

Record of Determination for a Partial and Temporary Closure
of Designated Portions of the Mall for Reconstruction and Rehabilitation
2011 - 2016

The National Mall & Memorial Parks will close partially and temporarily portions of the Mall between 3rd Street and 14th Street in three phases as part of the Mall's reconstruction and rehabilitation. Phase One will begin on July 15, 2011 and continue through November 2012. Phase Two is anticipated to occur May 2013-September 2014. Phase Three will be May 2015-September 2016, subject to availability of appropriations. See the attached map for the specific areas that will be closed during each phase.

The three-phase Mall Soil and Turf Project, which is scheduled to occur over a five year period from 2011-2016, is intended to substantially improve the sustainability and appearance of the center turf areas of the Mall. This will be accomplished by providing more compaction resistant soil for turf, creating new drainage and irrigation systems, and installing new granite curbs to delineate lawn from the travel ways and to collect rain water. Moreover, the work will include installation of four 250,000 gallon water storage cisterns so that recycled water can be used in the Mall's new irrigation system as well as a new water pumping station and the re-grading of the adjacent gravel walks to accommodate the new grades of the lawn panels. The panels with trees are not included in the planned reconstruction project, except in a few areas where historically there have been no trees, see attached map.

During each phase, other substantial areas of the Mall, as well as other nearby park areas like the Washington Monument grounds and the Ellipse, will remain open and available for the public and demonstrators. Pedestrian access between the Washington Monument and the US Capitol will also be maintained at all times on the Madison and Jefferson Drive sidewalks.

The Phase One Closure will extend from 3rd Street to the 8th Street Alignment, including the center grass panels and the gravel walks on both sides, as well as one area within the north tree zone that historically has no trees. The reconstruction work will take place east of 7th Street, and the contractors' staging area will take place just west of 7th Street. The east/west gravel walks west of the 8th Street Alignment will remain open during this phase.

Closures are necessary for the protection of the public during the Mall's reconstruction and renovation. In the closed areas, there will be extensive reconstruction and rehabilitation activities as well as construction staging. Construction will involve the use of heavy equipment to remove and replace the top one-foot of soil as well as excavations four foot deep for the installation of soil drainage and an irrigation system, excavation for the subsurface pumping facility and cisterns, and the re-grading of the adjacent gravel walks. Once construction is complete and the walks are open, the center turf panels will remain closed for several months to allow adequate time for the grass to properly root and stabilize.

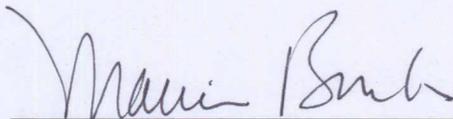
This project is consistent with the National Mall Plan. Following direction by Congress, in November 2006 the National Park Service (NPS) engaged in intensive planning focusing on the National Mall so that (1) its treasured memorials and historic landscapes could be preserved, (2) very high levels of use

could be sustained, and (3) the needs of visitors could be met. The resulting November 2010 NPS's National Mall Plan/Environmental Impact Statement occurred after intensive internal data collection and analysis, substantial public involvement, and a close collaboration with 21 governmental agencies and 30 organizations with an interest in the National Mall or in historic preservation. The NPS's rehabilitation and refurbishment of the National Mall was the preferred alternative plan and is intended to help sustain high levels of use and meet visitor needs. The NPS's restoration and rehabilitation will involve millions of dollars, and is intended to help reverse soil compaction and improve soil and turf conditions with better air and water infiltration and improve plant growing conditions. Indeed, the NPS's National Mall Plan/Environmental Impact Statement provided that "[a]s the preeminent civic stage for our country, First Amendment demonstrations, commemorations, national ceremonies, and celebrations will be better accommodated." The Mall, the area bounded by 1st and 14th Streets, and Constitution and Independence Avenues, NW and SW, is located within the National Mall.

Consistent with 36 C.F.R. §1.5, the temporary closure of portions of the Mall for the three-phase Project will not adversely affect the park's natural, aesthetic or cultural values; nor require significant modification to the resource management objectives; nor is it of a highly controversial nature. The closure is similar to past Mall turf rehabilitation closures for 2007-2011, although this current Project is much more comprehensive and intensive, so to better enhance the park's natural, aesthetic or cultural values, and ultimately result in sustaining very high levels of use of the National Mall. Due to the extensive soil and turf reconstruction and renovation that are necessary in the Project, less restrictive measures will not suffice. Accordingly, the National Park Service determines publication as rulemaking in the Federal Register is unwarranted under 36 C.F.R. § 1.5(c).

