

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
MAYOR'S AGENT FOR HISTORIC PRESERVATION  
1100 4TH STREET SW, SUITE E650  
WASHINGTON, D.C. 20024**

**In the Matter of:**

**WALTER REED ARMY MEDICAL CENTER  
BUILDINGS 31 AND 84:  
Square 2950, Lot 813**

**HPA Nos. 19-455, 19-456**

**DECISION AND ORDER**

The District of Columbia Office of the Deputy Mayor for Planning and Economic Development (“Applicant”) brought this application to demolish Buildings 31 and 84, which are contributing buildings within the Walter Reed Army Medical Center Historic District (the “Historic District”). The Applicant asserts the proposed demolition is necessary in the public interest both because it is consistent with the purposes of the D.C. Historic Landmark and Historic District Protection Act (the “Act”), and because it is necessary to allow construction of a project of special merit, as provided for in the Act. D.C. Code §§ 6-1105 and 6-1107. For the reasons stated below, the permit will be CLEARED.

**Historic Preservation Proceedings**

This matter arises from two related applications submitted by the Applicant to the Historic Preservation Review Board (“HPRB”). On June 27, 2019, the Applicant submitted applications to demolish Buildings 31 and 84. Simultaneously, the Applicant sought conceptual design review of the improvements and alterations proposed by the District Department of Transportation (“DDOT”) for the Aspen Street NW right-of-way.

At its August 1, 2019 meeting, HPRB reviewed the two applications under case numbers HPA

19-455 and HPA 19-456, respectively. HPRB voted to adopt the Historic Preservation Office's ("HPO") Staff Report, which finds the proposed demolition of Buildings 31 and 84 inconsistent with the purposes of the Act because they would demolish contributing structures within the Historic District. HPO's Staff Report further recommended the Board support the concept review under the Aspen Street Application, but requested the Applicant revise the right-of-way plan to avoid Buildings 31 and 84.

Pursuant to notice, the Mayor's Agent for Historic Preservation Hearing Officer ("Mayor's Agent") held a public hearing on November 15, 2019 to consider the application to demolish Buildings 31 and 84. At the hearing, the Applicant presented the following witnesses: Randall Clarke on behalf of the Applicant and as Director of the Walter Reed Local Redevelopment Authority; Emily Eig and Sarah Vonesh from EHT Traceries, Inc., both of whom were recognized as experts in historic preservation; Erwin Andres from Gorove/Slade Associates, who was recognized as an expert in transportation planning and traffic; Stephen Varga from Cozen O'Connor, who was recognized as an expert in land use and planning; and Christopher Ruiz from Silman Associates, who was recognized as an expert in structural engineering.

Three requests for party status submitted to the Mayor's Agent. The Committee of 100 on the Federal City ("Committee of 100") was granted party status in opposition to the demolition application and was represented by Loretta Neumann. Faith Wheeler was granted party status in support of the application. The D.C. Preservation League ("DCPL") had submitted a written request for party status but withdrew its request at the outset of the public hearing. (Mayor's Agent Hearing Transcript ("MA Tr.") at 6).

In addition to the parties, the Mayor's Agent heard from individuals in support of and in opposition to the application. Kimberly Haggart and Alice Giancola spoke in support. Five letters of support were submitted in the record from D.C. International School, Children's National

Medical Center, Latin American Montessori Bilingual School (“LAMB”), So Others Might Eat, and TPWR Developer LLC. Individuals speaking in opposition included Rebecca Miller on behalf of DCPL, Kimberly McLeod, Sarah Green, Monica Goletiani, and Tracene Hawkins. Advisory Neighborhood Commission 4A submitted a resolution taking no position on the HPRB Applications.<sup>1</sup> Advisory Neighborhood Commission 4B (“ANC 4B”) submitted a resolution supporting the HPRB Applications. At the hearing, Commissioners Erin Palmer and Evan Yeats spoke on behalf of ANC 4B, and reiterated ANC 4B’s support.

At the conclusion of the hearing, the Parties were invited to submit proposed findings of fact and conclusions of law, which they did in a timely manner.

### **Findings of Fact**

The Walter Reed Army Medical Center was a historically significant Army medical campus, serving the nation from 1909 until 2011. The Walter Reed campus is located between Georgia Avenue NW and 16<sup>th</sup> Street NW in the Shepherd Park neighborhood. In 2005, the Army began the process of closing Walter Reed and moving operations to Bethesda, Maryland. As part of the base closure, the Army conducted the required process under Section 106 of the National Historic Preservation Act and developed a Programmatic Agreement. The entire 110-acre site was designated as a Historic District in the D.C. Inventory of Historic Sites in 2014.<sup>2</sup> The Historic District includes 13 contributing historic buildings and 70 landscape features, which remain largely intact on the sprawling, previously isolated military campus.<sup>3</sup> These include Buildings 31 and 84, the subjects of the current application.

