

**MEMORANDUM OF AGREEMENT
AMONG
THE U.S. DEPARTMENT OF STATE,
THE DISTRICT OF COLUMBIA STATE HISTORIC PRESERVATION OFFICER,
THE NATIONAL CAPITAL PLANNING COMMISSION,
AND THE NATIONAL PARK SERVICE**

**REGARDING THE PERIMETER SECURITY IMPROVEMENT PROJECT
AT THE
AMERICAN PHARMACISTS ASSOCIATION HEADQUARTERS BUILDING,
WASHINGTON, D.C.**

This Memorandum of Agreement (“MOA” or “Agreement”) is made as of this 31st day of October 2013, by and among the United States Department of State (DOS), the National Capital Planning Commission (NCPC), the National Park Service (NPS), and the District of Columbia State Historic Preservation Officer (SHPO), (referred to collectively herein as the “Parties” or “Signatories” or individually as a “Party” or “Signatory”) pursuant to Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f and its implementing regulations 36 CFR Part 800, and Section 110 of the NHPA, 16 U.S.C. § 470h-2.

WHEREAS, the NPS has designated DOS lead agency for NHPA Section 106 purposes; and

WHEREAS, NCPC will review the Undertaking pursuant to the National Capital Planning Act of 1952 and has designated DOS lead agency for NCPC’s compliance with Section 106 of the NHPA pursuant to 36 CFR 800.2(a)(2); and

WHEREAS, the American Pharmacists Association Headquarters Building, located at 2215 Constitution Avenue, NW, Washington, D.C., encompasses the original APhA Headquarters building designed by John Russell Pope and dedicated in 1934, and an addition designed by Hartman-Cox Architects and dedicated in 2009 (Exhibit A). The original APhA Headquarters Building is listed in the National Register of Historic Places and the D.C. Inventory of Historic Sites; and

WHEREAS, to satisfy security requirements at the APhA addition, which is an Interagency Security Committee (ISC) Level 4 Facility, DOS plans to install perimeter security, including guard booths, vehicle barriers, anti-ram walls, and bollards, and will construct a retaining wall and 6’ sidewalk to connect the existing 22nd Street sidewalk to Constitution Avenue (Exhibits B and C). These efforts will be collectively referred to herein as the Undertaking (“Undertaking”); and

WHEREAS, DOS has determined the Area of Potential Effect (“APE”), illustrated in Exhibit D to include the following properties, all of which are listed in or have been determined eligible for the National Register of Historic Places: the American Pharmacists Association Headquarters at 2215 Constitution Avenue, N.W.; the Lincoln Memorial; the National Academy of Sciences at

2101 Constitution Avenue, N.W.; the Harry S Truman Building (State Department / War Department) at 21st and E Streets, N.W.; the L'Enfant and McMillan Plans of the City of Washington; and East and West Potomac Parks Historic District; and

WHEREAS, the Undertaking is being implemented in conjunction with a perimeter security project at the Harry S Truman (HST) building, for which a separate MOA is being prepared, in that the security elements at the north end of the APhA property will also satisfy perimeter security requirements for HST; and

WHEREAS, DOS has determined, in consultation with SHPO, that the Undertaking will cause adverse effects on views toward the Lincoln Memorial, the Harry S Truman Building, the APhA headquarters, the openness of two L'Enfant Plan streets, and contributing elements of the APhA Headquarters Building landscape (Exhibit E); and

WHEREAS, DOS has agreed to coordinate the exchange of information, developed as mitigation for this Undertaking, with the design team for the Northwest Rectangle Heritage Trail, of which DOS' participation is presently proposed as mitigation for adverse effects associated with the HST Perimeter Security Improvement Project, and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), DOS notified the Advisory Council on Historic Preservation (ACHP) of its adverse effects determination with the specified documentation and ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, DOS provided for public involvement in the Section 106 review process in accordance with 36 CFR § 800.8(a)(1) by coordinating Section 106 review with public review and consultation via an Environmental Assessment (EA) under the National Environmental Policy Act (NEPA) process; and

WHEREAS, DOS invited the United States General Services Administration (GSA), the American Pharmacists Association (APhA), the Board of Governors of the Federal Reserve Board System (FRB), Advisory Neighborhood Council 2A, the D.C. Preservation League, the Committee of 100 on the Federal City, the Foggy Bottom Association (FBA), the George Washington University, the National Academy of Sciences (NAS), the National Trust for Historic Preservation, the Pan American Health Organization, the U.S. Institute of Peace (USIP), the U.S. Navy NAVFAC Washington, the U.S. Commission of Fine Arts (CFA), the United States Diplomacy Center (USDC), the D.C. Office of Planning (DCOP), and the D.C. Department of Transportation (DDOT) to participate in consultation, and GSA, APhA, FRB, NAS, USIP, CFA, USDC, DCOP, and DDOT participated as consulting parties (“Consulting Party” or “Consulting Parties”); and

WHEREAS, DOS determined, in consultation with SHPO, that archaeological survey has not been conducted in the project area, and that there is potential for the undertaking to adversely affect yet-unidentified archeological resources; and

WHEREAS, DOS determined, in consultation with SHPO, that there are no federally recognized Indian tribes in the District of Columbia; and

NOW THEREFORE, the Signatories agree that the Undertaking shall be administered in accordance with the following stipulations to take into account the Undertaking's effect on historic properties.

STIPULATIONS

DOS shall ensure that the following measures are carried out:

I. General Requirements

- A. **Applicable Codes and Standards.** The Undertaking shall be planned, developed, and executed by DOS in consideration of the recommended approaches contained in the Secretary of the Interior's Standards for the Treatment of Historic Properties ("Secretary's Treatment Standards"), GSA's applicable Technical Preservation Guidelines (<http://www.gsa.gov/technicalpreservationguidelines>), and other prevailing applicable codes.
- B. **Qualifications.** DOS shall ensure that all historic preservation and/or archaeological work performed on its behalf pursuant to this MOA shall be accomplished by, or under the direct supervision of a person or persons who meet(s) or exceed(s) the pertinent qualifications in the Secretary's Professional Standards (Archaeology and Historic Preservation: *Secretary of the Interior's Standards and Guidelines [As Amended and Annotated]*, formerly located at 36 CFR Part 61) in those areas in which the qualifications are applicable for the specific work performed.
- C. **Anti-Deficiency Act.** DOS's obligations under this MOA are subject to availability of appropriated funds, and the stipulations of this MOA are subject to the provisions of the Anti-Deficiency Act. DOS will make reasonable and good faith efforts to secure the necessary funds to implement this MOA in its entirety. If compliance with the Anti-Deficiency Act alters or impairs DOS's ability to implement the stipulations in this MOA, DOS will consult in accordance with Stipulation VIII (Amendments) or X (Termination) of this MOA.

II. Design Review

DOS shall submit pre-final drawings to the consulting parties and Signatories for review and comment.

- A. Consulting parties and Signatories shall submit written comments to DOS within fifteen (15) days of receipt of the pre-final drawings.
- B. DOS shall consider and may incorporate changes into the final design submission and shall provide a written summary of those changes to SHPO.
- C. Should DOS object to any comments, DOS will provide SHPO and the consulting party or parties that made the comment(s) with a written explanation of its

objection and will initiate consultation with the same to resolve the objection. If no agreement is reached within ten (10) calendar days following receipt of DOS's written explanation, DOS will request the ACHP to review the dispute pursuant to Stipulation VIII (Dispute Resolution).

