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Commemorative Works in the District of Columbia: Background and Practice

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SUMMARY

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Commemorative Works in the District of Columbia: Background and Practice

In 1783, the Continental Congress authorized the first memorial in American history, an equestrian statue to honor George Washington that was to be constructed by the "best artist" in Europe. Since that time, Congress has authorized more than 100 commemorative works for placement in the District of Columbia. Even with multiple authorized works, however, no specific process existed for the creation of commemorative works for almost two centuries. While Congress has long been responsible for authorizing memorials on federal land, the process for approving site locations, memorial design plans, and funding was historically haphazard. At times, Congress was involved in the entire design and building process. In other instances, that authority was delegated to executive branch officials, federal commissions were created, or Congress directly authorized a sponsor group to establish a memorial.

In 1986, in an effort to create a statutory process for the creation, design, and construction of commemorative works in the District of Columbia, Congress debated and passed the Commemorative Works Act (CWA). The CWA codified congressional procedure for authorizing commemorative works when the location of a memorial is on federal land in the District of Columbia administered by the National Park Service (NPS) or the General Services Administration (GSA). The act delegated responsibility for overseeing design, construction, and maintenance to the Secretary of the Interior or the Administrator of GSA, and several other federal entities, including the National Capital Planning Commission (NCPC), the U.S. Commission of Fine Arts (CFA), and the National Capital Memorial Advisory Commission. Additionally, the CWA restricts placement of commemorative works to certain areas of the District of Columbia based on the subject's historic importance. These areas include the Reserve (i.e., the National Mall), where no new commemorative works are permitted; Area I, where new commemorative works must be of preeminent historical and lasting significance to the United States; and Area II, which is reserved for subjects of lasting historical significance to the American people. The act further stipulates that the Secretary of the Interior or the Administrator of the GSA provide recommendations to Congress on the placement of works within Area I.

Pursuant to the CWA, the NPS and the NCPC outlined a 24-step process to guide the creation of a commemorative work in the District of Columbia. The guidelines include initiation of a memorial, authorizing legislation, site selection and approval, fundraising, design approval, construction, and memorial dedication.

Once authorized by Congress, the CWA provides a seven-year authorization for all commemorative works (with an administrative extension available). Sponsor groups, however, sometimes ask Congress to extend a memorial's authorization beyond the initial period. Additionally, in some circumstances, groups ask Congress to provide appropriations to assist a sponsor group's fundraising. When provided, past appropriations for commemorative works have been in the form of both direct appropriations and matching funds.

This report does not address memorials outside the District of Columbia.

Contents

Introduction 1
Creating the District of Columbia 2
L'Enfant Plan 2
McMillan Plan 4
Commemorative Works Act 7
Initial Passage 7
Extending Legislative Authority 9
Further Extending Legislative Authority 10
Creating the Reserve 12
Permitting On-Site Donor Acknowledgment 13
Establishing a Memorial in the Nation's Capital 15
Initiation 15
Legislation 16
Commemorative Works Authorization 17
Payment of Expenses 17
Deposit of Excess Funds 17
Extension of Statutory Authority 18
Site Selection and Approval 18
Designation of Areas of Washington, DC 19
Congressional Approval of Memorial Site Location 20
Design Approval 21
Fundraising 21
Construction 22
Dedication 22
Authorized Memorials 23

Figures

Figure 1. L'Enfant Plan for Washington, DC (1792) 3
Figure 2. The McMillan Plan (1901) 6

Figure C-1. Commemorative Areas Washington, DC and Environs 30

Tables

Table 1. Memorials Authorized by Congress 23
Table 2. Authorized Memorials in the District of Columbia and its Environs 24

Table A-1. Summary of Original Commemorative Works Act, 1986 26

Appendixes

Appendix A. Summary of Original Commemorative Works Act Provisions 26
Appendix B. Steps for Establishing a Memorial in the Nation's Capital 28
Appendix C. District of Columbia Map with Area Designations 30
Appendix D. Entities Responsible for Memorials in the District of Columbia 31

Contacts

Author Information 36

Introduction

Since approving an equestrian statue to George Washington in 1783,[1] Congress has authorized more than 100 other memorials for placement on federal land in the District of Columbia.[2] Prior to 1986, however, statutory criteria for authorizing commemorative works, including memorials, did not exist.[3] Not only did Congress authorize commemorative works, but it also established how the sponsoring organizations would choose site locations and approve memorial designs.

> In some cases, special memorial commissions were established and given authority to select a location for the memorial. The Lincoln Memorial Commission and the Jefferson Memorial Commission, for instance, were provided with such authority. Congress also authorized private organizations to select a site, sometimes with the approval of the President, as in the case of the Washington Monument.[4]

Although a general practice for the commemorative work creation process existed by the mid-20th century, impetus for a statutory commemorative work creation program was not realized until the 1980s.[5] In 1986, Congress debated and passed the Commemorative Works Act to guide the memorial creation process in the District of Columbia.[6]

This report examines the evolving process by which memorials have been proposed, approved, and constructed in the District of Columbia. It begins with a discussion of the creation of the District and its unique place as the center of the U.S. government and the location of numerous memorials to individuals and historic events. The report then discusses the creation and operation of the Commemorative Works Act that was enacted to guide the process for creating a commemorative work in the District of Columbia. It concludes with four appendixes: a summary of the original Commemorative Works Act legislation; the 24-step process recommended for creating a memorial in the District of Columbia; a map showing various areas eligible for memorial construction in the District of Columbia; and a list of government agencies that might be involved in the memorial creation process.

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[1] Arthur Lee (Virginia) introduced a resolution on May 6, 1783, to erect an equestrian statue to George Washington. *Journals of the Continental Congress, 1774-1789*, (May 6, 1783), ed. Worthington C. Ford, et al. (Washington: GPO, 1922), vol. 25, p. 963. The Continental Congress unanimously agreed to the resolution on August 7, 1783, and authorized a bronze statue of Washington "represented in Roman dress, holding a truncheon in his right hand [and his head encircled with a laurel wreath]." The statue was to be constructed by the "best artist" in Europe. *Journals of the Continental Congress, 1774-1789*, (August 7, 1783), ed. Worthington C. Ford, et al. (Washington: GPO, 1922), vol. 24, pp. 494-495. In 1853, Congress appropriated $50,000 and commissioned Clark Mills to build the statue (10 Stat. 153). In 1860, the statue was dedicated at Washington Circle (James M. Goode, *Washington Sculpture: A Cultural History of Outdoor Sculpture in the Nation's Capital* [Baltimore, MD: The Johns Hopkins University Press, 2008], p. 480).

[2] U.S. Congress, Senate Committee on Energy and Natural Resources, *The Placement of Commemorative Works on Federal Lands in the District of Columbia and its Environs*, report to accompany H.R. 4378, 99th Cong., 2nd sess., August 15, 1986, S.Rept. 99-421 (Washington: GPO, 1986), p. 4.

[3] For the purposes of this report, commemorative works in the District of Columbia and memorials are sometimes used interchangeably because most completed commemorative works are described as memorials to an individual, a group, or an event. In 1910, Congress created the Commission of Fine Arts to "advise upon the location of statues, fountains, and monuments in the public squares, streets, and parks in the District of Columbia…." (P.L. 61-181, 36 Stat 371, May 17, 1910). For more information on the Commission of Fine Arts, see **Appendix D**.

[4] Michael H. Koby and Ash Jain, "Memorializing Our Nation's Heroes: A Legislative Proposal to Amend the Commemorative Works Act," *Journal of Law & Politics*, vol. 17, no. 1 (Winter 2001), p. 107.

[5] Ibid., p. 109.

[6] 40 U.S.C. §§8901-8909.

This report does not address memorials outside the District of Columbia.[7]

Creating the District of Columbia

On July 16, 1790, President George Washington signed the Residency Act into law. The measure authorized the President to designate "a district of territory, not exceeding ten miles square, to be located as hereafter directed on the river Potomac, at some place between the mouths of the Eastern Branch and Connogochegue, be, and the same is hereby accepted for the permanent seat of government of the United States."[8] Pursuant to the Residency Act, the President had a choice between two areas on the Potomac River—land where the Eastern Branch (now the Anacostia River) met the Potomac River and the area around the Village of Georgetown.[9] After ordering surveys of both areas,[10] Washington chose the confluence of the Potomac River and Anacostia Rivers as the capital site.[11] Subsequently, he chose Major Pierre Charles L'Enfant, who had just completed a successful refurbishment of Federal Hall in New York City,[12] as the city's architect[13] and commissioned Major Andrew Ellicott to survey the 10-square-mile district.[14]

L'Enfant Plan

Major L'Enfant was charged with designing the federal city, including spaces for the President's house, the Capitol Building, and the grid of streets that would transport political leaders from one part of the city to another. The federal spaces are widely considered to be the "most significant design feature of the plan for the nation's capital."[15] Within the federal precinct, L'Enfant's plan deemphasized any single part of the federal government. Political scientist James Sterling Young,

[7] For more information on memorial construction outside of the District of Columbia, see CRS Report R45741, *Memorials and Commemorative Works Outside Washington, DC: Background, Federal Role, and Options for Congress*, by Jacob R. Straus and Laura B. Comay. For information on national monuments established on federal land under the Antiquities Act of 1906, see CRS Report R41330, *National Monuments and the Antiquities Act*, by Carol Hardy Vincent.

[8] 1 Stat. 130, July 16, 1790, as amended by 1 Stat. 214, March 3, 1791. The Conococheague is "a small Maryland stream near Hagerstown, in the Cumberland Valley." *Worthy of the Nation: Washington, DC from L'Enfant to the National Capital Planning Commission*, ed. Frederick Gutheim and Antoinette J. Lee, 2nd ed. (Baltimore, MD: The Johns Hopkins University Press, 2006), p. 10. 1 Stat. 214 amended the initial law to allow President Washington to include the town of Alexandria Virginia to the south and place the city on a "convenient part of the Eastern Branch."

[9] James Thomas Flexner, *George Washington and the New Nation (1783-1973)* (Boston: Little, Brown and Company, 1963), p. 326. For more information on the Eastern Branch, see National Park Service, "L'Enfant and McMillian Plans," at http://www.nps.gov/nr/travel/wash/lenfant.htm; and Cornelius W. Heine, "The Washington City Canal," *Records of the Columbia Historical Society, Washington, D.C.*, vol. 53/56 (1953/1956), pp. 1-27.

[10] Fergus M. Bordewich, *Washington: The Making of the American Capital* (New York: Amistad, 2008), p. 65.

[11] George Washington Bicentennial Commission, *The Writings of George Washington from the Original Manuscript Sources 1745-1799*, ed. John C. Fitzpatrick, vol. 31, January 22, 1790-March 9, 1792 (Washington: GPO, 1939), pp. 202-204.

[12] Sarah Luria, *Capital Speculations: Writing and Building Washington, D.C.* (Durham, NH: University of New Hampshire Press, 2006), p. 6.

[13] Les Standiford, *Washington Burning: How a Frenchman's Vision for Our Nation's Capital Survived Congress, The Founding Fathers, and the Invading British Army* (New York: Three Rivers Press, 2009).

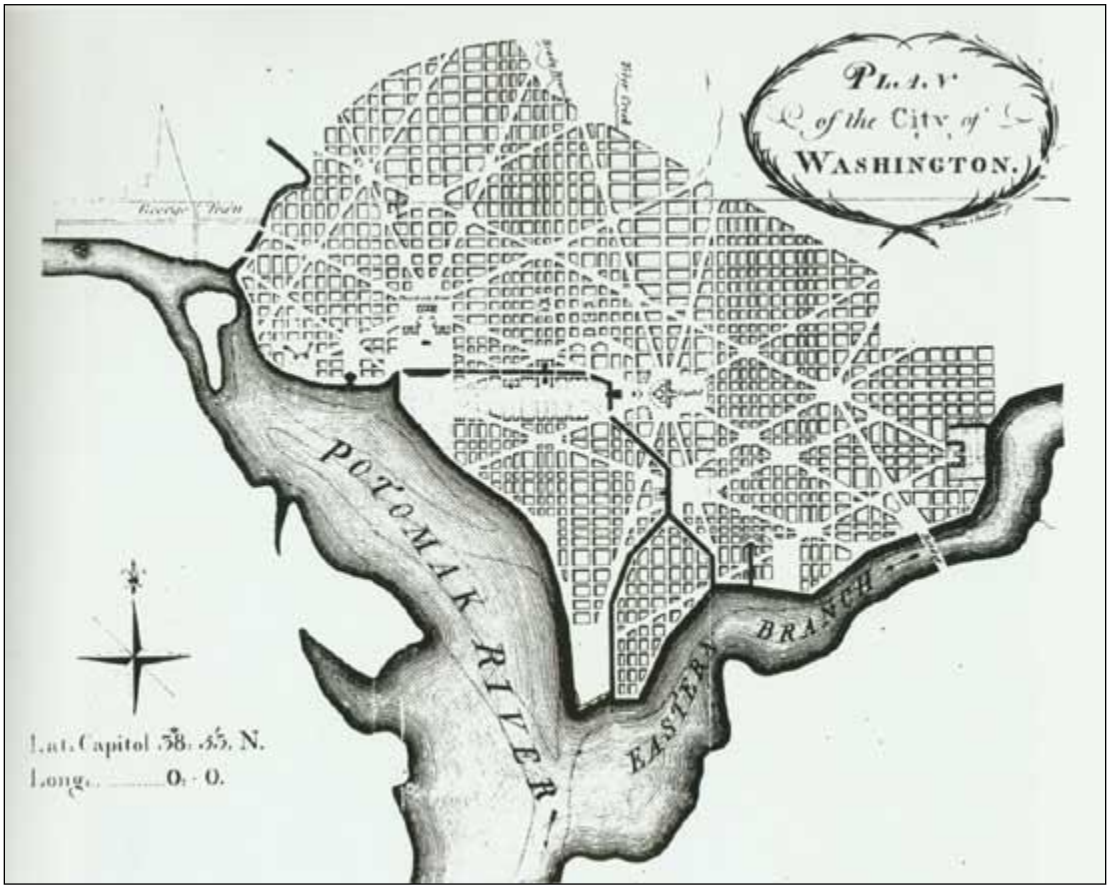
[14] William Buckner McGroarty, "Major Andrew Ellicott and His Historic Border Lines," *The Virginia Magazine of History and Biography*, vol. 58, no. 1 (January 1950), pp. 101-102.

[15] Michael Bednar, *L'Enfant's Legacy: Public Open Spaces in Washington, D.C.* (Baltimore, MD: Johns Hopkins University Press, 2006), p. 12.

in his book *The Washington Community*, describes L'Enfant's vision in creating the federal capital.

