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The National Historic Preservation Act at 50: “A Living Part of Our Community Life and Development”

THOMPSON MAYES

What do you remember about 1966, the year the National Historic Preservation Act (NHPA) was enacted—if you were even alive? I remember watching *Get Smart* and *Bonanza* on our family’s only TV, which received signals through rabbit ear antennae. Our telephone was connected to the wall, and we dialed numbers. Cars were large, lumbering, and American made—Buick Skylarks, Chevrolet Impalas, and Ford Galaxies. Gas hovered around 31 cents a gallon. My mother bought groceries from Cashion’s grocery store in downtown Cornelius, North Carolina, not even thinking about the fact that it was an independent, local business—that was all there was. Eighty-eight percent of the United States population—about 196.6 million people—identified as white.\(^1\) Charlotte was in the midst of an urban renewal project that completely demolished the old African American Brooklyn neighborhood without adding new housing. I-85 was scraping its way across the red clay of the Carolina piedmont. A handful of people in the Fourth Ward of Charlotte were maybe beginning to worry about the loss of old Victorian houses. In our national life, President Lyndon Johnson pressed an ambitious agenda called the Great Society, even while deepening America’s involvement in the Vietnam War. The United States had not yet landed a man on the moon.

It’s almost as difficult to put ourselves back in 1966 as it is to predict 2066. In 1964 President Johnson spoke about a future that has now become our present:

*Many of you will live to see the day, perhaps 50 years from now, when there will be 400 million Americans—four-fifths of them in urban areas. In the remainder of this century urban population will double, city land will double, and we will have to build homes, highways, and facilities equal to all those built...*
since this country was first settled. So in the next 40 years we must rebuild the entire urban United States.

In the same speech, he lamented that “open land is vanishing and old landmarks are violated.” Little did Johnson imagine that some of those homes, highways, and facilities he envisioned being built would—50 years later—be the Midcentury places we are now working to save.

When preservationists recount the enactment of the NHPA in 1966, the story we tell usually revolves around *With Heritage So Rich*, the report of a Special Committee on Historic Preservation created under the auspices of the United States Conference of Mayors, and organized with the assistance of the National Trust for Historic Preservation (which had been founded in 1949). *With Heritage So Rich* remains one of the most evocative and powerful statements for historic preservation in the United States. It was distributed to every member of Congress, and its recommendations were the basis for the bills that became the NHPA.

**A TIME OF OPTIMISM AND VISION**

Yet, as we think about the future of the NHPA, it’s worth taking a look at the broader context in which it was passed to consider the full reach of its vision. That broader context includes not only the devastating impacts of urban renewal and
interstate highway projects but also the aspirations and goals of President Kennedy’s New Frontier and President Johnson’s Great Society. Johnson’s vision for the Great Society was expansive, and he sought to improve dramatically the lives of all Americans. He appointed no fewer than 14 task forces on everything from poverty to civil rights to health, all of them seeking to examine a problem and fix it through federal policy—an idea that seems unimaginable in our present political environment.

Two key Great Society initiatives relating to historic preservation preceded the U.S. Conference of Mayors Special Committee. The first was a task force on the Preservation of Natural Beauty, which met on July 31, 1964. Its report contained key recommendations that were ultimately incorporated into the NHPA. The second was Beauty for America, the White House Conference on Natural Beauty, chaired by philanthropist Laurance Rockefeller, which met in May 1965 with 800 delegates serving on various panels—including Gordon Gray, then chair of the National Trust, on the townscape panel. In his call to the conference, Johnson wrote about the way that beauty—and he included historic districts and landmarks in the concept—can “enlarge man’s imagination and revive his spirit.” Among the recommendations emerging from the conference was a broad agenda for recognizing and protecting historic places—including, notably, places important to local history and culture, historic districts, and even entire towns. These recommendations informed With Heritage So Rich and, ultimately, the NHPA.

This is the optimistic and progressive context in which the NHPA was conceived, drafted, proposed, passed by both houses of Congress, and signed into law by President Johnson. Although the idealism of the Great Society has largely been obscured—burnt away might be a better term—by the anti-war protests, assassinations, race riots, and distrust of government that followed, it was the progressive ideas and raw political power behind the Great Society initiatives that aligned the stars for broad-based federal legislation on historic preservation. Or as Gordon Gray put it, the “moon was right.”

The oft-quoted language of the preamble, which arose from the recommendations of With Heritage So Rich, was not initially
included in all of the bills (and is now unfortunately omitted from the recently re-codified version of the law), but it captures the optimism and deep humanism that are the philosophical basis for the NHPA:

Congress finds and declares that—
(1) the spirit and direction of the Nation are founded upon and reflected in its historic heritage;
(2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people;
(3) historic properties significant to the Nation’s heritage are being lost or substantially altered, often inadvertently, with increasing frequency;
(4) the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans;

The NHPA, signed into law the same day as the Department of Transportation Act, was part of a legislative program that sought to implement the vision of the Great Society, which also included the Voting Rights Act of 1965, the Water Quality Act of 1965, the Motor Vehicle Air Pollution Control Act of 1965, the Land and Water Conservation Fund Act of 1965, and the Social Security Act Amendments of 1965 (creating Medicare), among others.

FIFTY YEARS OF EFFECTIVE ACTION
Like these other laws, over the next 50 years, the NHPA made a profound difference in the lives of all Americans. Yet, just as Americans are largely unaware from day to day that they breathe clean air as a result of the Clean Air Act, they are also often unaware of the ways in which their lives are better because of the historic places saved by the NHPA. These places exist in virtually every community in the country, and they give our lives the “cultural, educational, aesthetic, inspirational, economic, and energy benefits” set forth in the preamble to the NHPA.
For example, one of the first cases that used Section 106 review succeeded in stopping the construction of a proposed elevated highway that would have been rammed between the French Quarter and the Mississippi River—the heart of historic New Orleans. As the website for the Advisory Council on Historic Preservation puts it: “This case is an early model for why Section 106 was enacted and why it is essential. Citizens determined to retain this iconic historic neighborhood opposed government officials who wished to site a major highway that would forever alter its character.” More recently, the NHPA helped preserve New York City’s African Burial Ground, a place now widely thought of as hallowed—as sacred. The African Burial Ground is “one of the most significant archaeological and historic finds in the United States of the 20th century, expanding understanding and knowledge of the lives and contributions to New York and the nation of generations of the African American Diaspora.” The possible loss of either of these iconic places seems unimaginable today, and they are but two examples of the thousands of places that have been saved. Because of the NHPA, we can stay in a historic hotel converted from an old post office; we can work in a dramatic industrial building in Washington, D.C.’s Navy Yard that has been rehabbed for office use; and we can share the identity, memory, beauty, and history embodied in the thousands of places that remain in our lives.

In the 50 years since the NHPA was signed into law by President Johnson on October 15, 1966, the United States has been through wars, anti-war movements, crippling inflation, 9/11, and a devastating economic recession. We’ve been through booms that resulted in teardowns and McMansions. We’ve sprawled out into the countryside. We’ve abandoned some of our cities and overpopulated others. All this time, the NHPA has been working—sometimes successfully, sometimes not—to help save places that give Americans a sense of stability, belonging, identity, and beauty as the world around them changes. But it can do more.

FULFILLING THE VISION

Despite the many successes of the NHPA over the past 50 years, the inspiring vision of historic places serving as living parts of our
community life has not been fully realized. Our nation—our communities and people—continue to lose places of deep and abiding importance on a daily basis. While the NHPA alone cannot fully address that broad issue, it could function more effectively than it does. The National Trust’s 2012 report *Section 106 of the National Historic Preservation Act, Back to Basics* identified concerns surrounding the implementation of the NHPA in the areas of public participation, funding, awareness, and—perhaps most fundamentally—the extent to which the ethic of historic preservation—its value—is imbued in federal agencies.

There are also long-standing criticisms of the NHPA from academics and practitioners, such as the perceived inflexibility in the application of the Secretary of the Interior’s Standards and the undeniable reality that the National Register of Historic Places does not yet represent the full diversity of the American story—despite recent laudable efforts of the National Park Service to identify and nominate places important to women and LGBTQ, African American, Hispanic, Asian Pacific Island, and other underrepresented people.

Each time we have marked the previous anniversaries of the NHPA, the preservation community has reviewed the past and looked to the future. These looks forward identified some of the issues we still confront today, including perhaps the most significant one—making preservation relevant to more Americans and telling the full American story. The many people talking about preservation on the occasion of the 50th anniversary are articulating an impatience for change, a sense of urgency, and a sincere desire for historic preservation to more effectively serve people’s needs. The American people want their stories told and the places important to them honored.

The underlying vision out of which the NHPA grew was of an America that is more fair and livable for everyone. Johnson said, *The Great Society rests on abundance and liberty for all. It demands an end to poverty and racial injustice, to which we are totally committed in our time. … The Great Society is a place where every child can find knowledge to enrich his mind*
and to enlarge his talents. It is a place where leisure is a welcome chance to build and reflect, not a feared cause of boredom and restlessness. It is a place where the city of man serves not only the needs of the body and the demands of commerce but the desire for beauty and the hunger for community.

In every part of that statement, there is a role for older and historic places: we can use our older assets to foster a strong economy; recognize the histories of all Americans; extend the benefits of preservation to all people; learn at historic places; promote the tourism that sustains many of our historic towns and enlarges our minds; and maintain the beauty of old places that enhance our communities. But we are still grappling with some of the same issues 50 years later, from racial inequality to the balance between commerce and community—issues that are present in our preservation work every day.

Regardless of what one thinks of President Johnson, the rhetoric of the Great Society contained ideas that are still worth pursuing—like the concept of our historic places as living parts of our communities. Yet, even as we celebrate the 50th anniversary and acknowledge that we have not fully achieved the vision of 1966, our goal today is no longer to fulfill that vision from 50 years ago, but rather to articulate a vision for the NHPA today and 50 years from now. Let us be as expansive and forward thinking as Gordon Gray and the other visionaries of 1966. FJ

THOMPSON MAYES is vice president and senior counsel for the National Trust for Historic Preservation.

1 According to the U.S. Census Bureau, in 2010 80.7 percent of Americans lived in urban areas and 72.4 percent of them identified as white, and in 2015 the population of the United States was estimated at 321.4 million. Data available at www.census.gov/quickfacts/table/PST045215/00.


