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Commemorative Works Act: Siting Memorials in the District of Columbia

In 1986, Congress enacted the Commemorative Works Act (CWA) to guide the authorization, design, and placement of memorials in Washington, DC, on property administered by the National Park Service (NPS) or the General Services Administration (GSA). As amended, the CWA (40 U.S.C. §§8901-8909) requires congressional authorization for a memorial on federal land in the District of Columbia and its environs, but also recognizes that past congressional involvement in approving construction, sites, and architectural decisions had become cumbersome, as each step had generally required congressional approval.

The CWA established processes for memorial authorization. In the law, Congress authorizes the memorial to be built by a designated sponsor group. The law delegates decisions on design, siting (except for Area I, see below), construction, and maintenance to the Secretary of the Interior or the Administrator of the GSA, as well as several other federal planning entities, including the National Capital Planning Commission (NCP), the U.S. Commission of Fine Arts (CFA), and the National Capital Memorial Advisory Commission (NCMAC).

Memorial Areas in Washington, DC

For memorial placement, the CWA divides the District of Columbia and its environs into three sections: the Reserve, Area I, and Area II (40 U.S.C. §8908). The law specifies the standards for memorial placement for each of the three sections. Congressional approval is required for memorials suggested for placement in Area I. **Figure 1** shows these areas of Washington, DC.

The Reserve

The Reserve is “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” (40 U.S.C. §8901(a)(3)).

The Reserve is considered “a substantially completed work of civic art,” and within the Reserve, “to preserve the integrity of the Mall ... the siting of new commemorative works is prohibited” (P.L. 108-126 §202(a)(1)). The CWA also prohibits the placement of museums and visitor centers in the Reserve.

Area I

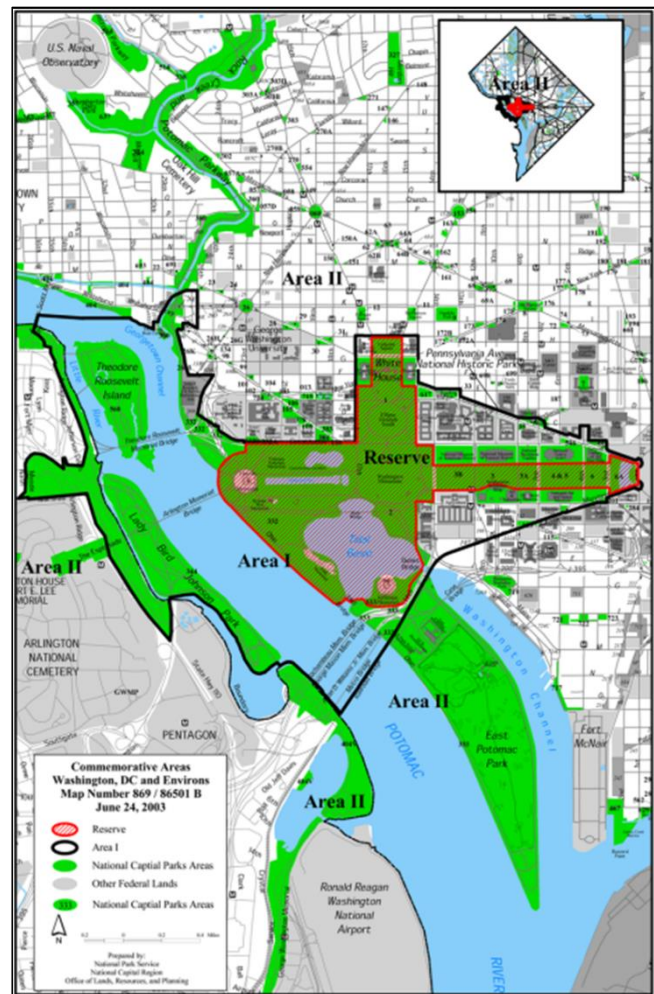
Area I is for commemorative works of “preeminent historical and lasting significance to the United States.” Pursuant to 40 U.S.C. §8908, the Secretary of the Interior or the Administrator of General Services, after seeking the advice of the NCMAC, can recommend that a memorial be placed in Area I. If that recommendation occurs, Congress may choose whether to enact legislation to authorize

placement in Area I. For more details, see “Siting Memorials in DC,” below.

Area II

Area II is for “subjects of lasting historical significance to the American people.” Area II encompasses all sections of the District of Columbia and its environs not part of the Reserve or Area I.

