would be disturbed.

The existing cherry trees next to the site at or near the Tidal Basin would be protected during construction. However, depending on slope and alignment, up to nine cherry trees would be relocated to allow for a handicapped ramp connecting the memorial to the Tidal Basin walkway. During construction of the memorial, the Park Service would establish and maintain clearance around trees using fences and other resources including structural platforms around the base of trees to minimize soil compaction. Upon completion of construction, grassland areas would be regenerated with sod, and substantial trees would be planted according to the memorial design, resulting in a net gain in planted woodland on the site.

With the Park Service establishment of appropriate BMPs, the vegetation disturbance would be minor and short-term. Additional vegetative species would be introduced in the project area. The re-vegetation plan will be prepared as directed by the Park Service in compliance with applicable District of Columbia regulations. This aspect of the project will be incorporated into future submissions to review agencies, such as NCPC.

Mitigation

To minimize the short-term impacts from tree and other vegetation removal, phased construction of ground surfaces will occur to minimize vegetation and ground surface exposure. To maximize the ecological value of new vegetation being added to the project, the new trees and shrubs would be clustered as depicted on the submitted project plans. Additional landscape plant material selections will be achieved by the Park Service as the design progresses into detailed preliminary and final plans.

Cherry trees will be protected by fencing during construction and will receive special care, including root pruning and mulching. Avoidance and protection of tree root zones will be maintained. During construction, foundation piles will be predrilled and heavy equipment will be strictly confined to areas of proposed development to limit disturbance of vegetation to the minimum extent necessary. Should dewatering prove necessary, special irrigation measures will be provided for cherry trees in the vicinity as monitored by the National Park Service.

Historic Resources: The National Park Service initiated consultation during the site selection phase with the District of Columbia State Historic Preservation Office (DC SHPO) in March of 1999, determining that there was a potential for an adverse effect on the landscape and National Register qualities of West Potomac Park. NPS renewed consultation with the DC SHPO on September 13, 2005, determining that “the proposed concept design would potentially have an adverse effect on the National Register qualities of West Potomac Park. The construction of an

earthen berm, above the historically flat topography of the park, will introduce another raised element into the historic landscape.”

The Park Service NEPA review concluded that the proposed memorial would not adversely affect the Tidal Basin, which would remain a landscaped water element surrounded by cherry trees. Additionally, NPS concluded that the project would not affect the stone seawall at or near the Tidal Basin, which is a contributing structure to the West Potomac Park Historic District. Construction of the memorial, including all of its direct physical elements such as foundation piles and walkways, would not negatively impact the seawall.

The EA indicates an impact to the historic Japanese cherry trees, which are contributing elements to West Potomac Park. While up to nine recently planted cherry trees may be relocated, none of these trees will be eliminated. Although the proposed memorial plans would require modification to the recreation fields, the specific field locations and their configurations are not considered to be historic.

In terms of cumulative effects, the proposed memorial will not adversely impact other memorials in the area. The World War II Memorial, Washington Monument, Lincoln Memorial, Franklin Delano Roosevelt Memorial, and Jefferson Memorial will continue as distinct features within the overall landscape setting of the National Mall and West Potomac Park.

The historic landscape of West Potomac Park consists of a level topography and expanses of grass stretching from one natural or man-made water body to another. This green horizontal ground plain is punctuated and accentuated by canopy-deciduous trees, embellished with flowering trees, and interspersed with evergreens. The plant palette on the west side of the Tidal Basin provides the shade and pastoral quality that is the signature of the park.

The existing visual permeability of the site is limited and varies according to the vegetative cover and season. The quality of existing views across the site also varies. The EA analysis maintains that with the proposed memorial, current filtered views to the Tidal Basin from Independence Avenue would be screened, particularly for motorists. However, views through the site would still be available to pedestrians who could experience the entry vista and other views that occur as a visitor to the memorial enters its environs and would note additional sub-area views that would be augmented by the presence of the memorial.

NCPC staff, in its comments to the Park Service on the EA, maintained that the view from the memorial would be altered by hardscape, a proposed bridge, and a change in grade resulting from the proposed berm. These results, in the determination of NCPC staff, would result in a partial direct adverse effect (displacement of cherry trees) change in character of a resource (West Potomac Park) and the replacement of views within the context of the Park as a whole. The National Park Service responded in the Service’s environmental findings, still under development, that changes do result from the Martin Luther King, Jr. Memorial, but only to a limited degree. Their position is that the context is only partially altered because the berm is replacing an interrupted view that is affected by vegetation. They note that the FDR Memorial introduced a similar vegetated berm into a filtered or interrupted viewshed expanse of West Potomac Park in the 1990s, and has not adversely diminished any significant view resources

within the Park or has adversely affected the Jefferson Memorial. Additionally, they found that the hardscape features of the memorial will not be significantly discernable. They noted that the existing views from the Jefferson Memorial, in the direction of the Martin Luther King, Jr. Memorial, include the foreground expanse of the Tidal Basin, the large deciduous trees that rise above the new memorial site, and the upper portions of the Lincoln Memorial in the distant background. Park Service personnel did acknowledge that the Stone of Hope would likely be visible for the Jefferson Memorial—but would not dominate the overall view, since other elements are present in a larger scale and extent.