- D. Failure to Comment. If the consulting parties and Signatories do not provide written comments within the agreed upon timeframe noted above, DOS may assume that there are no comments regarding the design, and DOS may proceed with its project.
- E. Final Submissions. DOS plans to prepare NCPC and CFA final design submissions for their respective approvals. The final approved NCPC and CFA submissions shall be distributed to the Signatories.

III. Archaeological Resources Identification

- A. The DOS will pursue a phased approach to the identification and evaluation of archeological resources within the project area in consultation with the SHPO. All investigations will follow the *Guidelines for Archeological Investigations in the District of Columbia* (1998, as amended), the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation [as amended and annotated], and be conducted under the direct supervision of an archaeologist that meets or exceeds the pertinent qualifications in the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738- 44739).
- B. All archaeological work and Treatment of potentially eligible resources will be determined in consultation with the SHPO and be consistent with: the *Secretary of the Interior's Standards for the Treatment of Historic Properties*; *The Secretary of the Interior's Standards for Archeological Documentation* [as amended and annotated]; and the ACHP's publications, including the *Advisory Council on Historic Preservation's Treatment of Archeological Properties: A Handbook(1980)*, *Recommended Approach for Consultation on Recovery of Significant Information from Archeological Sites* (1999), and current Section 106 Archaeology Guidance (at: <http://www.achp.gov/archguide/>).
- C. The DOS will permanently curate or arrange for permanent curation of the archaeological collections, field records, images, digital data, maps, and related information resulting from investigations for this undertaking in accordance with 36 CFR 79, Curation of Federally-Owned and Administered Archaeological Collections.

IV. Construction Monitoring and Modifications

- A. Construction Monitoring. DOS will hire an independent consultant who meets the professional requirements set forth in Stipulation I.B to monitor the construction work associated with the Undertaking to ensure consistency with the final submission.

- B. Modifications. The independent consultant will determine whether any conflicting conditions discovered or modifications may result in adverse effects on historic properties within the APE. If the determination is that an adverse effect may result, DOS will forward written documentation of the determination, along with proposed measures to resolve the adverse effect, to SHPO. Unless SHPO objects in writing within fifteen (15) calendar days of receiving the submission from DOS, DOS may proceed with the work. Otherwise, DOS will resolve the objection through further consultation with SHPO, or in accordance with Stipulation VIII (Dispute Resolution) or Stipulation X (Amendments) before proceeding with the work.

V. Mitigation

A. Rehabilitation of Historic Landscape

1. For the APhA Headquarters Building, DOS will submit an illustrated landscape report that compares the original planting plans and desired landscape characteristics noted in the 1932 Senate Report with later documentary records and current conditions, and evaluates whether unimplemented portions of the 1933 planting plan and the 1932 landscape characteristics should be realized. The report will be the basis for the development of a landscape rehabilitation plan. A draft illustrated report and landscape rehabilitation plan will be submitted to Signatories for review and comment within ninety (90) days of the execution of this MOA. The draft report, CFA and NCPC submissions, and the final report will be processed per Stipulation II (Design Review).
2. Once approved by the Signatories and APhA, DOS shall implement the landscape rehabilitation plan, and complete the required landscape construction activities within two (2) years of the execution of this MOA.

- B. Mitigation for adverse effects to archaeological resources shall be determined in consultation with the SHPO in accordance with standards and guidelines outlined in Stipulation III (Archeological Resources Identification).

VI. Post-Design Review Discoveries

- A. Should cultural resources be unexpectedly identified during the implementation of the Undertaking or any actions taken pursuant to this MOA, DOS shall ensure that reasonable efforts are made to avoid, minimize or mitigate adverse effects to such properties, and shall consult SHPO to resolve any unavoidable adverse effects pursuant to 36 CFR § 800.6. DOS shall ensure that any resulting cultural resources work is accomplished in accordance with the relevant performance standards in Stipulation III (Archeological Resources Identification). DOS and SHPO shall resolve any disputes over the evaluation or treatment of previously unidentified resources using the processes outlined in Stipulation IV.B of this MOA.

B. Treatment of Human Remains - In the event that human remains, burials, or funerary objects are discovered during construction of the Undertaking or any action taken pursuant to this MOA, DOS shall immediately halt subsurface construction disturbance in the area of the discovery and in the surrounding area where additional remains can reasonably be expected to occur. DOS shall immediately notify SHPO and the District of Columbia Chief Medical Examiner (CME) of the discovery under DC Code Section 5-1406 and other applicable laws and regulations.

1. If CME determines that the human remains are not subject to a criminal investigation by federal or local authorities, DOS shall comply with the applicable federal or local laws and regulations governing the discovery and disposition of human remains and consider the ACHP's Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects (2007).
2. For actions involving Native American human remains or burials, DOS shall comply with applicable laws. in accordance with provisions of the Native American Graves Protection and Repatriation Act, as amended (Public Law 101-601, 25 USC 3001 et seq.) and regulations of the Secretary of the Interior at 43 CFR Part 10. Should remains or such objects be found, DOS shall notify SHPO pursuant to 43 CFR Section 10.4(d).

VII. Duration

This MOA will expire if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, DOS may consult with the other Signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation X (Amendments).

VIII. Monitoring and Reporting

Following the execution of this MOA until it expires or is terminated, DOS shall provide all the Signatories to this MOA semi-annual summary reports detailing work undertaken pursuant to its terms, and a final report. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in DOS's efforts to carry out the terms of this MOA.

IX. Dispute Resolution

Should any Signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, DOS shall consult with such party to resolve the objection.

If DOS determines that such objection cannot be resolved, DOS will forward all documentation relevant to the dispute, including DOS's proposed resolution, to ACHP who shall provide DOS with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, DOS shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and Signatories, and provide them with

a copy of this written response. DOS will then proceed according to DOS's final decision.

If ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, DOS may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, DOS shall prepare a written response that takes into account any timely comments regarding the dispute from the Signatories to the MOA, and provide them and ACHP with a copy of such written response.

DOS's responsibilities to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

X. Amendments

This MOA may be amended when such an amendment is agreed to in writing by all Signatories. The amendment will be effective on the date a copy signed by all of the Signatories is filed with ACHP.

XI. Termination

If any Signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation X (Amendments). If within thirty (30) days (or another time period agreed to by all Signatories) an amendment cannot be reached, any Signatory may terminate the MOA upon written notification to the other Signatories.

Once the MOA is terminated, and prior to work continuing on the Undertaking, DOS must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. DOS shall notify the Signatories as to the course of action it will pursue.

Execution of this MOA by DOS and SHPO and implementation of its terms is evidence that DOS has taken into account the effects of this Undertaking on historic properties and afforded ACHP an opportunity to comment.

