

# STAFF RECOMMENDATION

Nancy Witherell

NCPC File No. 6321



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**NATIONAL LAW ENFORCEMENT MUSEUM  
ENTRANCE PAVILIONS AND PLAZA  
JUDICIARY SQUARE, NW  
Washington, D.C.**

Submitted by the National Law Enforcement Officers Memorial Fund, Inc.

November 29, 2007

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## **Abstract**

The National Law Enforcement Officers Memorial Fund requests approval of preliminary site and building plans for the National Law Enforcement Museum entrance pavilions and the surrounding shared plaza. The Fund obtained revised concept approval for the pavilions and the plaza at the Commission's April 2007 meeting. The largely underground museum will be constructed on federal land within the District of Columbia Courts complex in Judiciary Square, in accordance with Public Law 106-492, which authorized the project in 2000. The Commission is the federal agency responsible for ensuring the project's compliance with the National Environmental Policy Act and the National Historic Preservation Act. The Executive Director executed a Finding of No Significant Impact (FONSI) for the museum on November 29, 2007. The general plans and principles for the proposed museum, as well as the renovation and expansion of the D.C. Court of Appeals (the Courthouse) by the District of Columbia Courts and associated infrastructure improvements are described in the Judiciary Square Master Plan, which was approved by the Commission in May and August 2005.

## **Commission Action Requested by Applicant**

Approval of preliminary site and building plans pursuant to Public Law 106-492.

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## **Executive Director's Recommendation**

The Commission:

**Finds** that the Environmental Assessment prepared by the applicant for the preliminary site and building plans and the public comments on the Environmental Assessment provide information to guide the Commission in its decision-making and that the Executive Director has issued a finding of no significant impact for the preliminary site and building plans.

**Approves** the preliminary site and building plans for the two museum entrance pavilions and the plaza, as shown on NCPC Map File No. 1.20(73.10)42421, conditioned upon the implementation of mitigation actions indicated in the Executive Director's finding of no significant impact, which include:

- Obtaining concurrence from the Washington Metropolitan Area Transit Authority (WMATA) on the final site and building plans prior to submission to the Commission.
- Minimizing adverse effects to the historic court buildings and Judiciary Square by maintaining the open space and preserving the view corridor between the D.C. Courthouse and the Pension Building as shown on the current plans; maintaining the transparency of the entry pavilions as shown on the current plans; and, continuing participation in the Section 106 consultation leading to the execution of a Memorandum of Agreement prior to submission of final site and building plans to the Commission.
- Minimizing potential adverse traffic impacts resulting from the construction of the museum by updating as necessary and implementing plans filed in accordance with the requirements of the D.C. Department of Transportation to manage the re-routing of traffic from E Street during construction, and to manage construction activities and impacts at the site, especially during peak morning and evening weekday traffic periods.
- Demonstrating the incorporation of low intensity development (LID) practices in the final landscape plans for the plaza.

**Notes** that the applicant must coordinate the location and design of the PEPCO vaults with the District of Columbia and the National Park Service.

**Directs** the applicant to continue to coordinate with the D.C. Courts in accordance with Public Law 106-942, and with other District of Columbia agencies, to ensure that the final plans include the required information and mitigation actions to address anticipated construction impacts on operations and access throughout the site.