---

<sup>1</sup> ANC 4A’s resolution reflects that it rescinded a previous vote in opposition to the proposed demolition of Buildings 31 and 84.

<sup>2</sup> The Army and DCPL submitted separate nominations for the Historic District. The Army’s nomination was used as the final nomination that HPO forwarded to the National Register for Historic Places.

<sup>3</sup> The 13 historic structures do not include Building 38, which was cleared for demolition in HPA No. 18-308, as discussed *infra*.

In 2016, the Mayor designated the District of Columbia as the Walter Reed Local Redevelopment Authority (“LRA”) to oversee the reuse planning and redevelopment of the excess portion of the Walter Reed Campus. Thereafter, in 2016, the Army transferred a 66.25 acre portion of the Walter Reed Campus (the “Site”) to the District of Columbia. The District of Columbia subsequently leased the Site to TPWR Developer LLC, a private company functioning as the Site’s master developer.

Over the past decade and a half, the Site has been the subject of extensive planning efforts by the Applicant in conjunction with community members, District of Columbia agencies, and other stakeholders. From 2006 through 2012, the LRA developed a reuse plan (the “Reuse Plan”) to establish a vision and framework to redevelop the Site. (Applicant’s Prehearing Statement (“PHS”) at 8). The Reuse Plan was unanimously approved by the Council of the District of Columbia (the “Council”) in 2012. During that time period, the D.C. Office of Planning developed the Former Walter Reed Army Medical Center Small Area Plan (the “Small Area Plan”), which was approved by the Council in 2013. (PHS, at 10-11). The public planning process culminated in a master plan and related design guidelines for the Site, called the Parks at Walter Reed Master Plan (the “Master Plan”). (PHS, at 13-14). All three plans contemplate the demolition of Buildings 31 and 84.

The Reuse Plan, Small Area Plan, and Master Plan established several planning goals for the Site. Of particular relevance to the HPRB Applications, the planning objectives call for the integration of the formerly fenced and isolated Site into the surrounding community and the creation of multi-modal access through and around the Site. To that end, Mr. Clarke testified that “the site has been fenced off and separated from the outside community by numerous physical and topographical challenges.” (MA Tr., at 31). The Reuse Plan found that the Army’s closed gates

“made the campus inaccessible to the public, unapproachable and unsuitable for the many planned uses at the site.” (MA Tr., at 31-32).

In March 2019, the Mayor’s Agent cleared a permit to demolish Building 38 in the Historic District as part of HPA No. 18-308 (the “Building 38 Case”). In the Building 38 Case, demolition was found to be necessary in the public interest because the Parks at Walter Reed Master Plan constituted a project of special merit. *See* Mayor’s Agent Decision and Order, HPA No. 18-308, at 10. This finding was based upon the “extensive public planning and community input” as well as “land planning features and benefits of the Project by the District and the community.” *See id.* While these findings are relevant to the current application, they are not determinative.

Buildings 31 and 84 are located on the southern edge of the Site and are part of a grouping of six extant utilitarian buildings in the Historic District. (MA Tr., at 62-63).<sup>4</sup> No one questions that both buildings contribute to the historic district and are therefore protected under the Act. However, both Ms. Vonesh and Ms. Eig testified that Buildings 31 and 84 are of “minor historic significance” due to their original use as shed and storage spaces, the structures’ current physical integrity, alterations to the structures since the close of the Historic District’s period of significance, and the structures’ very modest qualities of design and materials. (MA Tr., at 63-64, 74-75, 208).<sup>5</sup> Past analysis of the Walter Reed Campus’ historic inventory by R. Christopher Goodwin & Associates and Oehrlein & Associates, Inc. similarly determined Buildings 31 and 84 to be of minor historic significance. (MA Tr., at 71-72).<sup>6</sup>

---

<sup>4</sup> The utilitarian buildings include Building 15 (the prominent central heating plant), Building 31 (the Oil Storage Warehouse); Building 82 (the PX Gas Station); Building 84 (the Wagon Shed); Building 90 (the Firehouse); and the non-contributing yet architecturally distinct Building 16 (the Incinerator).

<sup>5</sup> DCPL categorized Buildings 31 and 84 as “minor resources” in its own proposed nomination of the historic district. (MA Hearing Tr., at 72).

