COMMISSION ACTION

NCPC File No. 6479

PATENT OFFICE BUILDING
COURTYARD ENCLOSURE
7th and F Streets, NW
Washington, DC

Submission by the Smithsonian Institution

November 4, 2004

Commission Action Requested by Applicant

Approval of preliminary site and building plans pursuant to 40 U.S.C. § 8722(d) and Section 5 of the National Capital Planning Act (40 U.S.C. § 8722(b)(1)).

Commission Action

The Commission:

Approves the preliminary site and building plans for the revised canopy, except for the cooling tower and the heating, ventilation and air conditioning protrusions in the courtyard, as shown on NCPC Map File No. 21.10(38.00)41474.

Finds that the reconstruction of the stairs on the south façade would strengthen the presence of the Patent Office at street level, assist the Smithsonian in working toward the Commission's direction to "preserve the appearance of the Patent Office in the 8th Street viewshed" by balancing the view of the building's façade and the canopy, and provide mitigation commensurate with the proposed enclosure of the courtyard; and, therefore **requires** the Smithsonian to consult through the Section 106 process and submit a *concept design* to the Commission for the south stair reconstruction prior to submission of final site and building plans for the courtyard enclosure.

Notes that the Smithsonian has submitted plans and elevations for handicapped ramps on the north facade at the Commission's request, but **defers** action on these necessary but significant structures so that the Smithsonian can undertake Section 106 consultation and demonstrate that it has considered alternatives to the proposed pair of ramps.

Notes that the Commission also requested plans and elevations for other proposed alterations to the courtyard in order to ascertain the scope of the courtyard enclosure project and review the elements under its jurisdiction, but **defers** action on these elements so that the Smithsonian can undertake Section 106 consultation and make a submission sufficient for the Commission to review proposed physical alterations in the courtyard and to the courtyard facades.

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Deborah B. Young
Secretary to the National Capital Planning Commission

STAFF RECOMMENDATION

NCPC File No. 6479

PATENT OFFICE BUILDING
COURTYARD ENCLOSURE
7th and F Streets, NW
Washington, DC

Submitted by the Smithsonian Institution

October 28, 2004

Abstract

The Smithsonian Institution has submitted preliminary site and building plans for a glass canopy to enclose the courtyard of the Patent Office Building, including the cooling tower. The Patent Office Building, a National Historic Landmark, is one of the most significant Greek Revival-style buildings in the country. It was conceived during the Andrew Jackson administration and constructed from 1836-1869. The building and its reservation, and the 8th Street vista of it, are also highly significant elements of the L'Enfant Plan. The building houses two museums, the National Portrait Gallery and the Smithsonian American Art Museum, both of which will reopen to the public in July 2006 following the renovation of the building.

The Commission approved the design concept at its July 2004 meeting "provided that the canopy continue to be refined to minimize the profile and complement the existing building's façade in order to preserve the appearance of the Patent Office in the 8th Street viewshed and that the mechanical equipment element be lowered below the roof of the existing building."

In the current iteration, the canopy surface has been modified by the removal of the external projecting fins. While the grid structure is retained on the canopy interior, the exterior surface consists of the glass panels in a faceted configuration. The glass panels at the apex of the central vault of the canopy have been lowered 20 inches and its slope has been modified. The removal of the fins accounts for a further reduction in overall height of 13 inches. The cooling tower continues to project above the roof of the building. However, the oval housing for the cooling tower has been removed, and the overall height reduction of the unit is approximately 27 inches.

The Executive Director has completed the environmental documentation, making a Finding of No Significant Impact (FONSI) with the condition that the Smithsonian reconstruct the former stairs on the south façade as mitigation for the visual impact of the canopy to the building and to the L'Enfant Plan, especially the 8th Street vista. There has been progress in the Section 106 consultation, with the DC SHPO taking the case to the DC HPRB, which strongly confirmed the DC SHPO's desire for the reconstruction of the south façade stairs as mitigation for the courtyard enclosure, and with the Advisory Council requesting the involvement of the Secretary of the Interior to assist in the Section 106 consultation for this National Historic Landmark.

Commission Action Requested by Applicant

Approval of preliminary site and building plans pursuant to 40 U.S.C. § 8722(d) and Section 5 of the National Capital Planning Act (40 U.S.C. § (b)(1)).

Executive Director's Recommendation

The Commission:

Approves the preliminary site and building plans for the revised canopy and for the cooling tower, as shown on NCPC Map File No. 21.10(38.00)41474.

Finds that the reconstruction of the stairs on the south façade would strengthen the presence of the Patent Office at street level, assist the Smithsonian in working toward the Commission's direction to "preserve the appearance of the Patent Office in the 8th Street viewshed" by balancing the view of the building's façade and the canopy, and provide mitigation commensurate with the proposed enclosure of the courtyard; and, therefore **requires** the Smithsonian to consult through the Section 106 process and submit a *concept design* to the Commission for the south stair reconstruction prior to submission of final site and building plans for the courtyard enclosure.

Notes that the Smithsonian has submitted plans and elevations for handicapped ramps on the north facade at the Commission's request, but **defers** action on these necessary but significant structures so that the Smithsonian can undertake Section 106 consultation and demonstrate that it has considered alternatives to the proposed pair of ramps.

Notes that the Commission also requested plans and elevations for other proposed alterations to the courtyard in order to ascertain the scope of the courtyard enclosure project and review the elements under its jurisdiction, but **defers** action on these elements so that the Smithsonian can undertake Section 106 consultation and make a submission sufficient for the Commission to review proposed physical alterations in the courtyard and to the courtyard facades.

* * *

PROJECT SUMMARY

The Smithsonian (SI) has submitted preliminary site and building plans for the canopy to enclose the courtyard at the Patent Office Building, including the cooling tower. The Patent Office is located between 7th and 9th Streets and F and G Streets, NW.