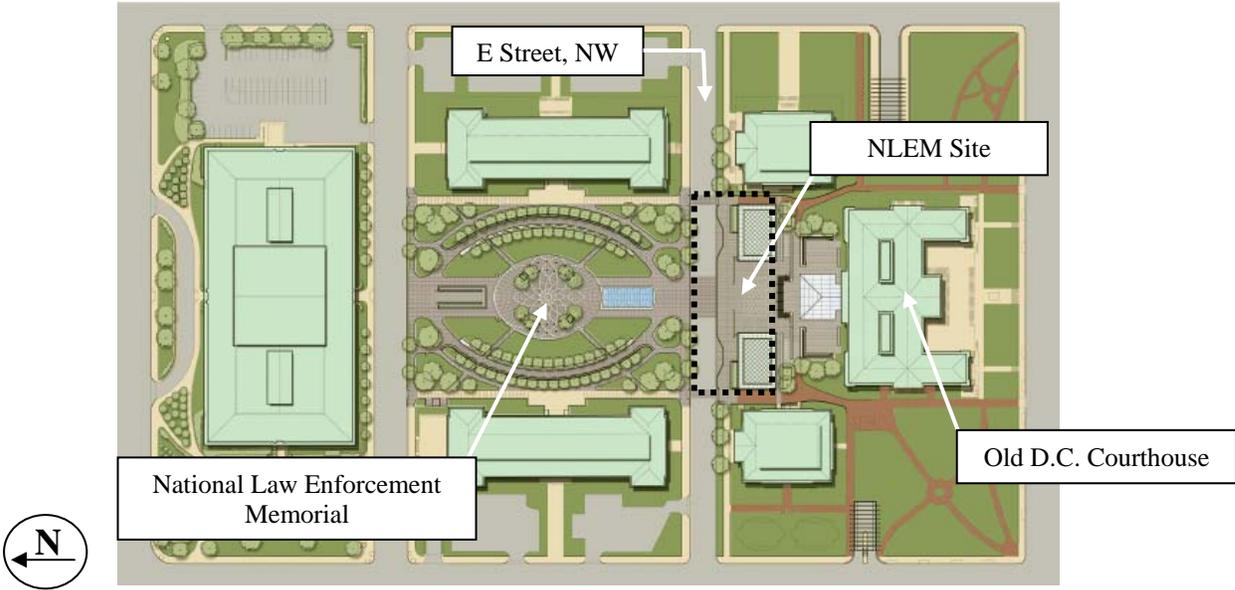
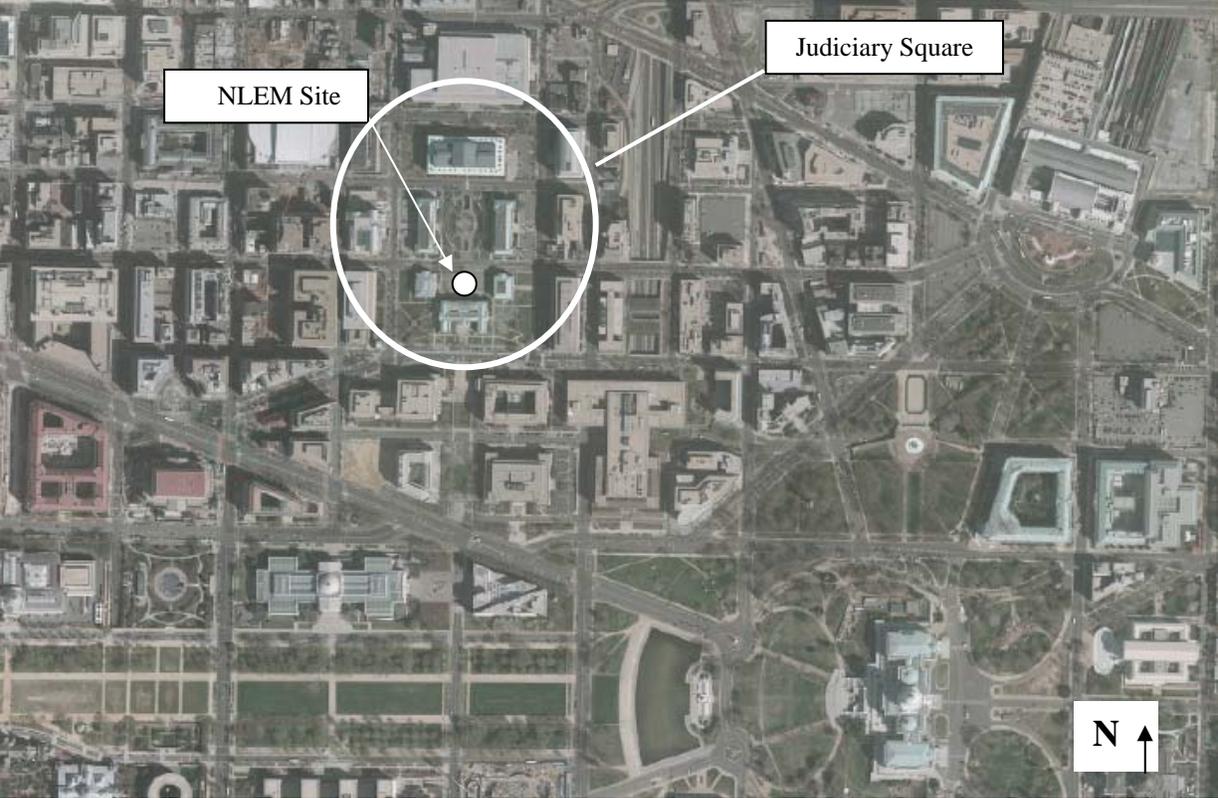
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## PROJECT DESCRIPTION