> There is no single center in the ground plan of the governmental community, no one focus of activity, no central place for the assembly of all its members. What catches the eye instead is a system of larger and lesser centers widely dispersed over the terrain, "seemingly connect," as L'Enfant put it, by shared routes of communication. It is clear that the planner intended a community whose members were to work or live not together but apart from each other, segregated into distinct units.[16]

Figure 1. L'Enfant Plan for Washington, DC (1792)



Source: National Park Service, "Plate II. L'Enfant Plan as Modified by Andrew Ellicott, 1792." at http://www.nps.gov/parkhistory/online_books/ncr/designing-capital/plates.html.

As depicted in **Figure 1**, Major L'Enfant worked to provide symbolic separation between Congress, the President, and the Supreme Court as provided for by separation of powers principles found in the Constitution.[17] In describing the decision to keep the constitutional centers of powers separated, L'Enfant "argued that the distance between the two buildings [the President's house and the Capitol] was not all that great in his plan and further that 'no message to nor from the President is to be made without a sort of decorum which will doubtless point out

[16] James Sterling Young, *The Washington Community: 1800-1828* (New York: Columbia University Press, 1966), p. 3.

[17] U.S. Congress, House, *The Constitution of the United States and the Declaration of Independence*, 108th Cong., 1st sess., H.Doc. 108-96 (Washington: GPO, 2003).

the propriety of Committee waiting on him in carriage should his palace be even contiguous to Congress.'"[18]

The original boundaries of the District of Columbia extended beyond the federal city depicted in **Figure 1**. A 10-mile square, created from land ceded from Maryland and Virginia, it also included much of modern-day Alexandria, Virginia, and Arlington County.[19] Following Congress's move to the District in 1800,[20] proposals were introduced to retrocede (return) portions of the District south of the Potomac River to Virginia.[21] In 1846, Congress determined that "the portion of the District of Columbia ceded to the United States by the State of Virginia has not been, or is ever likely to be, necessary for that purpose…" and passed legislation returning Alexandria to Virginia. President James Polk signed the bill into law on July 9, 1846.[22]

McMillan Plan

For nearly a century, Congress and city planners ignored many elements of L'Enfant's plan for Washington, DC, until a new call for planning was developed to celebrate the city's 100th anniversary in 1900.[23] Led by Senator James McMillan, the effort to review and create a new comprehensive plan for the District of Columbia was undertaken by the Senate Park Commission.[24] Created in March 1901, as part of a Senate resolution directing the Committee on the District of Columbia to study the park system in the District,[25] the commission was instructed to examine questions that had "arisen as to the location of public buildings, of preserving spaces for parks in the portion of the District beyond the limits of the city of Washington, of connecting and developing existing parks by attractive drives, and of providing for the recreation and health of a constantly growing population."[26]

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[18] Frederick Gutheim and Antoinette J. Lee, *Worth of the Nation: Washington, DC, from L'Enfant to the National Capital Planning Commission*, 2nd ed. (Baltimore, MD: Johns Hopkins University Press, 2006), p. 25.

[19] J. Valerie Fifer, "Washington, D.C.: The Political Geography of the Federal Capital," *Journal of American Studies*, vol. 15, no. 1 (April 1981), pp. 7-8.

[20] *Annals of the Congress of the United States*, vol. 10 (May 14, 1800), p. 720. The Sixth Congress reconvened for its second session in the District of Columbia in November 1800. For more information, see James Sterling Young, *The Washington Community: 1800-1828* (New York: Columbia University Press, 1966).

[21] *Annals of the Congress of the United States*, vol. 12 (January 27, 1803), pp. 426-427. For more information, see Mark David Richards, "The Debates Over the Retrocession of the District of Columbia, 1801-2004," *Washington History*, vol. 16, no. 1 (Spring/Summer 2004), pp. 57-60; and Amos B. Casselman, "The Virginia Portion of the District of Columbia," *Records of the Columbia Historical Society*, vol. 12 (1909), pp. 115-141.

[22] 9 Stat. 35, July 9, 1946.

[23] Geoffrey G. Drutchas, "Gray Eminence in a Gilded Age: The Forgotten Career of Senator James McMillan of Michigan," *Michigan Historical Review*, vol. 28, no. 2 (Fall 2002), p. 98.

[24] The McMillan plan is considered to be part of the larger "City Beautiful Movement." The City Beautiful Movement existed at the turn of the 20th Century as an effort to reconfigure the urban landscape by "grouping and uniting public buildings with one another and with the landscape" (Daniel M. Bluestone, "Detroit's City Beautiful and the Problem of Commerce," *Journal of the Society of Architectural Historians*, vol. 47, no. 3 (September 1988), p. 245). For more information see, William H. Wilson, *The City Beautiful Movement* (Baltimore, MD: The Johns Hopkins University Press, 1994), pp. 9-34.

[25] "Park System of the District of Columbia," Senate debate, *Congressional Record*, vol. 35, part 1 (March 8, 1901), p. 30. Senator McMillan had previously introduced a joint resolution authorizing the creation of a commission to study the "arrangement of public buildings in Washington and the development of a comprehensive park system." The joint resolution was defeated in the House under the opposition of Speaker of the House Joseph Cannon.

[26] U.S. Congress, Senate Committee on the District of Columbia, *The Improvement of the Park System of the District of Columbia*, 57th Cong., 1st sess., S.Rept. 57-166 (Washington: GPO, 1902), p. 7.

The committee hired Daniel Burnham[27] and Frederick Law Olmsted[28] as consultants to study the design of the city and the landscaping of the National Mall. The McMillan Commission plan examined all aspects of L'Enfant's original design and made recommendations to return the monumental core of the city, particularly the Mall, to the intent of L'Enfant's plans. In their report to the Senate Committee on the District of Columbia, the commission summarized why such a plan was necessary.

> Now that the demand for new public buildings and memorials has reached an acute stage, there has been hesitation and embarrassment in locating them because of the uncertainty in securing appropriate sites. The Commission were thus brought face to face with the problem of devising such a plan as shall tend to restore that unity of design which was the fundamental conception of those who first laid out the city as a national capital, and of formulating definite principles for the placing of those future structures which, in order to become effective, demand both a landscape setting and a visible orderly relation one to another for their mutual support and enhancement.[29]

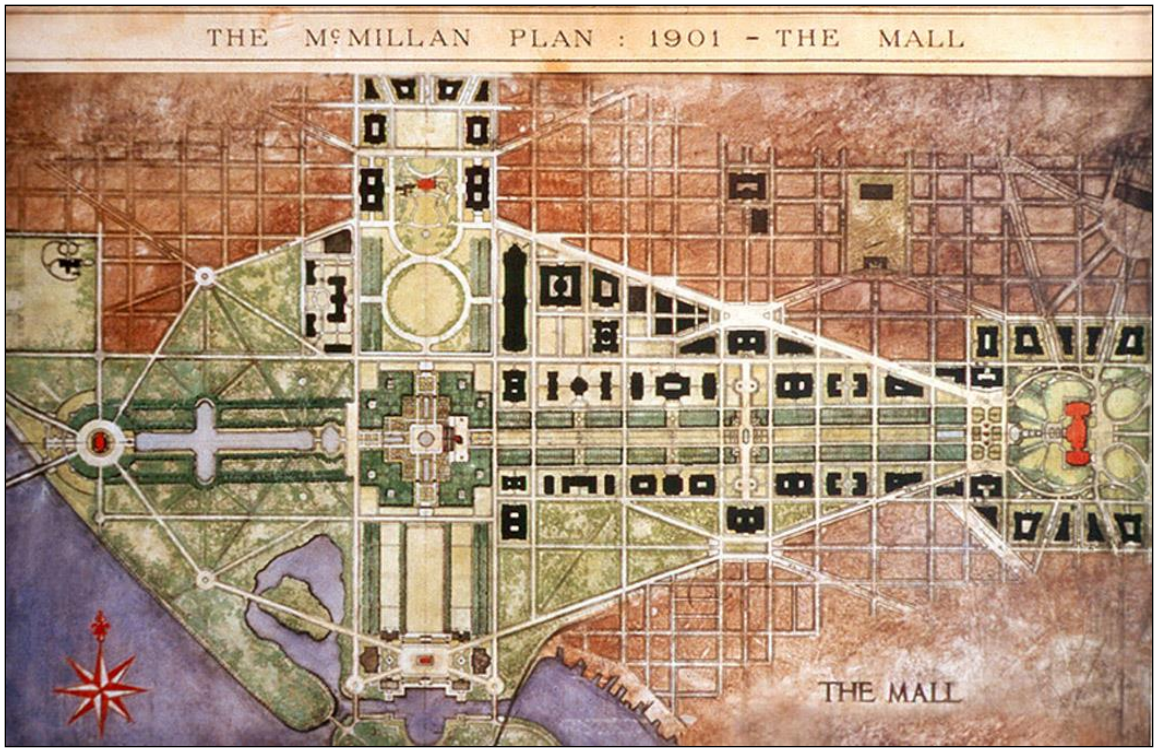
Figure 2 shows the McMillan Commission plan for the National Mall.

[27] Daniel Burnham served as the Director of Works for the 1893 World's Columbian Exposition (i.e., the World's Fair) in Chicago and as the director of numerous other city design projects including the city of Chicago in 1909. For more information on Daniel Burnham, see Carl Smith, *The Plan of Chicago: Daniel Burnham and the Remaking of the American City* (Chicago: University of Chicago Press, 2007); and Thomas S. Hines and Neil Harris, *Burnham of Chicago: Architect and Planner*, 2nd ed. (Chicago: University of Chicago Press, 2008).

[28] Frederick Law Olmsted was a renowned landscape architect. He created the design of Central Park in New York City, the Biltmore Estate, the grounds of the 1893 World's Columbia Exposition, and the U.S. Capitol grounds. For more information on Frederick Law Olmsted, see Witold Rybczynski, *A Clearing in the Distance: Frederick Law Olmsted and America in the 19th Century* (New York: Scribner, 2000); and Charles Beveridge and Paul Rocheleau, *Frederick Law Olmsted: Designing the American Landscape* (New York: Rizzoli, 2005).

[29] U.S. Congress, Senate Committee on the District of Columbia, *The Improvement of the Park System of the District of Columbia*, 57th Cong., 1st sess., S.Rept. 57-166 (Washington: GPO, 1902), p. 24.

Figure 2. The McMillan Plan (1901)



Source: National Capital Planning Commission, "The McMillan Plan of 1901," *Images*, at http://www.ncpc.gov.

While the McMillan plan was never fully implemented, it laid the foundation for additional studies and plans for further development in the District of Columbia over the next 100 years.[30] Additionally, the McMillan plan included concepts for the creation of monuments within the federal landscape. The McMillan Plan also emphasized various design features of the federal core including the National Mall, Federal Triangle, the area that is now the Lincoln Memorial, and the Ellipse. In recent years, the McMillan Plan's concepts have been codified through plans and studies by the National Capital Planning Commission (NCPC), the official planning agency authorized by Congress in 1924.[31]

[30] Ed Hatcher, "Washington's Nineteenth-Century Citizens' Associations and the Senate Park Commission Plan," *Washington History*, vol. 14, no. 2 (Fall/Winter 2002/2003), p. 92.

[31] For more information on the National Capital Planning Commission, see "National Capital Memorial Advisory Commission" in **Appendix D**. The National Capital Planning Commission's studies include the Comprehensive Plan for the National Capital (https://www.ncpc.gov/plans/compplan/), the Federal Capital Improvements Program (https://www.ncpc.gov/plans/fcip/), and the Memorials and Museums Master Plan (https://www.ncpc.gov/plans/memorials/#:~:text=The%20Memorials%20and%20Museums%20Master,general%20guidelines%20for%20their%20development.). Other, not-for-profit entities have been established in recent years to advocate for the "integrity of the National Mall." These included the National Coalition to Save Our Mall, a 501(c)(3) nonprofit organization that "seeks to preserve the integrity of the National Mall as our national gathering place and symbol of founding ideals" (http://www.savethemall.org); and the Trust for the National Mall, which "is the official non-profit partner of the National Park Service dedicated to restoring and improving the National Mall while providing new educational and volunteer opportunities to connect visitors to the Mall's rich history." For more information on the Trust for the National Mall, see http://www.nationalmall.org.

Commemorative Works Act

In 1986, the Commemorative Works Act (CWA) was enacted to guide the creation of memorials in the District of Columbia. Congress created the act in an effort

> (1) to preserve the integrity of the comprehensive design of the L'Enfant and McMillan plans for the Nation's Capital; (2) to ensure the continued public use and enjoyment of open space in the District of Columbia and its environs, and to encourage the location of commemorative works within the urban fabric of the District of Columbia; (3) to preserve, protect, and maintain the limited amount of open space available to residents of, and visitors to, the Nation's Capital; and (4) to ensure that future commemorative works in areas administered by the National Park Service and the Administrator of General Services in the District of Columbia and its environs are…appropriately designed, constructed, and located; and…reflect a consensus of lasting national significance of the subjects involved.[32]

The act further defined a commemorative work as "any statue, monument, sculpture, memorial, plaque, inscription, or other structure of landscape feature, including a garden or memorial grove, designed to perpetuate in a permanent manner the memory of an individual, group, event or other significant element of American history, except that the term does not include any such item which is located within the interior of a structure or a structure which is primarily used for other purposes."[33] The CWA does not apply to military properties, such as the Pentagon, Arlington National Cemetery, or Fort McNair, nor does the act apply to land under the jurisdiction of the Smithsonian or the Architect of the Capitol.

Initial Passage

On March 11, 1986, Representative William Hughes introduced H.R. 4378 "a bill to govern the establishment of commemorative works within the National Capital Region of the National Park System."[34] It was referred to the House Committee on Interior and Insular Affairs, then to the Subcommittee on National Parks and Recreation, which held a hearing on April 15 and reported the bill to the full committee.[35] On April 23, the full committee approved H.R. 4378, and on May 5 recommended its enactment by the House.[36]

The committee's report indicated that legislation was necessary because of the "numerous groups" seeking to place additional commemorative works in the District of Columbia and the need to strike a balance between different uses of parkland. The report also indicated that "[b]alance needs to be achieved between commemorative works on National Park land and the myriad of activities that occur there. Commemorative works erected in the future should meet the appropriate tests of being of lasting national significance, and designed and constructed to be physically durable."[37]

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[32] 40 U.S.C. §8901.

[33] 40 U.S.C. §8902.

[34] "Public Bills and Resolutions," *Congressional Record*, vol. 132, part 3 (March 11, 1986), p. 4268.