6 Italics added for emphasis.

7 For examples, see H. Grant Dehart, “The Future of the Preservation Movement,” *Forum Journal 5*, no. 5 (September–October 1991); “The Preserve America Summit Executive Summary,” Advisory Council on Historic Preservation (August 2007); Max Page and Marla R. Miller, *Bending the Future:*
For example, in the recently issued “A Vision for Black Lives, Policy Demands for Black Power, Freedom & Justice,” the Movement for Black Lives demands action to “preserve and restore cultural assets and sacred sites to ensure the recognition and honoring of our collective struggles and triumphs,” stating that “there are too few acknowledged and preserved historical sites commemo-
rating Black history.” Available at https://policy.m4bl.org/wp-content/uploads/2016/07/Cultural-
Reparations-Policy-Briefs.pdf.

TAKEAWAY

TAKEAWAY

TAKEAWAY

TAKEAWAY
Read a 1996 issue of the Cultural Resource Management journal devoted to the 30th anniversary of the NHPA.

TAKEAWAY
Read a 2007 Preserve America Summit report on the 40th anniversary of the NHPA.
Significance Is Always Intangible: An Interview with the Keepers of the National Register

Susan West Montgomery

To commemorate the 50th anniversary of the National Historic Preservation Act, it was our great honor to interview every Keeper that the National Register of Historic Places has had since its inception in 1966: William Murtagh, Jerry Rogers, Carol Shull, Janet Snyder Matthews, and Stephanie Toothman. While much of their conversation concerned the evolution of the register over the last 50 years, it also illuminated those themes that have been constant across the Keepers’ terms.

Susan West Montgomery: During your tenure as Keeper, what was your favorite listing?

Carol Shull: The first listing that came to my mind—because I think it reflects so well on the strengths of our National Register in the United States—is the Robert Russa Moton High School, an African American high school in Prince Edward County, Virginia. In 1951 a group of students walked out in protest to the conditions. And it became one of the five cases that went to the Supreme Court and became part of the Brown v. Board of Education decision.

The state prepared the nomination and it was listed on appeal. Prince Edward County was opposed to the nomination and asked that the state hold off taking action on it. The state sent it to the review board, which recommended it, but did not forward the nomination for listing. Some members of the state review board appealed the nomination to the Keeper. I sustained the appeal, and the state historic preservation officer then sent the nomination forward. Having an appeals process makes it possible for anyone to have a nomination considered by the Keeper. It has also been helpful to nominating authorities when they’ve gotten pressure not to nominate a property.

The school was listed on the National Register in 1995 and became a National Historic Landmark in 1998. And we also highly
publicized it in our Civil Rights travel itinerary online and in one of our Teaching with Historic Places lesson plans. It’s now a museum.

**Jerry Rogers:** I would pick not a listing but a determination of eligibility. And, as I recall, it may have been a dance ground for Los Matachines—an Indian/Spanish traditional Christmas dance at the San Ildefonso Pueblo. And that’s because it moved us more clearly toward the idea of recognizing cultural traditions that are important to American Indians, and we had not been there before.

**Stephanie Toothman:** During my short tenure as Keeper, the multiple property listing from California for resources associated with the history of Latinos in the United States has been the most gratifying. It is directly modeled on the National Park Service theme study “American Latinos and the Making of the United States.” And it did what we hoped that the theme study would do, which is provide a framework for states to dig deeper into their own survey and resources to see what sites might be eligible for listing that had not been looked at in the past, particularly with underrepresented communities.

**Janet Snyder Matthews:** In 2006, during my tenure, the Panama Hotel in Seattle, Washington, was designated a National Historic Landmark and entered into the National Register. In an earlier National Register nomination for the Seattle Chinatown Historic District, the Panama Hotel was a contributing resource. The 2006 Historic Landmark designation gave it recognition on its own at the national level of significance.
Designed by Japanese-born architect Sabro Ozasa and constructed in 1910, it served the needs of Japanese immigrants who lived on the urban periphery as well as rural and remote areas. It also houses the Hashidate Yu Bathhouse, virtually the only surviving Japanese bathhouse in the United States. While the bathhouse no longer operates, the Panama Hotel continues as a “workingman’s hotel,” an outstanding example of a community institution associated with the first generation of Japanese immigrants in this country.

Since we’re already thinking that way, I’d like to discuss the notion that the National Register has evolved over time and that there’s now much greater recognition of intangible and cultural associations. And that positive evolution has raised some issues about integrity. Given that all of you seem to value places for reasons that may not be based on their architecture, would you speak about the conflicts raised concerning integrity when dealing with intangible heritage or nontraditional resources.

Matthews: The National Register must continue to focus on physical places but, unlike most other nations, the United States places a strong emphasis on associative values—that is to say, association with historic events, trends, and individuals. In other nations, the focus is on architecture, archaeology, and landscape. Intangible heritage is an essential part of associative values, as is indicated by the many natural sites that are listed on the National Register for their historic and cultural value. Intangible heritage can certainly constitute part of the documentation of a National Register property and serve as justification for eligibility for listing.

Shull: Sometimes people equate intangible heritage with associative values and resources. While the place itself is tangible, the significance of a historic place associated with an event or a person or a cultural tradition is “intangible” and generally needs to be explained or interpreted to be understood.

Traditional cultural properties are among the earliest listings in the National Register. For example, Bear Butte, a place sacred to a number of Plains Indian tribes, was nominated by the South Dakota state historic preservation officer and listed in the National Register in 1973. Historic places with a wide range of associative and cultural
values have always been listed and determined eligible for the National Register, and evaluating their integrity generally has not been any more challenging than evaluating the architectural integrity of buildings.

Toothman: I’d like to come at it from a slightly different perspective. I totally agree that we have been listing places that have values associated with intangible cultural beliefs. Dances, spirit quests, other types of cultural beliefs—those are intangible, but the places where they are practiced are not. I think we are moving away from the intense focus we’ve had on architectural integrity and looking at the property—why it’s significant—and then looking at the integrity criteria in a more balanced way.

If it’s being nominated because it’s an architectural resource, then obviously we’re going to give more weight to materials, workmanship. But if it’s because something happened there, we do have the option of listing it as a site. I’d look at the battlefields that are listed on the National Register. If you don’t know the story associated with them, in most cases you’re looking at a big open space. And so, while we’re not going to be listing dances and songs on the National Register of Historic Places—there are other venues to do that—but certainly significance does take that into account in terms of the properties we see as having cultural value.

William Murtagh: Well, the associative value problem is so relatively new, there’s a lot more to be done about it. But I think it’s moving in the right direction.

Rogers: I’m kind of surprised that this is even a question. To me it has never been a problem. The National Register criteria address significance, and that is always, always, always intangible.

The criteria say the property must have integrity—it doesn’t say “architectural” integrity. It says “integrity of location, design, setting, materials, workmanship, feeling, and association.” And I’m looking out of my window right now, across the prairie at a mountainside about seven miles away, where American Indians were mining turquoise 1,200 years ago. I can take you over there and show you where they dug and show you the landscape around it. And I can point out the elements of integrity: of location, setting,
not design, but yes materials, feeling, and association. That's not hard. It never has been hard. I think only people who come at the criteria from an architectural perspective have a problem with it.

**Shull:** I agree. Interpretations of the criteria and evaluations of integrity may vary, though, and we need to work to ensure that integrity standards are equitably applied and better understood. Many, if not most, listed historic places do not have pristine integrity. Some people are frustrated that particular properties are not being judged eligible for the National Register because of their integrity, and I think we have to look at those to see what the integrity issues are. We also need to better inform people about evaluating integrity and the breadth of listings that demonstrate how different aspects of integrity apply to a variety of properties.

Where we have a challenge is if there’s no *there* there at all. Some states have marker programs to explain places even if there is nothing left at the site to reflect its significance. We could recognize where something used to be that’s gone—with a marker perhaps—and that *could* be done at the federal level. But the whole intent of the National Historic Preservation Act in ’66 was to pass a law that would help counteract the loss of historic places with integrity that were disappearing so fast. And that’s the intent of the Section 106 process, grants, and tax incentives—to preserve historic places that still have the integrity to reflect their significance.

**That’s a great segue into where I want to go next. There’s the will and the desire of communities to have these conversations and identify the places they value. But there is a barrier when it comes to the application process. Some would say you need a graduate degree in order to fill out a nomination. Do you think some of the application requirements should be loosened so there isn’t that barrier?**

**Matthews:** One-size nomination does not fit all properties. But having successful nominations online guides preparers in meeting the criteria and documentation for listing.

**Toothman:** The thinking behind doing these targeted theme studies was recognizing that that barrier existed and aiming to provide a framework so that you didn’t have to look to somebody to do
that big lift, to provide that context for nominating your properties.

As part of the digitization—and we’ve just invested several hundred thousand dollars in basically rebuilding the National Register information system—we hope to develop a more complete electronic submission that will be easier.

But there’s that myth that you need to discuss everything possibly relevant. So I think there’s a [need] to support the states and the CLGs in understanding what the basic [requirements] are, as opposed to writing a master’s thesis for a National Register nomination.

Shull: I want to second that. The first nominations to the register included very little information. It became clear that more information was needed to understand the historic places and to assist in preservation planning. And, 50 years later, we have better-documented nominations, many of them prepared by professionally trained individuals graduating from undergraduate- and graduate-level preservation programs and other college-level programs. They might put quite a bit more background information into the nominations than is necessary for listing, and we need to make sure that people know the difference between what is required for listing and what may be worth having but is not essential.

The National Register is still getting short nominations prepared by citizens, and I think we should encourage more. One recent example is a nomination a Girl Scout prepared for an African American school, which is now listed.

It does take more effort to research and document a historic district or a property for its associative or cultural values than it does to nominate it for its architectural significance, which is why so many districts and individual properties are listed for their architectural significance alone. Many of these listings need to have their National Register documentation expanded and updated to include their associative and cultural values.

Matthews: Even before my tenure, digitization of the National Register was underway, thanks to modest annual funds. During my time, the Office of Management and Budget allocated more than $2 million to greatly accelerate this process, which has resulted in
the availability of digital records on thousands of National Register nomination forms and photographs for all but 11 of the states. My University of Florida students greatly appreciate this availability of National Register documentation. It provides helpful historic context statements and information associated with like property types. These records greatly inform preparation of new nominations.

