

January 23, 2009

VIA E-MAIL ([jack.j.vandop@fhwa.dot.gov](mailto:jack.j.vandop@fhwa.dot.gov))

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**Re: St. Elizabeths Hospital Section 4(f) Evaluation**

Dear Mr. Van Dop:

We appreciate the opportunity to comment on the Federal Highway Administration's (FHWA's) Section 4(f) Evaluation of the Transportation Elements of the Proposed Consolidation of the Department of Homeland Security (DHS) Headquarters at the St. Elizabeths West Campus (Section 4(f) Evaluation, 4(f) Evaluation, or Evaluation). These comments are submitted on behalf of the National Trust for Historic Preservation and the National Parks Conservation Association. Our comments raise objections to the Section 4(f) Evaluation, which we contend does not satisfy the stringent legal requirements of Section 4(f) of the Department of Transportation Act, 49 U.S.C. § 303(c).

**1. The Belated Timing of the Section 4(f) Evaluation is Inconsistent With the FHWA's Own Regulations, and Has Foreclosed Alternatives.**

As a preliminary matter, we would like to emphasize our objection to the timing of the Section 4(f) Evaluation, which was raised in the context of the National Trust's comments on the Final Environmental Impact Statement (FEIS) issued by GSA for the DHS Headquarters Consolidation at St. Elizabeths. We question the FHWA's ability to comply with the substantive mandate of Section 4(f) -- to adopt feasible and prudent alternatives that avoid and minimize the use of protected 4(f) resources -- this late in the decisionmaking process. Indeed, as discussed below, the FHWA acknowledges that it is substantially constrained by GSA's decision in the FEIS. The FHWA's own regulations require that "the potential use of [4(f) property] be evaluated as early as practicable in the development of the action when alternatives to the proposed action are under study." 23 C.F.R. § 774.9(a). Those requirements were simply not satisfied here.

The FHWA is not authorized to issue a Section 4(f) Evaluation after the FEIS and Record of Decision (ROD) have been issued for the project, except under

limited circumstances. *Id.* § 774.9(c), (e).<sup>1</sup> None of those circumstances are applicable here. As a result of the belated timing of the Section 4(f) Evaluation, a number of alternatives that might otherwise avoid or minimize the “use” of protected resources have been foreclosed.

## **2. The Section 4(f) Evaluation is Based on False Assumptions and Omissions, Which are Fatal Deficiencies in the Analysis.**

The conclusions in the Evaluation are premised on several false assumptions and glaring omissions, which undermine the legal sufficiency of the Section 4(f) Evaluation.

### **a. Under the No-Build Alternative, the Consolidated DHS Headquarters Would *Not* Be Built.**

First, the Evaluation explicitly relies on the assumption that, under the “No Build” alternative, the DHS headquarters would nonetheless be built on the St. Elizabeths West Campus, just as currently planned. 4(f) Evaluation at 14. This assumption is utterly false. GSA and DHS have both explicitly stated that they will *not* build the consolidated headquarters as planned without the Malcolm X/I-295 Interchange. The Section 106 Programmatic Agreement (PA) executed by GSA on December 9, 2008 (Stipulation I.B.1.b.), and the conditions adopted by the National Capital Planning Commission (NCPC) in its January 8, 2009 approval of the Master Plan, both stipulate that even Phase I of the DHS campus will not go forward unless and until Shepherd Parkway is “available for use.” Yet the National Park Service (NPS) -- appropriately -- continues to refuse to make the Parkway “available” to facilitate a project that will destroy publically owned parkland and irreparably damage the integrity of a National Historic Landmark. Thus, it is flatly inaccurate to assume that the proposed consolidation of DHS will occur without the Malcolm X/I-295 Interchange.

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<sup>1</sup> Those circumstances include: (1) modification of the alignment or design that requires the use of 4(f) property; (2) a new determination by FHWA that Section 4(f) applies; (3) modification of the alignment, design, or measures to minimize harm, which would substantially increase the use of, or adverse impacts to, 4(f) property, or would substantially reduce measures to minimize harm; and (4) the discovery of archaeological sites during construction. 23 C.F.R. § 774.9(c), (e).