### Site

The project is located in Reservation 7 in Judiciary Square. The two entrance pavilions will be located on the south side of the 400 block of E Street, NW. The National Law Enforcement Museum (the museum or NLEM) will be constructed below a former parking lot that served the District of Columbia Courts, between Court Building C and the United States Court of Appeals for the Armed Forces, as well as below the right-of-way of the 400 block of E Street, NW. The remainder of the area south of E Street will be further developed, following excavation, as a plaza that will be shared by the museum and the D. C. Courts. The Commission approved final site and building plans submitted by the D.C. Courts for permanent and interim features of the plaza at the August 2004 meeting, with the understanding that the plaza design would be revised

by the museum's plaza design in future. The proposed plaza design, approved as a revised concept by the Commission at the April 2007 meeting, is now presented to the Commission for preliminary site and building plan review.



Background (most recent Commission review: revised concept, April 2007)

The Commission commented favorably at the April 2007 meeting on the pavilions and the site plan modifications and elements, “support[ing] the design as achieving a composition of plaza and perimeter security elements that resolves a variety of functional issues while responding to the design objectives of the Judiciary Square Master Plan and the security objectives of the D.C. Courts.”

The Commission directed the Fund “to continue to coordinate with the Courts in accordance with Public Law 106-942.”

In the revised concept, the pedestrian passage between the proposed retaining walls was widened from 36 feet to 55 feet, 7 inches, and the plaza grading modified accordingly. The Fund provided an in-depth analysis of proposed plaza grades to inform decisions about the need for retaining walls in the plaza. The Commission accepted the opening as approximating the 60-foot opening designed by the D.C. Courts in its 2005 interim plaza design.

Perimeter security in the form of a line of bollards in the opening between the retaining walls accommodated the requirements of the District of Columbia Courts, and the retaining walls were incorporated into the perimeter security line.

The Commission commented favorably on the glass skylights, whose surface would be flush with the stone pavers of the plaza.

The Commission supported the proposed plaza design, which included flush skylights in the lower runs of the ramps to the new Court entrance and proposed landscaped beds at the south side of each museum pavilion.

The revised concept drawings also included the size and placement of two lay-bys along the south curb of E Street, NW, to reflect the lay-bys in the Judiciary Square Master Plan, and information about the grading of the 400 block of E Street, NW. Further, the Fund demonstrated that it had secured agreement from the Department of Consumer and Regulatory Affairs for the suitability of emergency access from the east and west aisles.

The pavilion design incorporated improvements resulting from consultation with staff, the D.C. State Historic Preservation Officer, and others to lower the massing of the pavilions and align horizontal elements, thus allowing the pavilions to be perceived more compatibly in relation to the Old D.C. Courthouse and the adjacent court buildings.

The Commission directed the applicant to continue to coordinate with the D.C. Courts in accordance with Public Law 106-942. Staff had noted in the report that some elements of the revised concept might not comply with the project’s authorizing legislation, which stipulates that no above-ground portions of the museum be located within the 100-foot-wide area centered on the Old D.C. Courthouse. The retaining walls and portions of the revolving doors used for entering each museum pavilion project into the 100-foot-wide area. Additionally, the proposed landscaped beds at the south side of each pavilion may be prohibited by the legislation.

Current Proposal (Preliminary Site and Building Plans)



Current Submission: Plan (north at the top)



Current submission: Photograph of model, looking south from Judiciary Square

The preliminary site and building plans are identical or a further development of the elements seen by the Commission in April, and include the design of the pavilions as well as the plaza, including the retaining walls and bollards inside the south side of the E Street sidewalk, the glass skylights in the plaza and the lower runs of the ramps to the Courthouse, and the landscaped beds

south of each pavilion. In addition, plans and sections for the below-grade museum have been submitted.

As requested by the Commission at the April 2007 meeting, the current submission shows the retaining walls raised to a minimum of 30 inches in height to meet the D.C. Courts' security requirements.

The Fund's design of the plaza takes its cues from the D.C. Courts' plaza design, with the substitution of flush translucent pavers for the lighter colored granite pavers shown in the Courts' plan. The Commission commented favorably on this element at the previous meeting. The Courthouse ramps will be disassembled prior to the excavation of the museum, after which the Fund will rebuild the upper ramp runs as previously designed and constructed by the D.C. Courts; the Fund proposes rebuilding the lower runs with their slope reduced to 5% in order to eliminate the need for handrails. The Fund also proposes inserting flush glass pavers as skylights in the lower ramps. The Commission supported this redesign of the lower runs of the ramps at the April 2007 revised concept review.