The significant differences between the current submission and the concept submission reviewed in July 2004 are:

- The canopy's exterior grid fins have been eliminated (the structural grid remains on the interior) in order to reduce the appearance of the grid on the exterior of the vaults.

- The central vault's slope has been modified so that the angles more closely resemble those of the Patent Office's south portico pediment.

- The glass panels of the canopy's central vault have been lowered approximately 20 inches. The fins projected approximately 13 inches. The total reduction therefore is approximately 33 inches, of which 20 inches is the vault itself. The distance from the ridge of the south portico pediment to the underside of the central vault has been reduced from approximately 22 feet to approximately 20 feet.

- The physical connection of the canopy to the building's roof has been modified to improve the roof ventilation and water run-off conditions.

- The cooling tower continues to project above the canopy, but has been lowered and repositioned. The Smithsonian has not been able to meet the directive of the Commission to lower the element "below the roof of the existing building." The total height has been reduced approximately 27 inches by removing the oval-shaped housing, lowering the support beams, and lowering the edge of the canopy. In addition, the cooling tower has been shifted approximately 7 feet to the west to reduce its visibility from the courtyard.

Development Program

Applicant:	Smithsonian Institution
Architects:	Foster and Partners; Smith Group
Project cost:	Estimated $25 million for canopy, from non-public funds
Completion date:	Museum reopening planned for July 2006

PREVIOUS COMMISSION ACTION

The Commission's action at its July 2004 meeting was:

> Approves the concept of a glass canopy to enclose the courtyard of the Patent Office Building, provided that the canopy continue to be refined to minimize the profile and complement the existing building's façade in order to preserve the appearance of the Patent Office in the 8th Street viewshed and that the mechanical equipment element be lowered below the roof of the existing building.
>
> Supports the Smithsonian's vision for the renewal and expansion of the museums' contribution to the life of the city and the nation.
>
> Requires the Smithsonian, in the submission of preliminary site and building plans, to provide:

- Documentation showing the physical connection of the canopy to the building.

- Further information on the proposed materials.

- Further information on the mechanical equipment enclosure above the canopy.

- Plans and elevations for other proposed alterations to the courtyard, including to the building's courtyard facades and floor.

- Plans and elevations for other exterior alterations to the building, such as the provisions for handicapped accessibility and for physical security barriers, if anticipated.

- Completed environmental documentation.

- Documentation of substantial progress in the Section 106 consultation.

In staff's judgment, the SI has submitted sufficient information for the Commission to review the modifications to the canopy, including its physical connection to the roof, and the cooling tower. A photograph of proposed building materials has also been submitted. SI has no plans for security barriers at this time, because it is focusing efforts on its Mallwide security plan. The executive director has made a Finding of No Significant Impact (FONSI), provided that the south stairs are reconstructed as commensurate mitigation for the moderate to major visual impact of the canopy on the building and the L'Enfant Plan.

The Section 106 consultation is ongoing but must catch up in some areas, which is why the staff recommends deferral of some elements at this time. As summarized above the asterisks, staff believes that SI should undertake Section 106 consultation on the proposed handicapped ramps and the proposed courtyard alterations before the Commission can review them as preliminary site and building plans. *Further, the submitted information on the proposed courtyard alterations is minimal or requires further study or justification before the Commission can review it.* SI should consult on these proposed courtyard alterations so that further information can be aired and considered and the proposed alterations modified or justified before review by the Commission.

PROJECT ANALYSIS

Canopy

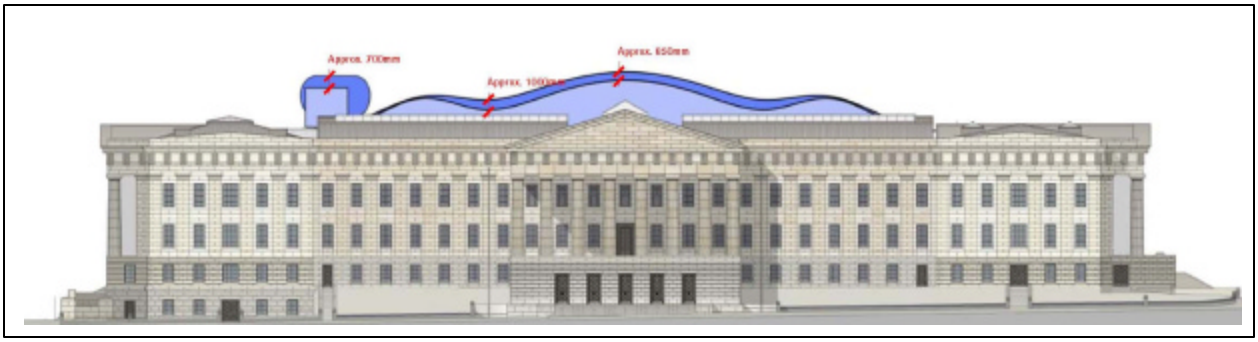
The Smithsonian has responded to the Commission's directive in July to "minimize the profile" of the canopy and "complement the existing building's façade" by removing the projecting grid, which will lessen the prominence of the canopy above the building as the focal point of the 8th Street vista. Even thought the glass panels will be arranged in a faceted configuration that will emphasize the reflection of sunlight, the stylistic contrast between the diagonal grid, emphasized