**b. The Scope of the Section 4(f) Evaluation Fails to Include the Entire Transportation Management Plan.**

Second, the Evaluation improperly assumes that the FHWA may not evaluate the “mode of transportation access of [DHS employees] to and from the Consolidated Headquarters.” 4(f) Evaluation at 1. This self-imposed exclusion of significant transportation issues from the scope of the analysis improperly narrows and constrains the FHWA’s ability to evaluate potential feasible and prudent transportation alternatives that would avoid or minimize harm to protected resources under Section 4(f).

FHWA must examine whether or not there are feasible and prudent alternatives to accessing St. Elizabeths West Campus in a way that would avoid and/or minimize the “use” of Shepherd Parkway and St. Elizabeths West Campus. DHS’s consolidation plan, as proposed, cannot occur without FHWA’s approval of road improvements. The entire Transportation Management Plan for the project is an integrated plan. Therefore, the FHWA has the responsibility to question and evaluate transportation alternatives that would affect the entry points and proposed transportation improvements associated with the project. For example, the possibility of locating parking in a different location than that dictated by DHS, i.e., by increasing parking density on St. Elizabeths East Campus or locating parking entirely outside the site, could substantially change the traffic patterns and reduce the need for (or at least the magnitude of) the interchange at Malcolm X/I-295.

**c. The Section 4(f) Evaluation Fails to Address the Long-Standing Objections of the National Park Service to the Use of Shepherd Parkway.**

The Evaluation fails to discuss or even mention the implications of the continued, unresolved objections by the Department of Interior (DOI) and the NPS to the use of Shepherd Parkway for this project, as well as the impacts of GSA’s proposal on St. Elizabeths West Campus. The Section 4(f) regulations explicitly require the coordination of Section 4(f) evaluations with DOI prior to making Section 4(f) approvals. 23 C.F.R. § 774.5(a) (2008). In addition, the FHWA’s own Section 4(f) Policy Paper emphasizes the FHWA’s responsibility to coordinate and consult with DOI. *FHWA Section 4(f) Policy Paper*, at 8, 27 (Mar. 1, 2005). The Policy Paper also acknowledges DOI’s internal handbook – *Handbook on Department Reviews of Section 4(f)*

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*Evaluations* (revised in 2003) – and states that “every attempt should be made to reach an agreement during project consultation.” *Id.* at 27.

It is important to note that this is not merely a case in which the NPS has declined to concur in the FHWA’s conclusions in the Section 4(f) Evaluation, *e.g.*, *City of South Pasadena v. Slater*, 56 F. Supp. 2d 1106 (C.D. Cal. 1999). This is a case in which (1) the NPS owns and manages the 4(f) property and is responsible for its stewardship, and (2) GSA, DHS, and NCPC have all specifically stated that the DHS Consolidated Headquarters project *will not go forward* unless Shepherd Parkway is made “available” for the access road. Thus, the DOI/NPS objections have unique legal implications here that the 4(f) Evaluation fails to address. Instead, the Evaluation only briefly mentions in passing that the FHWA has been in ongoing “coordination” with the NPS regarding Shepherd Parkway, but fails to address the implications of the NPS’s objections. 4(f) Evaluation at 30.

DOI and NPS objections have been raised throughout the planning process. DOI’s comments on GSA’s FEIS for St. Elizabeths state its disagreement with GSA’s findings that the preferred access road along Shepherd Parkway is the most feasible and prudent alternative. Letter from Willie Taylor, Director, Office of Environmental Policy & Compliance, DOI, to Denise Decker, GSA, at 7 (Dec. 8, 2008). See *also* DOI’s Comments on GSA’s DEIS for St. Elizabeths (Dec. 11, 2007). DOI specifically reiterated comments made in its DEIS comment letter that GSA made its determination, which is being adopted by FHWA in this Section 4(f) Evaluation, “without detailed investigation of avoidance alternatives or examination of alternate transit or transportation methods that would lower the number of vehicles entering St. Elizabeths.” *Id.* In fact, DOI provided specific options – “the use of off-site parking for the majority of employees, improvements to the existing surface transportation network to increase its capacity, and new public transit that takes employees directly to St. Elizabeths.” *Id.* The NPS reiterated DOI’s strong objections to the proposed use of St. Elizabeths West Campus, and by implication the use of Shepherd Parkway on December 31, 2008. See Letter from Dennis Reidenbach, Northeast Regional Director, NPS, to John Fowler, Executive Director, Advisory Council on Historic Preservation (ACHP) (Dec. 31, 2008). In spite of these clear objections by DOI and NPS, the 4(f) Evaluation makes no mention of these objections, nor does it consider DOI’s alternative options for avoiding Shepherd Parkway. The failure to address these objections by the NPS and DOI is misleading to the public and renders the Evaluation legally insufficient.