The Commission commented favorably on the pavilion design at the April revised concept review. The museum entry pavilions are consistent with the public law establishing the museum, which allows a height of 25 feet measured from the E Street curb at the centerline of the west pavilion. The exterior height of the pavilion is 25 feet, with the exterior walls of the pavilion's peristyle rising to a height of 16 feet 4 ½ inches. The public law allows up to 10,000 square feet of total area; the pavilions as designed total 7,695 square feet in area. Each measures 52 feet by 77 feet. The design of the pavilions has been refined to take into account the sloping site. The height of the peristyles relate to the height of the belt course and portico base of the U.S. Court of Appeals of the Armed Forces and the granite base of the east pavilion relates to the height of the base of Court Building C. The pavilions will be clad in a transparent low iron glass. At the outer ends of the two pavilions (east and west), interior museum walls will be clad in opaque glazing to hide core functions and program areas. Exhibit shipping and receiving will be accommodated on the east side of the east pavilion through a recessed entrance.

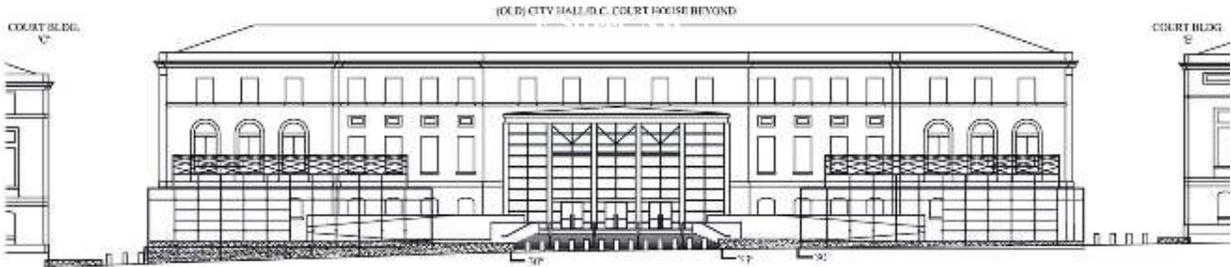
DCRA previously certified that the Old D.C. Courthouse, Court Building C, and the Court of Appeals for the Armed Forces can be accessed from either E Street or from Indiana Avenue by emergency personnel responding to an incident at this location.

The placement of the retaining walls, the pavilions' revolving entrance doors, and the landscaped beds south of each pavilion continue to be shown as they appeared in the April 2007 submission.

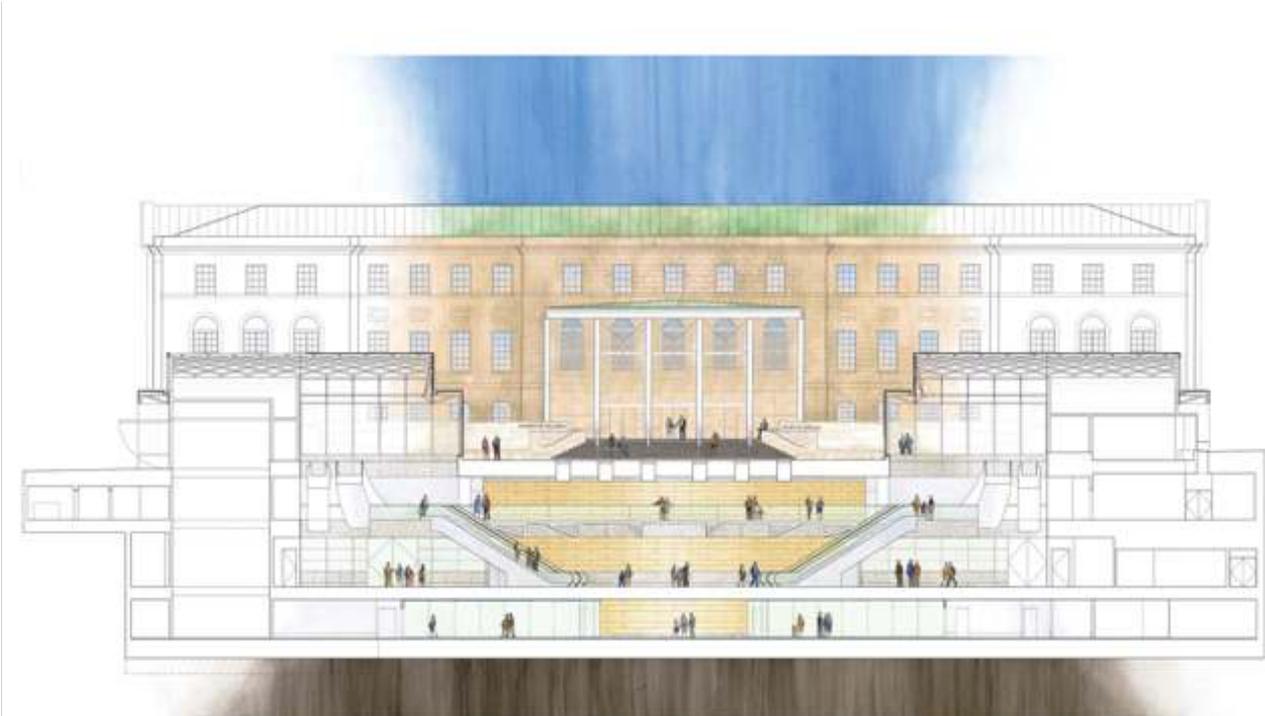
The applicant demonstrated in the previous submission that the elevation of E Street must be raised in order to narrow the street's cartway (in conformance with the Judiciary Square Master Plan). The elevation of the north curb of E Street along the National Law Enforcement Officers Memorial will not be raised. Raising the elevation of E Street must be coordinated further with the Courts' plans for narrowing E Street and widening the south E Street sidewalk, as well as with the District of Columbia Department of Transportation and Office of Planning. The redesign of E Street is an element of the approved Judiciary Square Master Plan.

