



North Carolina Department of Natural and Cultural Resources  
State Historic Preservation Office

Ramona M. Bartos, Administrator

Governor Roy Cooper  
Secretary D. Reid Wilson

Office of Archives and History  
Deputy Secretary Darin J. Waters, Ph.D.

October 4, 2024

The Honorable Sara Bronin, Chair  
Advisory Council on Historic Preservation  
401 F Street, NW, Suite 308  
Washington, DC 20001

Re: Chair-proposed Program Comment on Accessible, Climate-Resilient, and Connected Communities

Dear Chair Bronin:

Thank you very much for the opportunity to provide feedback for your Chair-proposed Program Comment on Accessible, Climate-Resilient, and Connected Communities.

Our office wishes to endorse the September 27, 2024, comments of the National Conference of State Historic Preservation Officers, and likewise urge the Council to consider paring down the proposed draft to deal with housing matters only, and to work cooperatively with the US Department of Transportation on their draft national prototype agreement we understand is currently under development.

We also wish to make the following observations:

- Contrary to ACHP's own guidance re: Program Comment development.** The Advisory Council's own guidance on Program Comments (found at [https://www.achp.gov/program\\_comment\\_questions\\_and\\_answers](https://www.achp.gov/program_comment_questions_and_answers)) provides that Program Comments are not suited for "classes of undertakings or programs that are likely to be highly controversial in nature." Transportation projects – large-scale or not – count among the most controversial of any undertaking under Section 106, often because of the irreversible and wide-scale changes they may make to a community's historic places and resources, and thereby require the greatest attentiveness to the public consultation process. Independent of federal Section 106, local oversight arising under state law or home rule to protect historic places may conflict with other parts of the proposed comment, fostering unfortunate regulatory confusion.

Additionally, we, like other preservation partners, note that development of this Program Comment has not yet addressed all of the ACHP's [own ten guidelines for seeking a program alternative](#), including program comments; these guidelines were derived from the ACHP's own 2021 Program Comment Review Panel.

Such information will be vital to the Council's deliberations as to whether to approve this Program Comment or not, just as it would be for an agency-initiated request.

- No meaningful mitigation; no means for public to provide input.** Meaningful mitigation in case of adverse effects to historic resources is not provided in the draft comment, and is merely presumed, and the public's input as consulting parties would be eliminated, contrary to the ACHP's own guidance in its [Citizens' Guide to Section 106 Review](#) as well as the National Historic Preservation Act itself.

3. **“Historic preservation can be achieved without blunting progress.”** In 1966, during one of the Congressional hearings that considered the legislation that ultimately became the National Historic Preservation Act, Senator Edward Muskie shared his vision of what this law would accomplish:

“Historic preservation can be achieved without blunting progress. In truth, historic preservation will enrich our progress. With creative planning, the past and the future can live as neighbors and contribute jointly to the quality of civilization.

“...In a changing, growing society, our landmarks take on increasing importance. They lend stability to our lives. They are a point of orientation. They establish values of time and place and belonging. They are a humanizing influence.

“During the 20 decades of nationhood, and before, American ingenuity has created charming neighborhoods and streets, restful village greens, bustling market places, and other sites to meet our needs.

“I doubt that any of us question our ability to save the best of these, and to usefully blend them into the fabric of new construction. The only factor that is questioned is our resolve to do so.”

(Hearing Before the Subcommittee on Parks and Recreation of the Committee on Interior and Insular Affairs, United States Senate, 89<sup>th</sup> Congress, Second Session on S. 3035 and S. 3098, June 8, 1966, pgs. 10-11).

That desire to harmonize preservation with progress meant ultimately Section 106 was included in the National Historic Preservation Act, requiring federal agencies to consider the effect of their proposed activities on historic places, an indeed revolutionary requirement given the context of the loss of many communities’ vital historic fabric and historic neighborhoods *without* public consultation for construction of national road networks and urban renewal projects from the 1930s forward to the 1960s.

4. **States and SHPOs are fundamental participants in the Section 106 process.** State Historic Preservation Officers (SHPOs) have been fundamental participants in the Section 106 process, when in 1967, the Advisory Council on Historic Preservation itself drafted and passed its first procedures to handle review of federal projects under Section 106. ACHP’s first executive director Robert Garvey crafted those procedures, recognizing that the participation of “State Liaison Officers”, as SHPOs were then known, was “desirable” to gauge the public interest and local opinion in individual locales to inform the consultation process with agencies. (Glass, *The Beginnings of a New National Historic Preservation Program, 1957 to 1969*, AASLH and NCSHPO, 1990, pg. 44).

That requirement for Federal agencies to consult with SHPOs, and SHPOs to consult with the agencies, is now codified in the National Historic Preservation Act.

5. **Reciprocal responsibilities for consultation.** The National Historic Preservation Act *requires* State Historic Preservation Officers to **“consult with appropriate Federal agencies...on— (A) Federal undertakings that may affect historic property; and (B) the content and sufficiency of any plans developed to protect, manage, or reduce or mitigate harm to that property....”** (54 USC 302303(9), emphasis supplied.)

In *reciprocal* fashion, the same Act requires federal agencies to do the same regarding Section 106, in so much as the agency’s preservation program “shall ensure” among other things that “the agency’s procedures for compliance with [Section 106]— (A) are consistent with regulations promulgated by the

Page 3, October 4, 2024

NC HPO comments RE: Chair-proposed Program Comment on Accessible, Climate-Resilient, and Connected Communities

Council ...; (B) provide a process for the identification and evaluation of historic property for listing on the National Register and the development and implementation of agreements, ***in consultation with State Historic Preservation Officers, local governments, Indian tribes, Native Hawaiian organizations, and the interested public, as appropriate***, regarding the means by which adverse effects on historic property will be considered....” (54 USC 306102(b)(5), emphasis supplied.)

In considering this Chair-initiated Program Comment proposal, we urge the Council as a whole to reflect on its legislative origins and its duty under the National Historic Preservation Act, among others, to “recommend measures to ***coordinate activities of Federal, State, and local agencies and private institutions and individuals*** relating to historic preservation” (54 USC 304102(a)(1), emphasis supplied) and to consider as a viable alternative what has been suggested by the National Conference of State Historic Preservation Officers in its correspondence to you on September 27, 2024 on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ramona M. Bartos', written in a cursive style.

Ramona M. Bartos, Deputy  
State Historic Preservation Officer

CC: Dr. Darin J. Waters, State Historic Preservation Officer of North Carolina  
Renee Gledhill-Earley, NC HPO  
Erik Hein, NCSHPO