Toothman: We’re developing a survey app with the National Association of Preservation Commissions and several other partners in which the final step will be transporting as much as possible directly into a nomination form. In terms of how the current generation and those coming up think and look and write, that’s an important step to take. It’s still not, by any means, foolproof, and states are going to have to look at it and see if it works for them. But in terms of being able to capture information and guide somebody through the nomination process, that’s an important tool to have.

I’m going to switch gears a bit. It would be interesting to hear examples of either controversial nominations or threats to the register during your tenure. Bill, was it all a bed of roses when you were there?

Murtagh: Of course not. Just the opposite. This was a new program generally, a new idea. And it was very difficult, initially, getting people to really sit up, pay attention, and listen. People don’t always like new ideas, and this had its percentage [of detractors].

Matthews: Some of the controversial National Register–related activities grow out of Secretarial determinations of eligibility. These take place when the state historic preservation officer and the federal agency do not agree, and the question of eligibility is referred to the Keeper on behalf of the Secretary of Interior.

One example was the question of whether or not the dune shacks of the Peaked Hill Bars Historic District on Cape Cod, Massachusetts, met the criteria for recognition as a traditional cultural property (TCP). The historic district had already been determined eligible for National Register listing, but not as a TCP. We determined that the property did not meet one of the requisite
characteristics of a TCP—“the group/community must have existed historically and the same group/community continues to the present.”

**Shull:** A more recent example has been the determination of eligibility request from the Minerals Management Service for Nantucket Sound as a result of the proposed Cape Wind project there. As Keeper, I determined Nantucket Sound eligible for the National Register. That was a challenging determination of eligibility.

**Rogers:** In my experience, one of the most difficult controversies was over a National Historic Landmark—**Green Springs Historic District in Virginia**, which was fought bitterly. And that’s another example of how things have evolved, because Green Springs had been designated in an era before we realized that you needed to do things with precision, like set boundaries and decide exactly what is significant about a resource and what is not. And it just happened that this wonderful, rural historic district in Virginia—with
lots and lots of both landscape and architectural values on the surface—was underlain by vermiculite, which at that time was a valued mineral. People who owned about half of it wanted to mine the vermiculite, and people who owned the other half—spotted around here and there within the district—wanted to preserve the place. It became extremely bitter. And it was an era when politics kind of stood on its head, too, and people who you might have thought would have supported the mining supported preservation—it was fascinating, but it was very bitter. There’s a book from that episode that names me by name as the National Park Service’s “chief land grabber.”

**Toothman:** My staff, along with the National Trust, have been responding to a number of proposed amendments to the National Historic Preservation Act this year. I believe a common thread behind these amendments is a lack of clarity about the role of the Keeper and what listing on the National Register means. We have testified, along with the Department of Defense, that the role of the Keeper is to determine significance only. Section 106 directs federal agencies to take this information about what Americans think is worthy of preservation into account in their planning and decision-making. We need to continue to emphasize that the final decision on any proposed undertaking remains in the hands of the federal agency.

**Shull:** One of my favorite listings is Stonewall, which the state of New York nominated to the National Register and we listed in 1999. I was told that a National Register staffer then got a call from a very powerful member of Congress who wanted to know exactly where we got our funding. And I think we all know some state preservation officers who have lost their jobs for just trying to objectively apply the law, go through the review process, and do evaluations of historic properties in an appropriate way.

**Rogers:** It’s funny that Carol mentioned SHPOs losing their jobs, because one of my favorite little quiet memories is the number of times when I’d get a phone call from a state historic preservation officer saying, “Help—the governor is trying to fire me!” And we would fire out a letter from the director of the National Park
Service or the Secretary of the Interior explaining why the governor had to maintain a professionally qualified program and he couldn’t just appoint any of his cronies to the job without qualifications. I can think of two or three SHPOs for whom we fought off a threat by the governor in that way.

What do you think was the greatest accomplishment of your tenure? Is there something that you see as a big success that has made our communities or our nation better—that you can attribute to the National Historic Preservation Act? Any specific listing or specific activity of the register?

Shull: Nurturing the growing interest in landscape preservation and preserving larger historic landscapes is one highlight. In the ’90s we developed bulletins on rural landscapes, suburbs, and designed landscapes to assist in evaluating and encouraging their nomination to the National Register. The interest in landscapes has continued to grow. The register has hosted a series of webinars on landscapes, and some exciting work has been going on in the field.

I have always been committed and worked hard to expand the breadth of the National Register as people’s perceptions of heritage evolve and as more types of people become involved—and as scholarship, threats, and opportunities have focused attention on a continually broadening range of historic places and values. I believe the National Register bulletins, which were produced when I was Keeper, have been helpful in assisting people evaluate and nominate a wide range of historic resources. The many examples of registered historic places in the bulletins, which reflect the ethnically and culturally diverse heritage of our country, encourage more such nominations. What makes our National Register so special is that it lists what is submitted by nominating authorities and what people at the local level value. The register has been an incredible tool in changing the way people think of properties or districts in their communities. It sometimes really turned the tide, just the very act of having a property recognized.

I also feel really good about the work we have done with the Teaching with Historic Places program and the travel itineraries series, much of it with financial and other support from partners.
The use of National Register documentation for educational purposes has grown tremendously over time, particularly because the register has a very robust website that we began in the '90s, which pretty much offers everything—all the bulletins and other guidance, forms, links to the educational initiatives and digitized files, and more.

Rogers: I think surviving for 50 years without a negative amendment to the law, surviving for 50 years without changing the criteria and letting them continue to evolve through explanation of how they’ve been applied is a wonderful accomplishment.

I would agree with Carol that entering into the landscape notion was one of the most important changes—particularly because the cultural landscape concept enables us to acknowledge that a natural feature can have cultural significance: a river, a rock, a tree, a mountain, a valley can have cultural value. And it does require integrity, it does require definition of significance, so it is not anything weirdly different than listing an urban district, it’s just a different kind of significance. But that’s a wonderful thing in that it helps heal what I consider to be an unhealthy division among people who try to protect the environment—between people who focus only on nature and people who focus only on culture. I have worked for the last 40 years to try to heal that rift, and I’m happy to say that the National Trust for Historic Preservation has been a leader in that as well. I think that’s very, very important for the future.

Toothman: Both Jerry and Carol have expressed some important thoughts that I echo. I particularly want to emphasize that the National Register, coupled with Section 106, has been an agent of empowerment in terms of community control: [giving people] a place at the table in the decision-making that affects their communities—whether it be federal or more localized decision-making fueled by federal dollars.

And that’s one of the values, as we try to engage with communities that haven’t traditionally been involved, that we’re trying to emphasize—that having your community listed on the National Register gives you a place at the table in all sorts of decision-making. You’re not always going to prevail, but it’s an opportunity
to have a voice, and that’s at the root of what a list that looks at all levels of significance is about. The partnership is incredibly strong—one of the strengths of the whole program is that we are engaging communities and indigenous peoples all over the country and the territories in a very constructive way.

I’m going to end by asking the last question in a slightly different way. We’re all preservationists, we all know the National Historic Preservation Act, we all know the value of the National Register—we see it in play in our daily work. But the truth is that there is a world out there that doesn’t even understand any of this. What do you think we could do in the next 50 years to raise the profile of the register and to be sure it is relevant and powerful going forward?

Shull: The National Park Service has gotten a lot of important attention for its centennial that I’m hoping will be reflected in some higher appropriations to deal with some of the great needs that the park system has. But we haven’t really received that kind of attention for the 50th anniversary of the National Historic Preservation Act. One of our biggest problems is that we haven’t done a very good job of communicating generally. We need to spend a lot more of our collective effort doing the kind of PR that people really understand. As a movement, we’re not very good at it.

We’ve got to work far harder to communicate with the general public if we want to increase understanding and support and garner more funding. The way communities look would be very different if we had not had the National Historic Preservation Act and the National Register. People would not like or value their communities nearly as much. If you look at the nicest places to live or the best places to retire, most of them are ones that have preserved their historic character—they have listings on the National Register and have taken advantage of the benefits that that offers.

Rogers: What Carol said is very, very true. I have always, since the beginning, taken a very political perspective to the National Register. The people of the United States have to want it. Even if they don’t know much about it, what you really need is for them to have a gut instinct: “Yes, this is good.” The politics has been
anti-environment, pro-profit, pro-wheeler-dealer-development for a long time now, and that really needs to change. That national political mood is shaped by public statements, public utterances, lots of attention, so I think it’s way more important to draw attention to the good things the National Historic Preservation Act has done than it is to make the National Register more powerful.

One of the things we haven’t said much about in this conversation is the fact that the private sector plays a very, very substantial role in this, so this great partnership is not just among governments, but it is among government and the private sector at every level. That is one of the program’s strengths, and it is one of the secrets of its political survivability.

So I would urge more beating the drum about how wonderful it is, how much good it has done, how it has made cities into retirement and vacation destinations, and all that sort of thing. Politics is very, very important, and we have to be proactive in it.

Toothman: It has been a challenge this year to get attention for the 50th anniversary celebrations with the Centennial Find Your Park campaign going on at the same time. We have made considerable progress, thanks to the leadership of the director, in raising the visibility of these programs and expanding the notion that the National Park Service is both the parks and its programs. And we’ve had considerable support from the department for the heritage initiatives, most recently from the secretary’s participation in the roll-out of the LGBT theme study this fall. I think our efforts to engage with communities that haven’t been well represented in the national preservation program is really one of the most important trends for the next 50 years.

Matthews: I envision the National Register continuing to celebrate the role of the nation’s ethnic and immigrant groups and incorporate it into the fabric of the nation. This weaving together of strands from throughout the world is one of the significant hallmarks of our nationhood and a shining example to the world of cultural assimilation and integration.

I also predict that in the next 50 years, the National Register will more than double because of efficiencies in place—multiple
property nominations, theme studies, and digitized records. Because of the power of educating through documentation, the register will continue its ever-broadening influence to define us as a nation and unlock doors to the successful reuse of properties. FJ

SUSAN WEST MONTGOMERY is the vice president of preservation resources at the National Trust for Historic Preservation.

AUDIO
Former Keeper Jerry Rogers shares his “political perspective” on the National Register.

AUDIO
Susan West Montgomery discusses preservation at the local level with Keepers William Murtagh and Jerry Rogers.
“Now that the Slums Are Fashionable”: Origins of Section 104 of the National Historic Preservation Act

JOHN H. SPRINKLE JR.