EXHIBITS

- Exhibit A: Site Plan
- Exhibit B: Proposed Site Plan
- Exhibit C: Plans and Elevations
- Exhibit D: Area of Potential Effects
- Exhibit E: Illustrated Summary of Adverse Effects

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AND THE NATIONAL PARK SERVICE**

**REGARDING THE PERIMETER SECURITY IMPROVEMENT PROJECT
AT THE
AMERICAN PHARMACISTS ASSOCIATION HEADQUARTERS BUILDING,
WASHINGTON, D.C.**

FOR THE DEPARTMENT OF STATE

By: _____



10/31/13

Adam H. Bodner
Director, Office of Real Property Management

Date

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**REGARDING THE PERIMETER SECURITY IMPROVEMENT PROJECT
AT THE
AMERICAN PHARMACISTS ASSOCIATION HEADQUARTERS BUILDING,
WASHINGTON, D.C.**

FOR THE NATIONAL CAPITAL PLANNING COMMISSION

By: Marcel C. Acosta

10/31/13

Marcel C. Acosta
Executive Director

Date

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AMONG
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**REGARDING THE PERIMETER SECURITY IMPROVEMENT PROJECT
AT THE
AMERICAN PHARMACISTS ASSOCIATION HEADQUARTERS BUILDING,
WASHINGTON, D.C.**

FOR THE U.S. DEPARTMENT OF INTERIOR NATIONAL PARK SERVICE

By:



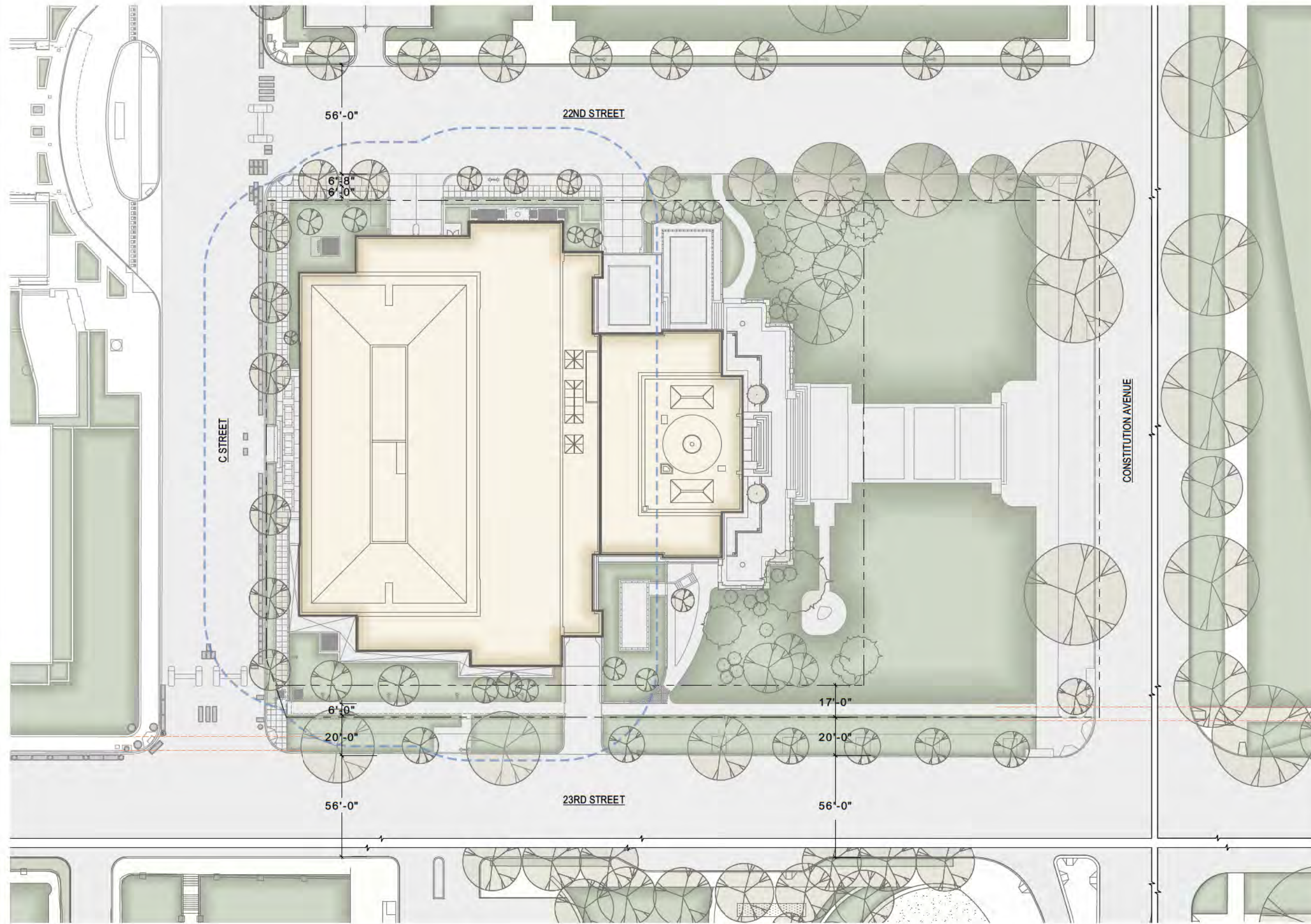
Robert A. Vogel
Superintendent, National Mall and Memorial Parks

11/7/13

Date

Exhibit A:

Site Plan



LEGEND

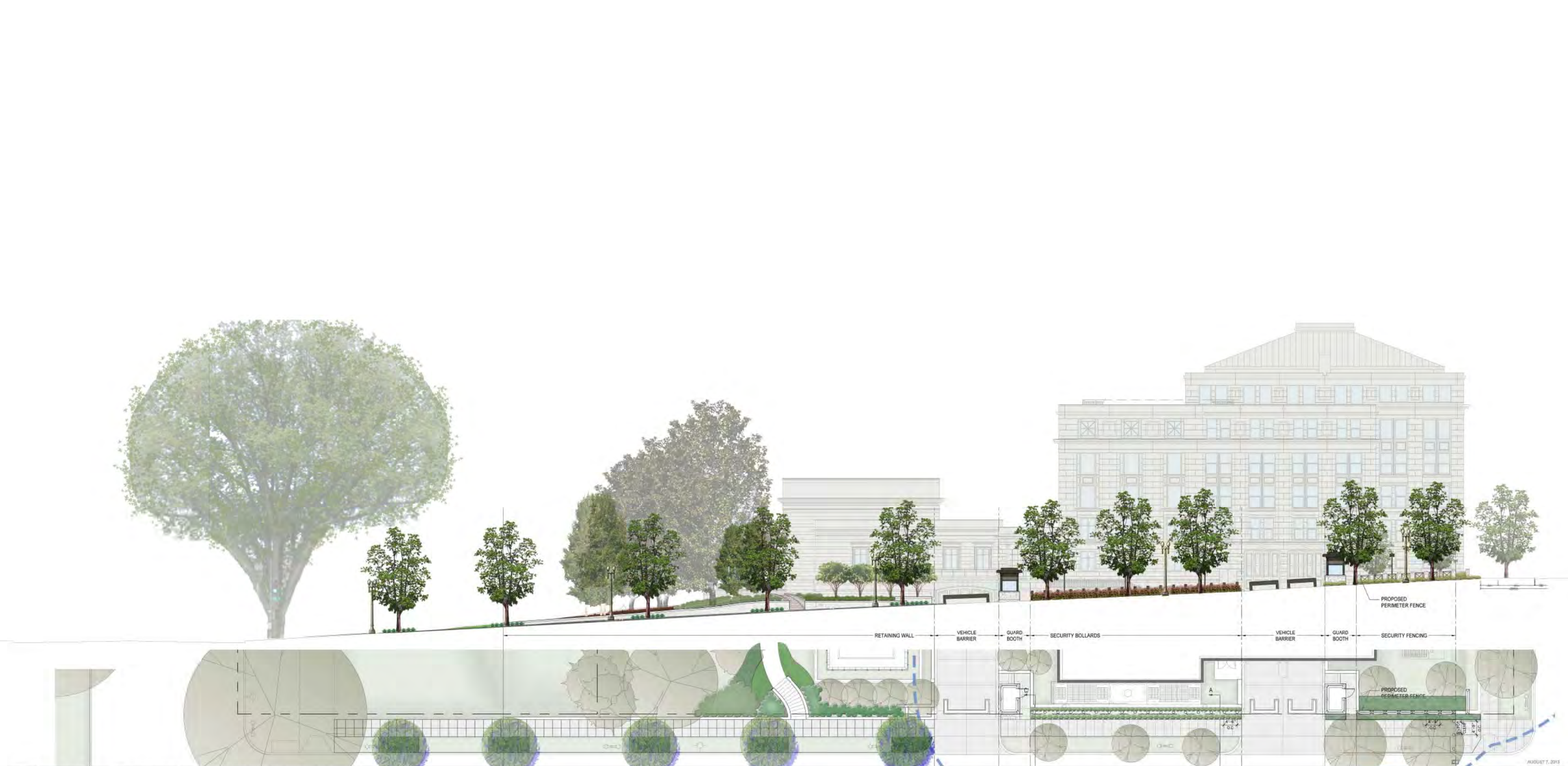
- ISC LEVEL IV SETBACK = 50'-0"
- EXISTING DOS PERIMETER BARRIER/PLANTER

- EXISTING TREE TO REMAIN
- PROPERTY LINE



Exhibit B:
Proposed Site Plan

Exhibit C:
Plans, Elevations, and Details



American Pharmacists Association (APhA) Perimeter Security Improvements
 22nd Street North - Concept Plan & Elevation

BRUNNEN & HARWELL
 ARCHITECTS

KAREN CHARLTON CHAPMAN & TWOMEY
 ARCHITECTS

AUGUST 7, 2013
 DRAWING NUMBER
 UNCLASSIFIED



American Pharmacists Association (APhA) Perimeter Security Improvements
22nd Street - Perspective Looking South



K C KARN CHARUHAS CHAPMAN & TWOHEY
Architecture | Planning | Interiors
1120 Connecticut Avenue NW, Suite 1250
C T Washington, DC 20036 202 659 5600 www.kcct.com

NOVEMBER 7, 2013

DRAWING NUMBER

UNCLASSIFIED



American Pharmacists Association (APhA) Perimeter Security Improvements
22nd Street - Perspective Looking North

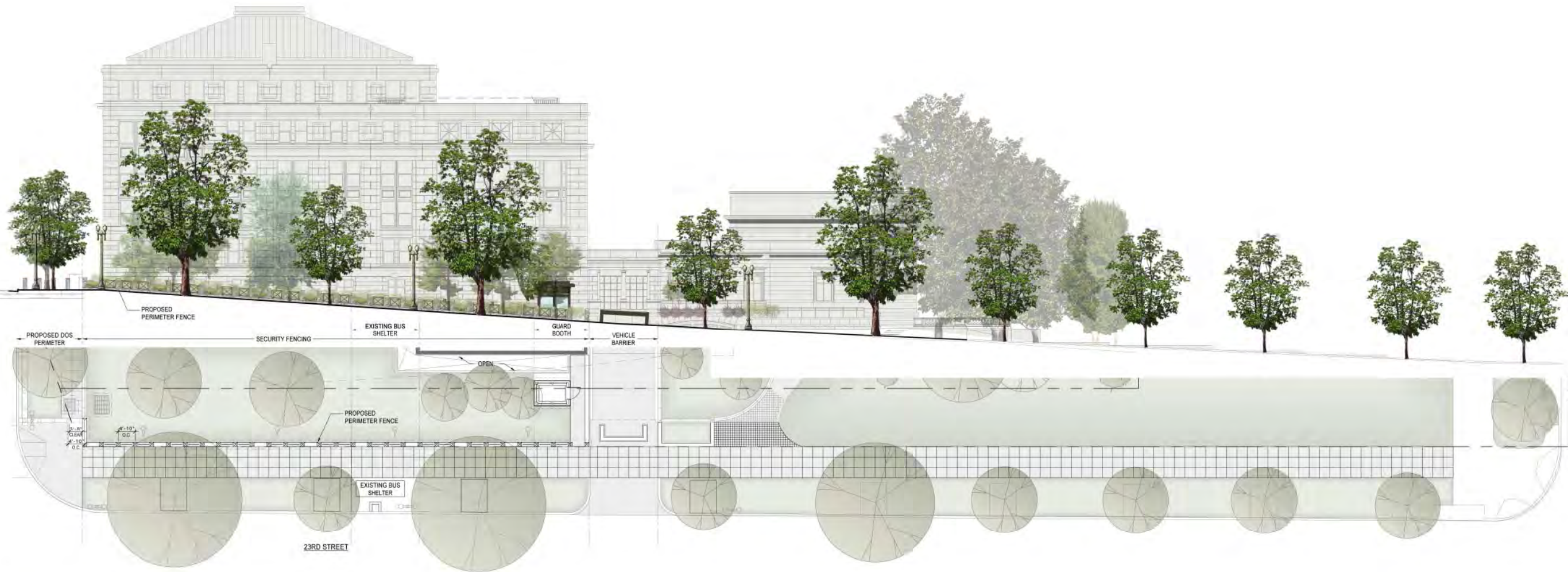


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NOVEMBER 7, 2013

DRAWING NUMBER

UNCLASSIFIED





American Pharmacists Association (APhA) Perimeter Security Improvements
23rd Street - Perspective Looking South



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NOVEMBER 7, 2013

DRAWING NUMBER

UNCLASSIFIED



American Pharmacists Association (APhA) Perimeter Security Improvements
23rd Street - Perspective Looking North