[35] U.S. Congress, House Committee on Interior and Insular Affairs, Governing the Establishment of Commemorative Works with the National Capital Region of the National Park System, and for Other Purposes, report to accompany H.R. 4378, 99th Cong., 2nd sess., May 5, 1986, H.Rept. 99-574 (Washington: GPO, 1986), p. 5.

[36] Ibid.

[37] Ibid., pp. 4-5.

On May 5, the House debated H.R. 4378. Representative Bruce Vento, one of the bill's supporters, linked the placement of commemorative works to the L'Enfant and McMillan plans for the District of Columbia.

> Mr. Speaker, as Americans, we are fortunate as a nation to have a capital city specifically planned and designed to embody our ideals, a city of both magnificence and practicality. The design we now have comes to us only because of the diligence and vigilance of our predecessors. Through their efforts we can still see the city that Pierre L'Enfant planned and that the 1902 U.S. Senate Park Commission with the McMillan plan restored, with its vistas, its orderly but grand street patterns and its open space.[38]

Other Members expressed reservations about aspects of the bill. For example, Representative Michael Strang focused on placing commemorative works within the context of the city's design, and the importance of finding balance among uses of public lands.

> I believe the major goal of this legislation—to limit the proliferation of insignificant works in D.C.—is certainly meritorious. As additional works are located in this area, the open space which is used by numerous residents and visitors for a variety of activities, is lost forever. While I strongly support commemorating worthy individuals and events in our Nation's history, I also feel a balance of uses for the public lands in our Nation's Capital must be established shortly.[39]

H.R. 4378 passed the House by voice vote later that day. Subsequently, H.R. 4378 was referred to the Senate Committee on Energy and Natural Resources.[40]

On June 24, the Senate Energy and Natural Resources Committee's Subcommittee on Public Lands, Reserved Water, and Resource Conservation held a hearing on both S. 2522,[41] a "bill to provide standards for placement of commemorative works on certain federal lands in the District of Columbia and its environs, and for other purposes,"[42] and H.R. 4378.[43] The committee reported H.R. 4378, replacing the House language with the text of S. 2522.[44] The Senate debated H.R. 4378 on September 10 and passed the bill by voice vote.[45]

On September 29, the House took up H.R. 4378, agreed to the Senate amendments with a few additional House amendments, and passed H.R. 4378, as amended, by voice vote.[46] On October

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[38] Rep. Bruce Vento, "Advisory Board for Selection of Commemorative Works within the National Capital Region of the National Park System," House debate, *Congressional Record*, vol. 132, part 7 (May 5, 1986), p. 9432.

[39] Rep. Michael Strang, "Advisory Board for Selection of Commemorative Works within the National Capital Region of the National Park System," House debate, *Congressional Record*, vol. 132, part 7 (May 5, 1986), pp. 9432-9433.

[40] "Measures Referred," *Congressional Record*, vol.132, part 7 (May 7, 1986), p. 9899.

[41] U.S. Congress, Senate Committee on Energy and Natural Resources, Subcommittee on Public Lands, Reserved Water and Resource Conservation, *Standards for the Establishment of Commemorative Works in the Nation's Capital*, hearing on S. 2522 and H.R. 4378, 99th Cong., 2nd sess., June 24, 1986, S.Hrg. 99-896 (Washington: GPO, 1986).

[42] S. 2522 (99th Congress), introduced June 5, 1986 by Senator Malcolm Wallop.

[43] U.S. Congress, Senate Committee on Energy and Natural Resources, *The Placement of Commemorative Works on Federal Lands in the District of Columbia and its Environs*, report to accompany H.R. 4378, 99th Cong., 2nd sess., August 15, 1986, S.Rept. 99-421 (Washington: GPO, 1986), p. 5.

[44] "Reports of Committees," *Congressional Record*, vol. 132, part 15 (August 15, 1986), p. 21917.

[45] "Commemorative Works in the District of Columbia," Senate debate, *Congressional Record*, vol. 132, part 16 (September 10, 1986), pp. 22616-22618. One series of amendments was offered in the Senate. Senator James McClure introduced amendments to allow for funds donated for commemorative works to be considered outside of the sequestration process required by P.L. 99-177. Senator McClure's amendments were agreed to by voice vote. For more information, see Sen. Alan Simpson, "Placement of Commemorative Works in the District of Columbia, McClure Amendment No. 2793," *Congressional Record*, vol. 132, part 16 (September 10, 1986), p. 22591.

[46] "Providing Standards for Commemorative Works on Lands Administered by the National Park Service in the District

16, the Senate concurred with the House amendments and passed the bill.[47] On November 14, 1986, President Ronald Reagan signed the CWA into law.[48] The CWA, as enacted, contained 10 sections covering the purposes of the bill, definitions, congressional authorization for memorials, creation of the National Capital Memorial Commission, conditions for memorial placement in different parts of the District of Columbia, site design and approval, issuance of construction permits, creation of a temporary memorial site, and other administrative provisions.[49] **Table A-1**, in **Appendix A**, provides a summary of the original provisions contained in the CWA for each section of the bill.

Extending Legislative Authority

By 1991, Congress realized that many authorized sponsor groups were not able to complete memorial construction in the allocated time. Pursuant to Section 10(b) of the CWA, legislative authority for commemorative works expired within five years of its enactment, unless a construction permit was issued.[50] Of the eight commemorative works authorized between the 99th Congress (1985-1986) and the 101st Congress (1989-1990), only one, the American Armored Force Memorial, had met the five-year deadline.[51] To address this issue, Representative William Clay introduced H.R. 3169, "To lengthen from five to seven years the expiration period applicable to legislative authority relating to construction of commemorative works on Federal land in the District of Columbia and its environs."[52]

During the House debate, Representative Wayne Allard argued that lengthening the time required to complete a commemorative work was necessary:

> As the subcommittee chairman has described, the Commemorative Works Act was enacted in 1986 in order to address the numerous requests received by Congress to authorize commemorative works on public space in the D.C. area. Overall this act has been very successful in ensuring that only the most important works are constructed and that those works constructed are of the highest quality.

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of Columbia," House debate, *Congressional Record*, vol. 132, part 19 (September 29, 1986), pp. 27070-27076. The House amendments to the Senate amendments added the names of House and Senate committees with jurisdiction over commemorative works, set conditions for works to be placed in different geographic areas of the District, and rewrote requirements for the creation of a temporary site for the placement of memorials before a permanent home was located.

[47] "Standards for Placement of Commemorative Works in the District of Columbia," Senate debate, *Congressional Record*, vol. 132, part 22 (October 16, 1986), p. 32373.

[48] P.L. 99-652, 100 Stat. 3650, November 14, 1986; 40 U.S.C. §8901 et seq.

[49] 40 U.S.C. §§8901-8909.

[50] P.L. 99-652, 100 Stat. 3654, November 14, 1986.

[51] U.S. Congress, House Committee on Interior and Insular Affairs, *Lengthening the Period for Construction of Commemorative Works on Federal Land in the District of Columbia*, report to accompany H.R. 3169, 102nd Cong., 1st sess., October 21, 1991, H.Rept. 102-257 (Washington: GPO, 1991), p. 2.

[52] H.R. 3169 (102nd Congress), introduced August 1, 1991. See also "Public Bills and Resolutions," *Congressional Record*, vol. 137, part 15 (August 1, 1991), p. 21069. For more information on H.R. 3169, see U.S. Congress, House Committee on Interior and Insular Affairs, *Lengthening the Period for Construction of Commemorative Works on Federal Land in D.C.*, report to accompany H.R. 3169, 102nd Cong., 1st sess., October 21, 1991, H.Rept. 102-257 (Washington: GPO, 1991); and U.S. Congress, Senate Committee on Energy and Natural Resources, *Lengthening the Period for Construction of Commemorative Works on Federal Land in D.C.*, report to accompany H.R. 3169, 102nd Cong., 1st sess., November 12, 1991, S.Rept. 102-211 (Washington: GPO, 1991).

> Of course, it takes time to develop an outstanding proposal and it appears that when Congress enacted this law 5 years ago, we underestimated the amount of time required to secure the necessary approvals and raise funds for these projects.[53]

Following debate, the House passed H.R. 3169 by voice vote.[54] The Senate Committee on Energy and Natural Resources reported the bill on November 12,[55] and the full Senate passed the measure without debate on November 27.[56] President George H.W. Bush signed the bill into law on December 11, 1991.[57]

Further Extending Legislative Authority

Following the extension of authority to complete a commemorative work to seven years,[58] on August 6, 1993, Representative Nancy Johnson introduced H.R. 2947 to further extend the legislative authority of the Black Revolutionary War Patriots Foundation to nine years from the date of initial enactment.[59] The Committee on Natural Resources reported the bill on November 20 with amendments to not only extend the legislative authority for the Black Revolutionary War Patriots Foundation, but also for the Women in Military Service for America Memorial, and the National Peace Garden. In addition, the committee included other technical amendments to the CWA at the request of the National Capital Memorial Commission.[60]

During the ensuing floor debate, Representative Bruce Vento summarized the committee's rationale for further extending legislative authorities of the three memorials and the necessity of further amending the CWA.

> Mr. Speaker, H.R. 2947 as originally introduced by Congresswoman Nancy Johnson, would extend the authorization for the Black Revolutionary War Patriots Memorial…. As amended by the Committee on Natural Resources, H.R. 2947 extends the authorization for the establishment of three commemorative works to be constructed here in the Nation's Capital and makes various technical amendments to the Commemorative Works Act. …The Black Revolutionary War Patriots Memorial, the women in military service to America and the National Peace Garden have all been authorized under the Commemorative Works Act. All three have obtained the initial site and design approvals as required by the law. But for various reasons, particularly because of the difficulty of fundraising, each of them has requested an extension for the completion of their commemorative works. This legislation extends their authorizations to 10 years—an

[53] Rep. Wayne Allard, "Lengthening Expiration Period for Construction of Commemorative Works on Federal Land," House debate, *Congressional Record*, vol. 137, part 19 (October 21, 1991), p. 26895.

[54] "Lengthening Expiration Period for Construction of Commemorative Works on Federal Land," House debate, *Congressional Record*, vol. 137, part 19 (October 21, 1991), p. 26896.

[55] U.S. Congress, Senate Committee on Energy and Natural Resources, *Lengthening the Period for Construction of Commemorative Works on Federal Land in the District of Columbia*, report to accompany H.R. 3169, 102nd Cong., 1st sess., November 12, 1991, S.Rept. 102-211 (Washington: GPO, 1991).

[56] "Extension of Expiration of Legislative Authority Relating to Construction of Commemorative Works on Federal Lands in the District of Columbia or its Environs," *Congressional Record*, vol. 137, part 24 (November 27, 1991), p. 36314.

[57] P.L. 102-216, 105 Stat. 1666, December 11, 1991.

[58] Ibid.

[59] H.R. 2947 (103rd Congress), introduced August 3, 1993.

[60] U.S. Congress, House Committee on Natural Resources, *Commemorative Works Act Amendments*, report to accompany H.R. 2947, 103rd Cong., 1st sess., November 20, 1993, H.Rept. 103-400 (Washington: GPO, 1993), pp. 3-4.

> additional 3 years for each. I support this extension with the understanding that there will be no further extensions.
>
> As amended by the Committee on Natural Resources, H.R. 2947 also makes various changes to the Commemorative Works Act. Primarily technical, these changes were requested by the National Capital Memorial Commission, and by those responsible for administrating the act. The most important of these changes adds provisions on accountability for fundraisers so that the public's trust is not abused.[61]

The House passed H.R. 2947 by voice vote,[62] and it was referred in the Senate to the Committee on Energy and Natural Resources.[63]

In the Senate, the Committee on Energy and Natural Resources reported a further amended version of the bill that included changes to the National Capital Memorial Commission and restoration of a previously deleted provision that "directed the Secretary of the Interior and the Administrator of the General Services Administration to develop fundraising standards and to suspend a groups' fundraising authority if the Secretary or Administrator … determined that the group's fundraising activities were not in compliance with those standards."[64] The Senate passed the bill, as amended, by voice vote.[65]

Upon its return to the House, H.R. 2947 was further debated. During the debate, Representative Vento explained the Senate amendments and urged passage of the bill.

> The Senate deleted a provision in the House-passed bill authorizing the Secretary to suspend a memorial organization's activity if there are excessive administrative and fundraising expenses. It is the committee's intent that the National Park Service develop guidelines which provide direction to memorial organizations on the subject of unreasonable or excessive administrative costs and fundraising fees. The committee believes that guidelines from the National Park Service would also be helpful to avoiding problems in the future. The committee expects the National Park Service to monitor the fundraising activities of the memorial organizations more closely and it intends that all of the provisions of H.R. 2947 apply to all commemorative works authorized under the Commemorative Works Act.[66]

The House passed H.R. 2947, as amended in the Senate, by a vote of 378 to 0.[67] It became P.L. 103-321 on August 26, 1994.[68]

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[61] Rep. Bruce Vento, "Extending Authorization of Black Revolutionary War Patriots Foundation to Establish Memorial," House debate, *Congressional Record*, vol. 139, part 22 (November 22, 1993), p. 32020.

[62] "Extending Authorization of Black Revolutionary War Patriots Foundation to Establish Memorial," *Congressional Record*, vol. 139, part 22 (November 22, 1993), p. 32022.

[63] "Measures Referred," *Congressional Record*, vol. 139, part 22 (November 23, 1993), p. 32241.

[64] U.S. Congress, Senate Committee on Energy and Natural Resources, *Commemorative Works Act Amendments*, report to accompany H.R. 2947, 103rd Cong., 2nd sess., April 5, 1994, S.Rept. 103-247 (Washington: GPO, 1994), p. 3.

[65] "Commemorative Works Act," *Congressional Record*, vol. 140, part 5 (April 12, 1994), p. 7143.

[66] Rep. Bruce Vento, "Concurring in Senate Amendments to H.R. 2947, Commemorative Works Act Amendments," House debate, *Congressional Record*, vol. 140, part 16 (August 16, 1994), p. 22532.

[67] "Concurring in Senate Amendments to H.R. 2947, Commemorative Works Act Amendments," House debate, *Congressional Record*, vol. 140, part 16 (August 16, 1994), p. 22566.

[68] P.L. 103-321, 108 Stat. 1793, August 26, 1994.

Creating the Reserve

After receiving several requests for the placement of memorials on the National Mall, Congress recognized the need to preserve the L'Enfant and McMillan visions and prevent the Mall area from being overbuilt.[69] In March 2000, the Senate Committee on Energy and Natural Resources Subcommittee on National Parks, Historic Preservation, and Recreation held an oversight hearing on monuments and memorials in the District of Columbia. At the hearing, representatives from the NCPC, the U.S. Commission of Fine Arts (CFA), the NPS, the District of Columbia, and the Committee of 100 on the Federal City[70] all testified on proposed amendments to the CWA.[71] The proposed amendments were the result of a 1997 report to Congress by the NPS, the NCPC, and the CFA.[72]

In summarizing the need for the creation of a new "reserve" area, or no-build zone, on the National Mall, J. Carter Brown, chair of the CFA, also testified that the Reserve should have a building moratorium to protect the National Mall area.