<sup>6</sup> In 1998, the Army commissioned a study by R. Christopher Goodwin & Associates. In 2011, the LRA commissioned a study by Oehrlein & Associates, Inc. during the drafting of the Reuse Plan. (MA Hearing Tr., at 71-72).

Building 31 was originally constructed in 1921 as an oil storage structure. (MA Tr., at 64). In 1941, it was extended to the east with a brick-clad concrete block addition that nearly doubled its footprint. (MA Tr., at 64). By 1945, the building was converted to a general warehouse use. (MA Tr., at 64). In 1971, an open shed addition was constructed for “gas cylinder storage.” (MA Tr., at 64). This alteration of Building 31 occurred after the Historic District’s period of significance (between 1905 and 1956). (MA Tr., at 67-69). In 2011, at the time of the campus’ closure, the building was used as a medical library warehouse. (MA Tr., at 64). Ms. Vonesh testified that Building 31 has lower quality materials and design features than other support buildings in the Historic District. (MA Tr., at 74-75). Mr. Ruiz, a structural engineer, testified that Building 31 is in “fair to poor” condition. (MA Tr., at 154).<sup>7</sup>

Building 84 was constructed as a wagon shed in 1942. (MA Tr., at 65). By the 1960s, the building was utilized as a maintenance shop and equipment shed. (MA Tr., at 65-66). In approximately 1971, a large addition was constructed for salt storage, and by 2011, the building was used as the Directorate of Public Works Roads and Grounds Equipment Shed. (MA Tr., at 66). As with Building 31, the 1971 addition occurred outside the Historic District’s period of significance. (MA Tr., at 67-69).

The original 1942 portion of Building 84 was primarily constructed of board formed concrete faced in brick. (MA Tr., at 65). There is exposed concrete at the rear elevation facing Aspen Street, which functions to retain soil from the adjacent hillside. (MA Hearing Tr., at 65). The original portion of the building is topped with a side-gabled roof pierced by three exhaust vents. (MA Tr., at 65). Ms. Vonesh testified the building materials and design quality are generally

---

<sup>7</sup> Ms. Miller of DCPL disagreed with Mr. Ruiz’s conclusions as to the structural conditions of Buildings 31 and 84. (MA Tr., at 182-183). However, as acknowledged, Ms. Miller is not a structural engineer and DCPL did not hire a structural engineer to assess the buildings.

lower than other utilitarian buildings in the Historic District. (MA Tr., at 74-75). Mr. Ruiz testified that Building 84 is in “fair to poor” condition. (MA Tr., at 155).

Aspen Street NW forms the southern boundary of the Site. Demolition of Buildings 31 and 84 would implement a plan for DDOT improvements to Aspen Street in support of the Campus Plan. Several different uses are planned or have been implemented along Aspen Street. The southern edge of the Site will generally be a “focal point for residential activity with hundreds of apartment and townhome units, including affordable housing.” (MA Tr., at 34). The Applicant testified that there will be approximately 77 units of permanent supportive housing for formerly homeless veterans,<sup>8</sup> 39 units of permanent supportive housing for formerly homeless seniors, 80 units of affordable housing for seniors, and 54 units of affordable assisted living. (MA Tr., at 30, 371-373). At the southwest portion of the Site along Aspen Street there are also two public charter schools: the D.C. International School and the LAMB School. (MA Tr., at 30). Additionally, The Reuse Plan and Small Area Plan also propose the creation of an Aspen Arts Park and Plaza (the “Arts Park”) at the southern end of the Site near the current location of Buildings 31 and 84. (MA Tr., at 33).

Currently, Aspen Street is a two-lane road, oriented east-west, connecting Georgia Avenue NW and 16<sup>th</sup> Street NW. Aspen Street is classified by DDOT as a minor arterial road, which means it is expected to service a high volume of vehicles. (MA Tr., at 354). The street also serves three bus lines, with a bus stop located adjacent to Building 31. (MA Tr., at 87). Mr. Andres testified that Aspen Street is “critical to the success of providing efficient and adequate circulation for the reoccupancy of existing buildings and construction of new buildings” at the Site. (MA Tr., at 85).

---

<sup>8</sup> The housing for veterans will include units specifically set aside for those with visual and physical impairments. (MA Hearing Tr., at 373-374).

The current Aspen Street right-of-way, pedestrian, and bicycle facilities are substandard. The sidewalk on the northern side of Aspen Street is narrow, non-continuous, and not compliant with the Americans with Disabilities Act (“ADA”). (MA Tr., at 86). No buffer is currently provided between vehicular traffic and bikers or pedestrians traversing the sidewalk along the north side. (MA Tr., at 86). There are no vehicular parking spaces, bus waiting areas, or bicycle facilities located on the northern side of Aspen Street. (MA Tr., at 86).

