

SECTION 3-3: HISTORIC AND ARCHEOLOGICAL PRESERVATION

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3-3-00 POLICY

HHS facility projects shall comply with Section 106 and Section 110 of the National Historic Preservation Act (NHPA) and its implementing regulations, 36 CFR 800. Each Federal agency is required to identify potential National Register of Historic Places (NRHP) eligible properties in accordance with Section 110, which it owns, or otherwise controls and must nominate such potentially eligible properties to the NRHP. Prior to the approval of the expenditure of any Federal funds, the HHS OPDIV shall take into the account the effect of an undertaking on any district, site, building, structure object that is included or eligible for inclusion into the NRHP. The State Historic Preservation Officer or Tribal Historic Preservation Officer and Advisory Council on Historic Preservation shall be provided an opportunity to comment with regard to such undertaking.

3-3-10 PROCEDURES

A. NATIONAL REGISTER CRITERIA FOR ELIGIBLE PROPERTIES

The criteria for evaluating a property's eligibility for listing in the National Register are as follows. The quality of significance in American history, architecture, archaeology, engineering and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling and

1. that are associated with events that have made a significant contribution to broad patterns of our history; or
2. that are associated with the lives of persons significant in our past; or
3. that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
4. that have yielded, or may be likely to yield, information important in prehistory or history. [36 CFR 60.4]

B. ELIGIBILITY DETERMINATIONS

HHS agencies, in consultation with the State Historic Preservation Officer [SHPO] (or, in the event the Secretary of the Interior has determined that a specific Indian Tribe(s) may assume the functions of the State Historic Preservation Officer with respect to tribal lands on which the property is located, the Tribal Historic Preservation Officer [THPO]), shall apply the National Register Criteria for Eligibility to each property to determine if the property(ies) is (are) eligible for the NRHP. Where a federally recognized Indian tribe has not assumed the responsibilities of the SHPO on tribal lands, consultation with the Indian tribe regarding actions occurring on such tribe's lands or effects on such tribal lands shall be in addition to and on the same basis as consultation with the SHPO.

If the SHPO/THPO fails to respond within 30 days of receipt of a request for review of a determination of eligibility, the agency official may either proceed to the next step in the process based on the finding or determination or consult with the ACHP in lieu of the SHPO/THPO. If the designated HHS agency official determines any of the National Register criteria are met and the SHPO/THPO agrees, the property shall be considered eligible for the National Register. If the OPDIV Federal Preservation Coordinator determines the criteria are not met and the SHPO/THPO agrees, the property shall be considered not eligible.

If the OPDIV Federal Preservation Coordinator and the SHPO/THPO do not agree, or if the ACHP or the Secretary of the Interior (Secretary) so request, the OPDIV Federal Preservation Coordinator shall submit a Nomination Form to the Department of the Interior requesting the Keeper of the National Register (Keeper) to make a decision concerning eligibility. If an Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to a property off tribal lands does not agree with the OPDIV Federal Preservation Coordinator's determination of eligibility, it may ask the ACHP to request the agency official to obtain a determination of eligibility. In the event a request for NRHP eligibility determination is submitted to the Keeper, no action may be taken until the Keeper responds or until 45 days have passed, whichever occurs first. Consultation with the ACHP can be conducted simultaneously. If the Keeper finds the property ineligible for the NRHP, the cultural identification process is complete.

C. DETERMINATION OF EFFECT ON HISTORIC PROPERTIES

The OPDIV Federal Preservation Coordinator will make a determination of potential effect on the historic property. The affects on historic properties are *no effect, no adverse effect, and adverse effect*. A finding of no adverse or adverse effect requires consultation with the SHPO and the ACHP. An example of a section 106 report is provided as exhibit X3-3-A. In some cases, a simple memorandum may be sufficient. A finding of an adverse effect will require a memorandum of agreement (MOA) with the SHPO. The MOA usually will have stipulations that the agency agrees to accomplish in order to mitigate the adverse effect(s) on historic property. An example of such an MOA is provided as exhibit X3-3-B. The OPDIV Federal Preservation Coordinator will coordinate the Section 106 process between the SHPO, the Advisory Council and the HHS. The OPDIV Federal Preservation Coordinator will negotiate and execute (within his or her authority) memorandums of agreements with the SHPO and the Advisory Council.