> With the considerable pressures to add new memorials to the city, it is inevitable that many sponsors of what they feel are preeminent causes would favor a location in the proposed reserve. Under such a continuing threat, it makes sense to define this central precinct as a no-build zone.
>
> Even with the substantial size of the reserve, there will still be many sites available for memorials in the foreseeable future. The genius of L'Enfant's plan … created literally hundreds of sites across the city, and it is our hope their abundance and desirability will lead to the placement of future memorials throughout the capital.[73]

In the 107th Congress (2001-2002), Senator Chuck Hagel introduced S. 281, the Vietnam Veterans Memorial Education Act.[74] Reported by the Senate Committee on Energy and Natural Resources, it contained amendments to the CWA to create the Reserve and prohibit building of new memorials within its boundaries.[75] S. 281 did not receive further consideration by the Senate.

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[69] National Park Service, "Measures to Protect the Planning Vision," *A History of the National Mall and Pennsylvania Avenue National Historic Park*, p. 12, at http://www.nps.gov/nationalmallplan/Documents/mallpaavhistory.pdf.

[70] The Committee on 100 of the Federal City was founded in 1923 "to act as a force of conscience in the evolution of the nation's capital city … [and] to sustain and to safeguard the fundamental values derived from the tradition of the L'Enfant Plan and the McMillan Commission…. (*Committee on 100 of the Federal City: Its History and Its Service to the Nation's Capital*, prepared by Richard Striner, Ph.D, at http://www.committeeof100.net/Who-We-Are/history.

[71] U.S. Congress, Senate Committee on Energy and Natural Resources, Subcommittee on National Parks, Historic Preservation and Recreation, *DC Area Monuments and Memorials*, hearing on the Status of Monuments and Memorials, and New Policies that have been Adopted for Locating New Commemorative Works in and Around Washington, DC, 106th Cong., 2nd sess., March 23, 2000, S.Hrg. 106-578 (Washington: GPO, 2000). [Hereinafter, *DC Area Monuments and Memorials*].

[72] U.S. Joint Task Force on Memorials, *Report*, at https://www.ncpc.gov/docs/2M_Joint_Task_Force_on_Memorials.pdf.

[73] *DC Area Monuments and Memorials*, p. 6.

[74] Companion legislation, H.R. 510, was introduced in the House of Representative by Representative John Murtha.

[75] U.S. Congress, Senate Committee on Energy and Natural Resources, *Vietnam Veterans Memorial Education Act*, report to accompany S. 281, 107th Cong., 2nd sess., June 25, 2002, S.Rept. 107-177 (Washington: GPO, 2002). For more information on S. 281, see U.S. Congress, Senate Committee on Energy and Natural Resources, Subcommittee on National Parks, *Miscellaneous National Park and Monument Measures*, hearing on S. 281, S. 386, H.R. 146, S. 513, H.R. 182, S. 921, H.R. 1000, S. 1097, and H.R. 1668, 107th Cong., 1st sess., July 19, 2001, S.Hrg. 107-219 (Washington: GPO, 2001), pp. 20-37.

The issue was reintroduced in the 108th Congress (2003-2004) by Representative Richard Pombo.[76] Reported by the House Committee on Resources, H.R. 1442 authorized the design and construction of the Vietnam Visitor Center,[77] and following Senate amendment,[78] contained language to amend the CWA to create a "reserve" area.[79] Enacted as P.L. 108-126, a reserve area and building moratorium were established on the National Mall.[80]

Pursuant to P.L. 108-126, no additional commemorative works, unless they were authorized prior to P.L. 108-126, are permitted in the Reserve. As a result, the definitions proscribed for memorial placement in Area I, where new commemorative works must be of preeminent historical and lasting significance to the United States, and Area II, which is reserved for subjects of lasting historical significance to the American people, became more important when deciding where a commemorative work should be placed. More information about the placement of commemorative works is contained below under "Designation of Areas of Washington, DC."

Permitting On-Site Donor Acknowledgment

Historically, commemorative works have been expensive.[81] Sponsor groups are often statutorily prohibited from using federal funds to design, construct, or dedicate the monuments or memorials.[82] Consequently, to raise the necessary funds, groups sometimes turn not only to the general public for donations, but also to corporations and foundations. Occasionally, contributors—especially corporate and foundation donors—request recognition for donation. Whether groups sponsoring monuments and memorials are allowed to recognize donations could affect the sponsor groups' ability to raise the necessary funds.[83]

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[76] H.R. 1442 (108th Congress), introduced March 26, 2003.

[77] U.S. Congress, House Committee on Resources, *To Authorize the Design and Construction of a Visitor Center for the Vietnam Veterans Memorial*, report to accompany H.R. 1442, 108th Cong., 1st sess., October 2, 2003, H.Rept. 108-295 (Washington: GPO, 2003).

[78] "Text of Amendments," *Congressional Record*, daily edition, vol. 149 (November 5, 2003), p. S14070.

[79] "Authorizing Design and Construction of Visitor Center for the Vietnam Veterans Memorial," *Congressional Record*, daily edition, vol. 149 (November 5, 2003), p. S14075.

[80] P.L. 108-126, 117 Stat. 1348, November 17, 2003.

[81] Two recent memorials had construction costs in excess of $50 million. The World War II Memorial (P.L. 103-32) had total construction costs of $66.4 million. According to the sponsor group, the American Battle Monuments Commission (ABMC), the total cost for the World War II Memorial project, including site selection, memorial design, fundraising, administration, and dedication, was approximately $182 million. Similarly, the National Park Service reports, based on the 10% of memorial construction costs collected pursuant to 40 U.S.C. §8906(b)(1), that the Martin Luther King Jr., Memorial Project Foundation spent approximately $55.2 million on construction of the Reverend Dr. Martin Luther King Jr. Memorial (P.L. 104-333). Further, the Martin Luther King, Jr., Memorial Project Foundation, Inc., has a goal to raise $120 million for the memorial. Martin Luther King, Jr., Memorial Project Foundation Inc., "Washington, D.C. Martin Luther King, Jr., National Memorial," at https://www.thememorialfoundation.org/.

[82] For example, P.L. 112-239 §2859, 126 Stat. 2164, January 2, 2013, authorizes the Gold Star Mothers National Monument Foundation to establish a commemorative work in the District of Columbia. Pursuant to this law, the Gold Star Mothers National Monument Foundation is explicitly prohibited from using federal funds to design or build the memorial. Therefore, the foundation is required to raise all money necessary to "establish" the commemorative work.

[83] In his testimony before the House Committee on Natural Resources, Subcommittee on Public Lands and Environmental Regulation, Jan Scruggs, president and founder of the Vietnam Veterans Memorial Fund, articulated his view of why donor recognition is essential to raising sufficient money toward building the Vietnam Veterans Memorial Visitor Center. See Testimony of Jan D. Scruggs, president, Vietnam Veterans Memorial Fund, U.S. Congress, House Committee on Natural Resources, Subcommittee on Public Lands and Environmental Regulations, *Hearing on H.R. 588, H.R. 716, and H.R. 819*, 113th Cong., 1st sess., March 14, 2013, p. 2.

Donor recognition for monuments and memorials can generally be divided into two categories: on-site and off-site donor recognition. On-site donor recognition is the acknowledgment—either permanent or temporary—of contributions at the location of a monument or memorial. Off-site donor recognition is the acknowledgement of contributions in a manner that does not involve the monument or memorial location. This recognition can include, but is not limited to, thank you letters, awards, publicity, press conferences, mementos, and online acknowledgment.[84] Additionally, policies on recognizing donations differ for works authorized under the CWA and for non-CWA monuments and memorials.

When it was enacted in 1986, the CWA prohibited the on-site recognition of donors at memorial sites in the District of Columbia. Between 1986 and 2013, memorial sponsors were not allowed to recognize donors on-site. In the 113th Congress, the first exemption to the on-site ban on donor acknowledgement was provided to the Vietnam Veterans Memorial Fund to aid its effort to build the Vietnam Veterans Memorial Visitor Center.[85] The law provided the sponsor group with the ability to recognize donors on-site, subject to the approval of the Secretary of the Interior, and at the expense of the sponsor group.

At the same time that the Vietnam Veterans Memorial Visitor Center was granted permission to recognize donors, Representative Doc Hastings introduced H.R. 2395, "to provide for donor contribution acknowledgements to be displayed at projects authorized under the Commemorative Works Act."[86] The bill would have amended 40 U.S.C. §8905(b) to allow acknowledgement of donor contributions, subject to several conditions. Additionally, the bill would have retroactively applied to all memorials dedicated after January 1, 2010.[87]

In testimony on the bill before the House Natural Resources Committee, Subcommittee on Public Lands and Environmental Regulation, Stephen Whitesell, regional director of the National Capital Region for the National Park Service, supported the on-site recognition of donors. He said,

> Although the Department has supported the CWA ban on donor recognition, this ban has proven to be impractical, given the challenge of funding new memorials and the reliance of the memorial sponsors on the generosity of the public in order to establish and construct memorials that Congress has authorized. We recognize the importance of acknowledging large donations for effective fundraising and, therefore, support donor recognition with appropriate limitations as described below. We do not support permanent donor recognition.[88]

After the subcommittee hearing on July 19, 2013, H.R. 2395 did not receive further consideration. As part of the National Defense Authorization Act for FY2015, however, the language from H.R. 2395 was included as §3054. Pursuant to P.L. 113-291, §3054(c), the CWA was amended to allow donor recognition "inside an ancillary structure associated with the commemorative work or as part of a manmade landscape feature at the commemorative work."[89]

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[84] U.S. Department of the Interior, National Park Service, *Director's Order #21: Donations and Fundraising*, July 11, 2008, pp. 20-21, at https://www.nps.gov/policy/DOrders/DO_21.htm.

[85] P.L. 113-21, 127 Stat. 490, July 18, 2013.

[86] H.R. 2395 (113th Congress), introduced June 17, 2013.

[87] Ibid.

[88] Testimony of Stephen E. Whitesell, regional director of the National Capital Region, National Park Service, July 19, 2013; and U.S. Congress, House Committee on Natural Resources, Subcommittee on Public Lands and Environmental Regulation, *Legislative Hearing on H.R. 587, H.R. 1168, H.R. 1170, H.R. 1684, H.R. 2068, H.R. 2095, S. 130, S. 304, and S. 459*, 113th Cong., 1st sess., July 19, 2013.

[89] P.L. 113-291, §3054(c)(2).

Further, donor acknowledgement applies to all commemorative works dedicated after January 1, 2010,[90] is to be paid for by the sponsor,[91] and is subject to the permission of the Secretary of the Interior or the Administrator of General Services.[92] The acknowledgment also must

> (A) be limited to an appropriate statement or credit recognizing the contribution;
>
> (B) be displayed in a form in accordance with National Park Service and General Services Administration guidelines;
>
> (C) be displayed for a period of up to 10 years, with the display period to be commensurate with the level of the contribution, as determined in accordance with the plan and guidelines described in subparagraph (B);
>
> (D) be freestanding; and
>
> (E) not be affixed to—(i) any landscape feature at the commemorative work; or (ii) any object in a museum collection.[93]

Establishing a Memorial in the Nation's Capital

The standards for consideration and placement of commemorative works in areas administered by the National Park Service (NPS) and the General Services Administration (GSA) in the District of Columbia and its environs are contained in the Commemorative Works Act (CWA) of 1986, as amended.[94] The following sections examine how commemorative works are established and maintained.

Pursuant to the CWA, the National Park Service (NPS) has developed a 24-step outline to guide groups interested in creating a commemorative work in the District of Columbia. The NPS outline guides initiation, legislation, site election and approval, design approval, fundraising, construction, and dedication of commemorative works.[95] In addition, groups have asked for, and been granted, extensions to their initial authorization to allow additional time to complete the memorial creation process. The full guidelines from NCPC are found in **Appendix B**.

Initiation

Since 1986, legislation authorizing most commemorative works in the District of Columbia has authorized nongovernmental sponsors.[96] Sponsors interested in creating a commemorative work

[90] P.L. 113-291, §3054(c)(5).

[91] P.L. 113-291, §3054(c)(3).

[92] P.L. 113-291, §3054(c)(4).

[93] P.L. 113-291, §3054(c)(1).

[94] 40 U.S.C. §§8901-8909.

[95] The National Park Service 24-step outline, as provided by the National Capital Memorial Commission, September 2001, is published as Appendix A of the National Capital Planning Commission's Museum and Master Plan, published December 2001. For more information, see National Capital Planning Commission, "Appendix A: Steps for Establishing a Memorial in the Nation's Capital," *Memorials and Museums Master Plan*, (September 2001, updated 2006), pp. 167-168, at https://www.ncpc.gov/docs/Memorials_and_Museums_Master_Plan_full_2001.pdf#page=173.

[96] The Dwight D. Eisenhower Memorial is an exception to this standard. Congress created the Eisenhower Memorial Commission to create "an appropriate permanent memorial to Dwight D. Eisenhower." Commissioners include four Senators, four Representatives, and four individuals appointed by the President (P.L. 106-79, 113 Stat. 1274, September 30, 2000). The Eisenhower Memorial Commission is not unlike previous commissions authorized to create Presidential commemorative works to Franklin Delano Roosevelt or Thomas Jefferson, whose funds, including planning, design, and construction were appropriated by Congress.

to an individual, group, or event must find a congressional sponsor to introduce authorizing legislation.[97] The National Capital Memorial Advisory Commission offers consultative services to potential sponsors.[98]

Legislation

The CWA provides that no "commemorative work may be established in the District of Columbia unless specifically authorized by Congress."[99] The CWA further specifies requirements for military works and works commemorating events, individuals, or groups. For military works, the CWA requires Congress to consider legislation only for the commemoration of "a war or similar major military conflict or a branch of the armed forces" that has been designated as officially ended for at least 10 years.[100] Works proposed to commemorate a limited military engagement or a unit of the armed forces are not allowed.[101] For works commemorating events, individuals, or groups, the CWA specifies that Congress will not consider legislation "until after the 25th anniversary of the event, death of the individual, or death of the last surviving member of the group."[102]

Legislation authorizing a commemorative work typically contains three sections: authorization to establish the work, payment of expenses, and deposit of excess funds. Authorizing legislation does not designate a specific site or design for the commemorative work, and additional information, such as findings, can be included, but is not a standard part of most commemorative works legislation.[103] Once introduced, legislation is generally referred to the House Committee on Natural Resources[104] and to the Senate Committee on Energy and Natural Resources.[105]

Following authorization, additional legislation is required to designate a commemorative work in Area I (see map in **Appendix C**). For example, the Adams Memorial Foundation was authorized to consider sites in Area I by Congress following the recommendation of the National Capital Memorial Advisory Commission and the Secretary of the Interior.[106]

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[97] 40 U.S.C. §8902(a)(4). "The term 'sponsor' means a public agency, or an individual, group or organization that is described in *section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. §501(c)(3)]* and exempt from tax under section 501 (a) of such Code [26 U.S.C. §501(a)], and which is authorized by Congress to establish a commemorative work in the District of Columbia and its environs."