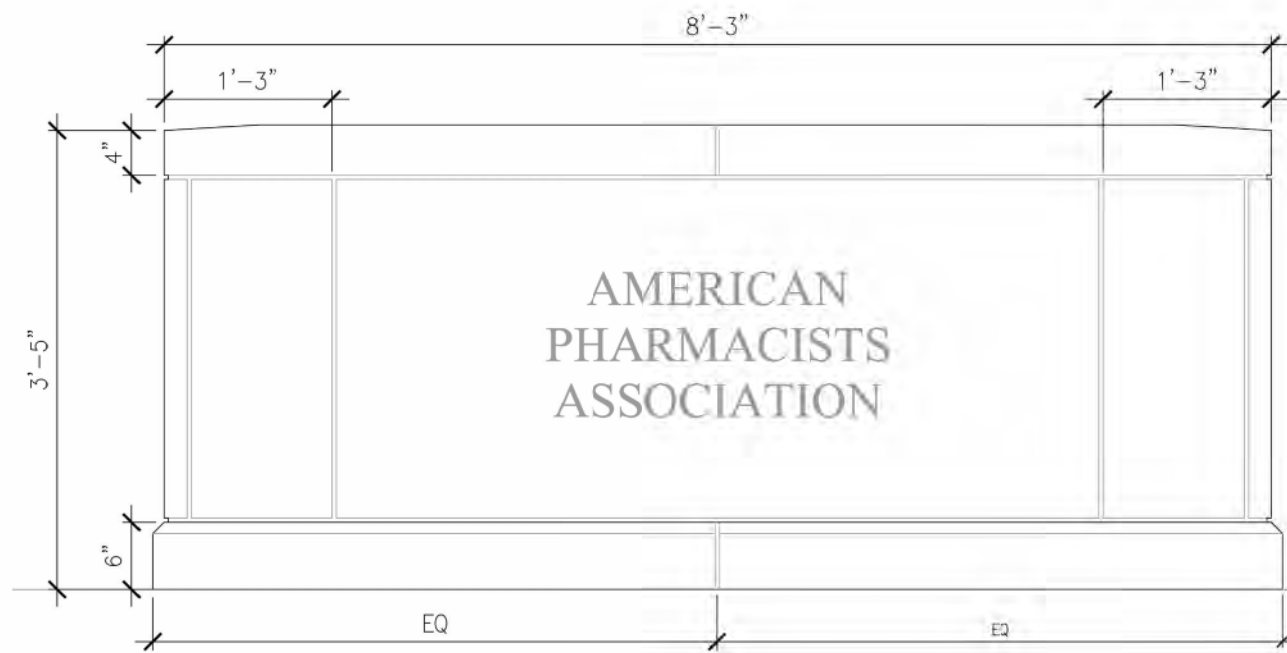


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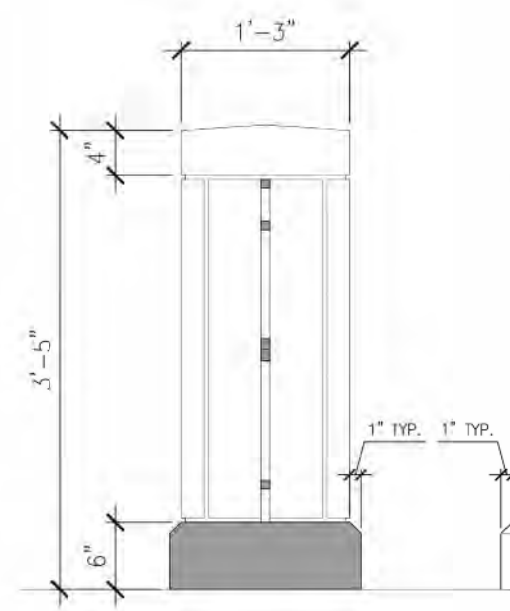
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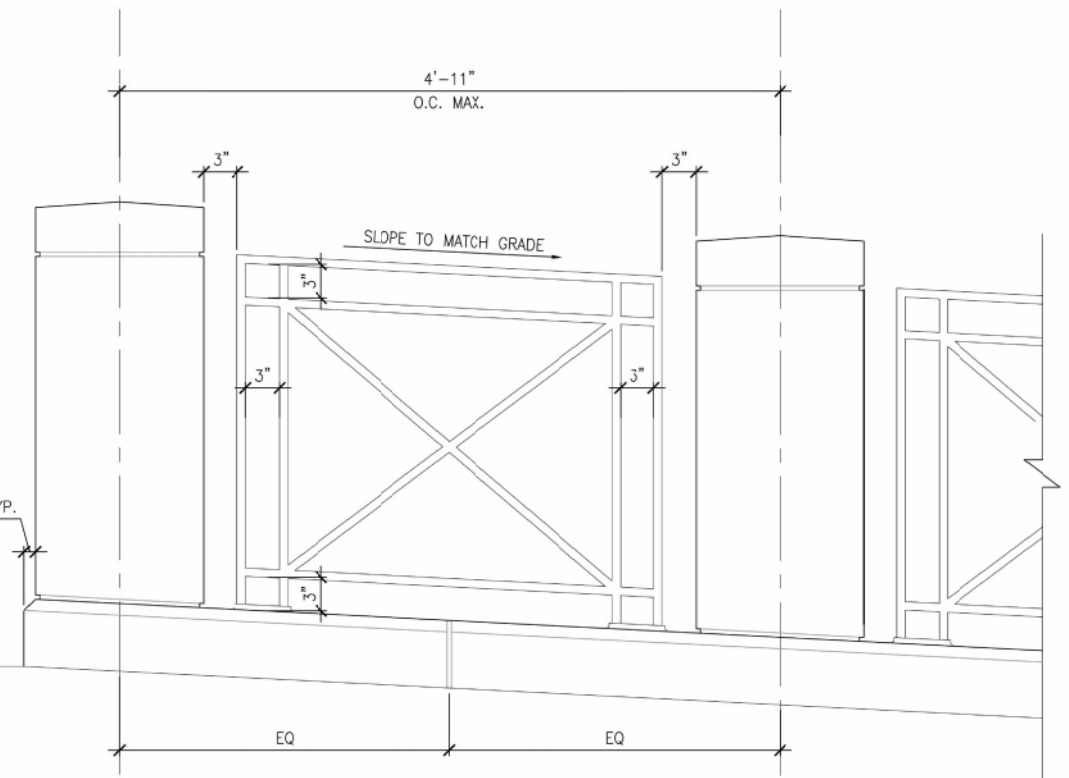
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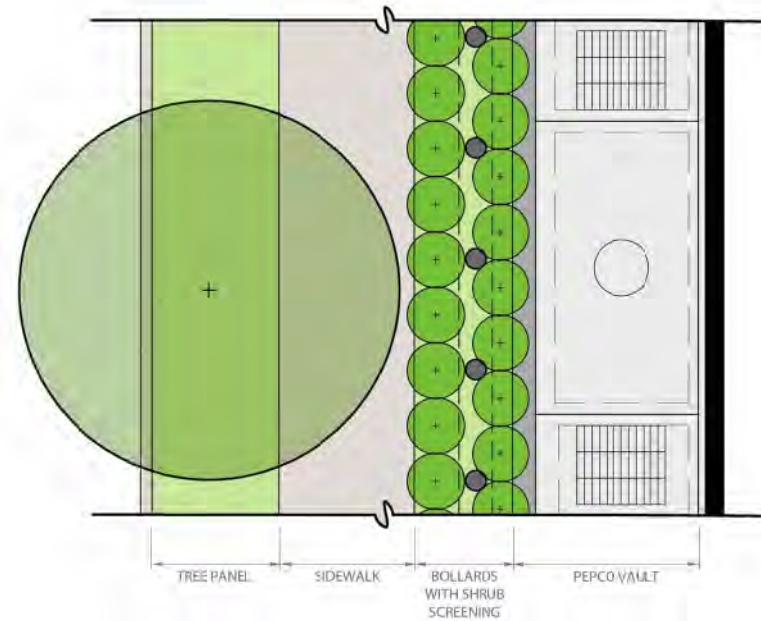
TYPICAL SIGNAGE ELEVATION @ C STREET
SCALE: 1-1/2" = 1'-0"