The development of the American historic preservation movement over the last two generations can be measured not only by its success stories but also by its lost opportunities. Added to the National Historic Preservation Act (NHPA) with the 1980 amendments, Section 104 directs the Secretary of the Interior to establish a loan guarantee program for historic properties. The origins of this nearly forgotten and never implemented legislative directive reveal a constellation of factors that were part of the national debate over gentrification, known at the time as “displacement,” and the application of the National Register of Historic Places criteria within the context of urban renewal programs during the 1970s.

AN ADEQUATE LOAN PROGRAM FOR HISTORIC RESOURCES: PREDECESSOR TO SECTION 104

In his 1971 environmental message to Congress, President Richard Nixon proposed “new legislation to permit Federal insurance of home improvement loans for historic residential properties to a maximum of $15,000 per dwelling unit.” This proposal was included as part of the Emergency Home Purchase Assistance Act, a bill signed by President Gerald Ford in 1974 that was designed to address a substantial decline of housing starts and increased unemployment in the construction industry. Over the next several years, the Department of Housing and Urban Development (HUD) did not issue regulations to initiate the program. This failure took center stage during a series of congressional oversight hearings and studies sponsored by District of Columbia Delegate Walter Fauntroy on HUD’s role within historic preservation.

Historic preservation advocates saw significant value in the creation of a loan program targeted at the rehabilitation of historic
properties. By the late 1970s, Ernest Connally, the head of the National Park Service’s (NPS) Office of Archaeology and Historic Preservation (OAHP), and other representatives from the federal-state partnership had concluded that, especially within historic districts, loan programs were more economically effective, administratively efficient, and locally desirable for “brick and mortar” projects than direct federal grants to state historic preservation offices (SHPOs).\(^5\) The $35 million appropriated in 1977 through the newly established Historic Preservation Fund (HPF) was, in fact, equal to less than 10 percent of the $400 million that the OAHP had estimated as the actual need of the various state programs. The president of Preservation Action, Nellie Longsworth, augmented that estimate, forecasting $53 billion in commercial and residential rehabilitation work (with $45 billion spent on 1.5 million homes) over the next two decades. Connally noted that in 1977 there were some 13,000 listings on the National Register, of which perhaps 10 percent were historic districts containing about 450,000 individual buildings. Even if it were to be fully funded, the HPF grants-in-aid program could never reach the majority of properties listed on the National Register.\(^6\) It was clear that, despite its bureaucratic reluctance to support many historic preservation activities, HUD, with its much greater appropriations, had the potential to affect many more historic neighborhoods than the Department of the Interior.\(^7\)

Over the course of the hearings, Fauntroy chastised HUD leadership for failing to initiate this service, especially since the agency saw substantial value in the assistance:

Here is a program designed to promote neighborhood stabilization, broaden existing housing stock, forestall deterioration, revitalize substandard housing, improve urban environments, increase the tax base, help people and communities and assist the reclamation and revitalization of residential neighborhoods.\(^8\)

Fauntroy called the delay “grossly indefensible.” Texas Congressman Jim Mattox was also blunt in his criticism: the unexplained regulatory delay was “symbolic” of HUD’s general approach of “tearing out old slums and building new slums in their places, without much regard for maintaining the old structures in the community.”\(^9\)
Meanwhile, the preservation community put forward numerous recommendations for improving the program prior to its implementation. There was general agreement that, due to inflation, the $15,000 loan limit suggested by President Nixon in 1971 warranted expansion to $30,000 or even $45,000. Offering as an example a mixed-use building—with first floor retail and rental apartments in the upper stories—located in a small-town business district, preservationists further recommended that loans be extended to income-producing properties, or at least to buildings with up to 49 percent commercial use, even though the program was originally designed to be secured as a second trust on a residential asset, assisting “home improvement” types of rehabilitation. The National Trust for Historic Preservation asked that Congress consider expanding the mandate to create a first mortgage loan program for historic properties.\(^1\)

Although HUD finally published regulations for the loan program on July 1, 1977, its impact on the rehabilitation of historic properties was minimal due to its narrow definition of preservation activities and loan ceiling of just $15,000.\(^2\) Longsworth noted that certain preservationists considered this implementation “final proof” that HUD’s programs were designed to “frustrate, rather than expedite, historic preservation.”\(^3\)

\textbf{“NOW THAT THE SLUMS ARE FASHIONABLE”}

During the same 1977 congressional hearings, Vincent DeForest, head of the Afro-American Institution for Historic Preservation and Community Development, reflected that the “problem of displacement of long-time residents” by higher-income groups was “just as important” a consideration as any benefits of the historic preservation loan program. Although he was encouraged by a new generation of younger, “more innovative” preservationists, he cautioned that few had “bothered to question the degree to which preservation programs” had contributed to the gentrification of urban neighborhoods such as Capitol Hill or Georgetown in Washington, D.C.\(^4\) New York Congressman Edward Pattison also wondered about the impact historic preservation was having on low- and
moderate-income urban neighborhoods. “And how do you resolve that problem now that the slums are fashionable?” he asked.14

Delegate Fauntroy, too, was concerned about how the rehabilitation of historic neighborhoods fostered the displacement of low-income and long-term residents—a problem that was exacerbated by the reluctance of absentee landlords to make provisions for tenants during and after rehabilitation projects. One way to address this inequity, suggested Douglas Wheeler, then executive director of the National Trust, would be to grant tenants the right of first refusal to acquire homes undergoing federally supported rehabilitation. The “best prescription” to ensure “the greatest degree of community participation by all income levels,” concluded DeForest, was to adopt “length of residency” as a factor in evaluating the need for government assistance programs. After an informal survey within Preservation Action, Longsworth proposed a sliding scale on loan interest rates—one tied to the income level of the property owner.15

Congressman Mattox and others also saw the proposed loan program as a possible deterrent to “redlining”—the practice whereby banks would not offer financial assistance in certain districts, generally those housing low-income residents. The program could incentivize banks to offer services in urban areas that they had formerly abandoned—often areas full of neglected historic properties. From the Advisory Council on Historic Preservation’s (ACHP) perspective, HUD’s “overly burdensome” approach to the proposed administration of the loan program was a disincentive for lower-income applicants. First-term Congressman Jim Leach of Iowa concluded that historic preservation was an upper-middle-class movement that had “ignored minorities, by and large.”16

**CONCERNS OVER NATIONAL REGISTER CRITERIA**

Since 1966 the National Register had encouraged the nomination of historic districts in addition to individual structures, sites, and buildings—a move that reflected the consideration of the “total environment” that was in vogue during the 1970s. In fact, the NPS had only adopted “historic districts” as a property type in 1965 in
response to growing concerns over the plight of historic neighborhoods in urban areas. Using the term “historic” in the broadest sense, the Keeper of the National Register, William Murtagh, confirmed during the 1977 hearings that all properties located within a listed historic district were eligible for the loan program—the concepts of “contributing” and “noncontributing” resources were only just entering into the historic preservation taxonomy in 1977. Russell Keune, a National Trust official, recalled that a comprehensive review of the National Register criteria conducted during 1976 had included discussions of adopting “neighborhood” as a property type. Despite this inclusive interpretation, Delegate Fauntroy wanted to know whether the requirement that properties meet the National Register criteria had the potential to limit access to the proposed loan program. James Biddle, the president of the National Trust, concluded that the current National Register criteria were not “too restrictive” and that any limitation in the registration process was the result of inadequate funding to the SHPOs, who had the “fantastic burden of keeping up the National Register.”

Lack of funding aside, DeForest described “past inequities” within federal historic preservation programs, focusing on the subjectivity of historical studies, which made it possible to “overlook the views or achievements of … groups” that were not included in efforts to identify, evaluate, and recognize historic properties. He noted that any attempt to address the “inherent deficiency” within SHPO efforts to identify historic places—in other words, to balance the discrepancy seen in registration and official recognition—must include programs to inform African American and other minority communities of historic preservation’s multiple benefits. Representing the historic preservation professionals who had crafted the National Register criteria between 1966 and 1969, the ACHP’s deputy executive director, Robert Utley, highlighted the inherent flexibility of the guidelines:

There is virtually nothing that the professional community, that is, history, architecture, archaeology, and allied disciplines judge to be of value that cannot be put on the National Register. ...Those criteria are designed so that all in this Nation that is deemed to be worthy of preservation for its historic, architec-
tural, archaeological, or cultural value are included in this National Register. And that means what a community may perceive as valuable to it is qualified for the National Register.\footnote{19}

With a neighborhood approach to historic recognition—one that focused on the social aspects of a community rather than on its physical characteristics—substantial sections of American cities, regardless of the economic class or ethnicity of current residents, might be placed on the National Register and be eligible for an expanding quiver of federal preservation assistance programs.