[98] National Capital Planning Commission, "Appendix A: Steps for Establishing a Memorial in the Nation's Capital," *Memorials and Museums Master Plan*, (September 2001, updated 2006), pp. 167-168, at https://www.ncpc.gov/docs/Memorials_and_Museums_Master_Plan_full_2001.pdf#page=173. For more information on NCMAC, see National Park Service, "National Capital Memorial Advisory Commission (NCMAC," at https://parkplanning.nps.gov/projectHome.cfm?parkID=463&projectID=44217.

[99] 40 U.S.C. §8903(a)(1).

[100] 40 U.S.C. §8903(b).

[101] Ibid.

[102] 2 U.S.C. §8903(c).

[103] For example, the Adams Memorial authorizing legislation (P.L. 107-62, 115 Stat. 411, November 5, 2001) contains 10 findings by Congress on the importance of creating a memorial to the Adams family.

[104] House Rule X, clause 1 (l)(10). U.S. Congress, House, *Constitution, Jefferson's Manual, and Rules of the House of Representatives One Hundred Eleventh Congress*, prepared by John V. Sullivan, Parliamentarian, 110th Cong., 2nd sess., H.Doc. 110-162 (Washington: GPO, 2009), §731, p. 455.

[105] Senate Rule XXV, clause 1 (g). U.S. Congress, Senate Committee on Rules and Administration, *Senate Manual Containing the Standing Rules, Orders, Laws, and Resolutions Affecting the Business of the United States Senate*, 110th Cong., 2nd sess., S.Doc. 110-1 (Washington: GPO, 2008), §25.1(g), p. 29.

[106] P.L. 107-315, 116 Stat. 2763, December 2, 2002. For more information about Area I, see "Designation of Areas of

Commemorative Works Authorization

The first section of most commemorative works authorization bills includes specific mention of the group authorized to establish the memorial; and the individual, event, or group that is to be honored. The legislation also typically provides for the memorial's general location (i.e., in the District of Columbia or its environs), but does not provide for a specific site location. For example, the authorization language for the group authorized to create the memorial to President John Adams and his family stated,

Congress approves the location for the commemorative work to honor former President John Adams and his legacy, as authorized by P.L. 107-62 (115 Stat. 411), within Area I as described in Section 8908 of title 40, United States Code, subject to the limitation in Section 2.[107]

Payment of Expenses

Other sections of commemorative works authorization bills provide the sponsor with authority to accept contributions and requires the group to make payment for all expenses related to site selection, design, and construction of the memorial.[108] Further, the CWA requires that the sponsor must donate an amount "equal to 10 percent of the total estimated cost of construction to offset the costs of perpetual maintenance and preservation"[109] of the commemorative work.

Many statutes authorizing commemorative works also contain a statement specifically prohibiting the use of federal funds. For example, the payment language for the Benjamin Banneker memorial stated,

> The Washington Interdependence Council shall be solely responsible for the acceptance of contributions for, and payment of the expenses of, the establishment of the memorial. No federal funds may be used to pay any expense of the establishment of the memorial.[110]

Deposit of Excess Funds

Legislation to authorize a commemorative work often provides for disposal of excess funds raised by the authorized group. Excess funds raised are often directed to be delivered to the Department of the Interior and the National Park Service for deposit with the National Park Foundation as provided for pursuant to 40 U.S.C. §8906 (b). For example, the excess funds language for the Brigadier General Francis Marion memorial stated,

> If, upon payment of all expenses of the establishment of the commemorative work authorized by subsection (b) (including the maintenance and preservation amount provided for in section 8906(b) of title 40, United States Code), or upon expiration of the authority for the commemorative work under chapter 89 of title 40, United States Code, there remains a balance of funds received for the establishment of that commemorative work, the Marion Park Project, a committee of the Palmetto Conservation Foundation, shall

Washington, DC."

[107] P.L. 107-315, 116 Stat. 2763, December 2, 2002. Section 2 of the act reiterated that the work was not to be placed in the Reserve.

[108] The CWA requires that groups authorized to construct a memorial demonstrate that it "has available sufficient amounts to complete construction of the project" [40 U.S.C. §8906(a)(4)].

[109] 40 U.S.C. §8906(b)(1).

[110] P.L. 105-355, §512, 112 Stat. 3266, November 6, 1998.

> transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8906 (b)(1) of such title.[111]

Extension of Statutory Authority

In some instances, Congress has chosen to extend the legislative authority for a commemorative work. All authorized commemorative works are provided a seven-year period to complete the work unless the group has a construction permit issued by the Secretary of the Interior (Secretary) or the Administrator of the General Services Administration (Administrator).[112] In some circumstances, an administrative extension may be provided by the Secretary or Administrator if final design approvals have been received from the National Capital Planning Commission (NCPC) and the Commission of Fine Arts and 75% of the amount estimated to be required has been raised.[113]

If an authorized commemorative works legislative authority expires, Congress may extend that authority by amending the initial authorizing statute. For example, the Adams Memorial Foundation was initially authorized to create a commemorative work to the Adams family in 2001.[114] In 2009, Congress extended the authority until September 30, 2010,[115] and in 2010, it was further extended until December 2, 2013.[116] The amendment to the legislative authority stated,

Section 1(c) of P.L. 107-62 is amended by striking "accordance with" and all that follows through the period at the end and inserting the following: "according with chapter 89 of title 40, United States Code, except that any reference in section 8903(e) of that chapter to the expiration at the end of or extension beyond a seven-year period shall be considered to be a reference to an expiration on or extension beyond December 2, 2013."[117]

Site Selection and Approval

Based on the criteria discussed below in "Designation of Areas of Washington, DC," the Secretary or the Administrator may, after consultation with the National Capital Memorial Advisory Commission,[118] recommend the location of a commemorative work in either Area I or Area II (depicted in **Figure C-1**). If the Secretary or Administrator agrees with the recommendation and finds that the subject of the commemorative work is of preeminent historical and lasting significance to the nation, he or she will recommend placement in Area I and notify Congress of his or her determination. The location of a commemorative work in Area I shall be deemed disapproved unless it has been approved by law within 150 calendar days.[119] If

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[111] P.L. 110-229, 122 Stat. 782, May 8, 2008.

[112] 40 U.S.C. §8903(e)(1).

[113] 40 U.S.C. §8903(e)(2). If a commemorative work has been authorized for Area I, the legislation authorizing the site serves as a default extension to the sponsor group's authority.

[114] P.L. 107-62, 115 Stat. 411, November 5, 2011.

[115] P.L. 111-88, §130, 123 Stat. 2933, October 30, 2009.

[116] P.L. 111-169, 124 Stat. 1192, May 24, 2010.

[117] Ibid.

[118] 40 U.S.C. §8905(a). Members of the National Capital Memorial Advisory Commission include the Director, National Park Service (chair); Architect of the Capitol; Chair, American Battle Monuments Commission; Chair, Commission of Fine Arts; Chair, National Capital Planning Commission; Mayor, District of Columbia; Commissioner, Public Building Service, General Services Administration; and Secretary of Defense.

[119] 40 U.S.C. §8908(b)(1).

the commemorative work is of lasting historical significance it may be located in Area II, and Congress does not require notification, nor is further legislation needed.[120]

Designation of Areas of Washington, DC

The CWA divides the District of Columbia and its environs into three sections for the placement of memorials: the Reserve, Area I, and Area II. For each area the standards for memorial placement are specified in law and enforced through a requirement for congressional approval of monument location through the passage of a joint resolution. For a map of the District marked with these sections, see **Appendix C**.

The Reserve

The Reserve, created by P.L. 108-126, is defined as "the great cross-axis of the Mall, which generally extends from the United States Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial"[121] and "is a substantially completed work of civic art."[122] Within this area, "to preserve the integrity of the Mall … the siting of new commemorative works is prohibited."[123] Works authorized prior to the enactment of P.L. 108-126 in November 2003—the Dr. Martin Luther King Jr. Memorial is the only such work—continue to be eligible for placement within the Reserve,[124] pursuant to the process established by the National Park Service and outlined below under "Establishing a Memorial in the Nation's Capital."

Area I

Area I is reserved for commemorative works of "preeminent historical and lasting significance to the United States."[125] Shown on **Figure C-1**, Area I is roughly bounded by the West Front of the Capitol; Pennsylvania Avenue N.W. (between 1st and 15th Street, N.W.); Lafayette Square; 17th Street, N.W. (between H Street and Constitution Avenue); Constitution Avenue, N.W. (between 17th and 23rd Streets); the John F. Kennedy Center for the Performing Arts waterfront area; Theodore Roosevelt Island; National Park Service land in Virginia surrounding the George Washington Memorial Parkway; the 14th Street Bridge area; and Maryland Avenue, S.W., from Maine Avenue, S.W., to Independence Avenue S.W., at the U.S. Botanic Garden.

Pursuant to 40 U.S.C. §8908, the Secretary of the Interior or the Administrator of General Services, after seeking the advice of the National Capital Memorial Advisory Commission, can recommend that a memorial be placed in Area I. If either the Secretary or the Administrator recommends placement in Area I, he or she must notify the House Committee on Natural Resources and the Senate Committee on Energy and Natural Resources.[126] If the recommendation is not enacted into law within 150 calendar days, the recommendation is not adopted and the memorial sponsor must consider sites in Area II.

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[120] 40 U.S.C. §8908(b)(2).

[121] 40 U.S.C. §8902.

[122] P.L. 108-126, §202(a), 117 Stat. 1348, November 17, 2003.

[123] 40 U.S.C. §8901 note; and 40 U.S.C. §8908(c). The placement of museums and visitors centers is also prohibited under the CWA [40 U.S.C. §8905 (b)(5) and 40 U.S.C. §8908(c)].

[124] P.L. 108-126, 117 Stat. 1349, November 17, 2003; 40 U.S.C. §8901 note.

[125] 40 U.S.C. §8908(b)(1).

[126] Ibid. The Secretary or the Administrator notifies Congress by sending a letter to the Speaker of the House and the President of the Senate.

Area II

Area II is reserved for "subjects of lasting historical significance to the American people."[127] Shown on **Figure C-1**, Area II encompasses all sections of the District of Columbia and its environs not part of the Reserve or Area I.

Congressional Approval of Memorial Site Location

In considering commemorative works legislation, both the House Committee on Resources and Senate Committee on Energy and Natural Resources[128] solicit the views of the National Capital Memorial Advisory Commission.[129] The Secretary or the Administrator likewise seeks the advice of the commission prior to recommending a location for a commemorative work.[130]

For example, the joint resolution approving the location of the Vietnam Women's Memorial stated,

> Whereas section 6(a) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal Lands in the District of Columbia and its environs, and for other purposes," approved November 14, 1986 (100 Stat. 3650, 3651), provides that the location of a commemorative work in the area described therein as area I shall be deemed disapproved unless, not later than one hundred and fifty days after the Secretary of the Interior or the Administrator of General Services notifies the Congress of his determination that the commemorative work should be located in area I, the location is approved by law;
>
> Whereas the Act approved November 15, 1988 (102 Stat. 3922), authorizes the Vietnam Women's Memorial Project, Incorporated, to establish a memorial on Federal land in the District of Columbia or its environs to honor women who served in the Armed Forces of the United States in the Republic of Vietnam during the Vietnam era;
>
> Whereas section 3 of the said Act of November 15, 1988, states the sense of the Congress that it would be most fitting and appropriate to place the memorial within the two and two-tenths acre site of the Vietnam Veterans Memorial in the District of Columbia which is within area I; and
>
> Whereas the Secretary of the Interior has notified the Congress of his determination that the memorial authorized by the said Act of November 15, 1988, should be located in area I: Now, therefore, be it
>
> Resolved by the Senate and House of Representatives of the United States Of America in Congress assembled, That the location of a commemorative work to honor women who served in the Armed Forces of the United States in the Republic of Vietnam during the Vietnam era, authorized by the Act approved November 15, 1988 (102 Stat. 3922), in the area described in the Act approved November 14, 1986 (100 Stat. 3650), as area I, is hereby approved.[131]

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[127] 40 U.S.C. §8908(b)(2).

[128] Prior to the 104th Congress, the committees of jurisdiction were the Committee on House Administration and the Senate Committee on Energy and Natural Resources. At the outset of the 104th Congress, House jurisdiction was transferred to the Committee on Resources. "Rules of the House," *Congressional Record*, daily edition, vol. 141, part 1 (January 4, 1995), p. H27.

[129] 40 U.S.C. §8903(d).

[130] 40 U.S.C. §8905(a)(1).

[131] P.L. 101-187, 103 Stat. 1350, November 28, 1989.

Design Approval

Following site selection, the memorial planners begin the process of hiring a designer and work with National Park Service (NPS) to get plans approved by the NCPC and the Commission of Fine Arts.[132] Memorial sponsors, in the development of a concept(s), are to consult with the National Capital Memorial Advisory Commission, which in turn provides advice to the Secretary or to Members of Congress.[133]

Once the memorial sponsor has chosen a designer and selected a concept design plan, those plans are presented to the NPS or General Services Administration, the Commission of Fine Arts, and the NCPC. In considering the plans, these entities are guided by several criteria established by the CWA. The design reviews include, but are not limited to, the memorial's surroundings,[134] location,[135] materials,[136] landscape features,[137] site specific guidelines,[138] and the prohibition of donor contributions.[139] Final designs and specifications are completed in coordination with NPS or GSA (as appropriate).[140]

Fundraising

As discussed above in "Payment of Expenses," authorizing legislation often contains a statement that the commemorative work is to be created pursuant to the CWA and that the use of federal funds is not generally authorized or appropriated for the creation of commemorative works. Subsequently, sponsor groups are statutorily authorized to raise funds for the completion of the commemorative work.[141]

Fundraising for the creation of commemorative works can sometimes be difficult. In some instances, Congress has appropriated federal funds to assist with the creation of the commemorative work. For example, in 2005, Congress appropriated $10 million to the Secretary of the Interior "for necessary expenses for the Memorial to Martin Luther King, Jr."[142] The

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[132] In addition, the National Capital Planning Commission solicits comment from the DC State Historic Preservation Office. For more information, see National Capital Planning Commission, "Appendix A: Steps for Establishing a Memorial in the Nation's Capital," *Memorials and Museums Master Plan* (September 2001, updated 2006). On Department of Interior properties, the National Park Service, on behalf of memorial planners, requests design approvals from the National Capital Planning Commission and the Commission of Fine Arts.