In response to the Commission's circulation of an environmental assessment for the National Law Enforcement Museum, three comment letters were received. The comments and Commission staffs' responses are described in the National Environmental Policy Act section of

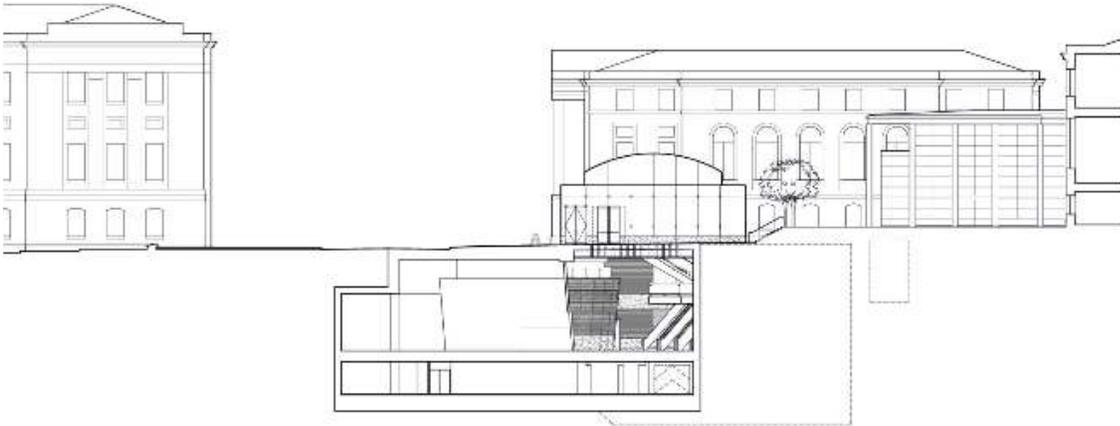
this report and are stated as part of the recommended Commission Action. Prior to submission of final site and building plans, the Fund must initiate further review, coordination, mitigation, and implementation with all three agencies that responded to the EA.



