



# United States Department of the Interior

NATIONAL PARK SERVICE

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Washington, D.C. 20240

Office of the Director

H32(2200)

JAN 28 2005

Mr. John M. Fowler  
Executive Director  
Advisory Council on Historic Preservation  
1100 Pennsylvania Avenue, NW.  
Suite 809  
Washington, D.C. 20004

Dear Mr. Fowler:

On September 24, 2004, you requested the views of the Secretary of the Interior on the proposal by the Smithsonian Institution to enclose the interior courtyard of the Old Patent Office Building, a National Historic Landmark. In particular, you requested that we prepare a report pursuant to Section 213 of the National Historic Preservation Act (16 U.S.C. §470u) "detailing the significance of [the] historic property, describing the effects of [the] proposed undertaking on the affected property, and recommending measures to avoid, minimize, or mitigate adverse effects." You further requested that the report address the effects on both the Old Patent Office Building and the L'Enfant Plan for the City of Washington.

Enclosed is the Secretary of the Interior's Report to the Advisory Council on this matter. The report documents the history and significance of the Old Patent Office and its critical location as part of the L'Enfant Plan. Further, the report finds that the proposed undertaking will have an adverse effect on both the building and the L'Enfant Plan. We believe, however, that it is inappropriate to recommend either mitigation or avoidance measures since we have not been a party to the entire consultation process.

We appreciate the opportunity to be of assistance to the Advisory Council on Historic Preservation. Should you wish to discuss the report in greater detail, please feel free to contact me or Janet Snyder Matthews, Ph.D., Associate Director, Cultural Resources, National Park Service. Dr. Matthews can be reached at (202) 208-7625.

Sincerely,

Fran P. Mainella

cc: Sally Blumenthal, NCR  
John Parsons, NCR  
Janet Snyder Matthews

**U.S. Department of the Interior  
National Park Service**

**SECRETARY OF THE INTERIOR'S REPORT  
to  
The Advisory Council on Historic Preservation  
In Accordance with Section 213 of the National Historic Preservation Act  
on  
Impacts of the Current Rehabilitation of the Old Patent Office Building  
National Historic Landmark  
Washington, DC**

**January 2, 2005**

**Introduction**

The Old Patent Office Building, located between 7<sup>th</sup> and 9<sup>th</sup> and F and G Streets, N.W. in Washington, D.C. was designated a National Historic Landmark (NHL) by the Secretary of the Interior on January 12, 1965. Designed first by Robert Mills, generally accepted to be America's first native-born professional architect, and home to the U.S. Patent Office throughout most of the 19<sup>th</sup> and part of the 20<sup>th</sup> centuries, the structure was built in four sections over a 31-year period beginning in 1836. It is one of the largest Greek Revival buildings built by the federal government in the 19th century and occupies a pivotal site in the L'Enfant Plan of the City of Washington, D.C. The building's current occupant, the Smithsonian Institution, is now undertaking a major rehabilitation of the structure. On September 24, 2004, the Advisory Council on Historic Preservation requested that the Secretary of the Interior acting through the Director, National Park Service, comment on the historic appropriateness of one specific aspect of the current Smithsonian rehabilitation / restoration project— enclosing the historic interior courtyard.

**Authority for this Report**

National Historic Landmarks are afforded special protection and consideration by the National Historic Preservation Act (NHPA) (16 U.S.C. §470h-2(f)). In Section 110 of the NHPA, Federal agencies are directed to, “undertake such planning and actions as may be necessary to minimize harm...” to NHLs. In addition, the regulations implementing Section 106 of the NHPA (36 CFR 800) set forth special requirements for protecting NHLs and for conducting consultation with the Advisory Council on Historic Preservation (ACHP) and the Secretary of the Interior on projects involving a NHL. These regulations also provide for the ACHP to request a report from the Secretary of the Interior under Section 213 of the NHPA to assist in consultations involving NHLs. Section 213 specifically directs the Secretary of the Interior to prepare a report “detailing the significance of [the] historic property, describing the effects of [the] proposed undertaking on the affected property, and recommending measures to avoid, minimize, or mitigate adverse effects” if requested by the ACHP. Under existing delegations of

authority, the National Park Service (NPS) acts on behalf of the Secretary of the Interior for these regulatory purposes.