Figure 1. Commemorative Areas of Washington, DC, and its Environs



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

Siting Memorials in DC

The CWA created a two-step approach for site selection. First, following congressional authorization of a commemorative work, the statutorily designated sponsor

group works with the NPS or GSA, NCMAC, NCPC, and CFA to determine the most appropriate memorial location.

Many memorial sponsors evaluate dozens of sites and then present their analysis and preferences to NCMAC, NCPC, and CFA for feedback. Sponsor organizations often use NCPC's 2001 *Memorials & Museums Master Plan* as the basis for potential site identification. It identified "100 potential locations for memorials and museums" throughout the District of Columbia. These sites range in prominence and size. The document also includes analysis on the potential advantages and disadvantages of each site.

Following site evaluation and feedback, if the sponsor group has identified a site within Area I (see **Figure 1**), it may request the Secretary of the Interior or the Administrator of General Services to recommend placement of the memorial in Area I. If the sponsor group makes an Area I request, the Secretary or Administrator determines whether the memorial is of "preeminent historical and lasting significance to the United States." If the Secretary or Administrator determines that an Area I site location is warranted, they write a letter to the House Committee on Natural Resources and the Senate Committee on Energy and Natural Resources.

Second, to place a memorial within Area I, an act of Congress approving the Secretary's or Administrator's recommendation is required within 150 calendar days. Should the Secretary or Administrator not recommend placement in Area I, or Congress not act favorably upon the recommendation, the memorial can be placed in Area II without further action.

Exemptions to CWA Siting Provisions

The CWA prohibits the siting of new works within the Reserve; considers memorials, once dedicated, to be completed works of civic art; and protects existing works from further additions or intrusions. The CWA states:

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 use, and cultural and natural resources (40 U.S.C. §8905(b)(2)).

Regardless of the CWA provisions against siting new works in the Reserve and prohibiting the placement of new elements at existing memorials, sponsor groups continue to request exemptions from these requirements.

Since the 106th Congress (1999-2000), Congress has authorized six exemptions to place new elements at existing commemorative works. These are

- a plaque to veterans who died as a result of service during the Vietnam War at the Vietnam Veterans Memorial (P.L. 106-214);
- a plaque commemorating Reverend Dr. Martin Luther King, Jr.'s "I Have a Dream" speech at the Lincoln Memorial (P.L. 106-365);

- a plaque to honor Senator Robert J. Dole's leadership "in making the [World War II] Memorial a reality on the National Mall" (P.L. 111-88, §128);
- a plaque with the text of the D-Day Prayer delivered by President Franklin D. Roosevelt at the World War II Memorial (P.L. 113-123);
- a wall of remembrance at the Korean War Memorial (P.L. 114-230); and
- commemorative elements to honor Second Infantry Division members who have been killed in action (P.L. 115-141, Division G, §121(a)(1)).

On at least one occasion, Congress directly designated an Area I memorial location in a memorial authorization. For the World War I Memorial (P.L. 113-291, §3091(b)), Congress redesignated Pershing Park near the White House as a "World War I Memorial," and authorized the World War I Centennial Commission to

enhance the General Pershing Commemorative Work by constructing on the land designated by paragraph (1) as a World War I Memorial appropriate sculptural and other commemorative elements, including landscaping, to further honor the service of members of the United States Armed Forces in World War I.

Since Congress created the Reserve in 2003, no new memorials have been authorized in that area, though additions to existing works have been authorized.

Additional Considerations

Congress enacted the CWA in part to preserve the integrity of the National Mall. Space on the National Mall is at a premium, with different groups vying for space for contemplation, commemoration, and group gatherings. Since 1986, a commemorative work process has developed to guide designated sponsor groups through the site selection, memorial design, and planning review stages of building a commemorative work in Washington, DC.

Congress can pass laws to grant CWA exemptions. Exemptions might be granted to expedite part of the commemorative works process or to ensure congressional intent is honored. Since 1986, each exemption has been a singular choice based on particular memorial circumstances.

For more information on siting and exemptions to the CWA, see CRS Report R43241, *Monuments and Memorials in the District of Columbia: Analysis and Options for Proposed Exemptions to the Commemorative Works Act*; and CRS In Focus IF10448, *Authorizing New Additions to Memorials in the District of Columbia: Issues for Consideration*.

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