There are “significant grade differentials” from Aspen Street to the far sides of Buildings 31 and 84. (MA Tr., at 103, 107, 361). The change in grade from Aspen Street to this portion of the Site ranges from 33% to 44%. (MA Tr., at 361). Due to the topography, Buildings 31 and 84 were built into the hillside along Aspen Street NW, with Building 84 functioning as a retaining wall to keep soil in place. (MA Tr., at 64-65, 158, 160). As discussed below, the steep grade just north of Aspen Street imposes significant restraints on routing the right-of-way in a manner that would allow the preservation of the two buildings with historic integrity.

DDOT has proposed improvements to the Aspen Street right-of-way (the “Aspen Street Improvements”). The Aspen Street Improvements incorporate a ten-foot-wide, shared-use path for pedestrians and bicyclists, an eight-foot-wide vegetated buffer, an eight-foot-wide parking lane, and an eleven-foot-wide travel lane. (PHS, Exhibit E). Mr. Andres testified the Aspen Street Improvements are “consistent with best management practices and DDOT standards for district roadway cross sections,” as well as the planning objectives of the Reuse Plan and Small Area Plan, which Mr. Andres and Gorove/Slade Associates have worked on since 2010. (MA Tr., at 84, 87). DDOT submitted a letter to HPRB stating the Aspen Street Improvements are intended to:

- Ease congestion;
- Create safer conditions for pedestrians and cyclists with a shared-use path that is separated from the road by street trees and a planting strip buffer;
- Provide a full parking lane along the north side of Aspen Street, which creates more neighborhood parking and acts as a traffic calming measure;
- Ensure ADA compliance; and

- Improve stormwater management. (PHS, Exhibit O).

DDOT argues that demolition of Buildings 31 and 84 is necessary in order to construct the proposed Aspen Street Improvements in accordance with accepted standards and the planning goals for the Site.

### **Legal Standard**

The Mayor's Agent can clear a permit for the demolition of a contributing building in a historic district only if he or she finds that a proposed demolition is "necessary in the public interest." D.C. Code §§ 6-1105(e), -1106(e). "Necessary in the public interest means consistent with the purposes of this act as set forth in section 2(b) or necessary to allow the construction of a project of special merit." D.C. Code § 6-1102(10). The Act defines a project of special merit as "a plan or building having significant benefits to the District of Columbia or to the community by virtue of exemplary architecture, specific features of land planning, or social or other benefits having a high priority for community services." D.C. Code § 6-1102(11). If a project has special merit, the Mayor's Agent must balance that special merit against the harm to historic preservation values that would result from the demolition. *Citizens Comm. To Save Historic Tavern v. DC Dep't of Housing and Community Development*, 432 A2d 710, 715-16 (D.C. 1981). The Court of Appeals established "special merit" can rest in whole or in part on a combination of features that "in isolation would not necessarily rise to the level of special merit," but that a determination of special merit "cannot rest on benefits common to all projects." *Friends of McMillan Park v. D.C. Zoning Comm'n*, 149 A.3d 1027, 1039 (D.C. 2016) ("*FOMP I*"). Preservation benefits can play a role in special merit analysis by reducing net preservation losses to be balanced against the special merit community benefits of a project. *FOMP I*, 149 A.3d at 1039. Finally, the Mayor's Agent must find that demolition is "necessary" to construct the project of special merit. *Friends of*

*McMillan Park v. D.C. Mayor's Agent for Historic Preservation*, 207 A.3d 1155, 1177 (D.C. 2019) (“*FOMP IP*”).

## **Discussion**

The demolition of Buildings 31 and 84 is “necessary in the public interest” because it allows for a project of “special merit.” Specifically, the Aspen Street Improvements meet the qualifications for a special merit project as “specific features of land planning” that sensibly implement the Reuse Plan, Small Area Plan, and Master Plan for the Walter Reed Campus. The Aspen Street Improvements will also create “social benefits having a high priority for community services” by enhancing safety along Aspen Street. In the Building 38 Case, the Mayor’s Agent previously determined the Walter Reed Master Plan is a project of special merit. *See generally In the Matter of Walter Reed Army Medical Center, Building 38*, HPA No. 18-308, at 10, at <https://repository.library.georgetown.edu/handle/10822/1056878>. The Aspen Street Improvements are an important part of that plan, supporting safe and efficient movement for the many people who will live, work, and visit in the new Walter Reed.

