



John L. Nau, III
Chairman

Bernadette Castro
Vice Chairman

Emily Summers, ASID
Dallas, TX

Carolyn J. Brackett
Nashville, TN

Susan Schanlaber
Aurora, IL

Bruce D. Judd, FAIA
San Francisco, CA

Julia A. King, Ph.D.
St. Leonard, MD

Ann A. Pritzlaff
Denver, CO

Raynard C. Soon
Honolulu, HI

Governor Timothy
Pawlenty
St. Paul, MN

Mayor Bob Young
Augusta, GA

Alan M. Hantman, FAIA
Architect of the Capitol

Hon. Ann M. Veneman
Secretary of Agriculture

Hon. Gale A. Norton
Secretary of the Interior

Hon. Michael O. Leavitt
Administrator,
Environmental
Protection Agency

Hon. Stephen A. Perry
Administrator, General
Services Administration

Hon. Donald H.
Rumsfeld
Secretary of Defense

Hon. Norman Y. Mineta
Secretary of
Transportation

William B. Hart
Chairman, National Trust
for Historic Preservation

Edward F. Sanderson
President, National
Conference of State
Historic Preservation
Officers

John M. Fowler
Executive Director

Preserving America's Heritage

April 18, 2005

Honorable Lawrence M. Small
Secretary
Smithsonian Institution
1000 Jefferson Drive, SW.
Washington, DC 20560

Dear Secretary Small:

In accordance with Section 106 of the National Historic Preservation Act (NHPA) and implementing regulations, "Protection of Historic Properties" (36 CFR Part 800), I am writing to convey to you the final comments of the Advisory Council on Historic Preservation (ACHP) on the Old Patent Office Building Courtyard Enclosure project. We appreciate the Smithsonian participating in the ACHP panel meeting of April 11, 2005, and for providing the panel members with an opportunity for an onsite inspection.

Background

On July 20, 2004, the ACHP accepted the Smithsonian's invitation to participate in Section 106 consultation to resolve adverse effects of the courtyard enclosure project. Extensive work associated with the overall rehabilitation of the Old Patent Office Building was already underway at the time the ACHP joined the consultation process. Among the actions already taken was the demolition of the courtyard's historic landscape, a serene open-air garden court consisting of grass parterres with pathways, fountains, plantings, and mature elm trees. This important character-defining feature of the building had been sacrificed to build an underground auditorium.

While accepting the Smithsonian's invitation to consult, the ACHP expressed concern at the outset that the Smithsonian's commitment to a particular course of action may have precluded consideration of other alternatives. By letter of July 20, 2004, the ACHP questioned that "not only has the Smithsonian held and completed a design competition for the roof covering, but it may also have proceeded with excavation for interior columns to support the proposed covering." The Smithsonian responded that a full range of alternatives could and would be considered in the Section 106 review.

Despite lack of progress in resolving adverse effects through Section 106 consultation, the Smithsonian moved forward with review of the courtyard enclosure for preliminary approval by the National Capital Planning Commission in November 2004 and final review by the Commission of Fine Arts in January 2005. These actions and the Smithsonian's announcement in November 2004 that it had secured a commitment of private funding for the project and expected construction to begin shortly further limited options for addressing design issues among the consulting parties.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

1100 Pennsylvania Avenue NW, Suite 809 • Washington, DC 20004

Phone: 202-606-8503 • Fax: 202-606-8647 • achp@achp.gov • www.achp.gov

The ACHP's concerns about the proposal prompted a request for the formal views of the Secretary of the Interior pursuant to Section 213 of NHPA. The Secretary's report emphasized the exceptional significance of the building and its importance to the L'Enfant Plan, an internationally significant historic property that the Secretary's report stated deserved to be considered for National Historic Landmark designation. The report also expressed serious concerns regarding the loss of the historic courtyard landscape and further irreversible harm that the enclosure project would cause to one of the Nation's premier architectural treasures. Yet, rather than considering and responding to the Secretary of the Interior's views through Section 106 consultation, the Smithsonian reiterated its intention to move forward with the project as proposed and terminated the Section 106 process, thus requiring formal comment by the ACHP. The specially appointed panel of ACHP members I appointed to review this matter consisted of expert member Ann A. Pritzlaff, who chaired the panel; expert member Bruce D. Judd, FAIA; Kelly Sinclair, representing the Administrator, Environmental Protection Agency; and Linda Lawson, representing the Secretary of Transportation.

Findings

The manner in which the Smithsonian chose to meet its procedural and legal requirements for its actions affecting the Old Patent Office Building has seriously hindered review under Section 106. Consequential actions and major decisions were taken out of sequence; consultation began long after adverse effects were built into the project; a design competition was held without adequate consideration of the historic values inherent in the building and the L'Enfant plan; an authoritative report from the Secretary of the Interior was summarily dismissed by the Smithsonian; and meetings were held without adequate documentation, expertise, or decision making authority being made available. Regrettably, this was particularly true at the April 11 ACHP panel meeting, when the Smithsonian provided no presentation of its plan nor any appropriate experts to address panel questions and concerns.

The program goals of this project were clearly set before the project's effects to the character-defining qualities of the Old Patent Office Building were adequately evaluated and considered. The courtyard's historic landscape has been irrevocably lost as a consequence of the auditorium construction. In addition, the roof enclosure, as now designed, struggles against the Classical expressions of the building's courtyard interior, where it encapsulates a space that by all renderings is sterile and uninviting. The ACHP agrees with the Secretary of the Interior's report, which observes, "it cannot be denied that the canopy design overpowers the historic space and, by rising above the landmark building, becomes a very visible exterior feature impacting adversely the nationally significant building in its totality." Of equal concern, the height of the roof will radically alter views to the prominent south façade along 8th Street, affecting both the structure and the nationally significant L'Enfant plan.