Any project that adversely affects HHS historic property must be designed in accordance with the Secretary of the Interior's Rehabilitation Guidelines. A registered architect must prepare the plans and specifications of the projects.

Note that all projects in the National Capital Region that are required to be reviewed by the National Capital Planning Commission must have a "determination of effect on historic property and the SHPO must have concurred with the determination before the Commission will act on the project.

D. HISTORIC REVIEWS

A historic review is an examination and analysis of potential effects on the property which might occur as a result of the proposed HHS construction action. A historic property may be affected whenever one or more of the following changes occur:

1. Physical characteristics are altered such as by re-grading of site, provision of handicapped access, changing any significant features of the property, remodeling, renovating, restoring, rehabilitating, repairing or any maintenance of the property that is not consistent with the

Secretary's standards for the treatment of historic properties and applicable guidelines, and/or demolition of any buildings or any other portion of the property(ies).

2. The physical setting is altered such as extensive changes to nearby districts, sites or buildings.
3. The property is moved.
4. The use of the property is changed.
5. The level of activity occurring at the property changes.
6. The property becomes neglected which causes its deterioration.
7. The transfer, lease, or sale of property out of Federal ownership.

E. ARCHEOLOGICAL DATA

1. Construction Contract Specifications - HHS construction contracts involving excavation should include appropriate specifications to avoid excess claims in the event notification and recovery procedures associated with archeological data are required.
2. Notification - If continuing with the planned construction will bring about the irretrievable loss of significant scientific, archeological, historic or prehistoric data, the HHS OPDIV shall inform the Secretary of the Interior. If the Secretary does not respond within 60 days, the review is complete. If the Secretary offers to pay for the recovery of the data, he/she shall have at least six months to affect recovery.
3. Recovery - If a proposed action involves a Federal construction project or a federally licensed project, and the action will result in the irretrievable loss of scientific, archeological, or historic data, up to one percent of the project construction costs may be used to recover the data.

See 43 CFR 10.4 for requirements concerning inadvertent discovery of Native American remains or objects on Federal and tribal land under the Native American Graves Protection and Repatriation Act.

3-3-20 GUIDANCE AND INFORMATION

A. APPLICABILITY

1. Historic Preservation - Each proposed HHS construction action must be reviewed in order to determine whether it will affect a property that is on or may be eligible for the NRHP. This determination must be made by the HHS OPDIV Head or OPDIV Federal Preservation Coordinator. It is recommended that such determinations be made as early as possible in the planning and budgeting process.
2. Archeological Data Recovery - Since heavy construction equipment used for site excavation, etc., could destroy the construction site's soil stratigraphy, (which archeologists need in order to date and understand the context of any significant objects or artifacts that might be present), as well as affect the significant objects or artifacts themselves, an archeological survey of the site and reasonable portion of the surrounding Area of Potential Affect (typically 15-30 meters beyond the site's boundaries) should be undertaken as early as possible in the planning process. In any event, it is the responsibility of the HHS OPDIV involved to include proper construction specifications for identification and contextual analysis recovery of artifacts. Potential for time delays and extra costs associated with artifact recovery should also be recognized in the process.

3. Native American Graves Protection and Repatriation Act: These regulations develop a systematic process for determining the rights of lineal descendants and Indian tribes and Native Hawaiian organizations to certain Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony with which they are affiliated. These regulations also pertain to the identification and appropriate disposition of human remains, funerary objects, sacred objects, or objects of cultural patrimony that are: (i) In Federal possession or control; or (ii) In the possession or control of any institution or State or local government receiving Federal funds; or (iii) Excavated intentionally or discovered inadvertently on Federal or tribal lands. See 43 CFR 10.4 for guidance.