[133] 40 U.S.C. §8905(a)(1).

[134] 40 U.S.C. §8905(b)(1). "To the maximum extent possible, a commemorative work shall be located in surroundings that are relevant to the subject of the work."

[135] 40 U.S.C. §8905(b)(2). "A commemorative work shall be located so that – (A) it does not interfere with, or encroach on, an existing commemorative work; and (B) to the maximum extent practicable, it protects open space, existing public space, and cultural and natural resources."

[136] 40 U.S.C. §8905(b)(3). "A commemorative work shall be constructed of durable material suitable to an outdoor environment."

[137] 40 U.S.C. §8905(b)(4). "Landscape features of commemorative works shall be compatible with the climate."

[138] 40 U.S.C. §8905(b)(6). "The National Capital Planning Commission and the Commission of Fine Arts may develop such criteria or guidelines specific to each site that are mutually agreed upon to ensure that the design of the commemorative work carries out the purposes of this chapter [*40 U.S.C. §§8901-8909*]."

[139] 40 U.S.C. §8905(b)(7). "Donor contributions to commemorative works shall not be acknowledged in any manner as part of the commemorative work or its site."

[140] National Capital Planning Commission, "Appendix A: Steps for Establishing a Memorial in the Nation's Capital," *Memorials and Museums Master Plan* (September 2001, updated 2006).

[141] 40 U.S.C. §8906(a)(4).

[142] P.L. 109-54, §134, 119 Stat. 526, August 2, 2005.

appropriation was designated as matching funds and available only after being matched by nonfederal contributions.[143]

Construction

The CWA specifies four criteria that the Secretary or the Administrator must determine prior to issuing a construction permit:

1. Approval of site and design by the Secretary or Administrator, the National Capital Planning Commission, and the Commission of Fine Arts
2. Consultation of "knowledgeable individuals qualified in the field of preservation and maintenance … to determine structural soundness and durability of the commemorative work and to ensure that the commemorative work meets high professional standards"[144]
3. Submission of construction documents by authorized memorial sponsor to the Secretary or Administrator
4. Proof that sufficient funds exist to complete project construction[145]
5. In advance of receiving a permit, the sponsor must donate an amount equal to 10% of the estimated cost of construction to offset the costs of perpetual maintenance and preservation[146]

Memorial construction can begin once the Secretary or Administrator issues a construction permit.

Dedication

Following the memorial's completion, the sponsor schedules a dedication and transfer ceremony to NPS or GSA. The President has sometimes attended past dedications, but no specific ceremony requirements exist. For example, President George W. Bush dedicated the World War II Memorial in 2004. In his remarks, President Bush briefly commented on the memorial creation process and on the importance of honoring World War II veterans.

> Raising up this Memorial took skill and vision and patience. Now the work is done, and it is a fitting tribute, open and expansive like America, grand and enduring like the achievements we honor. The years of World War II were a hard, heroic, and gallant time in the life of our country. When it mattered most, an entire generation of Americans showed the finest qualities of our Nation and of humanity. On this day, in their honor, we will raise the American flag over a monument that will stand as long as America itself.[147]

In November 2000, Attorney General Janet Reno and Secretary of Commerce Norman Mineta represented President Bill Clinton at the dedication ceremony for the National Japanese-American Memorial to Patriotism during World War II. In a statement following the dedication,

[143] P.L. 109-54, §134, 119 Stat. 527, August 2, 2005.

[144] The determination of soundness of the commemorative work is a review of the materials to be used for the memorial and the memorial's landscaping to ensure they are compatible with the climate.

[145] 40 U.S.C. §8906(a).

[146] 40 U.S.C. §8906(b)(1).

[147] U.S. President (George W. Bush), "Remarks at the Dedication of the National World War II Memorial," *Daily Compilation of Presidential Documents* (May 29, 2004), p. 970.

President Clinton recognized the importance of the memorial and the presence of his Cabinet secretaries.

> Earlier today America honored the patriotism of Japanese-Americans during World War II with the dedication of the National Japanese-American Memorial in the Nation's Capital. Attorney General Janet Reno and Commerce Secretary Norman Mineta joined distinguished members of the Japanese-American community and Americans of all ancestries in reminding us of a time when this county lost sight of the very foundations of democracy it was defending abroad. This Nation must never forget the difficult lessons of the Japanese-American internment camps during World War II and the inspirational lessons of patriotism in the face of that injustice.[148]

Authorized Memorials

Since the passage of the CWA in 1986, Congress has authorized 38 memorials on federal lands in the District of Columbia or its environs.[149] Of these works, 20 have been dedicated and completed—17 under the auspices of the CWA and 3 outside the CWA process[150]—9 are in-progress, 8 have lapsed authorizations, and 1 had its authorization repealed.[151] **Table 1** provides the number of memorials authorized per Congress, pursuant to the CWA, since the 99th Congress (1985-1987).

Table 1. Memorials Authorized by Congress

99th through 115th Congresses

Congress	Memorials	Congress	Memorials
99th (1985-1987)[a]	5	108th (2003-2005)	1
100th (1987-1989)	2	109th (2005-2007)	1
101st (1989-1991)	1	110th (2007-2009)	1
102nd (1991-1993)	3	111th (2009-2011)	1[b]
103rd (1993-1995)	3	112th (2011-2013)	2
104th (1995-1997)	1	113th (2013-2015)	4
105th (1997-1999)	2	114th (2015-2017)	1

[148] U.S. President (William J. Clinton), "Statement on the Dedication of the National Japanese-American Memorial," *Daily Compilation of Presidential Documents* (November 9, 2000), p. 2834.

[149] To compile the list of memorials, three different sources were consulted. First, a search of Congress.gov was conducted for the terms "Commemorative Works Act" and "Federal Land in the District of Columbia." Second, the list provided through the Congress.gov search was then cross-referenced with legislative information provided by the National Park Service Legislative and Congressional Affairs Office. The Office of Legislative and Congressional Affairs provides compilations of laws related to the National Park Service for each year. These documents include a list of memorials. (U.S. Department of the Interior, National Park Service, Legislative and Congressional Affairs, "National Park Service Laws," at http://www.nps.gov/legal/). Finally, the list was compared to a compilation of memorials provided in 40 U.S.C. §8903 note. Overall, Congress has authorized 38 memorials.

[150] For more information on completed commemorative works, see CRS Report R43743, *Monuments and Memorials Authorized and Completed Under the Commemorative Works Act in the District of Columbia*, by Jacob R. Straus.

[151] For more information on in-progress memorials and memorials with lapsed authorizations, see CRS Report R43744, *Monuments and Memorials Authorized Under the Commemorative Works Act in the District of Columbia: Current Development of In-Progress and Lapsed Works*, by Jacob R. Straus. The Black Revolutionary War Patriots Memorial, authorized in the 99th Congress (P.L. 99-558), had a lapsed authorization until Congress repealed it and authorized a new memorial to Slaves and Free Black Persons Who Served in the Revolution (P.L. 112-239). See note c on **Table 1** for more information.

Congress	Memorials	Congress	Memorials
106th (1999-2001)	5	115th (2017-2019)	3
107th (2001-2003)	2	**Total**	**38**[c]

Source: CRS analysis of memorial legislation.

Notes:

a. Only memorials subject to the CWA are included in the total for the 99th Congress.

b. In the 111th Congress, a plaque honoring Senator Robert J. Dole was placed at the World War II Memorial (P.L. 111-88, §128, 123 Stat. 2933, October 30, 2009). The placement of the plaque was authorized outside of the CWA process, but is included because it was placed in the Reserve.

c. P.L. 112-239, §2860 repealed an authorization to the Black Revolutionary War Patriots Foundation to create a Black Revolutionary War Veterans Memorial that had been authorized by P.L. 99-558 (100 Stat. 3144, October 27, 1986). P.L. 112-239 provided a new authorization for the Slaves and Free Black Persons who Served in the American Revolution Memorial to the National Mall Liberty Fund. Both memorials are included in this total, as P.L. 112-239 created a new authorization for the memorial.

Memorials authorized by Congress since the passage of CWA have focused on a variety of individuals, groups, and events. Among the individuals recognized have been Francis Scott Key, George Mason, and Dr. Martin Luther King Jr. Groups commemorated have included Black Revolutionary War Patriots, Victims of Communism, and Ukrainian Famine-Genocide Victims. Still others have sought to memorialize events including the Korean War, World War II, and Dr. Martin Luther King Jr.'s "I Have a Dream Speech." **Table 2** lists memorials authorized by Congress since 1986.

Table 2. Authorized Memorials in the District of Columbia and its Environs

Congress	Memorial	Citation
99	Francis Scott Key	P.L. 99-531, 100 Stat. 3022, October 27, 1986
99	Black Revolutionary War Patriots[a]	P.L. 99-558, 100 Stat. 3144 October 27, 1986
99	Korean War Veterans	P.L. 99-572, 100 Stat. 3226, October 28, 1986
99	Women in Military Service for America	P.L. 99-610, 100 Stat. 3477, November 6, 1986
99	American Armored Force	P.L. 99-620, 100 Stat. 3493, November 6, 1986
100	National Peace Garden[a]	P.L. 100-63, 101 Stat. 379, June 30, 1987
100	Vietnam Women's Memorial	P.L. 100-660, 102 Stat. 3922, November 15, 1988
101	George Mason	P.L. 101-358, 104 Stat. 419, August 10, 1990
102	Thomas Paine[a]	P.L. 102-407, 106 Stat. 1991, October 13, 1992
102	African-American Civil War-Union Soldiers/Sailors	P.L. 102-412, 106 Stat. 2104, October 14, 1992
102	Japanese American Patriotism in World War II	P.L. 102-502, 106 Stat. 3273, October 24, 1992
103	World War II Memorial	P.L. 103-32, 107 Stat. 90, May 25, 1993
103	Air Force[b]	P.L. 103-163, 107 Stat. 1973, December 2, 1993
103	Victims of Communism	P.L. 103-199, title IX, §905, 107 Stat. 2331, December 17, 1993
104	Dr. Martin Luther King, Jr.	P.L. 104-133, div I, title V, §508, 110 Stat. 4157, November 12, 1996
105	Mahatma Gandhi	P.L. 105-284, 112 Stat. 2701, October 26, 1998
105	Benjamin Banneker[a]	P.L. 105-355, title V, §512, 112 Stat. 3266, November 6, 1998

Congress	Memorial	Citation
106	Dwight D. Eisenhower	P.L. 106-79, §8162, 113 Stat. 1274, October 25, 1999
106	Veterans Who Died as a Result of Service in the Vietnam War	P.L. 106-214, 114 Stat. 335, June 15, 2000
106	Disabled Veterans' for Life Memorial	P.L. 106-348, 114 Stat. 1358, October 24, 2000
106	Lincoln Memorial "I Have a Dream Speech" Plaque	P.L. 106-365, 114 Stat. 1409, October 27, 2000
106	Frederick Douglass[a]	P.L. 106-479, 114 Stat. 2184, November 9, 2000
107	Tomas G. Masaryk	P.L. 107-61, 115 Stat. 410, November 5, 2001
107	John Adams	P.L. 107-62, 115 Stat. 411, November 5, 2001
108	Vietnam Veterans Memorial Visitors Center	P.L. 108-126, 117 Stat. 1348, November 17, 2003
109	Ukrainian Famine-Genocide Victims 1932-1933	P.L. 109-340, 120 Stat. 1864, October 13, 2006
110	Brigadier General Francis Marion	P.L. 110-229, §331, 122 Stat. 781, May 8, 2008
111	Senator Robert J. Dole Plaque[c]	P.L. 111-88, §128, 123 Stat. 2933, October 30, 2009
112	Gold Star Mothers[a]	P.L. 112-239, §2859, 126 Stat. 2164, January 3, 2013
112	Slaves and Free Black Persons Who Served in the Revolution	P.L. 112-239, §2860, 126 Stat. 2164, January 3, 2013
113	Peace Corps[a]	P.L. 113-78, 127 Stat. 647, January 25, 2013
113	World War II Memorial Prayer	P.L. 113-123, 128 Stat. 1377, June 30, 2014
113	World War I	P.L. 113-291, §3091(b), December 19, 2014
113	Desert Storm and Desert Shield	P.L. 113-291, §3093, December 19, 2014
114	Korean War Memorial Wall of Remembrance	P.L. 114-230, 130 Stat. 947, October 7, 2016
115	Global War on Terrorism	P.L. 115-51, 131 Stat. 1003, August 18, 2017
115	Second Division Memorial Modifications	P.L. 115-141, Division G, §121(a)(1), March 23, 2018
115	Emergency Medical Services	P.L. 115-275, 132 Stat. 4164, November 3, 2018

Source: 40 U.S.C. §8903 note, and CRS analysis of memorial legislation.

Notes:

a. Authority for this memorial lapsed prior to construction permits being issued to the sponsoring group.

b. The Air Force Memorial was constructed on land not governed by the Commemorative Works Act. For more information, see the Air Force Memorial Foundation, http://www.airforcememorial.org/.

c. In the 111th Congress, Congress authorized the placement of a plaque honoring Senator Robert J. Dole to be placed on the World War II Memorial (P.L. 111-88, §128, 123 Stat. 2933, October 30, 2009). The placement of the plaque was authorized outside of the CWA process, but is included because it was placed in the Reserve.

d. P.L. 112-239, §2860 repealed an authorization to the Black Revolutionary War Patriots Foundation to create a Black Revolutionary War Veterans Memorial that had been authorized by P.L. 99-558 (100 Stat. 3144, October 27, 1986). P.L. 112-239 provided a new authorization for the Slaves and Free Black Person Who Served in the American Revolution Memorial to the National Mall Liberty Fund DC.

e. P.L. 115-141 incorporated S. 1460, §7130 (115th Congress; Energy and Natural Resources Act of 2017) to authorize modifications to the Second Division Memorial.

Appendix A. Summary of Original Commemorative Works Act Provisions

The Commemorative Works Act (CWA), as enacted, contained 10 sections covering the purposes of the bill, definitions, congressional authorization for memorials, creation of the National Capital Memorial Commission, conditions for memorial placement in different parts of the District of Columbia, site design and approval, issuance of construction permits, creation of a temporary memorial site, and other administrative provisions.[152] **Table A-1** provides a summary of the original provisions contained in the CWA for each section of the bill.