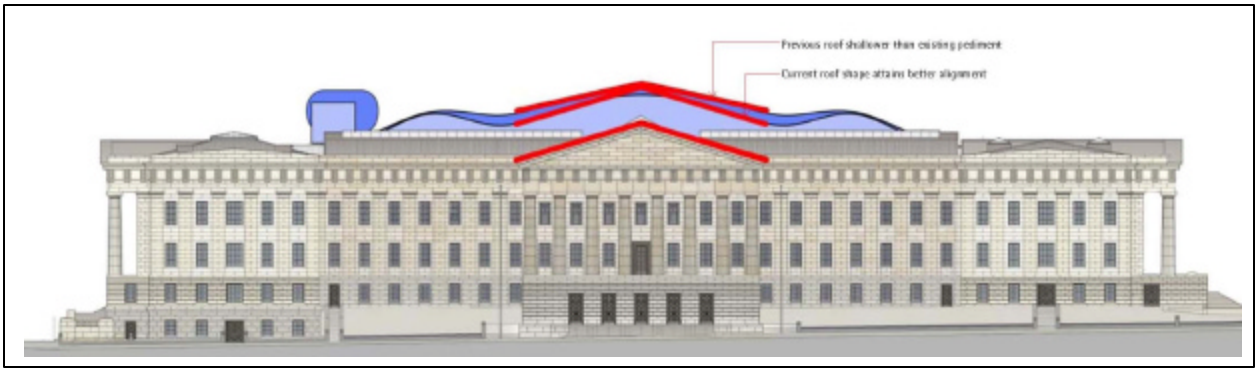
by the fins, and the Greek Revival-style building will be somewhat less pronounced. In addition, the architects have altered the slope of the center vault to more closely mimic the raking cornice of the portico. A relatively slight reduction in height has also been achieved. The apex of the glass surface of the center vault itself has been lowered approximately 20 inches. The rest of the total height reduction of approximately 33 inches is due to the removal of the fins, which measured approximately 13 inches. *The architects have stated that this is the maximum recommended reduction in height in order to retain the structural and functional benefits of the vaults.* The previous center vault (measured to its underside) was approximately 22 feet above the ridge of the portico pediment; the current height is approximately 20 feet above the ridge of the portico pediment. The eight new interior supporting columns have been increased approximately 6 inches in diameter as a result of flattening the canopy.

Despite these modifications, the fundamental incompatibility of the vaulted form of the canopy and the landmark Greek Revival building, as well as the adverse effect to the building's appearance and setting in the L'Enfant Plan, remain. The canopy will still alter the building and the 8th Street viewshed from John Russell Pope's reciprocating National Archives Building. The revised canopy will not "preserve the appearance of the Patent Office in the 8th Street viewshed" as the Commission directed in July. Thus, the staff recommends as mitigation the reconstruction of the south stairs, discussed below.

South Elevation (F Street façade), showing revised canopy and cooling tower.

July concept submission of canopy exterior (left), compared with current preliminary submission of canopy exterior surface (right).





The slope of the center vault has been modified to make it more similar to the raking cornice of the portico pediment. The exterior fins have been removed to lessen the appearance of the grid and the contrast with the Patent Office. The height of the glass canopy has been reduced approximately 20 inches.

The oval-shaped cooling tower housing has been removed and the support beams lowered. As a result, there is an overall reduction in height of 27 inches. The location has also been shifted to the west to reduce the visibility of the cooling tower from the courtyard.

Cooling Tower

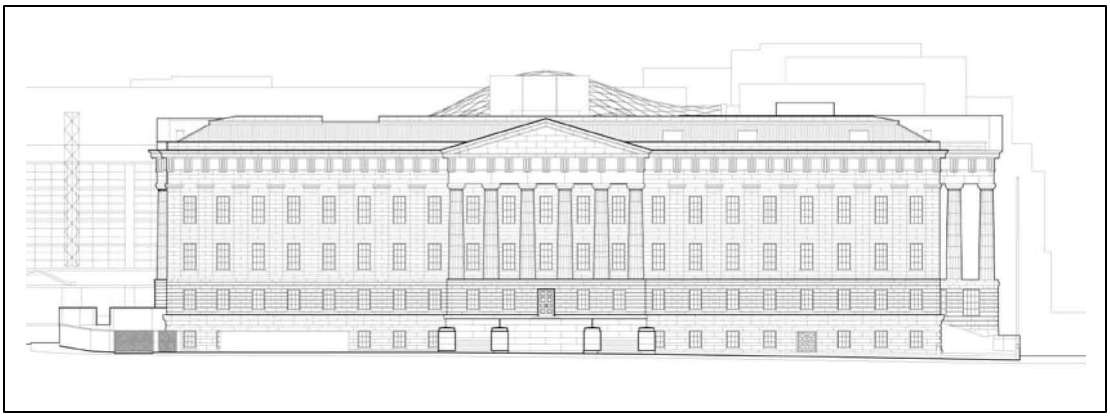
The Commission directed that "the mechanical equipment element be lowered below the roof of the existing building." SI has restudied possible alternate locations for the cooling tower, such as the lawn of the Patent Office. SI believes that other locations would cause greater damage to the historic fabric or lead to greater visibility of the cooling tower. SI has determined that the western stair tower, the site selected for the cooling tower in the 1960s renovation, remains the most feasible location.

SI has removed the former oval-shaped housing for the cooling tower. The unit's supporting beams have been lowered. The current cooling tower, as a result, is 27. 5 inches lower in height

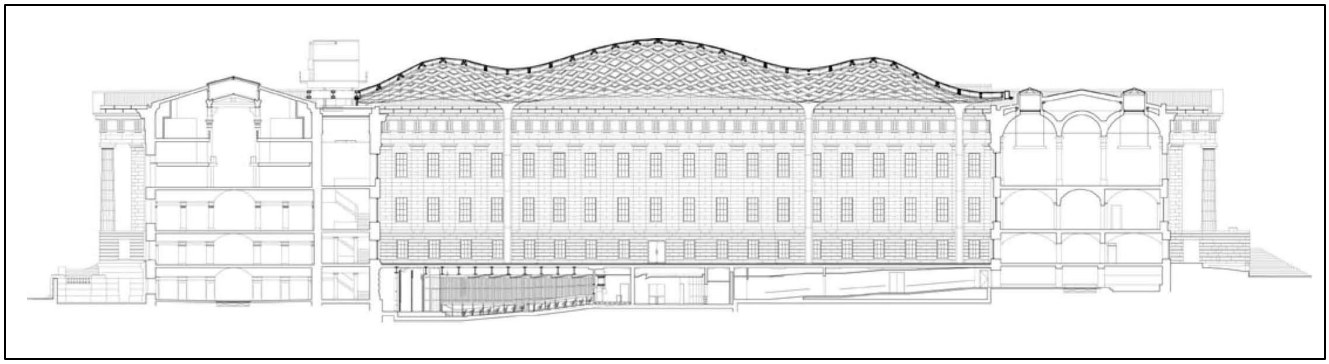
than shown in July. *Staff accepts that SI has sufficiently studied the matter and lowered the cooling tower as much as feasible.*

