



Smithsonian Institution

December 3, 2007

Eugene Keller
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National Capital Planning Commission
401 9th Street NW
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Dear Gene and Nancy:

As a follow up to our October 17 meeting in which we discussed a “tiering” approach to the National Environmental Policy Act (NEPA) process for the National Museum of African American History and Culture (NMAAHC), Smithsonian Institution (SI) staff met together to further refine this approach. In addition, on November 16, we included a discussion of our tiering approach as part of a meeting with National Historic Preservation Act (NHPA), Section 106, consulting parties. At this juncture, my colleagues and I want to summarize our refined approach, based on two tiers, and solicit your feedback. Hopefully, the NCPC and SI staffs are in agreement with this refinement. We both act as Joint-Lead Agencies for Environmental Impact Statement (EIS) and NCPC is the responsible Federal agency for this effort, so the SI would not move forward without the concurrence of its partner.

If the approach outlined here meets with your understanding, we would appreciate a note of concurrence or comments back on how we can refine it. More importantly, we want to articulate clearly in the Draft EIS and at the public hearing, scheduled for January 10, 2008, the decisions we plan to make using tiered analyses and when we plan to make them. We consider public review as an effective and timely way of keeping the public apprised on many aspects of our approach to this museum and consider it an important factor contributing to our success in this effort. As such, we should consider the January Public Hearing as one of several public information forums, the first of which was our Public Scoping session in January 2006.

In Tier 1, we will present the great share of the technical data including information about surface and subsurface groundwater, air quality, noise, transportation, land use, and so on, as outlined in the Preliminary Draft EIS documents prepared by the Louis Berger Group, Inc. We have sufficient data now to present these technical aspects for a public review and would benefit from the public’s input to inform the design process.

The Draft EIS will include the analysis of six alternatives as abstract volumetric models and a no-build option. We developed these abstract models with a focus on criteria for evaluation such as massing, height, setbacks, outdoor space, and view shed issues. In addition to allowing us to assess impacts on groundwater, transportation, etc., these models serve the purpose of establishing parameters for assessing potential impacts to the character-defining features of historic resources in the areas of potential effects. We would complete the Aesthetics and

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Visual Resource analysis called for by NEPA in Tier 2, however, after we have selected the design architect.

We expect this Tier 1 analysis to lead to a Smithsonian decision on a “Tier 1 preferred alternative” expressed as a narrative set of design principles outlining opportunities, boundaries, and constraints. The Smithsonian’s decisions based on the Tier 1 analyses will serve to inform the design architect and, in part, guide the development of conceptual designs and a subsequent preferred concept design alternative for the museum. As a Section 106 component to the NEPA Tier 1 process, we would expect to include in the Smithsonian decision a Programmatic Agreement (PA) or some other form of agreement that would serve as a “roadmap” to bring the Section 106 process to closure at a later date.

In Tier 2, we will analyze the aesthetics and visual impacts of concept design alternatives developed by the selected architect. Materials, proportions, symbolism, form, architecture, landscape architecture, and the like, are themes that will be analyzed during the design process and the information required to develop alternatives based on “architectural concepts” will be developed in this stage. As we have previously discussed, the necessary NEPA analyses may take the form of an Environmental Assessment (EA) or a Tier 2 EIS, depending on the impacts of the proposed alternatives. We assume that the alternative concept designs will be consistent with the Tier 1 preferred alternative. As Joint Lead Agencies, if we reach consensus that the preferred concept is substantially outside the parameters established in the Tier 1, we would perform additional analyses as part of Tier 2. Completion of Tier 2 would complete our NEPA obligations.

Furthermore, Tier 2 will integrate a continuation of the Section 106 review and consultation process. As noted, the closure of the 106 process will be described in the “roadmap” developed during the NEPA Tier 1 and 106 processes. Whatever the case, it is our understanding that 106 closure must occur before the Smithsonian final design submission to NCPC.

We see the milestones for NEPA, Section 106, and NCPC submissions fitting together as outlined below. Note that the sequence of events is paramount; actual timing is dependent on many factors, most importantly funding availability:

- Draft EIS presentation in January, 2008 with public comments to be submitted to SI and NCPC;
- Summary of comments posted on the Berger website February, 2008;
- Discussion with consulting parties leading to a PA or some other form of Section 106 agreement that would serve as a “roadmap” for future 106 engagement;
- Completion of the Tier 1 EIS (including a statement of a preferred alternative/design principles) and Smithsonian Institution’s Record of Decision in summer 2008, which will include the Section 106 agreement, in summer 2008;

- Public informational meeting in late spring or summer 2008 on the preliminary findings by the Pre-Design Team of Freelon Bond regarding geo-technical and programming requirements for the museum;
- Public presentation of conceptual designs, informed by Tier 1, developed by the design Architect in 2009;
- Focused topical discussions with consulting parties as a continuation of the Section 106 process on aspects of the presented conceptual designs that avoid, minimize or mitigate adverse impacts on Historic Resources;
- Concept Design Submission to NCPC in early 2009;
- Continued Section 106 consulting parties discussion of the results of conceptual/preliminary design and impacts within Areas of Potential Effects and summary statement of alternatives to avoid, minimize and/or mitigate Adverse Effects;
- Tier 2 of the NEPA process with EA or EIS, if SI and NCPC reach consensus that the preferred concept is substantially outside the parameters established in the Tier 1 EIS document;
- Continuation of focused and topical Section 106 design review as the architectural team develops preliminary design; 2009;
- Preliminary Design Submission to NCPC, 2010;
- Closure of the Section 106 as defined by the agreement associated with the NEPA Tier 1 process.

We believe a two-tiered approach will allow the Smithsonian to focus on actions that are “ripe for decision” (CEQ regulations, §1508.28) and streamline, to the greatest extent possible, the EIS and the National Historic Preservation Act, Section 106, reviews. Because NCPC is involved in the EIS process as well as the Section 106 review, your guidance and concurrence on how best to engage the public as the Smithsonian moves forward with the development of our country’s newest and long-awaited national museum is much appreciated.

Please let us know if you have any concerns with this approach or suggestions. Our intension is to include this letter and your response in our Draft EIS and Section 106 documentation.

Sincerely,



Harry Rombach, R.A.
Associate Director for Facilities Master Planning