The Applicant and its expert witnesses provided testimony and evidence as to the decade-long planning efforts to redevelop the Walter Reed Campus, as set forth in the Reuse Plan, Small Area Plan, and Master Plan. Mr. Clarke testified regarding the key goals of activating and integrating the Site within the surrounding community, including through the provision of multimodal transportation options. Mr. Clarke stated that the Aspen Street Improvements are an integral part of achieving these planning goals.

Mr. Varga, an expert in land use and planning, provided extensive and unrefuted testimony concerning the consistency of the Site’s planning goals with the District’s Comprehensive Plan, concluding the “land planning goals...constitute a significant benefit to the District of Columbia

and the community.” (MA Tr., at 146). In *FOMP I*, the Court of Appeals found “specific provisions in the Comprehensive Plan... can play a key role in the special merit inquiry.” See *FOMP I*, 149 A.3d 1027. Mr. Varga testified the Aspen Street Improvements are consistent with several policy goals in the Comprehensive Plan’s Transportation Element, Urban Design Element, Rock Creek East Area Element, and Arts and Culture Element. In particular, he identified the emphasis in the Transportation Element on providing multi-modal transportation options in the city, which is especially important for the “vulnerable populations” that will be situated close to Aspen Street NW on the Site. (MA Tr., at 136). Mr. Varga noted that Aspen Street NW does not currently satisfy DDOT standards and, therefore, the Aspen Street Improvements would further the District’s “Vision Zero” goals to reach zero fatalities for travelers within the District’s public space. (MA Tr., at 137). Mr. Clarke testified that the Aspen Street Improvements will provide appropriate and safe access for school children to the DCI and LAMB schools and for residential populations that will include formerly homeless veterans and seniors as well as for those in need of assisted living. Mr. Andres agreed the Aspen Street Improvements are critical safety measures for these vulnerable populations.

After making a finding of special merit, the Mayor’s Agent must balance the special merit benefits against the harm to the historic preservation values that would result from the demolition. The Mayor’s Agent must weigh the “architectural and historical characteristics of a building” against its “societal functions and the significance of its preservation in human terms.” *Citizens Comm.*, 432 A.2d at 715. The Mayor’s Agent should balance the special merit of the project against one “adverse impact – the net historic-preservation loss the project would entail.” *FOMP I*, 149 A.3d at 1042.

The special merit benefits of the Aspen Street Improvements outweigh the net historic-preservation loss associated with the demolition of Buildings 31 and 84. The special merit, as

outlined above, is substantial because the Aspen Street Improvements incorporate several important features of land planning and neighborhood services that will improve public safety and access to and utilization of the historic Walter Reed Campus. It must be emphasized that the Walter Reed Project as a whole is a model of intelligent historic preservation and adaptation for new uses that meets or exceeds contemporary planning objectives. Eleven buildings of undoubted historic significance will be preserved and incorporated into an integrated campus providing housing, affordable housing, education, retail, and health care. The campus itself will contain seventy contributing historic landscape features and 14 acres of open space including the historic Great Lawn. While the plans provide for movement within the campus, arterial connections must be limited to protect the historic buildings and landscape. Safe and efficient transit along Aspen Street complements this remarkable preservation and community development accomplishment.

Buildings 31 and 84 have repeatedly been identified as less significant than other buildings in the Historic District. This includes assessments commissioned by the Army, the LRA, and even the historic nomination form submitted by DCPL. As Ms. Vonesh noted, “identification of significance levels or grades...is a common preservation tool used with large sites or campuses like Walter Reed to understand how each building contributes to character and importance of the historic district.” (MA Tr., at 70). Based on the minor historic significance of Buildings 31 and 84, the Reuse Plan, Small Area Plan, and Master Plan all contemplate the demolition of Buildings 31 and 84. They are modest storage sheds without architectural distinction that could exist on any Army base and have been altered since the period of significance.<sup>9</sup>

Ms. Miller of DCPL argued for the value of the two sheds. “[I]t would be a mistake to view these contributing buildings as lesser than the larger, more elaborate buildings on the Walter Reed

---

<sup>9</sup> During deliberations, HPRB generally concurred with HPO’s finding that Buildings 31 and 84 “are not the largest, most prominent or most significant of the contributing buildings” in the Historic District. (HPO Report, at 2). Member Outerbridge Horsey noted the buildings are “not particularly significant unlike other ones” on the Walter Reed campus. HPRB Tr. 87.