**SECTION 104**

The late 1970s were an exciting time for American historic preservation. In 1976 alone, Congress enacted provisions for the historic rehabilitation tax credit, expanded Section 106 to include properties eligible for listing in the National Register, set up the HPF, and separated the ACHP from the Department of the Interior. The period witnessed a growing consensus about the characteristics of the “new preservation” that countered traditional “house museum” limitations of the movement and recognized “urban conservation” as a core mission.\footnote{20}

Section 104, introduced with the 1980 amendments to the NHPA, appears to be the legislative descendant of the original HUD loan program.\footnote{21} The loan guarantee program was designed to assist lower-income residents and small-business owners in qualifying for assistance by providing the Department of the Interior with the greatest flexibility in implementation.\footnote{22} By allowing private-sector banks to handle most of the paperwork, a loan guarantee program (as opposed to direct federal loans) was simpler to administer and had a wider sphere of potential impact. After several years of legislative gestation, President Jimmy Carter executed a significant batch of amendments to the NHPA in December 1980. At that time the ceiling for the loan guarantee program was set at $365 million—the unappropriated balance of the HPF.\footnote{23}

The advent of the Reagan administration presented numerous challenges for the historic preservation movement, not the least of which was the proposed defunding of the HPF. Although more
analysis is warranted, it is probable that the promise of Section 104 was initially lost during the constant battle to secure continued funding for the federal, state, and local government preservation partnership during the 1980s. The Department of the Interior expressed “serious reservations” regarding the cost-benefit of a federally administered loan guarantee program, suggesting instead that the states might execute the program.\(^{24}\) Other programs launched during the early 1980s, such as the National Trust's Inner City Ventures Fund and James Rouse's Enterprise Foundation, tried to address continuing problems encountered by urban rehabilitation efforts in historic neighborhoods.\(^{25}\)

Many of the questions raised during the legislative debates of the 1970s remain relevant today. Are the benefits of the federal historic preservation program as accessible to lower-income citizens as they are to those of moderate or upper incomes? Does the present bureaucratic structure of the federal preservation partnership programs and the application of their administrative criteria retard the expansion the National Register throughout all communities across the country—regardless of class or color? And finally, would the enactment of the Section 104 historic preservation loan guarantee program present an opportunity to address a generation of unmet fiscal needs to finally support a more inclusive historic preservation community? FJ

\(\text{JOHN H. SPRINKLE JR. is the bureau historian for the Park History Program of the National Park Service. The views expressed in this article are his own and do not reflect the views of the National Park Service or the United States government.}\)

1 Section 104 of the National Historic Preservation Act of 1966 states: “The Secretary shall establish and maintain a program by which the Secretary may, on application of a private lender, insure loans (including loans made in accordance with a mortgage) made by the lender to finance any project for the preservation of a property included on the National Register.”
3 Public Law 93-449 was approved on October 18, 1974. Housing starts had fallen from 2.51 million units in 1972 to 1.12 million in 1974. As a result unemployment in the construction industry had risen to 12.4 percent.
7 “Preservation Programs of the Federal Government in the Area of Housing and Community Development,” p. 6. HUD estimated that only 1 percent of its grants (approximately $15 million) went toward historic preservation.
8 “An Adequate Loan Program for Historic Resources,” p. 5.
9 Ibid, pp. 34, 48.
12 Ibid, p. 60.
16 Ibid, pp. 15, 32, 57, 122.
18 Ibid, p. 77.
23 Ibid, p. 48.
24 Established in 1981 the Inner City Ventures Fund (ICVF) helped nonprofit, community-based organizations rehabilitate historic buildings. Initial seed money came from a special $400,000 grant from the Department of the Interior that was matched by a variety of private-sector grants totaling $4 million. In its first six years of operation the ICVF provide $2.7 million in funding for 42 projects in 29 cities. See “Neighborhood Transfusion: National Trust Initiates Inner-City Ventures Fund,” Preservation News, 21, no. 5 (May 1, 1981) and Sandra Evans Teeley, “New Foundation Seeks to Renovate Slums,” The Washington Post, December 22, 1981.
The Unfulfilled Potential of the National Historic Preservation Act

THOMAS F. KING

Much has been written, and more is sure to come, about all the good that the National Historic Preservation Act (NHPA) has done. I don’t dispute the belief that it has done good things, but it could have done much better things if we—that is, we who think that something like the NHPA is a good idea—had had the necessary vision and the chutzpah. Maybe it still could.

When I first learned of the NHPA’s then-imminent enactment, I was an undergraduate anthropology student working in “salvage archaeology”—digging Native American sites about to be destroyed by federal construction projects, with minimal funding from the National Park Service (NPS). I was excited by the NHPA, particularly its Section 106. It seemed as though it might make it possible for people like me to influence project planning and maybe save important sites, rather than just scurrying to excavate them after project planning had doomed them.

In the first few years after the NHPA became law, my perception of its potential broadened. Of course I learned that archaeology was of little concern to the law’s drafters—their preoccupation was with historic buildings and structures. But I also became involved with a couple of Indian tribes in California—the Agua Caliente Band of Cahuilla and the Dry Creek Band of Pomo—who were trying to keep their ancestral sites and landscapes from being destroyed by federal projects. I came to realize that Section 106 was a tool they could use.

In working with the tribes, I came to know some of the people who had been responsible for the NHPA and who were working to implement it. Notably, I met Robert R. Garvey Jr., one of the law’s drafters and then executive director of the Advisory Council on Historic Preservation (ACHP). In my first Section 106 meeting, after I had made my pedantic pitch for saving the archaeology of the
Agua Caliente Band’s Tahquitz Canyon, Garvey said that was all very interesting, but he wanted to hear what the Indians had to say. Then and later, as I worked with Garvey and his colleagues on cases in New England, Micronesia, California, Puerto Rico, and all points in between, intervening (albeit with limited success) to try to stop the destruction of places ranging from Detroit’s Poletown to New York’s Helen Hayes Theater, from Hawaii’s Kaho’olawe Island to the Apollo 13 launch tower at Cape Canaveral, I learned that historic preservation is not really about old buildings and sites, or even, in a strict sense, about preservation. It’s about respecting living people and the values they ascribe to places. It’s about trying to help people and communities fend off the damage to their emotional ecosystems that comes from the loss or transformation of places intrinsic to their history and culture—national culture, tribal culture, ethnic group culture, local community culture, neighborhood culture, interest group culture, or sexual orientation culture. It’s about respecting people’s attachment to place.

That is the unfulfilled potential of the NHPA—to create and maintain a system by which people and communities can work effectively to maintain their intangible, emotionally freighted cultural heritage and by which government can be made to respect that heritage—though not necessarily to “preserve” its leavings in the narrow sense of the word. I believe that that’s what the authors
of the NHPA intended, and that, thus far, we’ve failed pretty miserably at carrying out that intent.

At the core of the matter is something that Garvey taught me: historic preservation is not intended to benefit old buildings, archaeological sites, or even “traditional cultural properties” for their own sakes. As far as we know, real estate is not sentient; buildings and sites don’t care whether they’re preserved or not.³ People and their communities want to preserve environments that they care about, and it’s those people and communities that historic preservation should serve. Communities certainly include those composed of professional and nonprofessional architectural historians and archaeologists, but it’s the people who live their heritage and are sustained by it—given “a sense of orientation” by it, in the words of the NHPA⁴—that the law is designed to respect and benefit.

The heritage that people most care about is not always a “district, site, building, structure, or object.” Or if it is such a piece of real estate, it is not necessarily one that tickles the fancy of a “preservation professional.” As University of California at Berkeley landscape architecture and environmental planning professor Randolph Hester has discovered, a gravel parking lot may be one of a community’s most valued places.⁵

Human heritage—whether embodied in real estate or not—is not always amenable to being captured in lists and list-based documentation; it’s not always easily bounded. It varies through time and across interest groups, and its “objective” physical characteristics may be a lot less important than how it is perceived and valued. As a result, respecting heritage in planning and government decision-making doesn’t necessarily require that it be thus documented.

Given all of this, we ought to use the NHPA as a basis for systems that would ascertain what aspects of the environment people and communities care about, and empower them to make sure that these aspects are respected—notably by limiting the forces of government and industry that are inclined to run them over roughshod.
Yet, what we have built using the NHPA is a system that ignores all parts of the human environment that don’t fit on the National Register of Historic Places, which is made up only of districts, sites, buildings, structures, and objects, each one vetted by preservation professionals based on detailed documentation—accompanied by a byzantine federal-state bureaucracy devoted to expanding and maintaining the register. This has provided fertile ground for the growth of a for-profit consulting industry the profits of which are often dependent not on preserving anything but on facilitating destruction. Its practitioners are expected to ignore impacts on cultural places that they find don’t meet narrow technical criteria, regardless of what citizens think who care about such places. We have created a monster.

I can hear the objections: The National Register is our “official list of the Nation’s historic places worthy of preservation.” It’s the centerpiece of the national historic preservation program. NPS and ACHP officials and state historic preservation officers (SHPOs) are not mere bureaucrats, they’re heroic (though downtrodden) defenders of the nation’s heritage working alongside consultants who are bound by codes of ethics.

Yada yada yada. Keep patting yourselves on the back, colleagues. It’s easier and more comforting than facing up to challenges.

Some of my best friends are preservation bureaucrats; I used to be one myself. I don’t doubt that many are well intentioned and try hard to do good work in the face of serious obstacles. The same goes for many who labor in the for-profit consulting business. But the system in which they work stifles them.

Why? Because that system:
1. Elevates paperwork, box-checking, and product counting above actually accomplishing anything—emphasizing attention to technical administrivia over confronting serious issues;
2. Rewards following directions over creativity;
3. Systematically selects people as program managers and experts based not on their ability to ascertain and help address citizen concerns about heritage matters, but on meeting narrowly defined standards for practice in the various “preservation disciplines”;

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4. Is so opaque to the public that few even know it exists (hence there’s little chance of building public support);
5. Shrinks from conflict rather than seeking creative solutions;
6. Does little to give voice to people whose heritage is routinely trampled by the developers and other change agents who profit from the trampling; and underlying it all—
7. Demands (meekly) respect only for chunks of real estate appreciated by the preservation specialists who staff the SHPO offices and consulting firms.

To paraphrase the trenchant words of the 1994 Guidelines and Principles for Social Impact Assessment, the system denigrates what counts and elevates what is easy to count. By so doing, it allows what counts to be ignored and destroyed.

**FUNDAMENTAL FLAWS**

Why is the NHPA program like this? Largely because it’s administered primarily by the NPS. The NPS is fine at managing national parks (at least big rural ones) but has never given serious thought to the quite different challenges of a non-park historic preservation program. A national park is a secure environment under the control of the government in which a limited range of human activities can be permitted. I know that’s an oversimplification, but still—for complexity and the task of responding to multiple interests and needs, a national park doesn’t hold a candle to a city, county, parish, or Indian tribe. Many of those interests and needs simply have no counterparts in a national park context—and vice versa. But naturally and understandably, it’s by being knowledgeable about and supporting the management of national parks that one advances in the NPS—not by learning to work with multiple stakeholders and the fluid, changing cultural values of non-park communities. Particularly in the last 35 years—since the Carter administration’s well-mean but ineffective effort to pull non-park functions out into a separate agency—the NPS has vigorously worked to meld its park and non-park responsibilities and personnel into a single fabric. It hasn’t worked and can’t work; it ought to be abandoned.

The second and related reason that the NHPA system has not fulfilled its potential is that everything is built around the National
Register. The register has played a domineering role as the unchallenged centerpiece of U.S. cultural heritage management. By promoting listing on the register as the *sine qua non* of NHPA implementation (even 40-plus years after Richard Nixon’s Executive Order 11593 made it effectively superfluous for many planning and impact assessment purposes), by demanding massive documentation to justify viewing any place as eligible for the register, and by privileging the views of preservation professionals over those of citizens and their communities, we have lent the register an unearned pretense of ultimate authority over the nation’s cultural heritage.