Additionally, the Evaluation also fails to discuss the Report prepared by the NPS pursuant to Section 213 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470u, which concluded that the St. Elizabeths West Campus consolidation as proposed by GSA/DHS would seriously impact the National Historic Landmark and potentially lead to the de-listing of the property. NPS, Section 213 Report Prepared for the ACHP – St. Elizabeths West Campus (Nov. 6, 2007). The objections of the NPS have not been resolved, and have been reiterated most recently just a few weeks ago. Letter from Reidenbach, NPS, to Fowler, ACHP (Dec. 31, 2008).

**d. The Section 4(f) Evaluation Inaccurately Purports to Quantify the “Use” of or Impact to 4(f) Resources.**

The Evaluation attempts to dismiss or minimize the significant impact of the proposed “use” of Section 4(f) resources on the integrity of the Shepherd Parkway and St. Elizabeths West Campus, by suggesting that the quantity of the 4(f) resources that would actually be used is miniscule – just 1 to 2 percent. 4(f) Evaluation at 27. However, these numbers are highly misleading and erroneous. Not only are they improperly calculated in a way that grossly understates the true quantity of the impact, but they fail to reflect considerations of quality as opposed to quantity, and the reality that the magnitude of the proposed adverse impacts to these resources cannot be evaluated or understood solely in terms of acreage.

With respect to the calculations themselves, the first distortion is that the Evaluation looks only at the quantity of land that would be “permanently” taken and paved over for the interchange and access road, rather than including the land that would be temporarily subject to construction, drainage infrastructure, and grading impacts. These temporary construction impacts would destroy buried cultural resources, as well as trees, vegetation and habitat, all of which contribute to the significance of the 4(f) resources, and therefore must be considered in any effort to quantify the direct physical “use” of these resources. Based on Table 1 in the Evaluation, adding the grading impacts to the permanent impacts increases the quantity of the 4(f) resources “used” for Alternative I-2 by almost 90 percent -- from 8.2 acres to 15.5 acres. 4(f) Evaluation at 19.

In any event, the acreage numbers in Table 1 are highly questionable, and it is not at all clear how these numbers were derived. We believe the acreage

impacts may be substantially understated. For example, the FEIS states that the total area of soil disturbance for Alternative I-2 is 22.7 acres. FEIS, Vol. II, at 4-13 (Table 4-1). In order to reconcile this figure with the 15.5 acres assumed to be “used” from 4(f) resources in the Evaluation, 32 percent of the ground disturbance associated with Alternative I-2 (7.2 acres out of 22.7) would have to lie outside the boundaries of Shepherd Parkway and St. Elizabeths West Campus. Yet one glance at the maps illustrating the concept for Alternative I-2 make it clear that the ground disturbance would be almost *entirely within* the boundaries of the 4(f) resources. See FEIS, Vol. II, at 2-29, 2-31. The inability to reconcile these acreage figures suggests that the actual physical use of land from within the 4(f) resources may substantially exceed the 15.5 acres estimated in the 4(f) Evaluation by as much as 45 percent.

In addition to these substantial errors, the attempts to quantify the Section 4(f) impacts in the Evaluation also suffer from another misleading flaw -- the use of improperly inflated denominators as a baseline for comparison, which has the effect of making the “quantity” of the impact appear smaller as a percentage of the inflated “whole.” For example, the acreage proposed to be taken from St. Elizabeths West Campus is compared to the total acreage of not only the West Campus (176 acres), but the entire East Campus of St. Elizabeths as well (173 acres), the vast majority of which will not even be part of the future DHS Consolidated Campus. 4(f) Evaluation at 13, 27. The resulting total is 349 acres, *id.* at 27, a 98 percent artificial inflation over and above using the West Campus as the basis for quantifying impacts on St. Elizabeths from the access road. Similarly, the acreage projected to be “used” from Shepherd Parkway is compared to the total acreage of all four parcels of the Parkway, extending approximately two miles south of Malcolm X Avenue SE, and totaling 205.5 acres, rather than considering the two parcels from which land would be taken, totaling 78 acres. *id.* at 27. The result is a 163 percent artificial inflation of the baseline resource. These improperly exaggerated denominators have the effect of grossly understating the magnitude of the impacts.