campus. In fact, there's no such thing as a lesser historic building under D.C. or Federal preservation law.” M.A. Tr. 187. With respect, that view is erroneous. The other buildings on the Walter Reed Campus convey far more the significance of the historic medical center through their architecture and the activities that were carried on within them. While the D.C. Act does not rank buildings at the time of designation, it requires the Mayor’s Agent to weigh the value of a resource in balancing its loss against the special merit of a project. Designation extends protection to every building that contributes to a historic district, but the Act qualifies the nature and degree of that protection through the “necessary in the public interest” standard, under which the Mayor’s Agent must weigh the preservation loss associated with the demolition of a specific structure. *Cf.* 616 Eye Street, NW, HPA No. 14-152 (2015) (rear warehouse to be demolished of minor significance compared to row houses saved and incorporated into apartment project). Practically speaking, this accommodation is necessary to prevent the Act from being unworkable in a dynamic city attempting to accommodate growth within numerous and extensive historic districts.<sup>10</sup> And in this case, the special merit benefits significantly outweigh the net historic preservation losses associated with the demolition of Buildings 31 and 84.

As a final step, the Mayor’s Agent must determine whether the demolition is necessary to construct a project of special merit. The Mayor’s Agent is justified in determining demolition is necessary if there is no reasonable alternative that would achieve the same special merit benefits with less preservation loss. *FOMP II*, 207 A.3d at 1177. As a general matter, “reasonableness must be imputed into the ‘necessary standard,’” including a review of factors “not limited to cost, delay, and technical feasibility.” *Don’t Tear It Down, Inc. v. D.C. Dep’t of Housing & Community Development*, 428 A.2d. 369, 380 (D.C. 1981).

---

<sup>10</sup> The criteria that guide HPRB designation of historic properties focus only on the historic significance and integrity of resources, not on any balance between preservation and other civic values. *See* D.C.M.R. §10C-201.1.

The Applicant considered alternatives to the Aspen Street Improvements, but rejected them as unreasonable or inappropriate. The first alternative is for the sidewalk and bike path to “jog” south around Buildings 31 and 84, narrowing and bending to the street. But the “jogged” right-of-way would diminish the safety conditions for motorists, pedestrians, and bicyclists, would not achieve multi-modal goals for that portion of the Site, and would generally result in a less functional and attractive streetscape. Mr. Andres testified that such an alternative would not meet DDOT standards, resulting in safety concerns for pedestrians, including those in wheelchairs, and bicyclists. Under the “jogged” alternative, the shared-use path would be reduced to six-foot-wide, the vegetated buffer would be eliminated, and pedestrian/bicyclist sight lines would be impeded. (MA Tr., at 90-91, 93, 96). This would compromise safety for pedestrians and bicyclists. (MA Tr., at 90-91, 93, 96). He stated the appropriate, ten-foot-wide shared-use path is “critical” so that pedestrians and bicyclists can safely share the path. (MA Tr., at 90). This is particularly relevant “due to the location of all the uses, including formerly homeless veterans and senior residents near Aspen Street...so that people with disabilities can safely access their housing.” (MA Tr., at 90-91).

The proposed shared-use path also improves safety to and from the bus stop located along Aspen Street NW, which will provide access to the DCI and LAMB schools as well as the nearby housing. (MA Tr., at 91). Additionally, Mr. Andres noted that 14 on-street parking spaces would be eliminated under the “jogged” alternative, which would expose the sidewalk to errant automobiles. (MA Tr., at 93). Safety is particularly critical for this part of the Site where school children and residents with disabilities will be utilizing Aspen Street NW. Likewise, Mr. Andres stated removal of 14 parking spaces would not be reasonable because on-street parking was an important amenity favored by the community during planning. (MA Tr., at 111-12).

The “jogged” alternative would also have historic preservation problems. Ms. Eig testified that the “jogged” alternative would necessitate retaining walls around Buildings 31 and 84, because

of the steep grade change from Aspen Street to the Site. (MA Tr., at 199-200). Such retaining walls create an “unsafe, unaesthetic and inauthentic pedestrian experience” along Aspen Street. (MA Tr., at 200). The retaining walls also would allow for unwanted access to the roofs of Buildings 31 and 84. (MA Tr., at 200). To prevent such access, the Applicant would be required to construct “institutional type barriers” such as fencing around the buildings (MA Tr., at 200). The barriers would “alter the character-defining relationship of these simple building forms, change their relationship to the landscape and further diminish their already compromised integrity.” (MA Tr., at 200). This presents a problem akin to that in the Building 38 case, *supra*, where the rejected primary alternative to demolition required building a massive retaining wall that would block the building room from view and destroy its context.

The second alternative is to relocate Buildings 31 and 84. The Applicant presented a number of reasons this alternative is not reasonable, including the lack of adequate relocation sites, the adverse impacts to the broader Historic District that would result from relocation, and the existing structural condition of Buildings 31 and 84, which exacerbates the structural challenges of relocation.