E Street elevation looking south



Center plaza section looking south



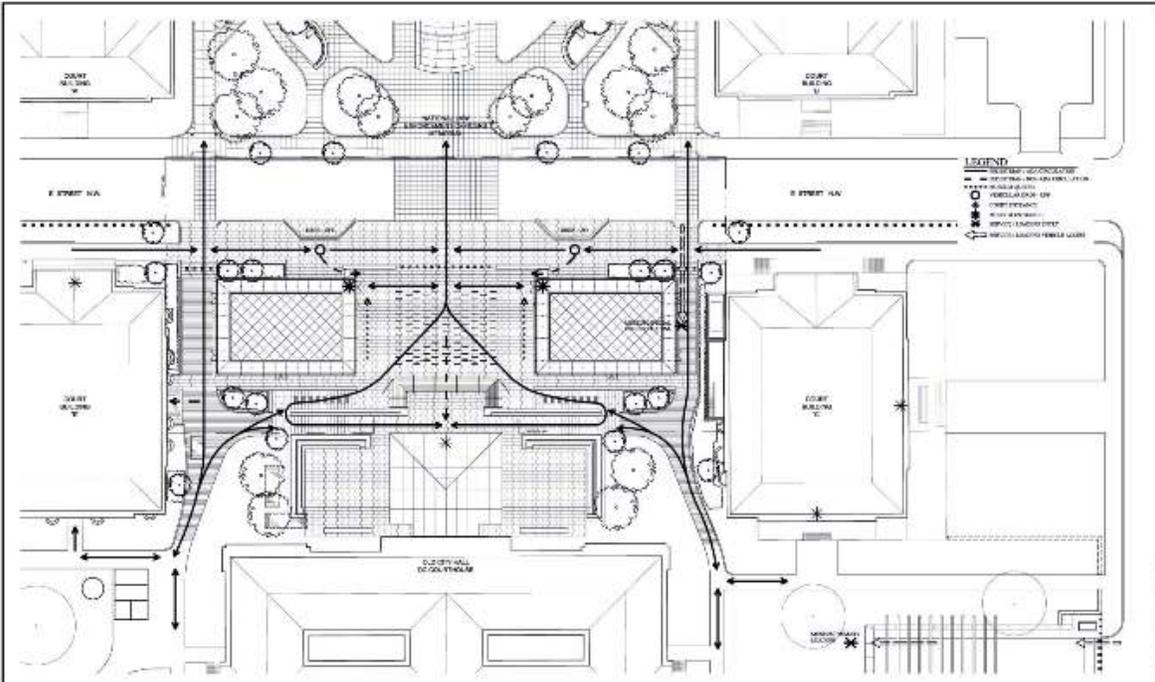
Center plaza section, looking east



Photograph of model: west pavilion



Rendering of pavilions, looking east on E Street, NW



Circulation Plan

## ANALYSIS

*The staff recommends that the Commission approve the preliminary site and building plans for the National Law Enforcement Museum. The submission is similar or identical to the revised concept plans reviewed favorably and supported by the Commission at the April 2007 meeting.*

The April 2007 revised concept plan reflected extensive consultation between the Fund and the Courts, as well as with the Commission, National Park Service, Commission of Fine Arts, and the D.C. State Historic Preservation Officer in furtherance of the two adjacent development projects and in meeting the requirements of the museum's authorizing legislation. The revised concept plan reflected substantial progress and agreement on a number of elements, including perimeter security, shared access to the loading facility, and a refined pavilion design that responded more compatibly to the Courts' historic buildings.

### Environmental Assessment

The staff's circulation of the environmental assessment by the Commission resulted in comments from three agencies: the Washington Metropolitan Area Transit Authority (WMATA), the District of Columbia Office of Planning, and the National Park Service. The Executive Director made a Finding of No Significant Impact (FONSI) on November 29, 2007, conditioned upon the applicant's further coordination, mitigation, and implementation of plans according to the requirements of these and other agencies. The conditions of the Executive Director's Finding are stated in the Finding and listed in the recommended Commission Action on page 2 of this report.

The D.C. Office of Planning (DCOP) responded to the environmental assessment for itself and on behalf of the District Department of Transportation, stating that the Fund had not yet coordinated construction of the museum and the subsequent reconstruction of E Street with DDOT and that it should provide mitigation to off-set the proposed two-year closure of the 400 block of E Street during construction; that it should provide mitigation for the removal of three street trees; that it should develop low impact development (LID) landscape practices in the design of the plaza to decrease storm water run-off; that it should work with DDOT to resolve outstanding transportation and mobility issues; that it should create a 6-foot-wide pedestrian walkway on E Street that is open during construction; and that it should determine the location of PEPCO vaults in order to minimize their impact on the environment and to pedestrians.

DDOT also recently reiterated concerns about the length of the two lay-bys on the south side of E Street in front of the museum pavilions. The dimensions and placement of the E Street lay-bys was coordinated through the Judiciary Square Master Plan, approved by the Commission on August 4, 2005. Following further discussion and reference to the Master Plan, the Director of the D.C. Department of Transportation informed staff on November 21, 2007 that, "DDOT believes that the relocation of the bus drop-off from the south curb of the 400 block of E Street, NW to the east curb of the 500 block of 5<sup>th</sup> Street, NW will have a negative impact on pedestrian safety for groups visiting the Museum. However we will work with the DC and US Courts and the National Law Enforcement Museum to ensure pedestrian safety in the area."