If these errors in methodology were corrected, the “use” of Section 4(f) property would be quantified as 4-5 percent of St. Elizabeths West Campus, (rather than 1.1% of the East and West Campuses combined), and 18-25 percent of the northern section of Shepherd Parkway (as opposed to 2.1% of the entire 2.5-mile-long Parkway). See *id.* Even these corrected quantities, however, would not meaningfully convey the nature and magnitude of the impact on 4(f) resources, which extends beyond the physical “use” of the

land. For example, the proposed massive retaining walls -- extending up to 57 feet high<sup>2</sup> -- would have an indirect impact, and potentially a constructive "use," on adjacent areas of the 4(f) resources.<sup>3</sup> In addition, it is important to consider that Shepherd Parkway is very narrow in some areas, and those areas would be disproportionately harmed by the construction of the access road because movement within the corridor to and from the larger, more open areas of Shepherd Parkway would be substantially constrained, thus effectively segmenting the parcels of the Parkway. This segmentation would be especially harmful to future interpretation of Civil War remains, but would also be disproportionately harmful to wildlife habitat and recreational values of the Parkway. For this reason, the NPS rejected even the construction of a pedestrian and bicycle trail through this section of Shepherd Parkway in its 2004 *Fort Circle Parks Management Plan*, because of the adverse impacts that would have resulted.

### **3. The Section 4(f) Evaluation Fails to Adequately Identify the Specific Historic Resources within Shepherd Parkway.**

The Section 4(f) Evaluation acknowledges that Shepherd Parkway has a "high potential" for unrecorded Civil War defensive works, magazines, and signal stations, as well as prehistoric Native American sites.<sup>4</sup> 4(f) Evaluation at 13, 27. Yet, the FHWA has failed to conduct any archaeological research or additional survey work to identify those resources prior to issuing the Section 4(f) Evaluation. Civil War resources in particular are likely to have "in-place" significance, in the broader context of the Fort Circle Parks, as opposed to the types of archaeological sites that would be excavated for the recovery of artifacts and data.<sup>5</sup> Accordingly, these Civil War sites would not be subject to

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<sup>2</sup> See FEIS, Vol. II, at 2-12; Final Master Plan, Appendix A (Transportation Improvement Alternatives), at A-1.

<sup>3</sup> While we recognize that the use of retaining walls is an important measure to minimize harm by reducing the amount of land that would be taken for the project, it is also important for the FHWA to recognize that these massive retaining walls will themselves have direct and indirect adverse impacts on the 4(f) resources.

<sup>4</sup> The 4(f) Evaluation also provides little or no information regarding the function of Shepherd Parkway as bald eagle habitat. This function of the Parkway as eagle habitat must be fully evaluated as part of the Section 4(f) analysis.

<sup>5</sup> The Evaluation also mentions the "high potential" for Native American archaeological sites within Shepherd Parkway. 4(f) Evaluation at 13. These sites may have "in-place" significance as well.

the FHWA's policy that archaeological resources eligible only under National Register Criterion "d" are treated as "exempt" from Section 4(f). See 23 C.F.R. § 774.13(b) (applicable to archaeological resources that are chiefly important for data recovery and have little value for preservation in place). Given the discrete and clearly delineated parcel of land within Shepherd Parkway being considered for the interchange and access road, together with the "high potential" for archaeological sites with "in-place" significance, it is legally indefensible for the FHWA to issue a Section 4(f) Evaluation prior to completing additional archaeological research and survey work to identify these historic resources.

Indeed, in *Corridor H Alternatives, Inc. v. Slater*, 166 F.3d 368 (D.C. Cir. 1999), the D.C. Circuit Court of Appeals rejected the FHWA's attempt to defer investigation of historic sites under Section 4(f) until after the issuance of the project's Record of Decision (ROD). *Id.* at 373. The court did recognize that the FHWA is permitted to make a preliminary Section 4(f) determination "where the unavailability of critical information precludes the completion of the kind of evaluation section 4(f) requires." *Id.* (citing 23 C.F.R. § 771.135(o)).<sup>6</sup> However, this is not a circumstance where there is a question about the "unavailability of critical information." 166 F.3d at 373. Rather, the FHWA knows exactly the discrete study area that needs to be evaluated for the various alternatives. See 4(f) Evaluation at 19. In short, the investigation of potentially significant Civil War sites within Shepherd Parkway may not be deferred until after the Section 4(f) determination.