Table A-1. Summary of Original Commemorative Works Act, 1986

Section	Provisions
Section 1 Purposes (100 Stat. 3650)	Outlines the purposes of the act, including the preservation of the L'Enfant and McMillan plans; ensuring continued use of public spaces; preservation and protection of open space for visitors and residents; and ensuring that future commemorative works meet certain standards.
Section 2 Definitions (100 Stat. 3650)	Defines terms used in the act including secretary (Secretary of the Interior), administrator (Administrator of the General Services Administration [GSA]), commemorative work, person, and District of Columbia and its environs.
Section 3 Congressional Authorization of Commemorative Works in the District of Columbia and its Environs (100 Stat. 3651)	Established that no commemorative work be established without congressional authorization; and that the Committee on House Administration and Senate Energy and Natural Resources Committee are required to solicit the views of the National Capital Memorial Commission.
Section 4 National Capital Memorial Commission (100 Stat. 3651)	Created the National Capital Memorial Commission to advise the Secretary of the Interior and the Administrator of GSA on policy and procedures for commemorative works.
Section 5 Availability of Map Depicting Area I and Area II (100 Stat. 3651)	Requires that the Secretary of the Interior and the Administrator of the GSA make available a map depicting Area I and Area II for public inspection.

[152] P.L. 99-652, 100 Stat. 3650, November 14, 1986; 40 U.S.C. §§8901-8909.

Section	Provisions
Section 6 Specific Conditions Applicable to Area I and Area II (100 Stat. 3651)	Area I requires a commemorative work to be of "preeminent historical and lasting significance to the Nation" and that designations for Area I be disapproved unless the location is approved by law within 150 days. Area II requires a commemorative work to be of "lasting historical significance." Individual or group commemorative works are not permitted until 25 years "after the death of the individual or last surviving group member." Military commemorative works can only commemorate a war or similar military conflict or a branch of the Armed Forces. No commemorative works to a lesser conflict or a single Armed Forces unit are permitted. Military commemorative works may not be authorized until at least 10 years after the official designated end of such war or conflict.
Section 7 Site and Design Approval (100 Stat. 3652)	Establishes requirements for individuals or groups authorized to create a commemorative works, including consultation with the National Capital Memorial Commission and site and design proposal review by the Commission of Fine Arts and the National Capital Planning Commission.
Section 8 Criteria for Issuance of Construction Permit (100 Stat. 3652)	Requires that the Secretary of the Interior or the Administrator of the GSA determine that a site has been approved, that the soundness and durability of the work has been verified, contracts and drawings have been submitted to the secretary or administrator, and sufficient funds are available to complete construction. Requires 10% of construction costs to be set aside for future maintenance and preservation of the work.
Section 9 Temporary Site Designation (100 Stat. 3653)	Provides authority to the Secretary of the Interior to create a site for the temporary display of commemorative works "to aid in the preservation of the limited amount of open space available…." Cost of displaying a work in a temporary area is at the sole expense of the authorized party.
Section 10 Miscellaneous Provisions (100 Stat. 3654)	Complete design and construction documentation is provided to the Secretary of the Interior or the Administrator of the GSA; Legislative authority for a commemorative work expires after five years from the date of enactment, unless a construction permit has been issued; The Secretary of the Interior or the Administrator of the GSA assumes responsibility for works upon their completion; The Secretary of the Interior or the Administrator of the GSA has the authority to promulgate regulations to carry out the act; and The act did not apply to works authorized before the 99th Congress.

Source: P.L. 99-652; 100 Stat. 3650, November 14, 1986.

Appendix B. Steps for Establishing a Memorial in the Nation's Capital

In 1987, the National Park Service created a 24-step outline of the commemorative works process. In 2001, the National Capital Planning Commission published the outline for establishing a monument or memorial in the District of Columbia as part of the Museums and Memorials Master Plan.[153] The 24 steps, reprinted verbatim below, are designed to guide interested groups and help ensure appropriate legislation, site selection, design approval, fundraising, and construction.

1. Memorial sponsor seeks National Capital Memorial Advisory Commission (NCMAC) assistance to review the requirements and process established by the Commemorative Works Act (CWA)[154] and its applicability to the proposed memorial.
2. Memorial sponsor seeks a Senator or Representative who is willing to draft and introduce a bill to authorize establishment of the memorial.
3. Staffs of NCMAC, Member of Congress who will introduce the bill, and authorizing committees draft a bill that conforms to the provisions of the CWA.
4. Congressman and/or Senator introduce bill authorizing the memorial and designating the sponsor as the entity responsible for its erection at no cost to the federal government.
5. NCMAC considers proposed authorizing legislation to establish its view pursuant to CWA.[155]
6. Chairmen of House and Senate authorizing Subcommittees on National Parks solicit views of NCMAC, may hold hearings on proposed authorizing legislation, and take action on a bill before sending it to the full House and Senate for a vote on the bill.
7. Congress passes bill, President signs bill into law, providing memorial sponsor 7 years in which to begin construction of memorial in Area II.
8. Memorial sponsor organizes the structure of the entity that will establish the memorial and beings planning.
9. The memorial sponsor may submit to the Secretary a request to be authorized to consider sites in Area I. The Secretary seeks the advice of NCMAC to determine whether the memorial warrants placement in Area I. Based on the advice of NCMAC, the secretary notifies Congress of a determination that the subject is of preeminent and lasting historical significance[156] so that Congress can consider passage of legislation authorizing an Area I location for enactment by the President.[157]

[153] National Capital Planning Commission, "Steps for Establishing a Memorial in the Nation's Capital," *Memorials and Museums Master Plan*, September 2001, updated 2006, pp. 167-168, at https://www.ncpc.gov/docs/Memorials_and_Museums_Master_Plan_full_2001.pdf#page=173.

[154] 40 U.S.C. §§8901-8909.

[155] 40 U.S.C. §8903(d).

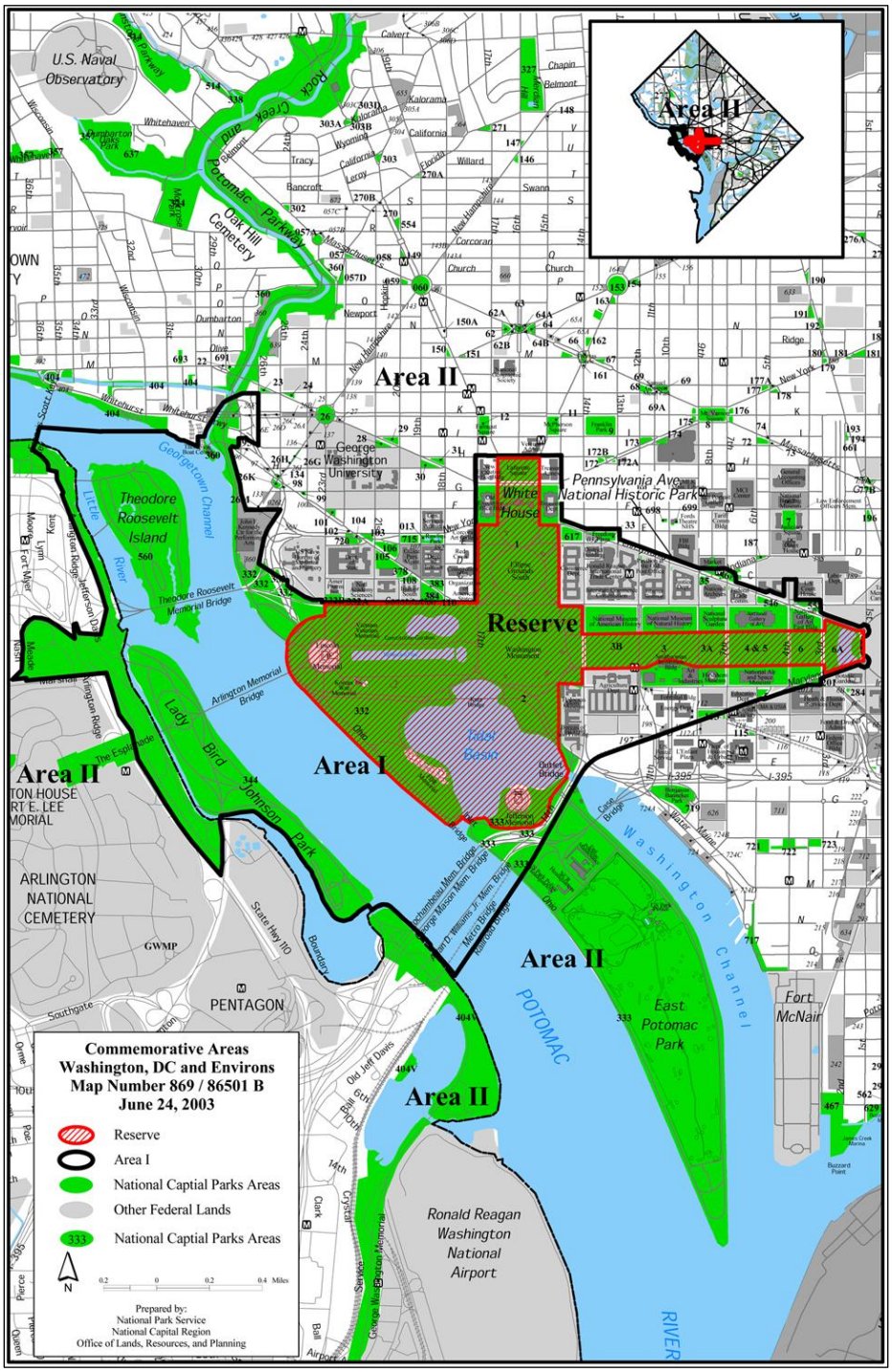
[156] 40 U.S.C. §8908(b).

[157] If legislation to authorize the commemorative work within Area I is not passed with the 150-calendar day period, Area I sites can no longer be considered by the sponsor group.

10. Memorial sponsor works with NPS staff to identify potential Area II sites (may include Area I if authorized) and prepare alternative site study and accompany preliminary environmental analysis.
11. Memorial sponsor, for sites within Area II, or Area I if authorized, submits alternative site study and accompanying preliminary environmental analysis to NPS for approval of preferred site and consultation with NCMAC.
12. NPS submits recommended site and environmental document to the National Capital Planning Commission (NCPC) and the Commission of Fine Arts (CFA) for approval. NPS initiates Section 106 consultation on its recommendation of site with the State Historic Preservation Officer (SHPO).
13. After site approval by NCPC and CFA and in consultation with the SHPO, the design process begins in accordance with any approved design guidelines.
14. Memorial sponsors select a designer or initiate a design competition.
15. Memorial sponsor selects preferred design concept and meets with NPS to discuss issues that design may present. After possible refinements, sponsor submits the design concept and draft environmental assessment to the NPS.
16. NPS reviews design concept and, upon concurrence, submits to NCPC and CFA with appropriate environmental document for approval.
17. Memorial sponsor, in close coordination with NPS, refines preliminary design concept on the basis of NCPC, CFA, and SHPO comments and submits preliminary design to NPS who, upon approval, submits it to NCPC and CFA for approval.
18. Memorial sponsor, in close coordination with NPS, refines preliminary design on the basis of comments and submits final design to NPS, who upon approval, submits it to NCPC and CFA for approval.
19. Memorial design team completes final drawings and specifications in close coordination with NPS.
20. Memorial sponsor completes fund-raising.
21. Memorial sponsor submits final drawing and specifications, cost estimate and evidence of funds on hand plus 10% cash payment of design and construction costs for maintenance to NPS.
22. NPS issues a construction permit on behalf of the Secretary of the Interior which constitutes final approval by the Secretary and the start of construction.
23. Memorial Sponsor begins construction and preparation of operation, maintenance, and preservation plans for the memorial.
24. Memorial is dedicated and transferred to NPS for management with accompanying as-built operation, maintenance, and preservation plans.

Appendix C. District of Columbia Map with Area Designations

Figure C-1. Commemorative Areas Washington, DC and Environs



Source: National Park Service Map 869-86501 B (June 24, 2003).

Appendix D. Entities Responsible for Memorials in the District of Columbia

The process established by the Commemorative Works Act (CWA) to create a commemorative work in the District of Columbia involves the National Capital Memorial Advisory Commission, the U.S. Commission of Fine Arts, the National Capital Planning Commission, the District of Columbia Historic Preservation Office, and sometimes the American Battle Monuments Commission.[158] Each entity is highlighted below.

National Capital Memorial Advisory Commission

The National Capital Memorial Advisory Commission was created in 2001 to "advise the Secretary of the Interior and the Administrator of General Services (as appropriate) on policy and procedures for establishment of, and proposals to establish, commemorative works in the District of Columbia and its environs and on other matters concerning commemorative works in the Nation's Capital as the Commission considers appropriate."[159] The commission is comprised of eight members[160] and meets at least two times a year to "examine … each memorial proposal for conformance to the Commemorative Works Act, and make … recommendations to the Secretary and the Administrator and to Members and Committees of Congress. The Commission also serves as a source of information for persons seeking to establish memorials in Washington, DC and its environs."[161]

U.S. Commission of Fine Arts

In 1910, Representative Samuel McCall introduced a bill, H.R. 19962, to create a commission on fine arts.[162] Reported by the Committee on the Library,[163] the House debated the bill on February 9. During the debate, Representative McCall explained why a permanent entity was needed to govern art within the District of Columbia.

> We have had a very haphazard development of art in the city of Washington. We have had our streets and our squares filled up by art objects that are not always art. We have had commissions appointed—temporary, sporadic commissions—one commission to operate

[158] For more information on memorials outside of Washington, DC, see CRS Report R45741, *Memorials and Commemorative Works Outside Washington, DC: Background, Federal Role, and Options for Congress*, by Jacob R. Straus and Laura B. Comay.

[159] 40 U.S.C. §8904(c). The commission was initially created in 1986 and called the National Capital Memorial Commission. For more information on the National Capital Memorial Advisory Commission, see National Park Service, "National Capital Memorial Advisory Commission (NCMAC)," at https://parkplanning.nps.gov/projectHome.cfm?parkID=463&projectID=44217.

[160] The National Capital Memorial Advisory commission consists of the Director of the National Park Service, the Architect of the Capitol, the Chair of the American Battle Monuments Commission, the Chair of the U.S. Commission of Fine Arts, the Chair of the National Capital Planning Commission, the Mayor of the District of Columbia, the Commissioner of the Public Building Service of the General Services Administration, and the Secretary of Defense [40 U.S.C. §8904(a)].

[161] Department of the Interior, "National Capital Memorial Advisory Commission," 75 *Federal Register* 68823, November 9, 2010.

[162] "Public Bills, Resolutions, and Memorials," *Congressional Record*, vol. 45, part 2 (February 2, 1910), p. 1417.