To lessen the view of the cooling tower from the courtyard, the unit has been shifted about 7 feet to the west. In addition, SI also proposes to increase the density of the fritting on the glass canopy in this location to lessen the visibility of the cooling tower from the courtyard. In staff's judgment, these steps will lessen the view of the cooling tower from the courtyard.

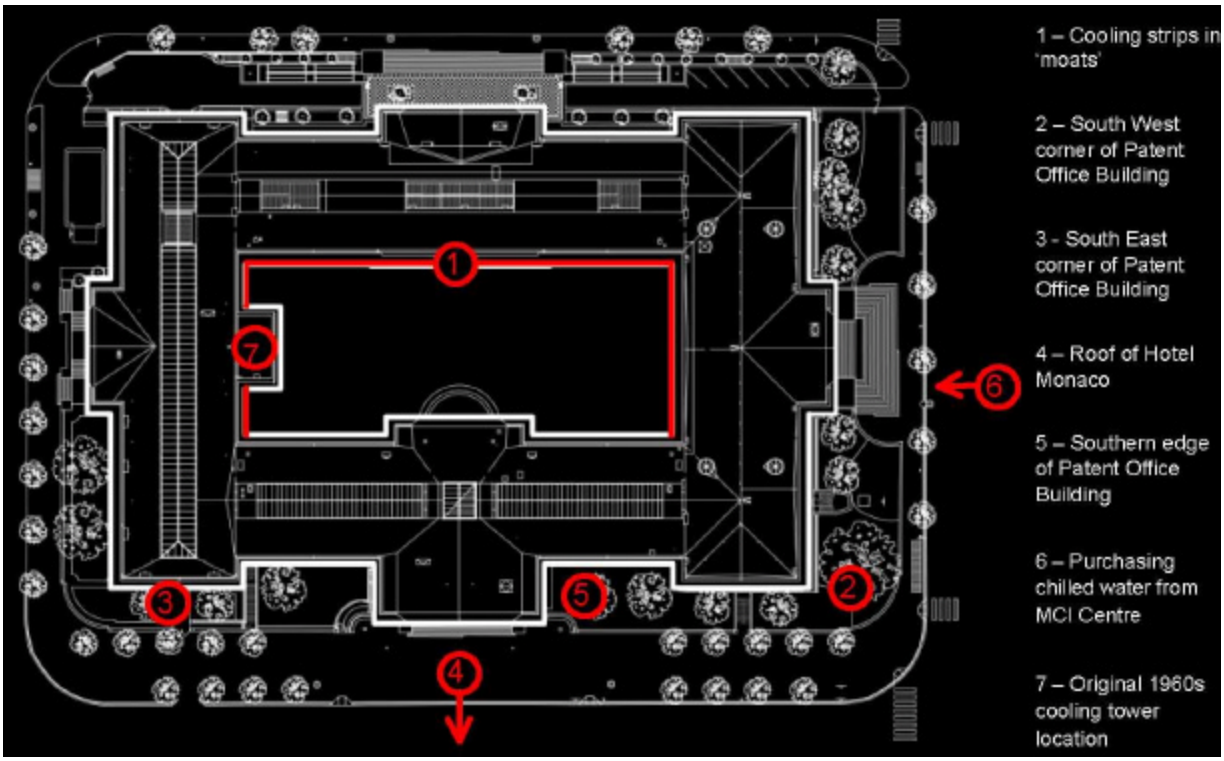
The Commission's action was intended to allow for a canopy unadulterated by mechanical equipment and to allow for significant aerial views of it, from high points in the city and from the photographs that will surely be taken. Regrettably, SI is not able to achieve that desired standard for the canopy.



West Elevation



Longitudinal (West-East) Section



The Smithsonian studied alternative locations for the new cooling tower and determined that the proposed location above the western stair tower remains the best location in order to avoid other physical and visual impacts. The aerial photo of the museum below shows the old cooling tower that was installed in the 1960s, also above the western stair tower.

Reconstruction of the South Staircase as Mitigation

The DC SHPO staff addressed this issue in its September 30 staff report to the D.C. Historic Preservation Review Board (HPRB). The SHPO staff and the HPRB have made the mitigation of the adverse effects of the courtyard enclosure on both the Patent Office and on the L'Enfant Plan a critical element of the Section 106 consultation. The SHPO staff has strongly recommended--and the HPRB has strongly endorsed—that that mitigation include the reconstruction of the monumental cascade of stairs on the south façade. (The SHPO report is attached.)

The stairs were shorn from the Patent Office in 1935 and the current lower level entrance was created when F Street was realigned to eliminate the original street offset at the southwest and southeast corners of the reservation at 7th and 9th Streets. As a mitigation measure for the construction of the MCI Center in 1995, the District and FHWA restored the pre-1935 offset alignment and width of F Street in those two blocks, resulting in the restoration of the space in front of the Patent Office where the steps had previously existed. The District and FHWA paved the way, literally, for the restoration of the south stairs. The Smithsonian participated in those discussions and subsequently, in 2000, studied in-house how the stairs might be reconstructed. They built a model, which is shown below in a photo.