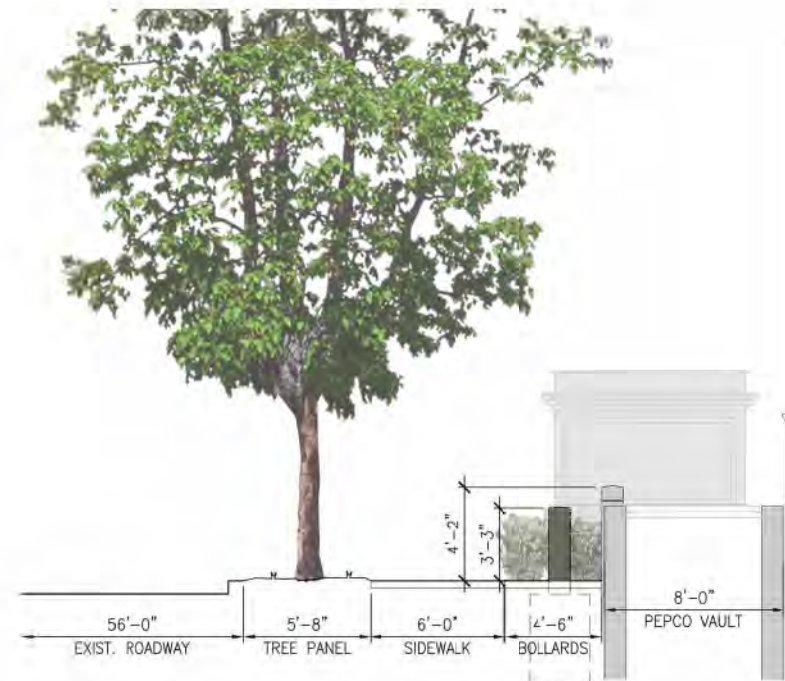
TYPICAL BARRIER SECTION
THRU OPEN METAL PANEL
SCALE: 1-1/2" = 1'-0"



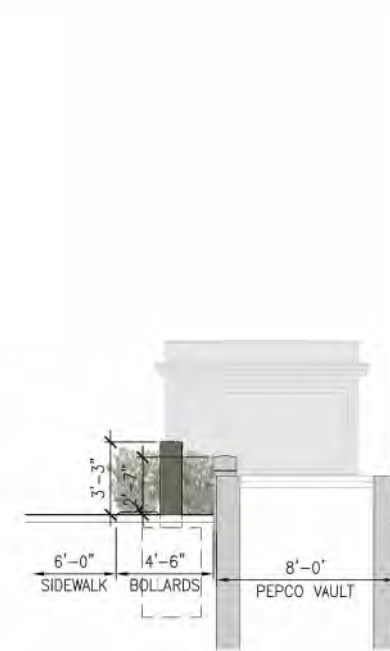
TYPICAL BARRIER ELEVATION
SCALE: 1-1/2" = 1'-0"



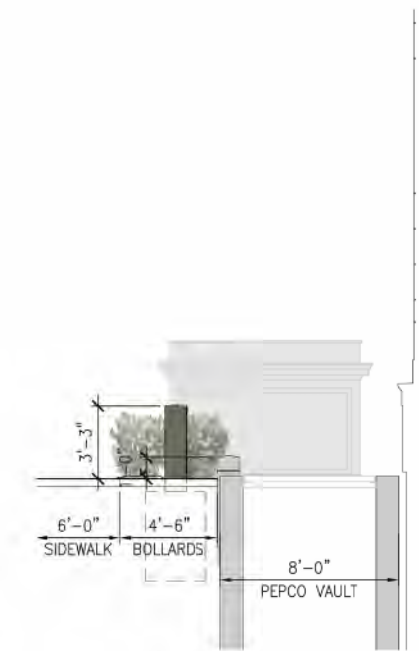
DETAIL PLAN
SCALE: 1/4" = 1'-0"



SECTION C
SCALE: 1/4" = 1'-0"



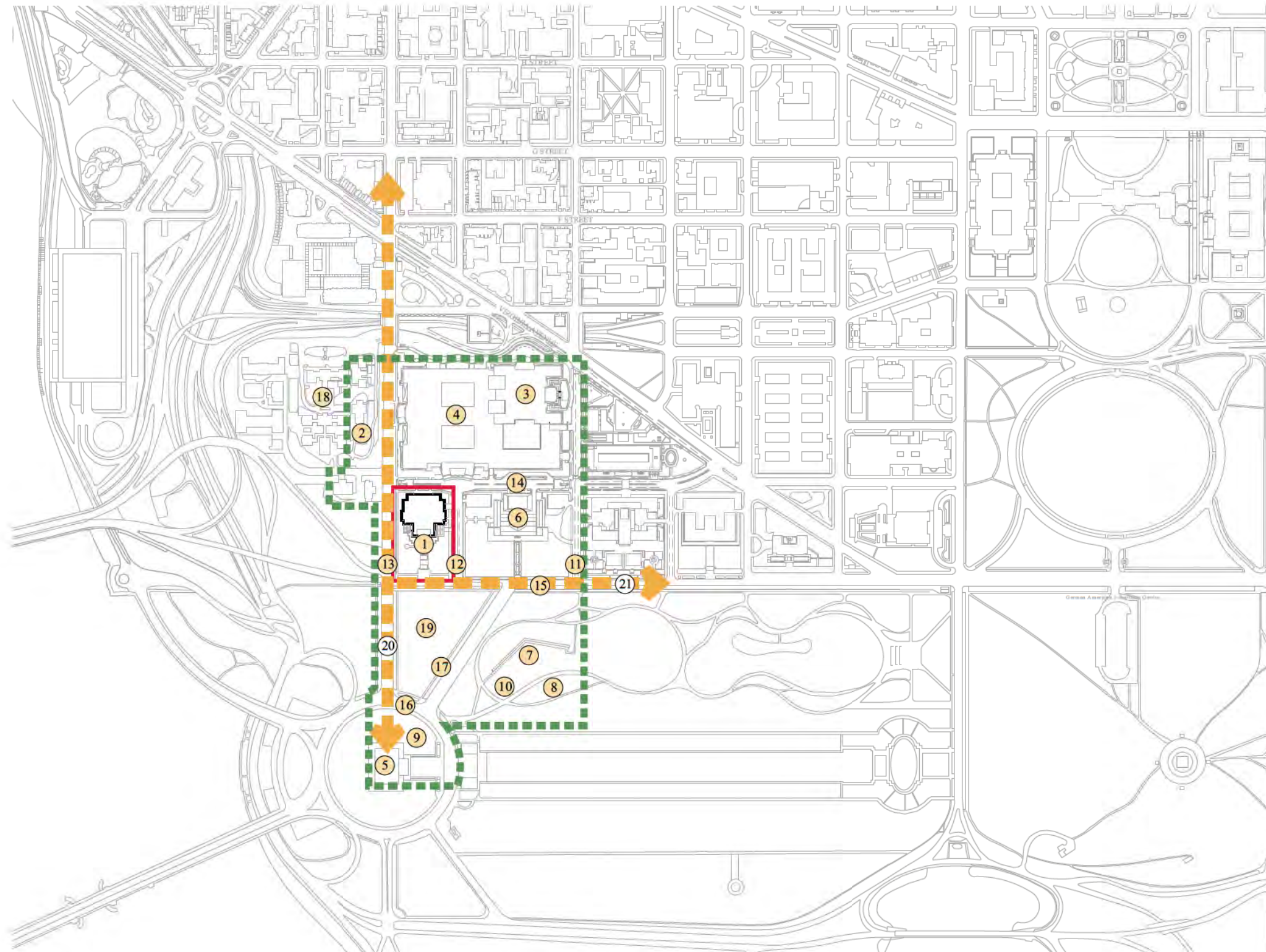
SECTION B
SCALE: 1/4" = 1'-0"