## **Background**

### **Historic Significance of the Old Patent Office Building**

The Old Patent Office Building is nationally significant for four reasons: 1) architecture; 2) historic development of the Federal City; 3) city planning; and, 4) history of U.S. patents and technology.

1. **Architecture**: The building is one of the great monuments of American Greek Revival architecture. The austere Doric order used consistently throughout the building campaign embodies a common architectural and design conceit prevalent in the early days of the Republic. As stated in the Section 106 compliance report prepared for this project by the District of Columbia government, “Although its design origins reflect the contributions of a number of noted 19<sup>th</sup> c. American architects, it is largely the work of Robert Mills (designer of the U.S. Treasury, General Post Office, and Washington Monument, all in Washington, D.C.) and Thomas U. Walter (most well known as the designer of the iconic U.S. Capitol dome)”. In addition to its classical style, the building features one of the best illustrations of period masonry vaulting according to noted U.S. architectural historian Richard Longstreth.
2. **History of the Federal City**: The Robert Mills segment of the Old Patent Office is one of a surviving handful of first generation public buildings erected in the earliest days of the Federal City. Others include the White House, U.S. Capitol, Treasury Building, and the Winder Building. The monumentality of the Old Patent Office was a conscious signal by the nascent Republic of its intentions to build a great city on the banks of the Potomac River at a time when Washington City was then little more than a small town with dirt roads.
3. **City Planning**: The Old Patent Office Building occupies a key site in the nationally significant historic city plan of the Nation’s Capital as designed by Frenchman Pierre Charles L’Enfant. Commissioned by President George Washington, L’Enfant’s proposal was modeled on the great Baroque city plans of European capitals. Monumental buildings were proposed as terminuses of great axial streets. The Old Patent Office Building occupies one of these key sites on 8<sup>th</sup> Street when viewed from the National Mall across Pennsylvania Avenue. Situated on a rise of ground, the Old Patent Office Building occupied a commanding presence throughout the 19<sup>th</sup> and into the 20<sup>th</sup> centuries when taller buildings compromised its prominence.
4. **History of U.S. Technology**: The Old Patent Office Building served as home to the U.S. Patent Office from 1840 to 1932. The U.S. Constitution established the authority for Congress “...to promote the progress of science and useful arts by

securing for limited times to authors and inventors the exclusive rights to their respective writings and discoveries.” The current patent system originated in 1836, giving individuals seventeen years to make, use, and sell inventions of their own. That same year, work on the Old Patent Office Building began. This building witnessed the most formative years of American inventiveness from the early years of the railroad to the development of manned flight, from the invention of the light bulb, the telegraph and the telephone to development of the automobile and the radio. Over a half million patents were issued in this historic building and the American way of life was forever changed as a result.

## **The Rehabilitation / Restoration Project**

### **The Project in Its Entirety**

This is a large and complex rehabilitation of a 150+-year old, nationally significant historic building. Budgeted at \$166 million using a combination of federal and private funding, the Smithsonian project scope includes: 1) restoration of historic architectural finishes and features both inside and out; 2) retrofit of new public spaces, offices, and art storage and curatorial facilities; and, 3) modernization of the building’s mechanical systems.

### **Limited Scope of this Report**

The Secretary of the Interior is being asked to comment under the authority of Section 213 of the National Historic Preservation Act on the appropriateness of one key project work element – the closing in of the historic Old Patent Office Building interior courtyard with a large, glass greenhouse roof and the impact of that design on the building and the historic L’Enfant Plan of the City of Washington.