NCPC staff concludes that the alteration and impacts of the memorial must continue to be examined to ensure the preservation and continuity of the character of the existing historic landscape. NCPC staff can accomplish this through the request and review of additional studies of the height of the proposed memorial in relation to its setting and of vistas through the Martin Luther King, Jr. Memorial. Should the review find the measures effective, staff would recommend these actions to the Commission for implementation at the Commission's direction.

Mitigation

The National Park Service has yet to conclude the Section 106 compliance process. NPS has drafted a proposed Memorandum of Agreement and circulated it to agencies for comment. At present, the Park Service would ensure that the following measures be implemented in the preliminary and final design of the memorial:

- In the event that archaeological resources are uncovered during ground-disturbing activity, construction should be stopped until the appropriate archaeological studies have been completed.
- The National Park Service will continue to consult with the District of Columbia Historic Preservation Office (DC-SHPO), the Advisory Council on Historic Preservation, NCPC, and other parties to ensure that the Undertaking meets the Secretary of the Interior's Standards, or accomplish a Memorandum of Agreement (MOA) to complete the Section 106 compliance process

The draft MOA proposes terms by which the Park Service will conduct future design review and Section 106 consultation for the project with agencies and the interested public. The draft MOA also determines the Area of Potential Effect, the determination of effect, and the affected historic resources. The National Park Service held a consultation meeting on September 19, 2005 that included representatives from the Foundation, the DC SHPO, the Advisory Council on Historic Preservation, NCPC, The National Coalition to Save Our Mall, and the Committee of 100. The Park Service will continue to address historic preservation issues through Section 106 consultation as design development continues, with the goal of avoiding, minimizing, or mitigating adverse effects to West Potomac Park and of accomplishing a Memorandum of Agreement to complete the compliance process. NCPC staff has thoroughly reviewed the action and its impacts and concludes that continued implementation of the Section 106 process will reduce the impacts below the level of significance in consideration of those indicators specified by Section 9 of the Commission's environmental procedures.

Hazardous Materials: Soil borings in the proposed project area were achieved but detected no contaminated fill material. Should contaminants be found at any stage of utility demolition or site excavation, disposal efforts would be monitored by both the National Park Service and appropriate District of Columbia government officials.

Mitigation

To minimize the potential adverse impacts should any hazardous materials result from the construction stages of the project, the following measures would be provided by the Park Service in the submission of project plan to the District of Columbia Environmental Health Administration, Hazardous Waste Division and the District of Columbia Department of Consumer and Regulatory Affairs, to demonstrate a written plan:

- To remove and contain hazardous waste materials consistent with applicable handling regulations by licensed contractors and trained personnel.
- To accomplish environmental soil testing for contamination that includes analysis of soil samples by a certified lab, and development of provisions for removal and containment consistent with applicable regulations.
- That addresses hazardous materials to be removed and which would be shipped, consistent with applicable transfer regulations and procedures, to a hazardous waste disposal facility. There are a number of such facilities in the surrounding states that are licensed to handle such material.
- To segregate wastes to reduce quantities of hazardous waste.
- To haul hazardous wastes by a licensed hazardous waste hauler with permanent labeling.
- To dispose of hazardous and non-hazardous waste in accordance with all federal, state, and local regulations.

Noise: Noise effects from the preferred alternative would not significantly impact noise receptors of any Park area or adjacent memorial sites. Noise sensitive activities on and adjacent to the project site would be subject to noise from demolition, grading, and construction tasks associated with the proposed project.

The predominant existing source of noise in the project area is vehicle traffic and aircraft over-flight noise. The allowable noise levels of the District of Columbia regulations for construction and demolition activities (excluding pile driving) prescribe noise limits of 80 dB(A), and that may occur only from 7:00 a.m. to 7:00 p.m. during the standard work week.

Mitigation

To minimize the potential adverse impacts resulting from noise during the construction stages of the memorial, the following measures would be undertaken by the Park Service:

- Control construction-related noise at the source, through implementation of best management practices in construction specification requirements, as necessary to meet the District of Columbia noise standards.
- Monitoring of construction activities and the temporary discontinuation of construction, if necessary for ceremonies or special events in the area, as noted in the general

requirements of the contract documents developed by the National Park Service for the permit to construct the memorial.

Air Quality: The impact of the proposed memorial on ambient air quality would be mainly associated with temporary construction activities on the site. Because visitor parking will be limited, and most memorial visitors will arrive on foot or by Metrorail or tour bus, there would be negligible additional long-term motor vehicle air emissions. Only three designated bus drop-off spaces would be associated with the memorial and the resulting emissions from the buses would be minimal and not reach any threshold limit of oxide or particle impact established under the General Conformity Rule of the Clean Air Act Amendments of 1990.