SECTION A
SCALE: 1/4" = 1'-0"



Exhibit D:
Area of Potential Effects



AREA OF POTENTIAL EFFECTS (APE) AND CONTRIBUTING RESOURCES

APE Boundary 

Buildings and Structures

- 1. American Pharmacists Association (1933 portion)
- 2. Potomac Annex Buildings 5-7 and Quarters A-B
- 3. State Department (War Department)
- 4. State Department Extension
- 5. Lincoln Memorial
- 6. National Academy of Sciences

Objects

- 7. Vietnam Veterans Memorial
- 8. Vietnam Women's Memorial

Sites

- 9. Lincoln Memorial Grounds
- 10. Constitution Gardens

Streets

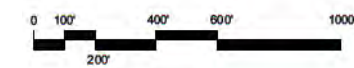
- 11. 21st Street
- 12. 22nd Street
- 13. 23rd Street
- 14. C Street
- 15. Constitution Avenue
- 16. Lincoln Memorial Circle
- 17. Henry Bacon Drive

Appropriations and Reservations

- 18. L'Enfant Original Appropriation No. 4
- 19. McMillan Reservation No. 332

Vistas 

- 20. 23rd Street (between Washington Circle and the Lincoln Memorial)
- 21. Constitution Avenue



Project Boundary 



Exhibit E:
Illustrated Summary of Adverse Effects

Exhibit E:

Illustrated Summary of Adverse Effects

Summary

22nd Street

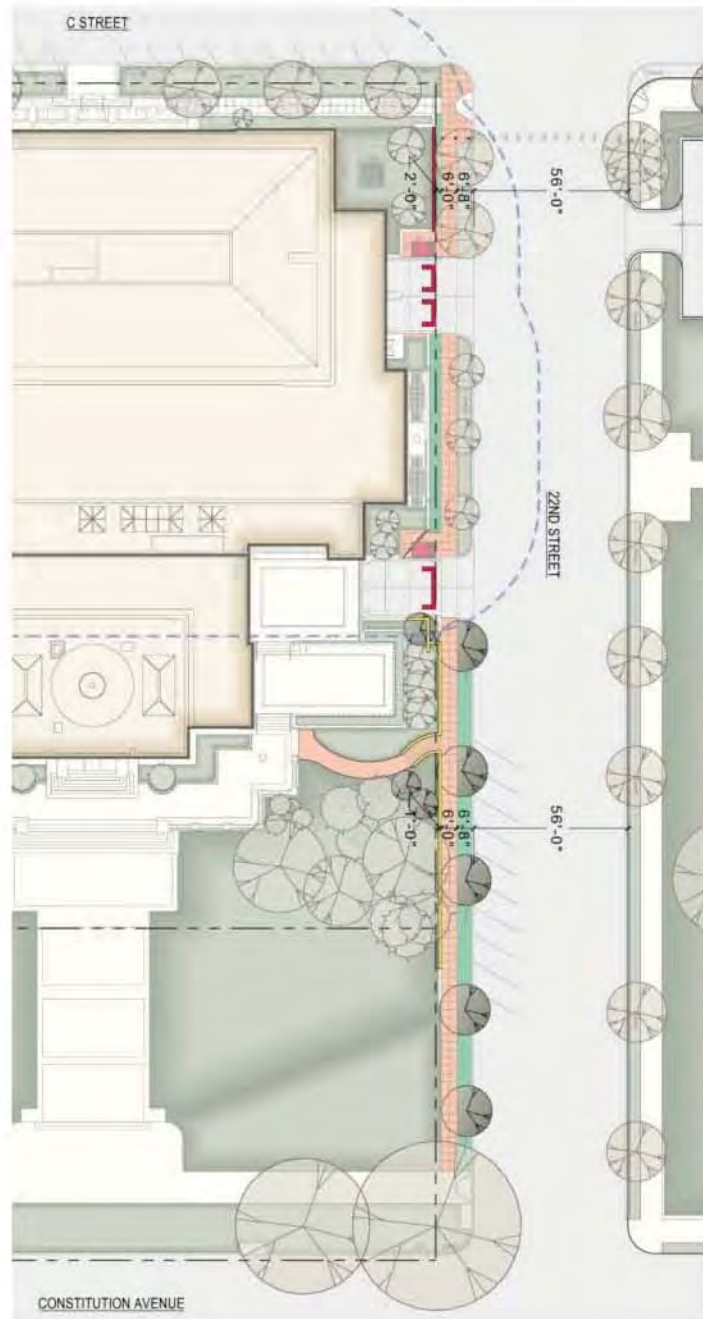
- The APhA sidewalk bollards and retaining walls, in combination with the Harry S Truman Building security improvements across 22nd Street, have adverse effects on the open character of the street.
- Replacement of trees on the APhA grounds and in the 22nd Street right of way for construction of the retaining walls and the new sidewalk would have temporary adverse effects on the APhA landscape and on the street setting.
- Combined with the security improvements at the HST Building, especially the bollards across 22nd Street, the APhA security bollards and retaining walls would have adverse effects on views along 22nd Street, especially those north toward the ceremonial entrance of the Truman Building on C Street.
- Construction of the retaining walls and relocation of the stairs may result in the loss of magnolia and holly trees on the APhA grounds adjacent to the retaining wall. If those trees are lost, adverse effects would occur to the landscape setting and views of the original APhA building.

23rd Street

- The security barrier and guard booth on 23rd Street would impinge on views south toward the Lincoln Memorial.
- Moving the sidewalk may affect three mature elm trees along the street. Loss of these trees would adversely affect views along the street, as well as the landscape setting of the original APhA building.