## **Enclosing the Courtyard**

### **Courtyard / Canopy - Background**

In late 2003 and early 2004, the Smithsonian Institution held an international competition for an innovative design to enclose the courtyard converting it into a climate-controlled indoor public space. The winning entry was submitted by the internationally known London, England architectural firm of Foster and Partners in association with, among others, the American firm Smith Group. The winning entry proposes a modern and highly innovative rolling freeform glass canopy over the entire historic courtyard creating, in effect, a greenhouse over what had been historically an outdoor space. Described as a “magic carpet floating across the courtyard” the structure will rest on eight freestanding piers anchored to the courtyard floor below. The floor of the courtyard, already excavated for a new underground auditorium as part of the larger restoration / rehabilitation project, will be re-established at the historic grade level, paved and outfitted for use as a reception and gathering space that will likely include a freestanding kitchen structure.

## **Other Reviews and Opinions on Enclosing the Courtyard**

On August 15, 2003, Congress specifically directed the Smithsonian Institution to initiate Section 106 consultation on the effects of the proposal to roof the courtyard. Accordingly, the State Historic Preservation Office of the District of Columbia, the Commission of Fine Arts, the National Capital Planning Commission, the Committee of 100 of the Federal City among others were consulted. From the outset, the Smithsonian freely declared that enclosing the courtyard and installing a floating canopy would have a negative impact on the historic structure under 36 CFR 800.5 and 800.6. Given that, on July 20, 2004, the Advisory Council on Historic Preservation accepted the invitation of the Secretary of the Smithsonian to participate in Section 106 consultation for review of the courtyard proposal. Because the Old Patent Office Building is a designated National Historic Landmark, the Smithsonian Institution invited also the National Park Service to participate as required by 36 CFR 800.10. The Council, upon entering the deliberations, subsequently chose to exercise its authority to ask for the opinions of the Secretary of the Interior under Section 213 of the National Historic Preservation Act. These are the findings of the Secretary acting through the National Park Service.

## **Findings**

The National Park Service concurs with the Smithsonian Institution, the District of Columbia State Historic Preservation Office, and others that the proposal to enclose the courtyard has a significantly negative effect on this historic property. Further, the National Park Service finds that decision not to be consistent with the Secretary of the Interior's *Standards for the Treatment of Historic Properties* and that in doing so the decision rises to an adverse effect for purposes of 36 CFR 800.5. The conversion of what historically was a 19<sup>th</sup> century formally-designed garden space, open to the elements, and that functioned as a "quiet eye" in the center of this great complex with its walks, lawns, trees and fountains is a regrettable loss and not consistent with the Secretary's *Treatment Standards*. The National Park Service concurs further with the District of Columbia State Historic Preservation Office that the courtyard space was never a utilitarian one but an integral part of the formal design of this highly important historic building.

As to the design appropriateness of the Foster and Partners canopy itself, the National Park Service believes it poses a major conflict with the historic character and design integrity of the historic structure on both the interior and the exterior and likewise does not meet the Secretary of the Interior's *Standards for the Treatment of Historic Properties*. The design of the canopy, while exhilarating and innovative in its own right, overpowers the Greek Revival edifice in a way inappropriate to a building of this rarity. This is not to say, however, that the Foster and Partners design does not successfully fulfill the Smithsonian's competition mandate when it sought, an "exciting 21<sup>st</sup> century design equal in quality and invention to that of the original building and to provide one of the Smithsonian's most architecturally significant contributions to the capital." Foster and Partners have been more than successful in meeting that call.

The Old Patent Office Building is a rare national treasure that should be treated with respect and deference. Decisions to make major alterations to it (if made at all) should be approached carefully. When appropriate, additions should be subordinate and minimal in their effects and impacts. The programmatic mandates being imposed by the Smithsonian Institution from the very start could not but lead to an adverse effect finding no matter what the design or who the designer. The core question remains, should the historic interior courtyard be enclosed and converted into public space? Given the rarity of this landmark building, the probable answer is, no.

That the proposed canopy rises above the existing structure only slightly and through its structural detailing does not directly and visually impact or destroy the historic courtyard walls is laudatory. Nonetheless, 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. The concept of the “radiant roof” crowning the building demonstrates that the intent is to make a statement that fundamentally and very visibly alters the appearance of the historic design when viewed from important historic vistas in particular the 8<sup>th</sup> Street, N.W. corridor when seen from the National Archives Building.