B. ROLES AND RESPONSIBILITIES

1. Federal Preservation Officer: Section 110 of NHPA requires that each Federal agency designate a qualified official to coordinate the agency's preservation activities under NHPA.
2. State Historic Preservation Officer: State Historic Preservation Officers (SHPOs) administer the national historic preservation program at the State level, review National Register of Historic Places nominations, maintain data on historic properties that have been identified but not yet nominated, and consult with the OPDIV during the Section 106 review. SHPOs are designated by the Governor of their respective State or territory. The OPDIV seeks the views of the SHPO when identifying historic properties. The OPDIV also consults with SHPOs when developing Memorandums of Agreements (MOA).
3. The Advisory Council on Historic Preservation: The Advisory Council on Historic Preservation (Council) is responsible for commenting to the Agency Official on an undertaking that affects historic properties. The Council is an independent federal agency, established under NHPA.
4. Department of the Interior/National Park Service: The National Park Service (NPS) has no specifically stipulated role in the Section 106 process, but it performs a variety of pertinent functions, including the following: functions as a major land-managing agency; acts as a steward for historic areas in the National Park System; administers the Historic Preservation Fund grants-in-aid program, National Historic Landmarks program, Historic American Buildings Survey/Historic American Engineering Record (HABS/HAER), and the Certified Local Governments program; maintains the National Register of Historic Places; provides technical information and guidance; specifies standards for preservation-related activities that are often referenced in Section 106 agreement documents; and reviews State historic programs.
5. Keeper of the Register: The Keeper of the Register (Keeper) is an employee of the NPS and makes the final determination of eligibility for inclusion into the Register.

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SAMPLE 106 REPORT

BUILDING 16 (George Freeland Peter Estate)

Nature of the Undertaking

Building 16 is currently used as residence for international scientists and offices for the Fogarty International Center. The Peter House was built as the residence of George Freeland Peter in 1930 and is typical of the estates that were constructed along Rockville Pike. The building's historic features are intact; however, the windows have deteriorated and the building's mechanical and electrical systems are totally inadequate to support the administrative functions now housed in the facility. NIH proposes to replace exterior windows, mechanical and electrical systems.

Historic Significance

Synopsized History

The George Freeland Peter Estate is an example of the estates that were constructed along Rockville Pike in the early 20th century and is noteworthy for the role it now plays in the medical research community that now surrounds it. The land on which the estate is located was the site of Dr. Armistead Peter's summer home, "Winona", which stood at least until 1919. After Dr. Peter's death, his heirs divided the property into four parts. George Freeland Peter received parts of the tracts called "Huntington" and "Clagett's Purchase", known as lot #2, which contained 47+ acres of land.

George Freeland Peter

George Freeland Peter was noted in Episcopal Church hierarchy as the rector of St. James, assistant rector at St. Mark's and the associate rector at the Epiphany Episcopal Churches in Richmond, VA, and latter as the Chancellor of the Washington Cathedral. He was educated at a number of institutions, including Oxford University (United Kingdom), Columbian College (now George Washington University), the General Seminary (New York City), and Hampden-Sidney College. Upon graduation, he entered the Episcopal Church hierarchy in Washington, DC, and quickly rose in its ranks.

The Architect

The architect for the Peter Estate was Walter G. Peter, FAIA. He was the older brother of George Freeland Peter. He was born in 1868 into a prominent family in the Washington, DC area, and he was raised in the Peter family house, Tudor Place in Georgetown. Tudor Place is considered one of the most important monuments of domestic architecture in the Washington metropolitan area. Walter received his architectural education at the Massachusetts Institute of Technology. Upon graduation in 1890, he joined the noted Washington architectural firm of Hornblower and Marshall, where he worked for a number of years as a draftsman.



In 1888, Walter G. Peter formed a partnership with William J. Marsh. During the 28 years of its existence, the firm of Marsh and Peter was responsible for such important commissions as the First Church of Christ Scientist, the Evening Star Building, the Walter Reed Hospital, the D.A.R. Administration Building, and the Convent of the Visitation. He was also the architect for several large residences in the Washington metropolitan area. In addition, they designed the Charles Corby estate now part of Georgetown Preparatory School. Following Marsh's death in 1926, Peter continued to practice alone. It was during this latter period of his career that he designed the Stone House for his brother.