This Determination is consistent with the hundreds of past NPS closures, the legal opinion of the Office of the Solicitor, and judicial adjudications that have upheld NPS closures or public use limitations. *Mausolf v Babbitt*, 125 F.3d 661, 669 n10 (8th Cir. 1997); *Spiegel v. Babbitt*, 855 F. Supp. 402 (D.D.C. 1994), *affd in part w/o op.*, 56 F. 3d 1531 (D.C. Cir. 1995), *reported in full*, 1995 US App. Lexis 15200 (D.C. Cir. May 31, 1995); *ANSWER Coalition v. Norton*, No. 05-0071, (D. D.C. January 18, 2005), *Mahoney v. Norton*, No. 02-1715 (D.D.C. August 22, 2002), *plaintiffs' emergency motion for appeal for injunction pending appealed denied Mahoney v. Norton*, No. 02-5275 (D.C. Cir. September 9, 2002) (per curiam); *Picciotto v. United States*, No. 99-2113 (D. D.C. August 6, 1999); *Picciotto v. Lujan*, No. 90-1261 (D. D.C. May 30, 1990) *Picciotto v. Hodel*, No. 87-3290 (D. D.C. December 7, 1987).

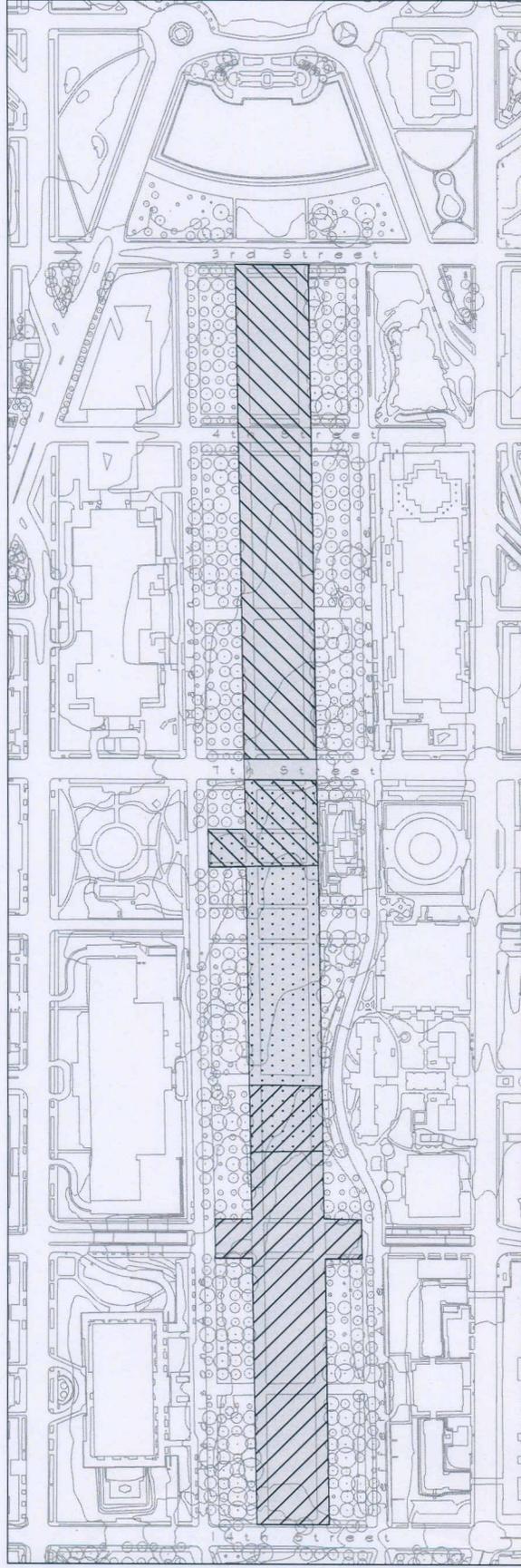
Pursuant to 36 C.F.R. § 1.7, notice of this temporary and partial closure will be made through fencing and posting of signs at conspicuous locations in the affected park area. Finally, pursuant to 36 C.F.R. § 1.5(c), this determination is available to the public upon request.



Maria Burks,
Acting Superintendent, National Mall & Memorial Parks

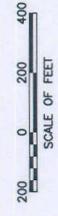
2/10/2011
Date

Attachment: Map of the 2011-2016 National Mall Reconstruction and Rehabilitation Area Closures



- PHASE 1  JULY 2011 – NOV. 2012
- PHASE 2  MAY 2013 – SEPT. 2014
- PHASE 3  MAY 2015 – SEPT. 2016

- PHASE 1&2  JULY 2011 – SEPT. 2014
- PHASE 2&3  MAY 2013 – SEPT. 2016



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