The National Park Service believes that that effect will also rise to the level of adverse effect for purposes of 36 CFR 800. The L’Enfant Plan of the City of Washington was listed in the National Register of Historic Places on April 24, 1997, and both the National Capital Region of the National Park Service and the State Historic Preservation Office of the District of Columbia have noted that the plan is nationally significant and should be considered for National Historic Landmark designation. Eighth Street, an original feature in the L’Enfant Plan as seen in the Ellicott Map, is a significant, contributing element of the L’Enfant Plan and is identified as a “MAJOR STREET.” As designed by L’Enfant, 8<sup>th</sup> Street lies approximately halfway between the U.S. Capitol and the White House. It was configured to provide for the site of a major public building, where the Old Patent Office was constructed early in the development of the Nation’s Capital. Due to the rising topography of 8<sup>th</sup> Street north of Pennsylvania Avenue, the L’Enfant site of the Old Patent Office is also highly visible from the Mall.

### **Recommended Measures to Avoid, Minimize, or Mitigate Adverse Effects**

The entire matter of the new canopy is a complex question of respecting the integrity of a nationally significant historic building while trying to breathe new life and vitality into the structure and the museum functions currently housed in it as both face the 21<sup>st</sup> century. Reasonable people, no doubt, will disagree as to the appropriateness and wisdom of closing in the historic courtyard as well as the Foster and Partners design. Many will find the design exciting, modern, and exhilarating. Others will find it jarring, intrusive, and disrespectful of a rare, nationally significant historic building. Given the Smithsonian’s design program for the international competition, an adverse impact finding would have been difficult to avoid no matter what the competition submission.

As to the question of proposing mitigation or avoidance measures in this matter, aside from the question of enclosing the historic courtyard space and the design of the floating roof, the National Park Service believes it inappropriate to provide detailed mitigation suggestions or measures to avoid or minimize the adverse effect. Without having been a party to the entire process and understanding better the larger project program in its entirety, any detailed suggestion would not be credible. Those matters are more appropriately the province of the Smithsonian Institution, the architects and engineers, project stakeholders, and participants in the ongoing Section 106 review process. Of course, the National Park Service would be more than pleased to consult further on any matter on a case-by-case basis should either the Smithsonian Institution or the Council request it.

### **Conclusion**

The National Park Service appreciates the opportunity to be of assistance to the Advisory Council on Historic Preservation and to the Smithsonian Institution. We recognize, probably more than any other federal agency, the complexity of issues in this matter and appreciate the difficulty in reaching a reasonable balance between protecting a nationally significant historic property while breathing new life into it. It is a difficult and case-by-case challenge. However and ultimately, the question must come down to, is it appropriate to make such a drastic alteration to this nationally significant historic building? More than likely the answer is no.

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### **Addendum**

#### **Documents Considered In Preparation of This Report**

- Old Patent Office National Historic Landmark Nomination, 4 August 1964
- Patent Office Building Courtyard Enclosure Concept Submission, 4 June 2004
- Patent Office Building Courtyard Enclosure Concept Submission, 30 September 2004
- Smithsonian Institution web site for Patent Office including Table 1, Site Chronology
- Historic Preservation Review Board (SHPO) Staff Report and Recommendation, 30 September 2004
- National Capital Planning Commission Finding of No Significant Impact, 8 October 2004
- National Capital Planning Commission Staff Recommendation on POB Courtyard Enclosure, 28 October 2004
- National Capital Planning Commission, Commission Action on POB Courtyard Enclosure, 4 November 2004
- Testimony before National Capital Planning Commission by Richard Longstreth, 4 November 2004
- *Old Patent Office Gets a \$25 Million Boost*, *Washington Post*, Tuesday, 16 Nov 2004
- L'Enfant Plan of the City of Washington National Register Nomination, 24 April 1997