However, SI did not proceed with the stair reconstruction when it undertook the building-wide renovation now underway. Although the grade of F Street is slightly lower than it was prior to 1935, it appears from the model that a reasonable reconstruction could be achieved. Of course, the Smithsonian will need to study the feasibility of the design and programming of the stair reconstruction, which it has committed to do starting immediately with FY 2005 funds.

In the staff's judgment, the reconstruction of the south staircase is the only mitigation measure commensurate with the level of adverse effect proposed by the Smithsonian by the enclosure of the courtyard. The reconstruction would restore the earlier physical presence of the Patent Office in its reservation and facing F Street, and significantly improve the view of the Patent Office when seen at the end of the 8th Street by balancing the canopy with a restored base to the building. The HPRB has made a strong case for the reconstructed stair's contribution to the reintegration of the Patent Office in its setting and, as a result, to the building's and the institution's contribution to Downtown.

The Executive Director made the reconstruction of the south stair a condition of her Finding of No Significant Impact, as mitigation for the moderate to major visual impact of the canopy on the National Historic Landmark building and the L'Enfant Plan.

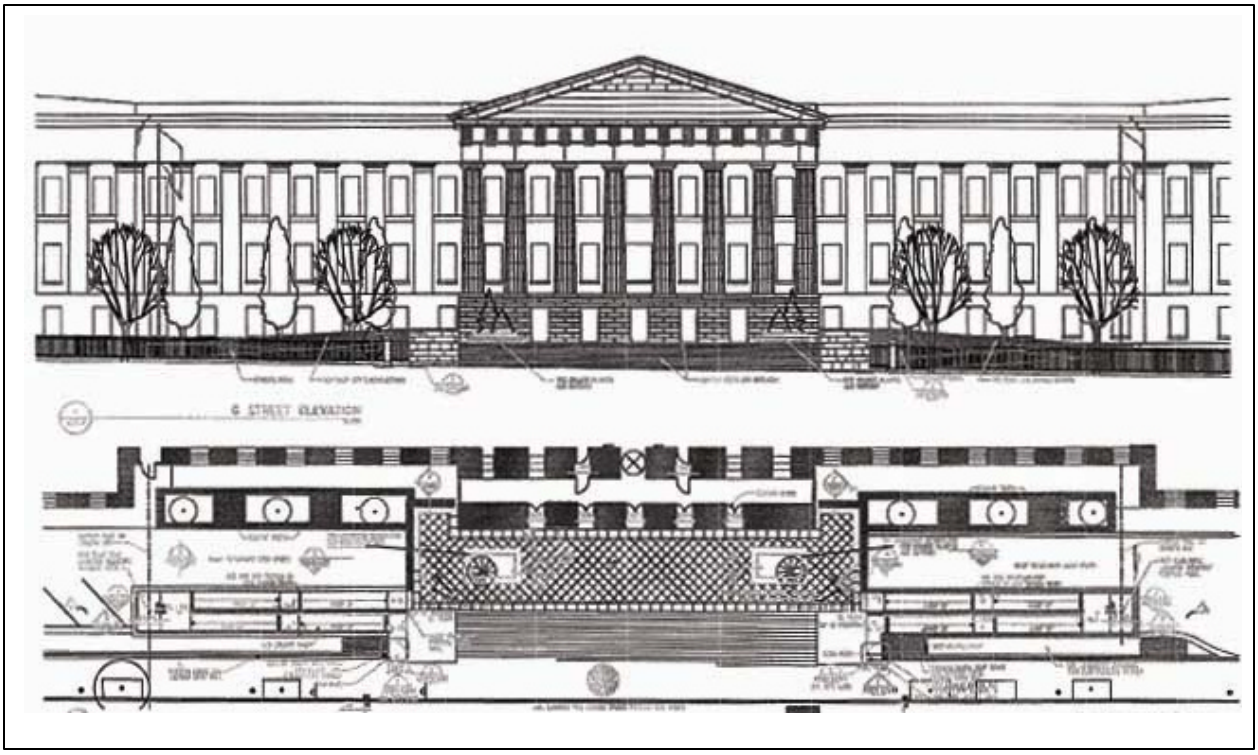
This pre-1935 photograph of the south façade of the Patent Office shows the stair cascade addressing F and 8th Streets prior to its removal for the realignment of F Street, NW. F Street was subsequently restored in the late 1990s to its original (pre-1935) alignment as a result of Section 106 mitigation for the MCI Center.

This is a photograph of the Smithsonian's 2000 study model for reconstruction of the south staircase.

Above, a pre-1935 photograph of the F Street façade of the Patent Office, showing the cascade of stairs below the portico.
Below, the current condition of the façade, with the entrance cut into the ground level.

Handicapped Ramps on the North Elevation

SI has responded to the Commission's request to submit plans and elevations for the handicapped ramps so that staff could ascertain the scope of the proposed alterations within the Commission's review jurisdiction. However, SI has not yet consulted on the ramps through the Section 106 process, and staff recommends that review by the Commission for preliminary site and building plans be deferred until SI can demonstrate that it has considered alternatives and presented the most appropriate one for review and approval. The ramps constitute an adverse effect. *The SI recently met with the SHPO, but the SHPO expects these ramps to become part of the consultation for the project, which includes other agencies and consulting parties.* The staff does not question the need for accessibility from the north façade and notes the proximity of the building to both Gallery Place Metro entrances, but wants SI to ensure that the pair of ramps is configured to minimize adverse effect to the greatest extent possible, since it will be a significant alteration of the building's north façade.



A pair of handicapped ramps is proposed for the north entrance on G Street, NW.