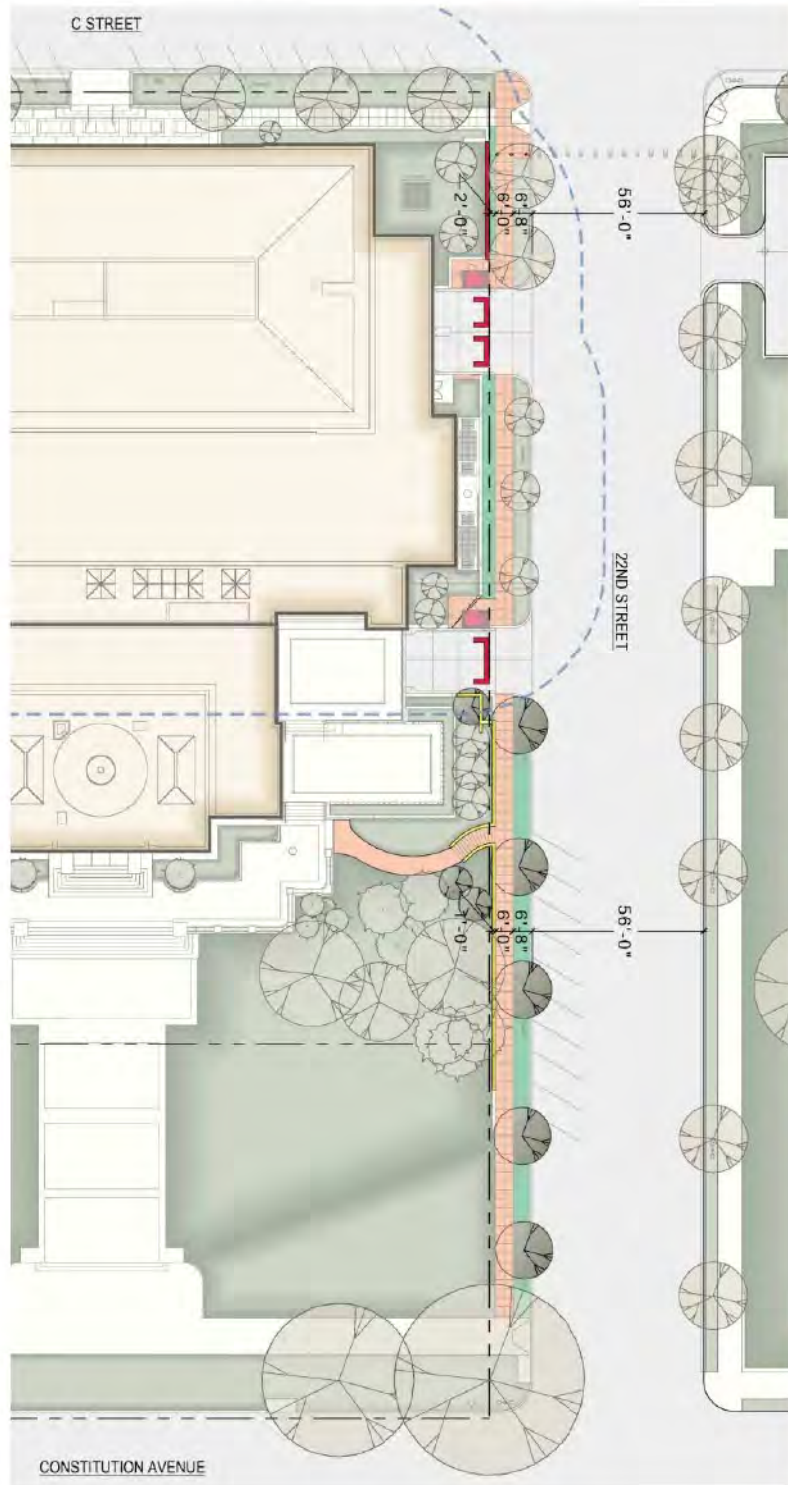
22nd Street

Adverse Effect: The APhA sidewalk bollards and retaining walls, in combination with the Harry S Truman Building security improvements across 22nd Street, have adverse effects on the open character of the street.



22nd Street

Adverse Effect: Replacement of trees on the APhA grounds and in the 22nd Street right of way for construction of the retaining walls and the new sidewalk would have temporary adverse effects on the APhA landscape and on the street setting.



22nd Street

Adverse Effect: Combined with the security improvements at the HST Building, especially the bollards across 22nd Street, the APhA security bollards and retaining walls would have adverse effects on views along 22nd Street, especially those north toward the ceremonial entrance of the Truman Building on C Street.



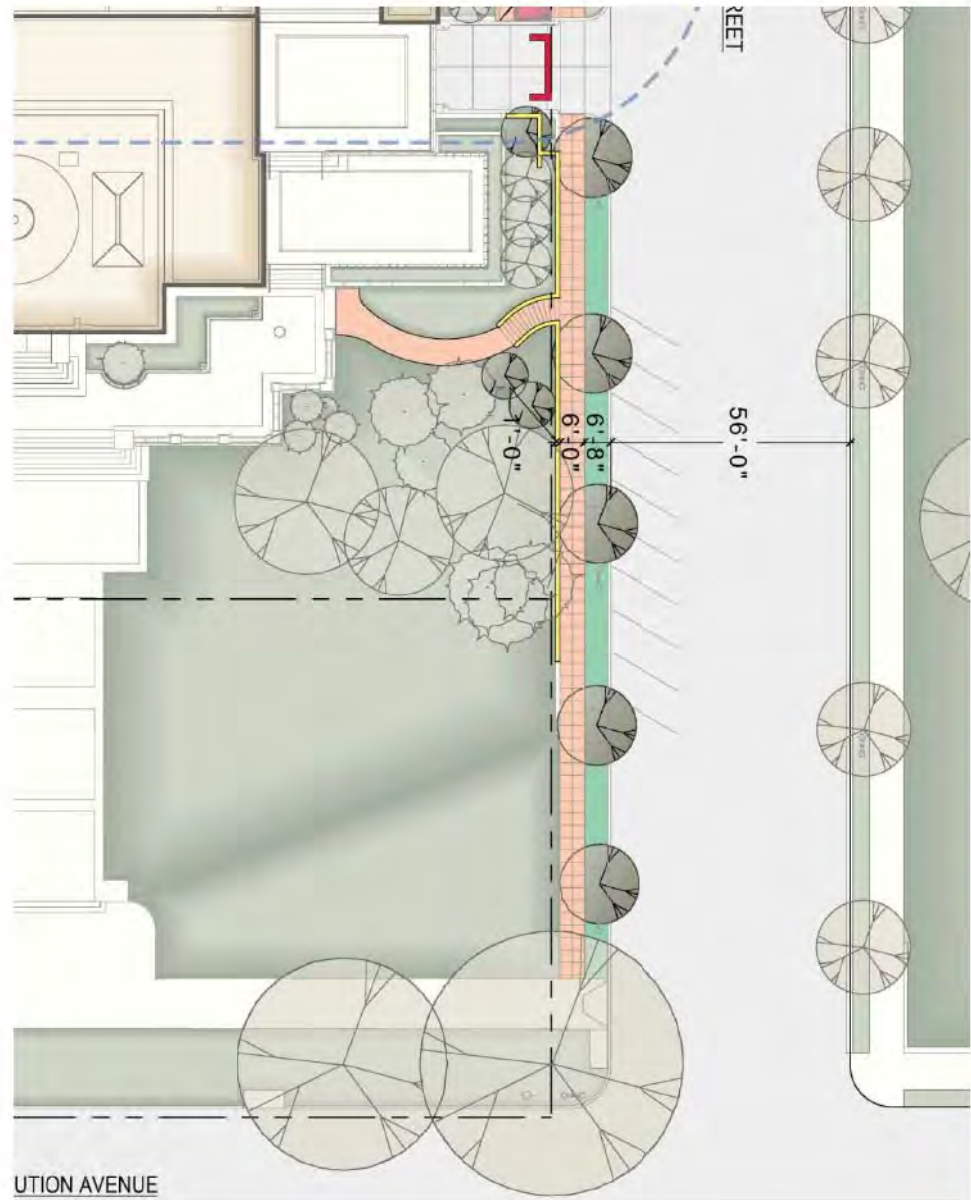
Existing view north along 22nd Street.



Proposed view.

22nd Street

Adverse Effect: Construction of the retaining walls and relocation of the stairs may result in the loss of magnolia and holly trees on the APhA grounds adjacent to the retaining wall. If those trees are lost, adverse effects would occur to the landscape setting and views of the APhA building.



23rd Street

Adverse Effect: The security barrier and guard booth on 23rd Street would impinge on views south toward the Lincoln Memorial.



Existing view south on 23rd Street.



Proposed view.

23rd Street

Adverse Effect: Moving the sidewalk may affect three mature elm trees along the street. Loss of these trees would adversely affect views along the street, as well as the landscape setting of the original APhA building.