Ms. Eig testified “the relocation alternative has overwhelming historic drawbacks.” (MA Tr., at 201). Ms. Eig noted the difficulty in finding an appropriate relocation site “that did not adversely impact the buildings or the integrity of the landscape and that of the broader historic campus.” (MA Tr., at 202). This is particularly challenging given that the Historic District has 11 other historic buildings and over 70 landscape features “of greater significance” than Buildings 31 and 84. (MA Tr., at 202). Ms. Eig noted that a proposed location for moving Building 31 would block Building 15, which is a “major contributing resource to the historic district. (MA Tr., at 208). Similarly, a suggested site for Building 84 would place it “in close proximity to a significant design landscape feature” and “adversely affect the historic landscape.” (MA Tr., at 208).

Additionally, Ms. Eig recognized that moving Building 31 or 84 away from the other utilitarian structures grouped together at the southern end of the Historic District would “further strip them of their historic significance and context.” (MA Tr., at 202-203). The buildings would have to move from the wooded hillside along Aspen Street to a flat or differently sloped site, further diminishing their integrity. (MA Tr., at 203). The new locations would expose elements that were not previously visible, including the rear foundation, an “incorrect and non-historical” orientation. (MA Tr., at 205). Finally, Ms. Eig testified only the portion of the buildings built during the period of significance would be relocated, but the removal of non-contributing features make preservation and stabilization of the structures more difficult. (MA Tr., at 206).

Beyond the negative historic impacts of relocation, Mr. Ruiz provided testimony that relocation “will be very challenging due to the conditions of this [sic] buildings, the unique conditions of the site, and how these buildings were constructed.” (MA Tr., at 161). Due to the “fair to poor” condition of Buildings 31 and 84, Mr. Ruiz testified both buildings would require rehabilitation work both before and after relocation. (MA Tr., at 157-159). Accordingly, Mr. Ruiz concluded that “while relocation is feasible, a significant amount of work will be required to move the structures and the integrity of the structures after relocation [is] questionable.” (MA Tr., at 161). Accordingly, the testimony establishes that relocation of Buildings 31 and 84 is not reasonable.

Committee of 100 raised a third alternative to demolition: divert the shared-use path around Buildings 31 and 84 to the north. However, Mr. Andres identified several problems with this alternative. First, it would require that DDOT acquire a right-of-way on the Site, which is not in public space. (MA Tr., at 107). Second, Mr. Andres testified that there is a significant change in grade from Aspen Street NW to this portion of Site, which ranges from 33% to 44%. (MA Tr., at 361). Such a change in grade presents safety and legal challenges, including producing a path that

is not ADA compliant. (MA Tr., at 365). Third, Mr. Andres noted that DDOT prefers a straight path because pedestrians tend to avoid non-linear paths and many likely will walk in the street. (MA Tr., at 364). For these reasons, the alternative proposed by Committee of 100 is not reasonable.

This discussion of alternatives to the demolition of Buildings 31 and 84 makes it clear that the demolition is necessary to construct the project of special merit. As Mr. Andres testified, the buildings are within the public right-of-way and, accordingly, “there’s no feasible way to [complete the Aspen Street Improvements] without compromising the location of those two structures.” (MA Tr., at 98). If Buildings 31 and 84 remain in place, the Applicant will not be able to achieve the extensive planning goals for the Site envisioned the Master Plan. The buildings cannot be moved within the district without impairing the significance of the more important buildings and landscape features of the Walter Reed Historic District and diminishing the already minor significance of the Buildings 31 and 84.<sup>11</sup>

Thus, considering all the evidence, the Applicant has met the standard to prove the Aspen Street Improvements and demolition of Buildings 31 and 84 are necessary in the public interest because they will allow a project of special merit.

Because the Aspen Street Improvements constitute a project of special merit justifying demolition of Buildings 31 and 84, it is unnecessary to address whether such demolition is consistent with the purposes of the Act. The HPRB took the position that demolition of a contributing building can never be consistent with the purposes of the Act. As it concerns properties in historic districts, the Act’s purpose is:

---

<sup>11</sup> Mr. Clarke testified the Applicant and DDOT have the ability to fully implement the Aspen Street Improvements if demolition of Buildings 31 and 84 is approved. Contrary to Committee of 100’s assertion, Mr. Clarke confirmed a below-ground gas line would not impact the Applicant and DDOT’s ability to complete the Aspen Street Improvements. (MA Tr., at 376-377).

(A) to retain and enhance those properties which contribute to the character of their historic district and to encourage their adaptation for current use; and (B) to assure that alterations of existing structures are compatible with the character of the historic district. D.C. Code § 6-1101(b)(1).