Other Proposed Courtyard Alterations

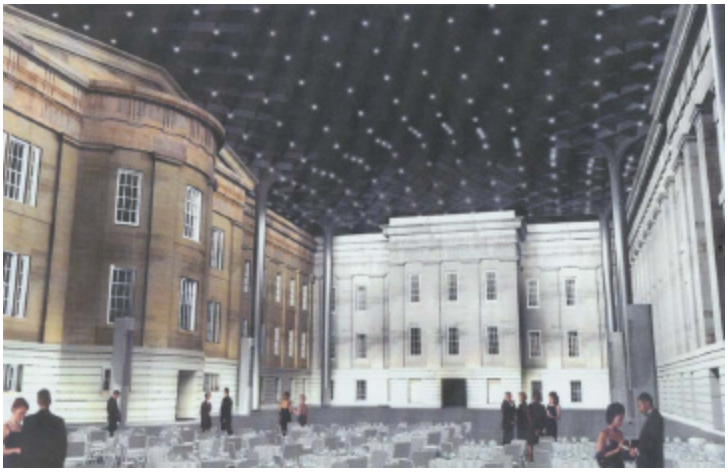
Additional proposed alterations to the courtyard also have not yet been presented for Section 106 consultation, which should occur before they are submitted to the Commission. Furthermore, much of the submitted information is very conceptual or not sufficiently complete with dimensioned plans and elevations and is in need of clarification, justification, and possibly

redesign. In particular, staff notes that SI has proposed a two-story, free-standing structure in front of the western stair tower to house catering kitchen equipment and audio/visual equipment and a large projection screen. A perspective rendering and its location in the courtyard plan are shown on the next page.

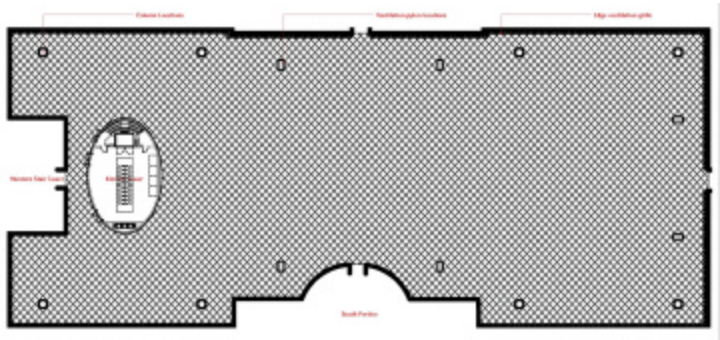
This structure would be a significant adverse effect. Staff strongly recommends that SI study alternatives to a structure such as this, since it is incompatible with the courtyard's architectural and spatial character, blocking views of the stair tower and the articulation of the interior façade from the courtyard, interrupting the open space of the courtyard, and altering the relative scale of the courtyard features. Utilitarian functions such as these should not be housed in such a prominent and permanent structure. Instead, they should be designed for minimal intervention when in use and housed elsewhere when not in use.

In addition, SI proposes the alteration of a window (cutting it down to create a door) in the north courtyard façade for access to food service. In general, staff finds that further information is needed for all the various proposed food service alterations, as well as clearer justification for the need to alter the historic window. In addition, the rendering shows six ventilation pylons around the perimeter of the courtyard and lights on the underside of the canopy, and the reconfiguration of the courtyard floor; these elements should be presented to the consulting parties. SI should begin consultation on all of these courtyard alterations to consider ways to avoid or minimize adverse effect, and return to the Commission with more complete information.

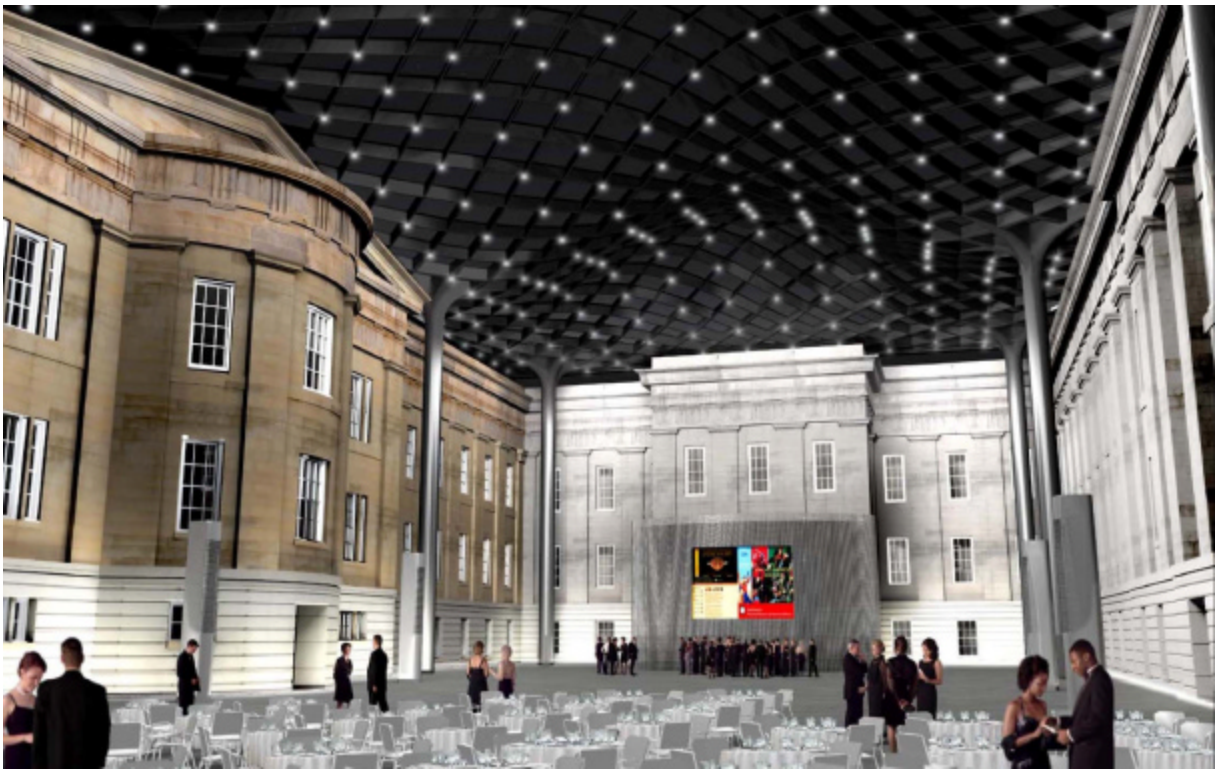
This photograph, taken from the northeast corner of the courtyard looking west, shows the appearance and character of the courtyard before it was demolished. The projecting western stair tower is in the middle of the photograph.