The 4(f) Evaluation assures us that a Section 106 Programmatic Agreement (PA) is "under development to establish an inclusive process to prepare and perform more detailed surveys and direct archeological investigations . . . ." *Id.* at 27; see *id.* at 28. However, the PA executed on December 9, 2008 does not include within the scope of the undertaking the interchange and access road; this was deferred for later Section 106 consultation, which has not yet begun. Nor was the NPS a signatory to the December 9 PA, which provides that GSA and FHWA will develop, by December 9, 2009, an Archaeological Resource Management Plan. The Plan will "determine the presence and treatment" of National Register-eligible archaeological resources within areas subject to ground disturbance, including Shepherd Parkway, and will propose "management recommendations for archaeological resources within the Site."

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<sup>6</sup> This provision of the Section 4(f) regulations, discussed in the *Corridor H* case, is now re-codified without material change at 23 C.F.R. § 774.7(e)(1).

PA, Stipulation III.D.1.g (p.14). Yet the PA only requires GSA and FHWA to consult with the DC SHPO in preparing the plan -- not the NPS, as the agency that owns and manages Shepherd Parkway.

In the *Corridor H Alternatives* case, the court rejected precisely this sort of reliance by the FHWA on after-the-fact identification of historic properties pursuant to a Section 106 PA in an effort to satisfy Section 4(f). 166 F.3d at 372-73. Because of the fact that the FHWA's avoidance responsibilities under Section 4(f) are substantive, it is not legally sufficient for the FHWA to rely on the procedural "we'll-figure-it-out-later" approach that is accepted under Section 106 of the NHPA.

#### **4. The Section 4(f) Evaluation Fails to Satisfy the No "Feasible and Prudent" Alternative Requirement.**

The Evaluation provides insufficient support for the conclusion that there are no "feasible and prudent" alternatives for the "use" of Shepherd Parkway. Section 4(f) prohibits the "use" of historic sites or parks, unless the FHWA can demonstrate that there are no "feasible and prudent" alternatives to the use of the protected land, and that the project includes all possible planning to minimize harm. 49 U.S.C. § 303(c). The U.S. Supreme Court has narrowly defined the circumstances in which the agency can reject an alternative as not "feasible and prudent." See *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402 (1971). An alternative is "not prudent" if it presents "unique problems," if there are "truly unusual factors present," or if the "cost or community disruption" resulting from the alternative would reach "extraordinary magnitudes." *Id.* at 413. A Section 4(f) evaluation must "include sufficient supporting documentation to demonstrate why there is no feasible and prudent avoidance alternative." 23 C.F.R. § 774.7(a) (2008).

First, the Evaluation uses the same general conclusions to dismiss the limited number of avoidance alternatives that were used in the Draft Environmental Impact Statement (DEIS).<sup>7</sup> The National Trust raised objections to these unsupported conclusions in comments on the DEIS. See National Trust DEIS Comments at 13-14 (Nov. 13, 2007); see *also* DOI Comments on GSA's FEIS at

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<sup>7</sup> The 4(f) Evaluation does include one new alternative not discussed in the DEIS - "Roadway through Congress Heights." 4(f) Evaluation at 18. However, this alternative is not within the definition of an avoidance alternative because it would still require the use of the Shepherd Parkway. See 23 C.F.R. § 774.17.

7 (“In comments on the DEIS, [DOI] asked GSA to consider access from routes and points other than from the I-295 corridor to avoid the need to construct an interchange and access road on Shepherd Parkway. The FEIS does not examine in any detail the original avoidance alternative . . .”). Yet, the FEIS failed to supplement or revise this patently inadequate analysis. In fact, much of the FHWA’s analysis of the avoidance alternatives is copied verbatim from the DEIS and FEIS.

As stated above, the determinations in the Evaluation regarding “feasible and prudent” alternatives are all limited by the ability to satisfy the specific consolidation plan as proposed by DHS. As a result, only the alternatives that would provide the exact modes of access in the exact location preferred by DHS are deemed to satisfy the purpose and need of the project. The Evaluation relies on this self-imposed limitation to reach a conclusory determination to dismiss alternatives as not “prudent.” We believe such an approach does not meet the stringent, substantive obligations of Section 4(f). The FHWA should not dismiss the avoidance alternatives as imprudent simply on the basis that they are not exactly consistent with the design proposed by DHS and GSA. Avoidance alternatives requiring design modifications to DHS’s proposal should be within the scope of the Section 4(f) Evaluation.