In this case, the applicant argued that the demolition of two minor contributing buildings is necessary to adapt the historic district, including its most historically significant contributing features, for current use. In both *Friends of McMillan Park* cases, the D.C. Court of Appeals established that demolition of structures within a historic landmark can be consistent with the purposes of the Act. *FOMP I*, 149 A.3d at 1041. In *FOMP II*, the Court of Appeals expressly rejected a blanket argument by the appellant that “demolition of a contributing aspect of a historic landmark can never be consistent with the” Act. *FOMP II*, 207 A.3d at 1166. The Court found such a position to be “inconsistent with *FOMP I* and with the language of the statute itself” because the Act “contemplates that a project involving demolition or subdivision may be found to be consistent with the Historic Preservation Act if it provides sufficient historic-preservation benefits.” *Id.* The Court went on to conclude, “[i]f the legislature intended to prevent approval of demolitions and subdivisions on the basis of consistency, it could have narrowed the scope of approvable demolitions and subdivisions to only those that supported a project of ‘special merit.’” *Id.* at 1167.

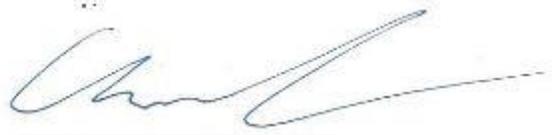
In *Building 38*, the Mayor’s Agent explained that the position “that the demolition of a contributing building in a historic district can *never* be consistent with the Act” is in tension with the Court’s decision in *FOMP I*. See HPA 18-308, at 13. However, it seemed inappropriate to resolve the issue “in a case that lacks full adversarial advocacy.” *Id.* The circumstances in the present case are substantially similar, because no party in opposition to the applicant has legal counsel and resolution of the issue is not necessary to clear the permit.

**Conclusion**

Accordingly, the permit to demolish Buildings 31 and 84 is hereby CLEARED.

Date: June 3, 2020

Confirmed:



---

J. Peter Byrne  
Mayor's Agent Hearing Officer

---

Andrew Trueblood  
Mayor's Agent

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Order was served this 3rd day of June 2020 via electronic mail to the following:

D.C. Office of the Deputy Mayor for Planning and Economic Development  
c/o Meridith H. Moldenhauer  
Cozen O'Connor  
[MMoldenhauer@cozen.com](mailto:MMoldenhauer@cozen.com)

Committee of 100 on the Federal City  
c/o Loretta Neumann  
[lneu@rcn.com](mailto:lneu@rcn.com)

Faith Wheeler  
[fewdcc@gmail.com](mailto:fewdcc@gmail.com)

Advisory Neighborhood Commission 4A  
[4A01@anc.dc.gov](mailto:4A01@anc.dc.gov)  
[4A02@anc.dc.gov](mailto:4A02@anc.dc.gov)  
[4A03@anc.dc.gov](mailto:4A03@anc.dc.gov)  
[4A04@anc.dc.gov](mailto:4A04@anc.dc.gov)  
[4A05@anc.dc.gov](mailto:4A05@anc.dc.gov)  
[4A06@anc.dc.gov](mailto:4A06@anc.dc.gov)  
[4A07@anc.dc.gov](mailto:4A07@anc.dc.gov)  
[4A08@anc.dc.gov](mailto:4A08@anc.dc.gov)

Advisory Neighborhood Commission 4B  
[4B01@anc.dc.gov](mailto:4B01@anc.dc.gov)  
[4B02@anc.dc.gov](mailto:4B02@anc.dc.gov)  
[4B03@anc.dc.gov](mailto:4B03@anc.dc.gov)  
[4B04@anc.dc.gov](mailto:4B04@anc.dc.gov)  
[4B05@anc.dc.gov](mailto:4B05@anc.dc.gov)  
[4B06@anc.dc.gov](mailto:4B06@anc.dc.gov)  
[4B07@anc.dc.gov](mailto:4B07@anc.dc.gov)  
[4B08@anc.dc.gov](mailto:4B08@anc.dc.gov)  
[4B09@anc.dc.gov](mailto:4B09@anc.dc.gov)

David J. Maloney  
District of Columbia State Historic Preservation Officer  
[david.maloney@dc.gov](mailto:david.maloney@dc.gov)

Marnique Heath, Chair  
Historic Preservation Review Board  
[Marnique.heath@dcbc.dc.gov](mailto:Marnique.heath@dcbc.dc.gov)

Leah Prescott  
Associate Law Librarian for Digital Initiatives and Special Collections  
Georgetown University Law Center Library  
[lp627@law.georgetown.edu](mailto:lp627@law.georgetown.edu)

---

Julianna Jackson