Walter G. Peter was a Fellow of the American Institute of Architects, served on the boards of several local charitable organizations, and was a member of many prestigious clubs. He died in 1945.

Architectural Description

The Peter House is a fine example of the Colonial Revival Style, a style suited for domestic architecture, which swept the entire country at the beginning of the 20th century. The architecture is eclectic. Looking to history to establish their roots, Americans often borrowed the house types and ornaments that characterized the colonial buildings. The Peter House was built in 1930 and is typical of the estates that were constructed along Rockville Pike.



The Stone House is a two-story structure with basement and attic laid out in an "I" shape plan. It is a masonry and steel structure with wood framed partitions. The exterior of the house is

uncoursed ashlar blocks of locally quarried blue stone, with corner quoins and wood trim. The house features steep slate roofs that are accented with pediment dormers.

The Stone House is both massive and elegant in its architectural character. The house appears to be symmetrical in massing with a center main mass flanked by two wings. The wings are connected to the main mass by a lower section where the roofline drops and second floor windows are dormers. The fenestration reflects the function of the house and is balanced by the symmetrical massing of the house.

The house is approached from the west off Center Drive. The west elevation is the front of the house. The house appears to be symmetrical except for the connectors. The north connector features a service door and two narrow 4 over 4 windows. The north wing is somewhat larger than the south wing and projects further out to the west. The south elevation of the north wing on the west side of the house features a bay window on the first floor. The west elevation features a robust Georgian portico with a richly carved entablature supporting a segmented arch, supported in turn by two fluted columns. The wood panel door is flanked by fluted pilasters and surmounted by a fanlight. Three attic pediment dormers punctuate the roof of the main block. The second floor features three 8 over 8 windows set in jack arches that are aligned with the attic dormers. In between the window at the center there are two narrow 4 over 4 windows. On the first floor the entry is flanked by two 8 over 8 windows set in jack arches that are also aligned with the attic dormers. The north and south wing west elevations are essentially the same featuring gable ends that terminate with a chimney in the center. Both the first and second floors have two 6 over 6 window symmetrically aligned with two quarter circle windows at the top of the gable end.

The east elevation features a two-story portico that is composed of four two story Corinthian columns that support a blank frieze and pediment with oculus. The entrance is Georgian in character, consisting of a broken segmental arch pediment and fluted pilasters. The wood panel door is flanked by traceried sidelites and capped by a rectangular transom with a modified fanlight motif. On either side of the entrance, there is a narrow 4 over 4 double hung wood window. To either side of the portico there are two windows, still in the main mass of the elevation; each set into a segmental arch. Tripartite in configuration, the windows are composed of a center section that is an 8 over 8 double hung sash, flanked by narrow 2 over 2 windows. Lacking segmental arches, the second-floor windows are otherwise identical to those on the first floor. The north and south wing east elevations are different; however, they both feature gable ends that terminate with a chimney in the center. Both wings on the second floors have two 6 over 6 windows with two quarter circle windows at the top of the gable ends. The south wing features a large bay window with a copper roof on the first floor and the connector on the south wing features a 6 over 6 double hung window surmounted by a circle top window set in a stone arch. This window is flanked on both sides by a narrow 4 over 4 double hung windows. The first floor of the north wing features three 6 over 6 double hung windows.

The south wing features a large verandah that opens onto a formal garden. The central axis of the garden is framed with boxwood and holly, and delineated at its focal point by a fountain and a curved stonewall. An ornamental iron rail, providing a terrace for the second floor sitting room surmounts the verandah's flat roof, supported by ten columns. The north wing originally housed

the kitchen and service areas for the house. Due to a one-story section that extends across the width of the wing, the north wing is slightly larger than the south wing.