The perspective rendering at the left is the same view shown in the photograph on the previous page. It shows the courtyard with the canopy and other proposed courtyard elements such as the ventilation pylons around the perimeter of the courtyard and lights on the underside of the canopy.



The plan at left and the rendering below show a proposed two-story, free-standing structure in front of western stair tower. The oval-shaped structure, with a surface of extruded aluminum, would house catering kitchen equipment and audio/visual equipment, including a large projection screen.



CONFORMANCE

Comprehensive Plan for the National Capital

The proposed project is inconsistent with policies for historic preservation and stewardship, since it does not meet the Secretary of the Interior's Standards and has been determined by SI and the DC SHPO to have an adverse effect on the Patent Office Building and on the L'Enfant Plan. In particular, the Secretary's Standard #9 states:

> New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

The reconstruction of the south stairs and the current canopy modifications would lessen, or mitigate, the determined adverse effects.

Relevant policies in the Preservation and Historic Features element include:

5. Protect and enhance the vistas and views, both natural and designed, that are an integral part of the national capital's image. .

9. Sustain exemplary standards of historic property stewardship.

14. Protect the settings of historic properties, including views to and from the sites where significant, as integral parts of the historic character of the property.

19. Ensure that new construction is distinguishable from historic structures but also compatible with the qualities and character of the setting, in accordance with the *Secretary of the Interiors' Standards for Rehabilitation* and *Guidelines.*

25. Promote continuity in the historic design framework of the nation's capital by protecting and enhancing the elements, views, and principles of the L'Enfant Plan. Both the federal and the District of Columbia government should adhere to these principles in any improvements or alterations to the historic framework.

26. Preserve the historic street rights-of-way and reservations that contribute to the significant system of open space forming the urban design framework of the nation's capital.
28. Protect the reservations that contain historic landscapes and features from incompatible changes or incursions.

33. Protect the reciprocal views along the rights-of-way, as well as to and from the squares, circles and reservations.

National Environmental Policy Act

NCPC staff has analyzed, in conformance with the requirements of the National Environmental Policy Act (NEPA), the prepared Supplemental Environmental Assessment (EA) completed by the Smithsonian Institution (SI) for planning and construction of improvements, including the building's interior open-air courtyard, located in the Patent Office Building (POB) at 7th and F Streets, NW. Staff prepared a Finding of No Significant Impact (FONSI) on October 8, 2004 based on adoption of the Supplemental EA, with mitigation.

The staff's independent review finds that the EA conclusions represent an acceptable analysis of the potential environmental impacts of the plans submitted to the Commission by the SI, if mitigated by further actions.

The Supplemental EA provides an evaluation of the revised concept design of the courtyard roof that differs from the conventional courtyard roof concept addressed in the initial POB Renovations EA. The Supplemental EA addresses long-term effects from the implementation of the proposed roof design as it relates to historic and visual resources. The primary study area for assessing the potential environmental historic and visual impacts is generally within a four to five-block radius of the POB.

Visual impacts of the proposal were determined through the EA process to be the most controversial. Sightline studies of the proposed courtyard roof enclosure demonstrate that the enclosure would not be visible from the nearby perimeter of the POB site due to the roof's low profile and obstructions from the existing structure. However, as views were analyzed from further distances within the Area of Potential Effect, conclusions about impacts were more varied as considered by both Commission staff and consulting parties.

Commission staff has determined the EA analysis did not reflect a fully comprehensive review of all viewshed concerns and the resulting overall impact of the proposed action on the National Register qualities of the POB—a National Historic Landmark (NHL)—and the L'Enfant Plan, specific to the south viewshed of 8th Street, NW, from the POB to Pennsylvania Avenue and the National Archives. From south of the POB, the views of the proposed roof enclosure would generally be unobstructed beginning two blocks from the site, or approximately 875 to 900 feet from the building. In this viewshed corridor the density and scale of the area surrounding the POB results in a focused view along the significant 8th Street cross-axis that leads directly to the south portico and pediment of the POB. The existing viewshed terminus of the view from the National Archives focuses on the POB's portico. The introduction of the courtyard canopy's more prominent height and curvilinear form alters the viewshed and the appearance of the building. The canopy overshadows the existing terminal feature of the historic building and viewshed, altering their character. Moreover, the effects of a fully-glazed courtyard structure would be very apparent from the south 8th Street view at night. Levels of diffused light emanating from the courtyard will extend beyond the visibility of the roof itself.

These impacts, as they relate to the south 8th Street viewshed of the L'Enfant Plan, are deemed moderate to major, and adverse to the National Register character of both the POB's place in the L'Enfant Plan and to 8th Street, as determined by the DC SHPO and the NCPC staff.

Staff concludes that the loss of the integrity of the POB can only be mitigated, since the Smithsonian obviously has devised a program and design which cannot avoid or minimize its effects. As a result, the courtyard enclosure must be developed to include direct mitigation to strengthen the historic character and presence of the building, especially in the 8th Street viewshed.

The DC SHPO report to the DC Historic Preservation Board strongly recommended that the project include the reconstruction of stairs at the south portico as a mitigation measure to address the adverse effects of the courtyard enclosure on the POB and the L'Enfant Plan. The Commission staff concurs with the DC SHPO and Historic Preservation Review Board and concludes that the Commission should require reconstruction of the south stairs as mitigation for adverse effects of the project on this NHL.