Construction of the proposal may affect air quality as a result of construction equipment emissions, including transportation of trucks to and from the proposed site; fugitive dust from demolition and earthmoving; and the emissions from vehicles driven to and from the site by the construction workers. Based on the standard types of construction equipment that would be needed at the memorial during its erection, and in reviewing the standard air pollution emission factors (commonly referred to as AP-42 for construction activity), the estimated emissions for the proposed site are predicted to be less than the de minimis thresholds, and less than 10 percent of the projected area emissions, in accordance with U.S. Environmental Protection Agency criteria. Therefore, it is estimated by the EA evaluation that construction emissions resulting from the proposed construction would conform to the metropolitan Washington air quality attainment plan and that there would be no significant local or regional air quality impact from these sources.

Mitigation

Actions regarding any potential air management emissions under the proposed construction would include specification measures stipulated by the Park Service toward the use of alternative power sources during air episode events in the metropolitan air basin. These include:

- Use of electric power for construction would be provided by available commercial power sources, and limited, in-lieu of the use of onsite portable fossil-fueled generators when feasible.
- Water spray would be used on active grading areas and unpaved construction area roads to reduce or eliminate visible dust plumes.

Staff finds the environmental effects of the project attributes and the specified mitigation, as previously noted, supportable as characterized by the EA evaluation. Staff reviewed the action for extraordinary circumstances as sanctioned by NEPA and recommended adoption of the EA to the Executive Director and a Finding of No Significant Impact (FONSI) determined in accordance with the Commission's procedures.

Historic Preservation Act

The National Park Service (NPS) is serving as lead agency for both NEPA and NHPA compliance. In March 1999, at the time the Tidal Basin site was being considered, NPS wrote to the D.C. State Historic Preservation Officer (DC SHPO) determining that a memorial at that

location would potentially have an adverse effect on the landscape and National Register qualities of West Potomac Park.

On September 13, 2005 NPS wrote again to the D.C SHPO determining that the proposed concept design would potentially have an adverse effect on the National Register qualities of West Potomac Park: “The construction of an earthen berm, above the historically flat topography of the park, will introduce another raised element into the historic landscape.” NPS noted that similar modifications to the 20th-century engineered fill have occurred at other memorials. “As the design development and consultation continue, other potential adverse effects may be identified.”

The letter continues:

Mitigation of the impacts associated with other raised elements in this flat landscape has been accomplished during the design approval process by considering height and visual openings in the design. The Foundation, National Park Service, NCPC and CFA have agreed to limit the access of the memorial design from the area of the historic cherry trees, allowing an entrance, not unlike that of the FDR Memorial, but considerably less than was introduced by the construction of the Thomas Jefferson memorial. This initial mitigation requirement is reflected in the submitted design and will be adhered to by the National Park Service in the ensuing design approval process.

NPS held a consultation meeting on September 19, 2005 that included representatives from the Foundation, the DC SHPO, the Advisory Council on Historic Preservation, NCPC, The National Coalition to Save Our Mall, and the Committee of 100.

NPS has since circulated a first draft of a Memorandum of Agreement to the agency signatories for their comments. The draft MOA proposes terms by which NPS will conduct future design review and Section 106 consultation for the project with agencies and the interested public. The MOA also determines the Area of Potential Effect, the determination of effect, and the affected historic resources. NPS, in consultation with the DC SHPO and other parties, has determined that West Potomac Park is the affected area. The historic resources are the contributing structures and features of West Potomac Park.

NPS’s determination of effect is described in its draft MOA: “The NPS has determined that the Undertaking, which includes site regrading and construction of an earthen berm; the relocation or removal of 9 cherry trees; demolition, realignment and reconstruction of a portion of West Basin Drive and its signalized intersection with Independence Avenue may have an adverse effect on West Potomac Park, properties included in the National Register of Historic Places.”

Staff notes that the current staff report includes the recommendation that photo simulations be undertaken to clearly indicate the visual impact that the berm of the proposed memorial would have on views to the Tidal Basin and beyond.

The memorial will become a prominent and much-visited attraction in Washington, and will have a strong presence in West Potomac Park, in an immediate setting that is now dominated by

the Jefferson Memorial and that also includes the FDR Memorial. The King memorial will take its place among these memorials. The goal of the Section 106 review is to avoid, minimize, or mitigate those effects, and to ensure that the King memorial complements the character of West Potomac Park and that the National Register qualities of West Potomac Park and its contributing historic resources are preserved.

CONSULTATION

Coordinating Committee

The Coordinating Committee reviewed the proposal on November 9, 2005. The Committee forwarded the proposal to the Commission with the statement that the project has been coordinated with all agencies represented, the participating agencies were: NCPC; the District of Columbia Office of Planning; the District Department of Transportation; the Department of Housing and Community Development; the Fire Department; the General Services Administration; the National Park Service and the Washington Metropolitan Area Transit Authority.

Commission on Fine Arts

At its October 20, 2005 meeting, the Commission of Fine Arts reviewed the concept design for the memorial. The Commission thought that generally the proposed design could be very powerful and that it was an appropriate landscape-oriented solution given its location on the Tidal Basin. They did, however, raise several issues that they felt should be studied further before giving concept approval (see attached).