Despite earnest expressions of support for diversity, minority involvement, and sensitivity to multiple cultural values, the NHPA program remains what it has been since its inception—a program developed by white, male, NPS architectural historians with cultural roots in the eastern United States, designed to list, honor, and document the buildings and structures that *they* consider important. Others are welcome to play the National Register game, but only by the procrustean rules of the NPS establishment.

**TIME TO RETHINK AND REFRESH**

We need a reset. We need to set the existing NHPA program aside—not cancel it (as if we could) but stop treating it as something god-given with which we can only tinker—and put some serious thought into how we can, without preconditions, best carry out the NHPA’s purposes—to preserve “the historical and cultural foundations of the Nation … as a living part of our community life and development in order to give a sense of orientation to the American people.”

Here are a few starting suggestions:

- Let’s consider whether we still need a National Register or whether it has come to be an impediment to thoughtful, responsible, flexible cultural heritage management. Does the very use of a permanent national list impede considering what is really important to people about their heritage? Does it prevent engagement with people and communities? Is it a crutch that we no longer need?
- If we do still need the National Register in some form, let’s think about how it can be made both more inclusive and more
selective—recognizing that “districts, sites, buildings, structures, and objects” may not be the be-all and end-all of the nation’s heritage, and at the same time, that a respect for cultural heritage doesn’t demand that we cogitate endlessly over, and invest in, every industrial complex or housing tract that’s more than 50 years old.

Let’s try to make the program—with or without the register—more understandable to the public and make it relate more readily to public concerns about the quality of the cultural environment. Overhaul all the regulations, standards, guidelines, bulletins, and briefs with this in mind, including all the strictures and directions imposed on SHPOs, Tribal Historic Preservation Officers, and Certified Local Governments.

Let’s try seriously to control the pernicious dominance of for-profit historic preservation, “cultural resource management,” and environmental planning firms hired by developers and other would-be change agents.

Let’s try to keep the lawyers under control. Lawyers are necessary, but they need to be prevailed upon to work with others to make wise policy, to write good laws—not dictate what policy and law must be.

Let’s put somebody other than the NPS in charge. Let the NPS manage parks—that’s what it’s good at doing. Turn NHPA program management over to someone, something else. Jimmy Carter’s effort to create an agency to perform non-park cultural and conservation work was swept out of existence by the Reagan administration; maybe it’s time to dust that idea off—or think of something better.

Let’s do all these things in active collaboration with the environmental and land-use planning groups—and the tribes, property owners, and property rights organizations whose interests often coincide or overlap with ours, but who—because of our own self-centeredness—scarcely know we exist or think that all we do is dust furniture in house museums.

The NHPA was one of the populist seeds planted by Lyndon Johnson to nurture a relationship of mutual respect between
citizens and government. With the best of intentions, we have let it grow into a tangled, unhealthy thicket of self-congratulation, self-protection, self-advancement, and tedious paper-shuffling. It’s time and past time to refresh its roots and prune its overstory. FJ

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This article has benefitted from comments by Judy Scott Feldman, Jeremy Wells, and Claudia Nissley, but none of them bear a shred of responsibility for it.

1 Mindy Thompson Fullilove, Root Shock: How Tearing Up City Neighborhoods Hurts America, and What We Can Do About It (One World/Ballantine, 2005).
2 Yi-Fu Tuan, Space and Place: The Perspectives of Experience (University of Minnesota Press, 1977).
3 I do have animist friends who would disagree.
4 National Historic Preservation Act, Section 1(b)(2).
6 National Historic Preservation Act, Section 1(b)(2).

TAKEAWAY
Learn the basics about Section 106.

TAKEAWAY
Read the Forum Blog series on Section 106 and Section 110.
The Historic Preservation Fund: Expanding on the Foundation We’ve Built Together

CONGRESSMEN EARL BLUMENAUER AND MIKE TURNER

At the heart of every livable community is a sense of place—and its foundation, which is the preservation and celebration of historic spaces and buildings.

It’s hard to overstate the importance of the Historic Preservation Fund (HPF) in communities across the country. The HPF was established by Congress in 1976 to support the initiatives mandated by the National Historic Preservation Act (NHPA), and it is the source of the preservation funds awarded to states, tribes, local governments, and nonprofits. As co-chairs of the Historic Preservation Caucus, it is our mission to share the story of the HPF and its broad base of bipartisan support with our colleagues in Congress.

SUSTAINABLE, INCLUSIVE, AND EQUITABLE INVESTMENTS

The HPF has guided federal investment and engagement in historic preservation activity across the country for the past 50 years, celebrating cultural heritage while also looking to the future. Its contributions to our national fabric are far reaching and indelible, and it is one of the most widely supported and high-performing federal grant programs.

“Historic preservation creates an essential link between our past and present. Reauthorizing the HPF ensures that state, tribal, and local preservation programs across the country can carry out this mission so that current and future generations develop a greater understanding and appreciation of our nation’s history.” Congressman Mike Turner
Since the HPF was created, more than $2 billion has been allocated for the national preservation program. These grants leverage local matches to support preservation projects such as surveys and inventories, National Register of Historic Places nominations, preservation education, architectural planning, historic structure reports, community preservation planning, and even brick-and-mortar repairs. A share of this funding goes directly to communities in the form of Certified Local Government grants and is spent at community discretion.

America is in the middle of an urban renaissance, as millennials, aging baby boomers, and job creators alike relocate to cities and downtowns. Historic preservation is not only one of the most exciting aspects of this urban revitalization but also a way to ensure that associated community investments are sustainable, inclusive, and equitable—something we all have a stake in.

Before we came to Congress, we both served our respective hometowns—Portland, Oregon, and Dayton, Ohio—in city government. That experience fostered a lasting appreciation for the power of historic preservation to revitalize communities. The benefits of preservation—tourism, cultural education, private

“It’s inspiring what we’ve been able to achieve in the 50 years since the passage of the NHPA. Now that the Historic Preservation Fund is reauthorized, let’s further mark this anniversary by fully funding the HPF to give tribes, states, and our preservation partners the resources they need to tell our stories. For too long, meager funding has caused historic buildings and sacred spaces to be forgotten or lost forever. Fulfilling the mandate of the NHPA is widely supported—and long overdue—and will leave a legacy of preservation and cultural heritage for generations to come. There is no greater dividend.” Congressman Earl Blumenauer
investment and job creation, local identity, to name a few—have spurred interest in and renewal of the urban center. Encouraging preservation allowed us, as city leaders, to guide development while ensuring that the histories of our communities were preserved for future generations.

In Portland we’ve used preservation funds to save and restore community treasures like the Arlene Schnitzer Concert Hall and to recognize the history of the lost city of Vanport, a WWII-era shipyard-workers community destroyed by flooding. In Dayton the HPF helped us establish the Wright-Dunbar Village Historic District, recognizing the neighborhood that had once been home to the Wright Brothers and African American poet Paul Laurence Dunbar.

**EXPANDING THE IMPACT**

Over the years, the HPF has been expanded to celebrate the diversity of our nation and the histories of underrepresented communities, which has included the creation of several new competitive grant programs.

While the HPF was initially limited to state grants, in the 1990s Tribal Historic Preservation Offices (THPOs) and historically black colleges and universities became eligible for HPF awards, which finally provided necessary support and recognition to some of our most endangered buildings and places. The Save America’s Treas-
sures program (established in 1998 but defunded in 2011) awarded more than $300 million in grants directly to public and private entities for preservation projects like Ellis Island and Rosa Parks’ bus.

In 2014 Congress first funded smaller competitive grants targeted at communities that remain underrepresented on the National Register and among National Historic Landmarks. And as part of a broader Civil Rights Initiative, in 2015 the National Park Service created a new competitive grant program to document and preserve places and stories associated with the Civil Rights struggle.

THE FINANCIAL RESOURCES OUR HERITAGE DESERVES

Unfortunately, these programs can only go so far. Appropriations to more than the HPF have not kept pace with the growing needs of our cultural resources or with the imperative of acknowledging aspects of our nation’s past that have gone unnoticed or ignored too long. While newer grant programs seek to represent and celebrate long-marginalized histories, current funding is a drop in the bucket, leaving critical projects unfunded and the list of endangered spaces growing ever longer.

Though it was initially authorized at $150 million a year, Congress has never appropriated more than $94 million to the HPF—and that figure is a high-water mark that is now 15 years in the past. Indeed, the average appropriation has been less than half the authorized amount, leaving the promise of our preservation programs woefully unfulfilled. For instance, during the last 20 years, the number of THPOs has grown more than 14-fold—from 12 to 170—while funding has remained low, resulting in smaller average grants today than in 1996.

Not only were funds lacking but the HPF had also expired more than a year ago, on September 30, 2015. Fortunately, with the signing of the National Park Service Centennial Act on December 19, 2016, the HPF has been reauthorized through 2023. Now more than ever, as we celebrate the 50th anniversary of the NHPA, action must be taken to put to use the critical funding that has rehabbed buildings on Main Streets across America, saved tribal landmarks, and restored the sites of the Civil Rights struggle. Reauthorizing the HPF is an apt commemoration of this anniversary.
As we look back on the 50 years of preservation since the 1966 passage of the NHPA, Congress, local governments, and the preservation community must expand on the foundation we’ve built together. FJ

CONGRESSMAN EARL BLUMENAUER is a lifelong resident of Portland, Oregon. He was elected to the U.S. House of Representatives in 1996.

CONGRESSMAN MIKE TURNER is a lifelong resident of Southwest Ohio. He served as mayor of the city of Dayton for eight years and was elected to the U.S. House of Representatives in 2002.

**TAKEAWAY**
Read March 2016 National Trust testimony on the HPF.

**TAKEAWAY**
Read the 2015 *Historic Preservation Fund Annual Report*. 
The Advisory Council on Historic Preservation at 50

RONALD D. ANZALONE

In a 1965 message to Congress, President Lyndon Johnson noted that “in almost every part of the country citizens are rallying to save landmarks of beauty and history. The government must also do its share to assist these local efforts which have an important national purpose.” The following year, the special report *With Heritage So Rich* recommended government action. Proposed steps included identification of places worth preserving, federal support for state and local efforts, and a process to guide planning and review of government-assisted threats to historic properties. The report called for “an adequately staffed Advisory Council on Historic Preservation, with membership representing the major federal departments and agencies involved in preservation matters, as well as state and local governments and public and private organizations interested in historic preservation and urban development.”