The NCPC staff's conclusion of a Finding of No Significant Impact is based on the EA and Supplemental EA, dated February 2004, August 2004, and the SI supplemental data of October 1, 2004, along with the Commission staff's assessment of visual and historic impacts. Staff has reviewed the action for extraordinary circumstances as sanctioned by NEPA and recommended adoption of the Supplemental EA to the Executive Director with the mitigation of reconstruction of the south portico stairs.

National Historic Preservation Act

The Patent Office is well known as one of the most significant Greek Revival-style buildings in the country. It is also nationally significant for the purpose for which it was built. Further, it is located on one of the most significant reservations in the L'Enfant Plan. It is one of the three monumental federal office buildings initiated with Robert Mills as architect in the 1830s, in the second generation of construction in the nation's capital following the earlier construction of the White House and executive branch complex and the U.S. Capitol. The Washington Monument is Mills' fourth significant project in the nation's capital. President Andrew Jackson selected Mills as architect of the Patent Office on July 4, 1836. Mills was replaced in 1852 by architect Thomas U. Walter, who completed the building soon after the Civil War. The building's architects took full advantage of the building's setting created by the L'Enfant Plan and the vistas that resulted by intention from the Plan. The Patent Office was designated a National Historic Landmark in 1965, is sited on a significant reservation of the L'Enfant Plan, and is within the Downtown Historic District and the Pennsylvania Avenue National Historic Site.

Given the building's status as a National Historic Landmark, the Smithsonian is required "to the maximum extent possible [to] undertake such planning and actions as may be necessary to minimize harm to any National Historic Landmark that may be directly and adversely affected by an undertaking."

Since the July 2004 Commission meeting, the SI has formally invited the Advisory Council on Historic Preservation (ACHP) to consult and the ACHP has elected to participate in the consultation on this National Historic Landmark. SI began formal consultation in a group meeting with consulting parties on July 21, 2004 (following an introduction to the project by the architects at an April meeting.) The Smithsonian determined the Area of Potential Effect and the adverse effects in consultation with SHPO, ACHP, and NCPC staff at that July meeting and in a subsequent September 15, 2004 meeting with agency representatives. In a September 30, 2004 report endorsed by the HPRB, the SHPO staff elaborated, analyzed, and documented in writing the nature of the effects of the courtyard enclosure to the National Register qualities of the interior and exterior of the Patent Office itself, as well as to the building as a significant element of the L'Enfant Plan--both in its location and setting and as the focal point of the 8th Street vista. The SHPO's report, adopted by the HPRB, is attached.

SI has also invited the Secretary of the Interior (represented by the National Historic Landmark staff of the National Park Service's regional office in Philadelphia) to participate, as required in cases of an adverse effect determination to a National Historic Landmark (NHL). SI has sent information to and kept NPS apprised of the project development to date. However, to date, NPS staff has not been able to participate. To assist in that process, the ACHP's executive director wrote to the Director of the National Park Service on September 24 requesting her views and her preparation of 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," a further step provided for in the National Historic Preservation Act when adverse effect to an NHL has been determined. That report has not been received.

In another development, the National Trust for Historic Preservation wrote to SI on October 8, 2004 requesting inclusion as a consulting party.

Consultation has not occurred for several of the elements in the current submission. SI has not discussed the handicapped ramps or the interior courtyard alterations with the consulting parties in order to consider alternatives that might avoid or minimize adverse effect. This consultation should occur before resubmission of these elements (with more complete information) to the Commission, particularly since the proposals will cause an adverse effect. This is especially true for a proposed two-story structure for the courtyard, as well as for a proposed alteration of a window opening for a food service area.

As described throughout this report, the SHPO has proposed the reconstruction of the monumental cascade of stairs on the south façade as mitigation for the enclosure of the courtyard and considers it the foundation of a Memorandum of Agreement (MOA) among the Smithsonian, the DC SHPO, and ACHP, which is still to be negotiated. SI considered and studied the replacement of the stairs (removed in 1935) after the original F Street alignment was restored in the late 1990s (as mitigation for the adverse effects to the L'Enfant Plan and Patent Office of the MCI Center). In 2000, SI produced an in-house study model, although did not proceed with the stair reconstruction as part of the building-wide renovation that is now underway. However, SI testified at the HPRB meeting on September 30 that it would study the reconstruction of the stairs. SI has further stated in the current submission to the Commission that it will commit FY

2005 funds to study its feasibility. Staff supports this development in the consultation to date but notes that staff has recommended that SI submit a concept design for the stair reconstruction to the Commission prior to submission of final site and building plans for the courtyard enclosure.

The DC SHPO and HPRB are on record as stating that the reconstruction of the stairs, not just the study of it, is the only commensurate mitigation for the adverse effects caused by the courtyard enclosure. The Executive Director, in her Finding of No Significant Impact (FONSI), has stated that her Finding is based on the actual reconstruction of the stairs as mitigation for the moderate to major visual impact on the building and L'EnfantPlan.

Staff looks forward to consultation on, and further development of, the proposed exterior and courtyard alterations cited in this report so that the Commission can review them, and to continuing consultation on all aspects of the proposed project in the Commission's review jurisdiction.

CONSULTATION

Coordinating Committee

The Coordinating Committee reviewed this item at its meeting at its June 16, 2004 meeting at he time of concept review and forwarded the proposal to the Commission with the statement that the project had been coordinated with all agencies participating except the D.C. Office of Planning (OP). The representative for the Office of Planning withheld coordination pending 106 consultation, citing concerns with regard to the proposed alteration of the building when seen in the 8th Street viewshed from the Navy Memorial and National Archives. Subsequent to this meeting, the D.C. Office of Planning concurred in the coordination of this project. The participating agencies were: NCPC; the District Department of Transportation; the District Department of Housing and Community Development, the General Services Administration, and the Washington Metropolitan Area Transit Authority.

Commission of Fine Arts

The Commission of Fine Arts reviewed and approved the concept at its June 2004 meeting and has not subsequently reviewed the project at a public meeting.