The three letters received by staff in response to the circulation of the environmental assessment were posted on the Commission's website on November 20, 2007. These concerns, and a written response from the Fund to the issues raised in the letter from the District Office of Planning, led

the Acting Executive Director to make a finding of no significant impact on November 29, 2007 with the conditions described in the Finding and in this report.

Coordination with the D.C. Courts in accordance with Public Law 106-942

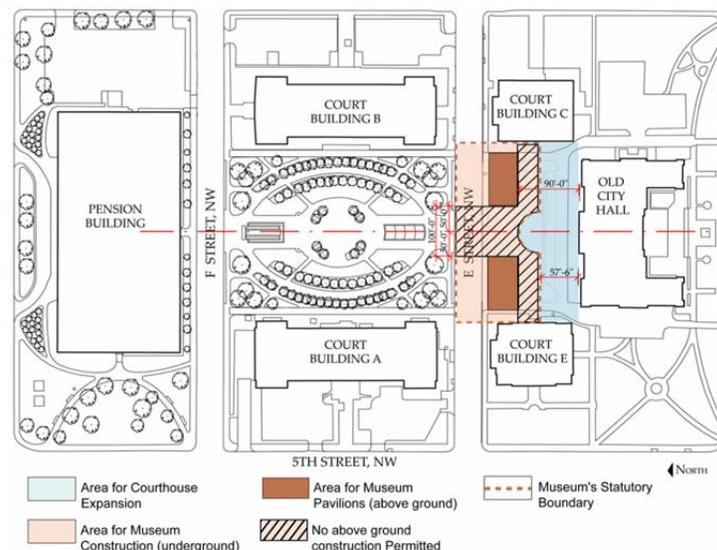
Prior to the April 2007 meeting, the staff had identified three elements on which the Fund and the D.C. Courts had not reached consensus: the retaining wall, revolving doors, and landscape beds. The Commission supported these elements in the revised concept plan and the staff has taken that direction in recommending approval of them in the current submission. Staff continues to be of the opinion that these elements achieve the best balance of urban design and functional and architectural objectives, even though these aspects of the proposed design may not meet the requirements of the project’s authorizing legislation.

The Commission action at the April 2007 meeting “support[ed] the design as achieving a composition of plaza and perimeter security elements that resolves a variety of functional issues while responding to the design objectives of the Judiciary Square Master Plan and the security objectives of the D.C. Courts.”

The proposed retaining walls and portions of the revolving doors used for entering each museum pavilion are placed within the 100-foot-wide axis. A third element, the landscaped beds to the south of each pavilion are proposed for an area where no above ground construction is permitted by the legislation.

The museum construction is limited to a distance of 57 feet, 6 inches from the façade of the Old City Hall plus an area extending beyond that line and comprising a part of a circle with a radius of 40 feet measured from a point that is 59 feet, 9 inches, from the center of that façade.” The legislation also requires that “above ground, there is a no-build zone of 90 feet out from the northernmost face of the north portico of the existing Old City Hall” and that “no portion of the aboveground portion of the Museum is located within the 100-foot wide area centered on the north-south axis of the Old City Hall.”

The following diagram, generated by staff, demonstrates the legislated building restrictions.



The legislation requires the Fund to "...consult with and coordinate with the Joint Committee on Administration of the District of Columbia Courts in the planning, design, and construction of the Museum." It also provides that "The design and plans for the Museum shall be subject to the approval of--(A) the Secretary [of the Interior]; (B) the Commission of Fine Arts; and (C) the National Capital Planning Commission."

In the most recent correspondence received by staff on this subject, the D.C. Courts wrote in March 15, 2007 that "any proposed design elements which would limit or compromise the Courts' security and impact unencumbered access to the Court will be strongly opposed."

The Fund and the D.C. Courts have continued to exchange information. The staff's opinion is that access to the Courthouse is not impeded by the plaza design. As requested by the Commission at the April 2007 meeting, the retaining wall between the sidewalk and the plaza has been raised to a minimum of 30 inches in height in order to be used as a security barrier.

## CONFORMANCE

### Comprehensive Plan for the National Capital

The proposal is consistent with the policies and objectives for Judiciary Square as stated in the District of Columbia Elements of the Comprehensive Plan for the National Capital.