[163] U.S. Congress, House Committee on the Library, *Commission of Fine Arts*, report to accompany H.R. 19962, 61st Cong., 2nd sess., February 8, 1910, H.Rept. 61-407 (Washington: GPO, 1910).

> upon one statue and another commission to operate upon another, and the result is that we have had no uniform or well thought out development.[164]

Speaking against the creation of the commission, Representative James Tawney argued that creation of a Commission of Fine Arts amounted to an abdication of power over matters in the District of Columbia.

> I believe that the Congress of the United States should reserve some of its legislative functions, some of its legislative power, and not delegate it to commissions or to any other body. We are responsible to the people for legislation, and cannot escape that responsibility by the appointment of commissions. …We have control by virtue of the law over the District of Columbia. When Congress authorizes the construction of a public building and fixes the location of that building and requires its erections within the authority and the appropriation made therefore, or the limit of cost, I do not believe that there is any body of men, or any man, or any executive officer, I care not how high in authority he maybe, who should have the power, or unlawfully exercise executive power, to defeat the will of Congress as express in the law it enacts.[165]

Following debate, H.R. 19962 passed the House and was referred to the Senate.[166] The Senate debated the bill on May 2 and 3, 1910. During debate, the Senate amended the bill to give the commission the authority to "advise generally upon questions of art when required to do so by the President, or by any committee of either House of Congress" and specified commission staffing.[167] The Senate passed the bill, as amended on May 3,[168] and the House disagreed with the Senate amendments and requested a conference.[169]

The conference committee issued its report on May 9,[170] Congress approved the bill,[171] and President William Howard Taft signed the bill on May 17, 1910.[172] Pursuant to the act, the Commission of Fine Arts was initially charged with providing "advise upon the location of statues, fountains, and monuments in the public squares, streets, and parks in the District of Columbia, and upon the selection of models for statues, fountains, and monuments erected under the authority of the United States and upon the selection of artists for the execution of the same."[173] Comprised of seven "well-qualified judges of the fine arts, appointed by the President,"[174] the commission's duties have subsequently been expanded to include "the selection of models for statues, fountains, and monuments erected under the authority of the Federal Government; the selection of artists to carry out [the creation of statues, fountains, and

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[164] Rep. Samuel McCall, "Commission of Fine Arts," remarks in the House, *Congressional Record*, vol. 45, part 2 (February 9, 1910), p. 1659.

[165] Rep. James Tawney, "Commission of Fine Arts," remarks in the House, *Congressional Record*, vol. 45, part 2 (February 9, 1910), p. 1660.

[166] "Commission of Fine Arts," *Congressional Record*, vol. 45, part 2 (February 9, 1910), p. 1675; and "House Bills Referred," *Congressional Record*, vol. 45, part 2 (February 10, 1910), p. 1684.

[167] "Proposed Commission of Fine Arts," *Congressional Record*, vol. 45, part 5 (May 2, 1910), p. 5651.

[168] "Proposed Commission of Fine Arts," *Congressional Record*, vol. 45, part 6 (May 3, 1910), pp. 5703-5709.

[169] "Commission of Fine Arts," *Congressional Record*, vol. 45, part 6 (May 4, 1910), p. 5814.

[170] U.S. Congress, House Conference Committee, *Commission of Fine Arts*, report to accompany H.R. 19962, 61st Cong., 2nd sess., May 9, 1910, H.Rept. 61-1292 (Washington: GPO, 1910).

[171] "Commission of Fine Arts," Senate debate, *Congressional Record*, vol. 45, part 6 (May 9, 1910), pp. 5960-5961; and "Commission of Fine Arts," House debate, *Congressional Record*, vol. 45, part 6 (May 12, 1910), p. 6151.

[172] P.L. 61-183, 36 Stat. 371, May 17, 1910; 40 U.S.C. §§9101-9104.

[173] Ibid.

[174] 40 U.S.C. §9101(b).

monuments]; and questions of art generally when required to do so by the President or a committee of Congress."[175] The commission does not have authority over Capitol or Library of Congress buildings.[176]

National Capital Planning Commission

In 1924, Congress established the National Capital Park and Planning Commission to implement the McMillan Plan for the District of Columbia (see **Figure 2**).[177] Pursuant to the act of June 6, 1924, the commission was to "preserve the flow of water in Rock Creek, to prevent pollution of Rock Creek and the Potomac and Anacostia Rivers, to preserve forests and natural scenery in and about Washington, and to provide for the comprehensive systematic, and continuous development of the park, parkway, and playground system of the National Capital."[178]

In 1952, Congress, in the National Capital Planning Act, changed the commission's name to the National Capital Planning Commission.[179] The act also expanded the commission's geographic boundaries and recognized the creation of the national capital region in Maryland and Virginia. In the House report accompanying the bill, the Committee on the District of Columbia emphasized the new regional mission of the commission.

> The bill denominates and authorizes the Commission to be the central planning agency for the Federal and District Governments within the National Capital region (the District and its environs) and to be the official representative of the aforesaid governments for collaboration with the Regional Planning Council.… The bill includes additional subjects, such as viaducts, subways, major thoroughfares, *monuments and memorials*, public reservations, or property such as airports, parking areas, institutions, open spaces, public utilities and surveys for transportation, redevelopment of obsolescent, blighted or slum areas, and specifically adds the all-important subject of density or distribution of population [emphasis added].[180]

Currently, the commission consists of 12 members. Three members are appointed by the President, including the chair. Two of the three members appointed by the President must reside in Virginia and Maryland, respectively. The Mayor of the District of Columbia appoints two members who must be residents of the District. In addition, a number of regional officials serve

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[175] 40 U.S.C. §9102(a). For more information on the U.S. Commission of Fine Arts, see U.S. Commission of Fine Arts, at http://www.cfa.gov/.

[176] 40 U.S.C. §9102(c).

[177] U.S. Congress, Senate Committee on the District of Columbia, *The Improvement of the Park System of the District of Columbia*, 57th Cong., 1st sess., S.Rept. 57-166 (Washington: GPO, 1902). Also, see U.S. Congress, Senate Committee on the District of Columbia, *Comprehensive Development of the Park and Playground System of the National Capital*, report to accompany S. 112, 68th Cong., 1st sess., March 12, 1924, S.Rept. 68-245 (Washington: GPO, 1924), p. 4; and U.S. Congress, House Committee on the District of Columbia, *Comprehensive Development of the Park and Playground System of the National Capital*, report to accompany S. 112, 68th Cong., 1st sess., May 14, 1924, H.Rept. 68-755 (Washington: GPO, 1924), pp. 3-4.

[178] P.L. 68-202, chap. 270, 43 Stat. 463, June 6, 1924. For more information, see "Park and Playground System of the National Capital," Senate debate, *Congressional Record*, vol. 65, part 8 (May 5, 1924), pp. 7828-7830; "Park and Playground System of the National Capital," House debate, *Congressional Record*, vol. 65, part 9 (May 26, 1924), p. 9558; and "Development of the Park and Playground System of the National Capital," House debate, *Congressional Record*, vol. 65, part 10 (May 27, 1924), pp. 9636-9637.

[179] P.L. 82-592, 66 Stat. 781, July 19, 1952.

[180] U.S. Congress, House Committee on the District of Columbia, *Amending the Act of June 6, 1924, as Amended, Relating to the National Capital Park and Planning Commission*, report to accompany H.R. 7502, 82nd Cong., 2nd sess., June 12, 1952, H.Rept. 82-2164 (Washington: GPO, 1952), p. 3.

as ex-officio members. These include the Mayor of Washington, DC, the chair the Council of the District of Columbia; heads of executive branch agencies with significant land holdings in the District;[181] and leaders of the U.S. House and Senate committees with District oversight responsibilities.[182]

In addition to providing guidance and approval at multiple steps of the monument and memorial creation process in the District of Columbia, the NCPC also operates under the authority of other laws for planning within the National Capital Region. These include the National Capital Planning Act,[183] Height of Buildings Act of 1910,[184] District of Columbia Zoning Act,[185] Foreign Missions Act,[186] International Center Act,[187] National Historic Preservation Act,[188] National

[181] Executive Branch agencies with "significant land holdings in the District," include the Department of Defense, the Department of the Interior, and the General Services Administration.

[182] Congressional representatives include the chair, Senate Committee on Homeland Security and Government Affairs and the chair, House Committee on Oversight and Government Reform. For a list of current members, see National Capital Planning Commission, "Commission," at http://www.ncpc.gov/ncpc/Main%28T2%29/About_Us%28tr2%29/AboutUs.html.

[183] 40 U.S.C. §8701, *et. seq*. The NCPC is the central planning agency for the federal government in the National Capital Region. "The Act provides for the agency's essential functions, including development of a Comprehensive Plan for the NCR; review of federal and some District of Columbia (DC) proposed developments and projects; review of DC zoning amendments; annual review of the Federal Capital Improvements Program and the DC Capital Improvements Program; and the development of special planning projects." (NCPC, http://www.ncpc.gov/ncpc/Main%28T2%29/About_Us%28tr2%29/About_Us%28tr3%29/LegislativeAuthorities.html. [Hereinafter, *NCPC Legislative Authorities*]).

[184] P.L. 61-196, 36 Stat. 452, June 1, 1910. The Height of Buildings Act of 1910 set maximum building heights for the District of Columbia. "The height limit on residential streets is 90 feet. In business areas, the building height is generally limited to the width of the adjacent street plus 20 feet. In addition, there is a general height limit of 130 feet, extended to 160 feet along certain portions of Pennsylvania Avenue" (*NCPC Legislative Authority*).

[185] "Set forth at D.C. Code §§6-641.01 et seq., [the District of Columbia Zoning Act] authorizes the DC Zoning Commission to regulate the location, height, bulk, number of stories, and size of buildings and other structures; lot occupancy; the sizes of open spaces; the density of population; and building and land uses. Federal buildings are exempt from zoning controls, but the act mandates that NCPC serve on the DC Board of Zoning Adjustment, which hears many cases involving land near, or affected by, federal landholdings. The DC Zoning Commission regulations implementing this law may be found at http://dcoz.dc.gov/info/reg.shtm" (*NCPC Legislative Authority*).

[186] 22 U.S.C. §4301, et. seq. The Foreign Missions Act stipulates federal government jurisdiction over foreign mission operations and establishes criteria for placement of foreign missions in the District of Columbia. NCPC's Executive Director serves as a member of the DC Board of Zoning Adjustment when the board considers foreign mission applications.

[187] P.L. 90-553, 82 Stat. 958, October 8, 1968; and P.L. 97-186, 96 Stat. 101, May 25, 1982. The International Center Act "authorizes the Secretary of State to sell or lease to foreign governments and international organizations federal property located within the International Center along Van Ness Street in Northwest Washington, DC. Development plans for all chanceries in the 47-acre International Center are subject to NCPC's approval" (*NCPC Legislative Authorities*).

[188] 16 U.S.C. §470. The National Historic Preservation Act created a program for preserving national historic properties. NCPC acts as a "steward of the region's historic buildings, districts, landscapes, and views" (*NCPC Legislative Authority*).

Environmental Policy Act,[189] District of Columbia Home Rule Act,[190] and the Capper-Crampton Act.[191]

State Historic Preservation Office for the District of Columbia

Created pursuant to the National Historic Preservation Act of 1966,[192] State Historic Preservation Officers "administer the national historic preservation program at the State level, review National Register of Historic Places nominations, maintain data on historic properties that have been identified but not yet nominated, and consult with Federal agencies."[193] While not a statutory part of the memorial process, the National Capital Planning Commission recommends consultation with the State Historic Preservation Office for the District of Columbia[194] as part of the design approval process.[195]

American Battle Monuments Commission

The American Battle Monuments Commission was originally created in 1923 to "prepare plans and estimates for the erection of suitable memorials to mark and commemorate the services of the American forces in Europe and erect memorials therein at such places as the commission shall determine, including works of architecture and art in the American cemeteries in Europe."[196] Generally, the commission has statutory authority to design, construct, operate and maintain permanent American cemeteries in foreign countries; establish and maintain U.S. military memorials, monuments and markers where American armed forces have served overseas since April 6, 1917."[197] In limited circumstances, the commission has also been tasked with creating memorials within the United States. For example, the commission was statutorily authorized to create the World War II Memorial in the District of Columbia.[198]

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[189] 42 U.S.C. §4321, et. seq. Requires the consideration of environmental impact of federal actions by federal agencies. "Under NEPA, NCPC must undertake an environmental review to inform its analysis of project proposals. Environment is broadly defined by the act to include social, economic, and historic impacts as well as effects on the natural environment. Beginning at an early point in its decision-making process, NCPC considers the environmental and historic aspects of proposed actions that it reviews" (*NCPC Legislative Authorities*). For more information on the National Environmental Policy Act, see CRS Report RL33152, *The National Environmental Policy Act (NEPA): Background and Implementation*, by Linda Luther.

[190] P.L. 93-198, 87 Stat. 774, December 24, 1973. "NCPC approves District projects in the central area of the city, reviews and advises on other District projects and the DC elements of the Comprehensive Plan, in addition to reviewing and advising on amendments to city zoning regulations and maps" (*NCPC Legislative Authorities*). For more information on the District of Columbia, see CRS In Focus IF11571, *FY2020 Appropriations: District of Columbia*, by Joseph V. Jaroscak.

[191] P.L. 71-284, 46 Stat. 482, May 29, 1930, as amended by P.L. 79-699, 60 Stat. 960, August 8, 1946. The Capper-Crampton Act provided authority to the National Capital Planning Commission to acquire land for parkway and park systems in the National Capitol area including the George Washington Memorial Parkway and other park, parkway, and playground land in the District of Columbia.

[192] P.L. 89-665, 80 Stat. 915, October 15, 1966; 16 U.S.C. §470 *et. seq*.

[193] Advisory Council on Historic Preservation, "About the ACHP," at https://www.achp.gov/about.

[194] For more information on the District of Columbia State Preservation Office, see District of Columbia, Office of Planning, "Historic Preservation Office," at http://planning.dc.gov/historicpreservation.

[195] National Capital Planning Commission, "Appendix A: Steps for Establishing a Memorial in the Nation's Capital," *Memorials and Museums Master Plan*, September 2001, updated 2006, pp. 167-168, at https://www.ncpc.gov/docs/Memorials_and_Museums_Master_Plan_full_2001.pdf#page=173.

[196] P.L. 534, 42 Stat. 1509, March 4, 1923; 36 U.S.C. §2101 *et seq*.

[197] American Battle Monuments Commission, "About Us," at http://www.abmc.gov/about-us.

[198] P.L. 103-32, 107 Stat. 90, May 25, 1993.

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