



National Capital Planning Commission

August 3, 2006

**Testimony of
Elizabeth S. Merritt, Deputy General Counsel**

Regarding the Proposed Vietnam Veterans Memorial Visitor Center

Good afternoon, I'm Elizabeth Merritt, Deputy General Counsel for the National Trust for Historic Preservation. I appreciate the opportunity to speak to you today regarding the proposed Vietnam Memorial Visitor Center.

Although the process of reviewing this project began more than 18 months ago, the National Trust did not become directly engaged in the issue until March of this year, when a bill was introduced in the House of Representatives (H.R. 4882), which would completely exempt this project from compliance with all applicable laws, including the National Historic Preservation Act, the National Environmental Policy Act, and the Commemorative Works Act. We were horrified that this bill passed the House on March 28, although we are relieved that the Senate appears to be considering the issue with a much greater degree of deliberation and moderation. As you know, the National Trust has been a long-standing advocate for the preservation of the National Mall, and we are committed to ensuring that memorials and monuments on the Mall are treated in accordance with a careful planning process rather than based on ad hoc political decisions. We strongly oppose the efforts of some in Congress to interfere with this planning process, and we understand that the Commission is under an enormous amount of political pressure on this project.

We have a number of fundamental concerns about this proposed Visitor Center, but unfortunately, we find ourselves in the frustrating position that you share – that Congress has placed so many constraints on the scope of the Commission's review that you are left without the

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ability to address some of the most fundamental problems with this project. For example, we seriously question whether an underground Visitor Center is appropriate or desirable. Even though Congress has dictated that the Center be underground, the very symbolism of this concept says this is something we want to hide, to sweep under the rug. Why are we sending our Vietnam Veterans and their families into an underground bunker?

We are also concerned that, in the long run, this Visitor Center is likely to generate a proliferation of proposals for *other* Visitor Centers, with each separate group of veterans seeking a separate Visitor Center that is close to its own memorial. How will the Commission plan for and address the cumulative impacts of that very predictable scenario? Wouldn't it be better if the Commission could engage in a planning process that would lead to the development of a unified Visitor Center – a building that could proudly stand above-ground, to serve all of the veterans and all of the war memorials? We know that these decisions are outside the scope of the Commission's authority at this point, but we want to be sure that we articulate our concerns to the Commission, so that you will understand the context for our comments.

We certainly commend you and your staff for doing as much as possible within the constraints set by Congress to try to minimize the adverse impact of this project on the Lincoln Memorial and the Mall. We support the recommendations in the Commission's staff report, and we urge the Commission to ensure that the proposed Design Guidelines will be accepted and satisfied by the National Park Service as a condition for approving the site.

But we have serious doubts as to whether the proposed design guidelines can actually be satisfied. For example, we applaud the goal of preserving all the mature trees on the site, but we question whether an underground building of this magnitude can really be shoe-horned into this site *without* ultimately destroying or damaging some of the trees. Similarly, we support the number one design guideline – that “no portion of the building or related building elements [will be] visible from any portion of the Lincoln Memorial steps and podium.” And we also agree that no protrusions should be visible from the sidewalk (#5), and that the existing grade should be maintained (#3). But these will be extremely difficult goals to satisfy. The fact that nearly half of the buildable site is within the 100-500 year floodplain isn't going to make it any easier. And

that's based on a 20-year old floodplain map that probably needs to be updated, in light of the flooding that Constitution Avenue has experienced just within the past couple of months.

In addition to our concern about whether, as an engineering matter, the design guidelines can be satisfied, we also have a procedural concern relating to Section 106 of the National Historic Preservation Act. The Trust has requested participation as a consulting party under Section 106. And yet by the time Section 106 consultation resumes, most of the crucial decisions governing the effects of the Visitor Center on the Lincoln Memorial and other historic resources will already be decided. The whole purpose of the Section 106 consultation process at this point is to develop and evaluate alternatives and modifications to the project that could avoid, minimize, and mitigate its adverse effects on historic resources. The design guidelines being developed by the Commission of Fine Arts and the NCPC represent exactly that kind of effort, but they are being developed outside the consultation process of Section 106. We urge you to ensure that Section 106 consultation is convened in order to inform the final design guidelines. And the National Trust, as I mentioned, has already sought to be included in that consultation.

We agree with the recommendation in the staff report that a Finding of No Significant Impact could be justified for this project, if the mitigation measures represented by the design guidelines were satisfied, but we question whether the Commission has enough information yet to ensure that they can be satisfied. It is also important to emphasize that a Finding of No *Significant* Impact under NEPA doesn't necessarily mean there is No Adverse Effect *at all* under Section 106 of the National Historic Preservation Act. We believe the effect on the Lincoln Memorial *will* be adverse, within the meaning of Section 106, or at the very least, that much more specific information about the project plans and its design would need to be developed before a No Adverse Effect determination could be made.

Thank you again for considering the views of the National Trust on this important project.