The Smithsonian's decisions regarding actions it would *not* include in its project also have important consequences for the Old Patent Office Building. The intent of such a major public investment was to revitalize this historic building. Yet, the Smithsonian chose to define the project's scope without regard for the building's principal façade. The monumental south portico, characterized by its close resemblance to the Parthenon, directly faces the National Archives' reciprocating portico, thus establishing the Old Patent Office Building's axial relationship to Pennsylvania Avenue. Missing its grand entrance stairs since the 1930s, the south face would, despite this major rehabilitation project, continue to be marred by this alteration. As a result, this landmark building will appear from the L'Enfant Plan's 8th Street corridor as an object of neglect, rather than a jewel that has been brought back to its full glory.

The rehabilitation of the Old Patent Office Building as authorized by the Smithsonian Facilities Authorization Act constitutes a major public investment in a building that will house our Nation's patrimony. The Smithsonian clearly takes its responsibility to those artifacts and works of art seriously and it is difficult to understand why the Smithsonian would not take just as seriously its stewardship of a structure of such importance as the Old Patent Office Building. Notwithstanding actions taken to date, in

the ACHP's view, there is still an opportunity for the Smithsonian to take action to significantly reduce harm to the Old Patent Office Building and the L'Enfant Plan and thereby honor their legacy to the Nation.

Recommendations

Based on the above findings, the ACHP has concluded that the proposal to enclose the courtyard of the Old Patent Office Building is seriously flawed. While the Smithsonian may have the best of intentions, the project as now conceived and under construction diminishes and undermines this magnificent architectural icon and its prominent placement within the L'Enfant plan. We, therefore, recommend that the Smithsonian abandon its plans to enclose the courtyard, and that it take steps to return, to the extent practical, the courtyard to its appearance prior to demolition.

If it is the Smithsonian's decision to not follow this recommendation, the ACHP further recommends that the current roof enclosure design be modified to lower its height. Redesign of the courtyard enclosure should include changes in the location of columns and footings, as necessary to ensure that the roof is not visible from the exterior views along 8th Street and the National Archives; so that it no longer provides an inappropriate backdrop to the south façade of the Old Patent Office Building when viewed along the 8th Street corridor; and so that the resulting structure is subordinate to, and does not dominate, the Old Patent Office Building.

Other measures, such as the development of a maintenance plan that ensures proper upkeep without harming historic building fabric, and use of a lighting plan that minimizes light emanating from the atrium while enhancing lighting to the building surface, should also be considered. The idea expressed of a "beacon" to draw people to the museum and enhance the adjoining neighborhood is not out of character with the monumental importance L'Enfant placed on the site as central to his plan for the city. However, the building itself should serve as the beacon and should be lighted accordingly, rather than lighting the night sky, diverting attention from the historic building itself. The Smithsonian should develop a report that outlines all steps it intends to take to modify the design to reduce the visual impacts of the project.

The ACHP further recommends that the Smithsonian ensure that the south stairs are reconstructed as part of the overall rehabilitation project. The stair reconstruction project should be implemented in accordance with recommended approaches in the Secretary of the Interior's Standards for the Treatment of Historic Properties, and should be undertaken, not to mitigate adverse effects of the courtyard enclosure project, if built, but to properly complete the Smithsonian's rehabilitation of the Old Patent Office Building.

As the findings above make clear, the ACHP is seriously concerned about how the Smithsonian is meeting its stewardship obligations for the historic properties under its control. As you are aware, the President, through his *Preserve America* initiative, has placed a high premium on stewardship of our Nation's heritage assets. Related to this, the ACHP is concerned that the Smithsonian's ineffective use of Section 106 review for the enclosure project is symptomatic of a larger failure within the Smithsonian to satisfy the spirit and intent of Section 106 review. The ACHP, therefore, recommends that the Smithsonian:

- 1) seek the views of the Secretary of the Interior on all future decisions potentially affecting historic fabric or character of the Old Patent Office Building, and other National Historic Landmarks in its ownership or control, and that such consultation occur at the earliest stage of project planning, and irrespective of the Smithsonian's responsibility to submit such projects to any review authority; and
- 2) examine its process for integrating Section 106 into project planning and coordinating with applicable reviews by the National Capital Planning Commission, the Commission of Fine Arts, and any other internal or external reviews; and report to the ACHP its findings and recommended improvements to such planning and coordination. The report should specifically include the steps it intends to take to improve how it conducts its reviews under Section 106, with emphasis on timing to ensure that a full

range of alternatives are available when it initiates Section 106 review, appropriate involvement of decision makers in consultation, and meaningful involvement of the public.

Finally, the Smithsonian should produce a study of the historic and architectural significance of the Old Patent Office Building Courtyard and its historic landscape, in accordance with the standards of the Historic American Building Survey and the Secretary of the Interior's Standards.

In accordance with Section 106 of the NHPA, you must take into account these comments of the ACHP prior to reaching a decision on the courtyard enclosure project. In accordance with Section 110(l) of NHPA and the Section 106 implementing regulations, this responsibility cannot be delegated. Finally, your response to these ACHP comments must be documented in accordance with 36 CFR Section 800.7(c)(4).

Sincerely,

A handwritten signature in black ink, appearing to read "John L. Nau, III". The signature is written in a cursive, flowing style with a prominent initial "J".

John L. Nau, III
Chairman