The report led to the National Historic Preservation Act (NHPA), signed by President Johnson on October 15, 1966. The NHPA established the Advisory Council on Historic Preservation (ACHP) to advise the president and Congress, review federal policies and programs, recommend better coordination of preservation activities by government and the private sector, prepare special studies on preservation issues, promote preservation training and education, and encourage public interest in preservation.

While the ACHP has other important roles, it is best known for implementing the federal project review process known as Section 106. **Section 106 (of the NHPA)** directs federal agencies to take into account the effects of their activities on historic properties and afford the ACHP a reasonable opportunity to comment. The Senate bill report explained that Section 106 “is intended to insure that the Federal agencies will not work at cross purposes with the goals of historic preservation and provides for a meaningful review of Federal or federally assisted projects which affect historic properties identified on the national register.”
Amendments to the NHPA in 1980 added specific responsibility to review federal agency policies and programs and recommend “methods to improve the effectiveness, coordination, and consistency of those policies and programs with the policies and programs carried out under this Act.” Those two tasks—project and program review—serve the ACHP’s basic mission: to be a federal advocate for historic preservation as a national priority and to provide an important strategy for advancing public policy.

The ACHP is composed of a “council” of citizen presidential appointees, cabinet officials, and other relevant individuals and organizations, as well as a small permanent staff. Originally set up and supported through the National Park Service (NPS), the ACHP became an independent agency as a result of 1976 amendments to the NHPA, which sought to avoid potential conflicts with construction work and management in the national parks.

The full ACHP met in Atlanta, Georgia, on February 27, 1984, to review and comment on the Presidential Parkway project, a proposed highway linking the Carter Center and Presidential Library to downtown Atlanta and historic neighborhoods. From left to right: Clifton Cladwell, Texas; [obscured] Gerald M. Wallette, Washington, D.C.; Joseph Canny, Department of Transportation representative; Dale Lanzone, Department of the Interior representative; Mayor Virginia Bremberg of Glendale, California; Robert R. Garvey Jr., National Trust for Historic Preservation; Alexander Aldrich, chairman; and Robert O. Johns, vice chairman.
EARLY IMPLEMENTATION OF SECTION 106

While the Section 106 process that was laid out in detail in regulations has evolved considerably, essentially the ACHP (or a state historic preservation officer [SHPO] and/or Tribal Historic Preservation Officer [THPO]) is contacted by an agency planning to carry out a project or grant a permit, and provided with background information about the project, for review and consultation. At first these “cases” were direct requests for comment from the full ACHP membership. In its first year, the ACHP received submissions on a heating and cooling plant for Georgetown University and siting of a nuclear power plant on the Hudson River near Saratoga Battlefield National Historical Park. Transfer of the U.S. Mint in San Francisco, military training activities at California’s Fort Hunter-Liggett, and a proposed highway across the island of Oahu in Hawaii followed soon after.

Such project proposals, their review by the ACHP, and the formal comments that were issued began to clarify basic preservation principles about how the impacts of projects should be taken into account. For example, the Georgetown project resulted in recommendations for design review and siting studies in historic districts. The case of the nuclear plant (never built—a new site was found) led to discussions about addressing indirect and visual effects on historic and cultural landscapes. The U.S. Mint project raised questions about viable alternatives for rehabilitation and reuse. The importance of early archaeological survey and other comprehensive planning studies was highlighted in the case of military training at installations, and the need to preserve traditional cultural sites was emphasized in response to the proposed highway route in Hawaii. While the ACHP’s involvement did not stop harmful projects, it exposed them to a certain amount of public scrutiny and forced government officials to document what they were proposing and consider the consequences. Besides establishing procedural and technical precedents, these cases raised the public visibility of historic resources listed on the National Register as well as government awareness of preservation values.
SECTION 106 EVOLVES

As the number of projects for review increased and the process was codified, the ACHP moved away from full member involvement. Originally Section 106 applied only to properties already listed on the National Register of Historic Places; following a 1971 executive order and the 1976 amendments, properties “eligible for” the National Register were also considered. Most cases were now routinely resolved at the staff level with ACHP member oversight.

Through its procedures and regulations, the ACHP also interpreted two parts of Section 106 at an early stage—the “take into account” standard and the ACHP’s reasonable opportunity to comment—to entail requiring consultation among the parties leading (preferably) to agreement on how to proceed. This interpretation has largely been upheld in federal court and by Congress.

In addition, the role of the states was significantly enhanced, and later augmented by tribal involvement. There was no SHPO role in the original law, only a provision of federal funding to states for conducting comprehensive preservation surveys. It was only later, through Section 106 involvement and NPS state program review, that the SHPO was identified as the key state representative. After further amendments in 1992, THPOs were also recognized. Today, following regulatory changes in 2004, SHPOs and THPOs review projects and consult with federal agencies and other project proponents on more than 120,000 Section 106 cases a year, while the ACHP oversees the process and reserves active involvement or technical assistance for perhaps 1,200 cases that present special issues or problems.

The need for detailed information about the location, nature, and significance of affected historic properties was coupled with the recognition that early planning and explicit consideration of project alternatives were critical. Major developments, such as pipelines, highways, bridges, transmission lines, and housing complexes, can have considerable impact on numerous historic resources and places of great significance. This is true whether the federal government is directly carrying out a major public works project or issuing the permits necessary for it to proceed. Particularly
when development proposals affect communities, citizens are encouraged to make their views known and get involved in Section 106 review.

Given its location, perhaps few cases have garnered more visibility, public interest, or media attention than the discovery of the African Burial Ground in lower Manhattan. Hundreds of human remains—which turned out to be part of a much larger burial ground estimated in the thousands—were discovered during construction of a new federal building in 1991. The remains were mostly those of enslaved people of African origin buried between 1650 and 1794. The lead agency, the General Services Administration, had archaeological studies carried out, but more and more remains kept turning up. Following ACHP involvement and an onsite congressional hearing, work was stopped and extensive consultation took place among federal, state, city, neighborhood, cultural heritage, and descendant groups concerned about the protection, memorialization, study, and disposition of the remains. Eventually the building project was modified and a plan for study, reburial, and a memorial was developed. The site became a National Historic Landmark in 1993 and a National Monument in 2006.

BEYOND “CASE” REVIEW: RECURRING ISSUES
Largely through Section 106, the ACHP found it necessary to deal with archaeology and hire archaeologists. A series of dams and other water and power projects in California, the desert southwest, and the central and southeast U.S. in the 1970s and 1980s resulted
in significant government scrutiny of archaeology, its cost, and its public benefits. The ACHP formed a task force and developed guidance on archaeological data recovery, proper design of meaningful archaeological research, and related concerns. These efforts have been advanced by ACHP staff professionals as well as the several professional archaeologists who have served as members. The basic principles articulated in the ACHP’s guidance and related policies—such as its policy on the treatment of burial sites, human remains, and funerary objects—remain largely in use, and much of the resulting professional experience has helped set the field's standards.

Through its work in archaeology, as well as other activities, the ACHP has also become a strong advocate for the heritage and rights of indigenous peoples, including Indian tribes, Native Hawaiian organizations, and Alaska Natives. Through both Section 106 and policy development, the ACHP has facilitated the protection of numerous sacred sites and other traditional cultural places, such as Mount Shasta in California and Cave Rock in Nevada, as well as consideration for tribal ancestral lands throughout the country. Important policies and procedures for Native American consultation have been put in place, and a representative from the ACHP has served on the White House Council on Native American Affairs.

Bridging the (sometimes narrow) divide between cases and programs, the ACHP has also devoted significant time and attention to encouraging better planning for and response to natural and other disasters. The ACHP advised on clean up and protection of cultural resources after the Exxon Valdez oil spill in Alaska in 1989 and has been involved in the wake of multiple hurricanes, tornadoes, earthquakes, floods, and wildfires as well as the Oklahoma City and 9/11 terrorist attacks. In cooperation with federal agencies, SHPOs, and native groups, the ACHP has helped develop programmatic agreements specifying how individually affected historic buildings, sites, and districts are to be identified, evaluated, and addressed during recovery efforts. Intergovernmental coordination in the wake of Hurricane Sandy in 2012 resulted in creation of a unified federal environmental and historic preservation review process to plan for and deal with such disasters.
IMPROVING FEDERAL PROGRAMS

Starting in the 1980s, improving federal programs became a major focus for ACHP members and staff. The NHPA was amended (in 1980 and 1992) to encourage federal agencies to integrate historic preservation into their policies and programs, including developing their own historic property identification, evaluation, and protection strategies. Consistent with their missions and operations, agencies are directed to be caretakers of the portions of America’s cultural patrimony under their management or control.

The ACHP has worked to promote federal agency stewardship both through governmentwide reviews and assessments and through specifically focused training, guidance, tailored procedures, program “audits,” and other actions. Such efforts began with an interagency agreement with the Department of the Army in the late 1980s, which has proven to be an excellent model of interagency cooperation and led to the development of detailed cultural resource management plans for military installations throughout the country. Such agreements have also been developed with a number of other departments and agencies, focusing on agency policies and other program improvement work. As part of its Millennium Initiative in 2000, the ACHP prepared a special report on federal cultural stewardship on public lands and other federally controlled property (amounting to nearly one-third of the country). Then in 2003, under a presidential executive order, the ACHP was given new programmatic responsibilities: evaluating the state of federal historic property stewardship and determining how those holdings are contributing to local economic needs. This began a series of triennial ACHP reports to the president on federal historic property management. The next report is due in 2018.

PROMOTING FEDERAL PRESERVATION POLICY

Finally, as part of its core responsibility to advise the president and Congress on historic preservation and to recommend adoption of related policies, the ACHP has regularly prepared special reports and studies, provided ongoing review and testimony on legislation, promoted executive action and public-private partnerships to
advance preservation, and recommended policies governing its own and others’ work on matters ranging from preservation and affordable housing to treatment of human remains. Studies have focused on a broad range of preservation topics, including energy conservation, urban revitalization, tax policy, surplus public property, high-tech and scientific facilities, military installations, post offices, and legacy cities.9

In 2003 the ACHP advanced an executive order that helped promote heritage tourism and established the Preserve America Program, with community and volunteer group designations, presidential awards, and grant funding. A special report prepared by the ACHP at Senate request in 1976, The National Historic Preservation Program Today,10 set the stage for periodic assessments of the overall government program.11 For the 40th anniversary of the NHPA in 2006, the Preserve America Summit developed ideas and actions for improving the national program. The ACHP, along with other agencies and nongovernmental partners, has implemented many of them.