Second, the Evaluation improperly rejects individual alternatives as not “prudent” in part for failing to fulfill the purpose and need as a stand-alone alternative, but fails to evaluate whether multiple avoidance alternatives are “prudent.” For example, the “Access via MLK Avenue (new gate)” and “Access from Firth Sterling Avenue” alternatives each would provide some access. 4(f) Evaluation at 16-17. In addition, the “Direct Access from I-295” alternative could potentially serve 40 percent of the AM Peak traffic and up to 60% of the PM Peak traffic if it were designed to allow only northbound ingress and egress, which would eliminate the flyover ramp to serve southbound traffic. See Transportation Management Program at 47 (Fig. 6.2); 4(f) Evaluation at 16.<sup>8</sup> It is plausible that a combination of these alternatives, plus additional changes, could accommodate DHS’s access needs for the St.

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<sup>8</sup> It is legally insufficient for the FHWA to reject an alternative as “not feasible and prudent” because the agency would need to obtain a design waiver from itself (e.g., 4(f) Evaluation at 16). With respect to the “Direct Access from I-295” alternative, the Evaluation must analyze the specific proximity of the interchanges and the “weave” issues, as well as a northbound-only variation on this alternative, rather than just dismissing the alternative out-of-hand because it would require an FHWA waiver.

Elizabeths West Campus without the “use” of Shepherd Parkway, or with a significant reduction in the impact.

Finally, the FHWA makes no attempt to evaluate creative solutions that would both accommodate DHS’s proposal and avoid or minimize the “use” of Shepherd Parkway, such as off-campus park-and-ride locations, or other public transit options. We believe it is incumbent upon FHWA to analyze such alternatives as a means of avoiding and minimizing harm to Shepherd Parkway and the St. Elizabeths West Campus.

**5. The Section 4(f) Evaluation Fails to Include “All Possible Planning to Minimize Harm” to Shepherd Parkway and the St. Elizabeths West Campus.**

The Evaluation provides an inadequate discussion of “all possible planning to minimize harm” to Shepherd Parkway and the St. Elizabeths West Campus. The Section 4(f) regulations define “all possible planning to minimize harm” as “all reasonable measures . . . to preserve the historic activities, features, or attributes of the site as agreed by the Administration and the official(s) with jurisdiction over the Section 4(f) resource.” 23 C.F.R. § 774.17(2) - *All possible planning*. The FHWA’s Section 4(f) Policy Paper states: “Minimization of harm entails both alternative design modifications that lessen the impact on 4(f) resources and mitigation measures that compensate for residual impacts. *Minimization and mitigation measures should be determined through consultation with the official of the agency owning or administering the resource.*” FHWA, Section 4(f) Policy Paper, at 7 (emphasis added). Clearly, that has not occurred here.

The 4(f) Evaluation includes only a vague description of potential measures, such as the use of retaining walls (in some cases, massive ones) to reduce the amount of parkland used, and the transfer of other land from GSA to NPS in order to compensate for the destruction of parkland. However, there is no discussion of possible ways to reduce the size of (or potentially eliminate the need for) the interchange and access road, based on other methods for reducing or redistributing the number of vehicles that would use the proposed interchange for access to St. Elizabeths. The DOI expressly stated that “[t]here is no mitigation offered for the parkland [on Shepherd Parkway] that would be taken for the project or the effects on the remaining fragments of parkland.” DOI Comments on FEIS at 9. The superficial and cursory

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discussion in the 4(f) Evaluation does not satisfy the stringent requirement to include all "possible planning to minimize harm."

## CONCLUSION

In conclusion, we believe the FHWA has failed to satisfy its substantive legal obligations pursuant to Section 4(f). Failure to correct these legal deficiencies will leave the FHWA vulnerable to litigation.

Thank you for considering these comments on behalf of the National Trust and the National Parks Conservation Association regarding the Section 4(f) Evaluation. Please feel free to contact me at (202) 588-6026 or Nell Ziehl at (202) 588-6040, if you have any questions or would like additional information.

Sincerely,



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