The plan of the house reflects the colonial influence seen in the exterior design. The doors on the east and west elevations open into a central reception hall that extends the full width of the house, connecting to another wide hall that runs the length of the main mass along the west wall of the building. Pairs of fluted columns define the intersection of these two halls. A suspended stair with a curvilinear stair railing and finely turned balusters serves as the focal point of the north reception area. A parlor and dining room flank the central reception hall and are entered through double wood paneled doors with intricately carved surrounds. The fireplace mantels and ceiling moldings also display excellent craftsmanship executed in the colonial revival style.

The wings contain service stairs and several rooms each. The south wing is completely open and provides for assembly seating. The north wing holds the kitchen, butler's pantry, elevator, men's lounge, office and a library. The library, office, and butler's pantry all retain some of their original features, such as mantelpieces, moldings, and cabinets.



The second floor contains seven bedrooms most with private baths, sitting rooms, and servant's quarters which all open off a long narrow central hallway. These rooms are currently used as scholar's studies or administrative offices. Movable, temporary partitions have been added to provide privacy screens for the scholars sharing single spaces. One room to the north wing has been converted into a kitchen. The attic has been partitioned into

offices.

The interior of the house was sympathetically rehabilitated in the early 1960s, following alterations made to the structure when NIH initially occupied it. All moldings and mantelpieces were repaired and rooms, which have been dramatically partitioned, were returned to their original configurations. In 1989, the first floor of the house was redecorated to accentuate its colonial revival character.

Statement of Eligibility for the National Register of Historic Places

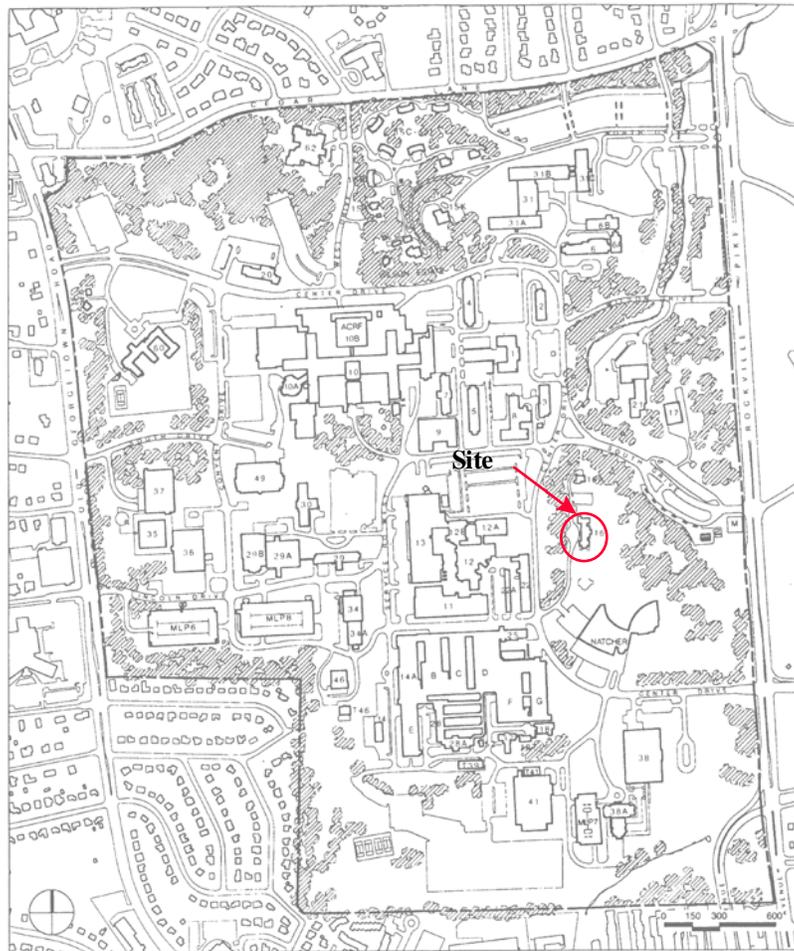
The Peter Estate is eligible for listing on the national register of Historic Places under Criteria B and C at the local level of significance. The Peter Estate is significant in American history and architecture; possesses integrity of location, design, setting, materials, workmanship, and feeling;

is associated with events associated with the lives of persons significant in our past; designed by a master; and embodies the distinctive characteristics of a type of country estate found in the Washington Suburban Area.