LOOKING FORWARD

The ACHP has worked in the trenches and at the highest levels of government for nearly 50 years, providing a public forum for influencing federal and federally supported projects, programs, and policies that affect historic properties. In recent years the ACHP has promoted reaching out to young people through preservation, and supported building a more inclusive preservation program with outreach to African American, Asian American, and Latino communities. Today the NHPA and the preservation community face numerous challenges around rebuilding the nation’s infrastructure, energy development, and possible regulatory and tax reform, while also responding to climate change, meeting community sustainability needs, and broadening the inclusion of diverse cultural groups in preserving America’s heritage. The ACHP has again been reviewing the promise and needs of the national historic preservation program and is in the process of adopting policy recommendations for the incoming administration, Congress, federal agencies, and preservation
partners. We invite and encourage the preservation community to join us in making this a future agenda for all. FJ

RONALD D. ANZALONE is the director of the Office of Preservation Initiatives at the Advisory Council on Historic Preservation. The views expressed in this article are his own and do not reflect the views of the Advisory Council on Historic Preservation or the United States government.

4 The first council had 10 citizen members out of 17. Leaders of six federal departments and the chairman of the National Trust for Historic Preservation made up the rest. The modern council has 23 members, including a governor, a mayor, and a representative of an Indian tribe or Native Hawaiian organization. When the ACHP became an independent agency, Robert R. Garvey Jr., former staff director at the National Trust, became the ACHP’s first executive (staff) director. See www.achp.gov for more on current composition, membership, and staffing.
5 Section 106 regulations are 36 CFR Part 800.
7 The 1980 amendments to the NHPA clarified and articulated SHPO responsibilities.
9 Examples of two recent ACHP special reports on preservation in legacy cities and preservation of historic post offices may be found at http://www.achp.gov/RightsizingReport.pdf and www.achp.gov/historicpostoffices.pdf.

TAKEAWAY
Read Section 106 Success Stories from the ACHP and the ACHP Alumni Foundation.

TAKEAWAY
“The National Historic Preservation Program at 50: Priorities and Recommendations for the Future”—a draft statement from the ACHP.
Taking the National Historic Preservation Program to the Next Level

SUSAN WEST MONTGOMERY

The National Historic Preservation Act of 1966 (NHPA) inspired a far-reaching and complex set of regulations, incentives, and approaches aimed at accomplishing its core objective of preserving cultural and historic resources in the United States. These have evolved over time: some have served to protect hundreds, if not thousands, of historic resources, while others, as explained elsewhere in this issue, have never been fully realized. On the occasion of the 50th anniversary of the NHPA, the National Trust for Historic Preservation, along with many partners, participated in developing policy recommendations to be advanced by the Advisory Council on Historic Preservation (ACHP). What follows is the Trust’s set of recommendations and principles aimed at improving the national historic preservation program.

SECTION 106

The National Trust asserts that Section 106 of the NHPA is a critical regulatory process and its oversight is the most important function of the ACHP. It recommends:

- Increasing ACHP staff capacity for greater engagement in Section 106 consultation;
- Providing digital access on the ACHP’s website to all Section 106 Programmatic Agreements (PA) and all Programmatic Memoranda of Agreement (PMOA) signed by the ACHP;
- Identifying agencies with chronic Section 106 compliance problems and working to correct these;
- Requiring federal agencies to provide for greater involvement by consulting parties, especially for the development of PAs; and
- Terminating or amending outdated agreements that are no longer consistent with current regulations (such as PMOA for WWII Temporary Buildings, 1987).
FUNDING
The Historic Preservation Fund (HPF) has never been fully funded, which compromises the abilities of federal, state, and local agencies to implement the full scope of activities and programs contemplated by the NHPA. The Trust proposes that the HPF should receive full and permanent funding at its authorized level of $150 million annually, especially to support:

- State and Tribal historic preservation offices as well as Certified Local Governments; and
- The continuation of competitive grant programs for the survey and nomination of properties associated with communities that are currently underrepresented in the National Register of Historic Places, the preservation of the sites and stories of the Civil Rights Movement, historically black colleges and universities, and other initiatives as warranted.

HISTORIC TAX CREDITS
Historic rehabilitation tax credits have proven to be the most significant federal investment in historic preservation. Since President Reagan signed them into law in 1981, the credits have made possible the rehabilitation of more than 41,250 buildings, created more than 2.3 million jobs, and leveraged more than $117.6 billion in private investment. Moving forward, the credit can be even more powerful.

- Congress should expand the credit to better serve small projects, such as those in Main Street communities, by increasing the tax credit to 30 percent for projects under $2.5 million and by making technical changes that reflect the practical needs of current industry practice.
- Several studies of historic tax credit projects reviewed by the National Park Service (NPS) have recommended greater flexibility in the interpretation of the Secretary of the Interior’s Standards when evaluating such projects. These recommendations should be implemented.
THE NATIONAL REGISTER OF HISTORIC PLACES

The National Register must fully recognize the broad spectrum of cultures, experiences, and stories that are embodied within the physical environment of our communities. It should be comprehensive and integrated.

- Funding should be made available to federal and state agencies, as well as tribes, through a competitive grant program to fund survey, inventory, and digitization projects.

- The National Register should be expanded to recognize—and identify, document, interpret, and protect—a greater diversity of cultural resources. A narrow approach to issues such as “integrity,” “period of significance,” and the Secretary’s Standards can impede the recognition of places that are significant to underrepresented communities. Overemphasis on architectural distinction and integrity misses the opportunity to embrace the full range of historic and cultural resources that could educate, unite, and empower Americans, and contribute to our economic and social vitality.

- National Park Service Bulletin 38, Guidelines for Identifying and Evaluating Traditional Cultural Properties, which has not been revised since 1998, needs to be updated to reflect significant developments in the past 15–20 years.

- There is growing public interest in protecting landscape resources. Better guidance and advanced survey techniques should be developed for identifying and evaluating traditional and historic landscapes.

PUBLIC-PRIVATE PARTNERSHIPS AND HISTORIC LEASING

In an era of increasing competition for limited federal dollars, it is more important than ever for agencies that manage federal lands to leverage federal funds by creating incentives and opportunities for public-private partnerships. The NPS recently issued a draft of Director’s Order 21, which represents a commendable effort to address these issues. Other federal agencies need to improve their policies as well.

- The Office of Management and Budget’s existing budget-scoring rules often weigh against historic rehabilitation and make it
difficult to establish public-private partnerships based on long-term lease agreements. These need to be revised.

The Enhanced Use Leasing authority of the Department of Veterans Affairs (VA) is generally limited to uses that serve homeless veterans. Expansion of this authority to serve the broader veteran population would significantly improve the ability to use private investment to rehabilitate historic properties owned by the VA.

The NPS should expand the use of historic leasing within the national park system to better use public-private partnerships that can leverage private capital and reduce the multibillion dollar maintenance backlog.

CERTIFIED LOCAL GOVERNMENT PROGRAM

The administration of the Certified Local Government (CLG) program has lacked consistency and failed to enforce local government compliance with its basic requirements. The NPS should:

- Enforce compliance with basic requirements and terminate CLG status for local governments that fail to comply; and
- Enhance funding for the program to increase incentives for local compliance. Full funding of the HPF would substantially increase funding for CLGs.

PROFESSIONAL QUALIFICATION STANDARDS

The Secretary of the Interior’s Historic Preservation Professional Qualification Standards have not been formally updated since 1983. A revised draft of these standards was published in 1997 (62 Fed. Reg. 33,707, June 20, 1997) but it has never been finalized. This update should be realized.

FULL IMPLEMENTATION OF THE NHPA

The Preserve America Summit Panel report, Protecting Places That Matter, includes a number of recommendations to implement provisions in the NHPA that have been underused or have never been implemented. Several of those are especially worth highlighting:

- Loan guarantees. Section 104 of the NHPA requires the Secretary of the Interior to establish and maintain a loan guarantee
program to finance historic preservation projects for National Register properties (54 U.S.C. § 303901). This program has not been funded and remains unused. It should be implemented.

- Direct grants for the preservation of historic properties. The NHPA also authorizes direct grants for the preservation of historic properties (54 U.S.C. § 302904). This program should be implemented as well. Making funds available on a competitive basis will help foster innovation and leverage the economic impact of the grants.

- Report on threats to historic properties. The NHPA requires the Secretary of the Interior to review significant threats to historic properties and submit a report to the president and Congress at least once every four years recommending appropriate action (54 U.S.C. § 302108). This provision should be implemented, and the resulting reports should be readily accessible on the NPS website. FJ

Susan West Montgomery is the vice president of preservation resources at the National Trust for Historic Preservation.


3 See, for example, National Housing and Rehabilitation Association (NH&RA), Recommendations for Improving the Administration of the Certified Historic Rehabilitation Tax Credit Program (2003); National Park Service Advisory Board (NPSAB), The Federal Historic Rehabilitation Tax Credit Program: Recommendations for Making a Good Credit Better (2006) (“NPS, in consultation with its historic preservation partners, [should] reexamine and revise as appropriate its interpretation of the Standards in order to provide some greater measure of flexibility in addressing especially challenging projects” [emphasis added]).

4 See Preserve America Summit, Panel Report, p. 10. For example, leased buildings are still counted as excess space, thus perpetuating pressure to “reduce the footprint” through demolition.

5 For example, Belleair, Florida, approved the demolition of its most significant historic building in 2015, the Bellevue Biltmore Hotel, in direct violation of its comprehensive plan and local ordinances, but with no consequences whatsoever to its status as a CLG.


7 See also 54 U.S.C. § 100507(e) (every year the Secretary must submit to Congress a list of nationally significant sites listed on the National Register that “exhibit known or anticipated damage or threats to the integrity of their resources”).

**TAKEAWAY**

Read “The National Historic Preservation Program at 50: Priorities and Recommendations for the Future”—a draft statement from the ACHP.