Determination of Affect

I have reviewed the plans for the undertaking and I have determined that there is no adverse affect on historic property.

NIH Federal Preservation Officer



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SAMPLE MEMORANDUM OF AGREEMENT

Submitted to the Advisory Council on Historic Preservation, Pursuant to 36 CFR 800.6(a)
February 1998

Whereas the National Institutes of Health (NIH) has determined that the existing mechanical systems in Building 6 (National Cancer Institute) are functionally obsolete and cannot be economically maintained or rehabilitated;

Whereas the NIH has determined that the existing laboratory configuration cannot support today's state-of-the-art biomedical research;

Whereas the NIH proposes to replace the functionally obsolete mechanical system with a new state-of-the-art mechanical system;

Whereas the NIH proposes to demolish the interior of Building 6 and construct new laboratories to support today's NIH biomedical research needs.

Whereas NIH has determined that the construction of the new mechanical system will have an effect on Building 6, a contributing resource of the NIH Historic Core District, properties eligible for the National Register for Historic Places, and has consulted with the Maryland State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 USC 470f); and

NOW, THEREFORE, NIH and the Maryland SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

Stipulations

NIH will ensure that the following measures are carried out:

1. DEMOLITION: NIH may proceed with demolition of the interior of Building 6.
2. RECORDATION: Prior to the demolition of the interior of Building 6, NIH will record Building 6 to the outline form of the Historic American Building Survey (HABS) standard. All documentation must be complete and accepted by the U.S. Department of the Interior, National Park Service, HABS/HAER Office prior to demolition. Copies of this documentation will be provided to the Maryland SHPO.
3. DESIGN REVIEW: NIH shall ensure that the design of the new mechanical system is compatible with the historic and architectural qualities of Building 6 and the NIH Historic Core District in terms of scale, massing, color, and materials, and is responsive to the recommended approaches to new construction set forth in the Secretary of the Interior's *Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (U.S. Department of the

Interior, National Park Service, 1992), and that the design and specifications for the project are developed in consultation with the Maryland SHPO.

- A. NIH will submit project plans to the Maryland SHPO for review and comment at the schematic, design development and contract document phases.
- B. Major changes during construction that will affect the architectural character and features of the plans for the Building 6 rehabilitation approved under the terms of this MOA must be submitted to the Maryland SHPO for review and comment.

4. AMENDMENTS: Should NIH determine that the terms of the MOA cannot be met or believes that the MOA needs to be modified to change a stipulation or add or delete stipulation, NIH shall request an amendment in accordance with 36 CFR Section 800.5(e)(5). If the SHPO determines that the provisions of the MOA are not being satisfactorily met, the SHPO shall immediately notify NIH and request that they consult to consider terminating, amending, or preparing an amendment to the "Agreement".

5. DISPUTE RESOLUTION: Should the Maryland SHPO object within 30 days to any plans or actions proposed pursuant to this agreement, NIH shall consult with the Maryland SHPO to resolve the objection. If NIH determines that the objection cannot be resolved, NIH shall request the recommendation of the Advisory Council on Historic Preservation (Council). Any Council recommendation provided in response to such a request shall be taken into account by NIH in accordance with 36 CFR 800.6 (c) (2) with reference only to the subject of dispute; NIH's responsibility to carry out all actions under this agreement that are not the subject of the dispute remain unchanged.

Execution of this Memorandum of Agreement and implementation of its terms evidence that the NIH has afforded the Council an opportunity to comment on the undertaking and its effects on historic properties, and that NIH has taken into account the effect of the undertaking on historic properties.

By: _____ Date: _____
Federal Preservation Officer, NIH

Concurrence: _____ Date: _____
Associate Director for Research Facilities, NIH

By: _____ Date: _____
Maryland State Historic Preservation Officer

Accepted by: _____ Date: _____
Advisory Council on Historic Preservation