The proposal is partially consistent with the Federal policies that apply to Judiciary Square. In the Preservation and Historic Features Element of the Comprehensive Plan, policies state:

- "Identify and protect both the significant historic design integrity and the use of historic landscapes and open space."
- "Protect the settings of historic properties, including views to and from the sites where significant, as integral parts of the character of the property."
- "Ensure that new construction is compatible with the qualities and character of historic buildings and their settings ..."

The D.C. State Historic Preservation Officer concurred with the Executive Director's determination that the museum pavilions constitute an adverse effect on the open space character of and views within Judiciary Square and on the Old City Hall. A memorandum of agreement (MOA) was drafted and circulated for preliminary comments in 2006. Staff will complete and execute the MOA before the Commission reviews final site and building plans. The DC SHPO has concurred that the refinements to the pavilion design in height, massing, and transparency constitute the most significant mitigation of the adverse effect. In addition, an educational component on the history of Judiciary Square is envisioned by the applicant and will be further defined in the MOA.

### National Capital Urban Design and Security Plan

The museum will not require perimeter security devices in the surrounding public space. The approved concept for perimeter security for the D.C. Courts includes a security line placed between the two above-ground museum pavilions and at the east and west drive aisles near Court Building C and the U.S. Court of Appeals for the Armed Forces. This security line will run across the north edge of the shared plaza, which is also the museum roof. The Fund incorporated this security line into its revised concept submission, and has hardened its proposed retaining walls to become part of the security line. This approach is supported in the Commission's Urban Design and Security Plan and policies.

### Judiciary Square Master Plan

The museum plaza design complies with the requirements of the approved Judiciary Square Master Plan in providing perimeter security for the District of Columbia Courts and in providing a wider opening through the north end of the plaza that is compatible with that approved as an interim plan for the District of Columbia Courts. Further, the plaza design and dimensions incorporate the narrowing of the E Street right-of-way by eleven feet and the widening of the sidewalk on the south side.

### National Environmental Policy Act (NEPA)

The Commission serves as lead federal agency for the purposes of the National Environmental Policy Act. Prior to preliminary approval, the Executive Director must issue a finding on the Environmental Assessment. The NCPC, as the federal agency responsible for the prepared EA, dated September 2007, requested public comments from September 28, 2007 to October 29, 2007. Consistent with the Commission's environmental procedures, the EA was made available and announced on the NCPC website starting September 28, 2007.

NCPC staff has found few potential environmental impacts from the proposed action, with most being short-term impacts. Those that exist are addressed by mitigation through project attributes or construction process actions that are presented in the EA and are reflected in the staff's recommended action, which conditions the finding and project approval on required coordination with other agencies and specific mitigation actions. These include:

- Obtaining concurrence from the Washington Metropolitan Area Transit Authority (WMATA) on the final site and building plans prior to submission to the Commission.
- Minimizing adverse effects to the historic court buildings and Judiciary Square by maintaining the open space and preserving the view corridor between the D.C. Courthouse and the Pension Building as shown on the current plans; maintaining the transparency of the entry pavilions as shown on the current plans; and, continuing participation in the Section 106 consultation leading to the execution of a Memorandum of Agreement prior to submission of final site and building plans to the Commission.
- Minimizing potential adverse traffic impacts resulting from the construction of the museum by updating as necessary and implementing plans filed in accordance with the requirements of the D.C. Department of Transportation to manage the re-routing of traffic

from E Street during construction, and to manage construction activities and impacts at the site, especially during peak morning and evening weekday traffic periods.

- Demonstrating the incorporation of low intensity development (LID) practices in the final landscape plans for the plaza.

Responses to the EA were received from the Washington Metropolitan Area Transit Authority, the District of Columbia Office of Planning, and the National Park Service, on issues raised by or information discussed in the EA, as noted below:

Comments received and considered by NCPC

*Comment Letter 1*

From: Jim Ashe, Manager of Environmental Planning and Compliance, WMATA Engineering Services

Letter Dated: October 24, 2007

*Comment 1:* The EA analysis appears to omit other impacts to the WMATA system. The museum is located immediately adjacent to the WMATA's Red Line and the Judiciary Square Metrorail Station. Construction of the museum would require re-location of underground utilities that support this station, as well as coordination of the structural engineering of the new museum and its potential effects to the underground station and tunnel.

Next, changes in traffic during construction might affect WMATA bus routes and such change will require coordination.

The National Law Enforcement Officers Memorial Fund, Inc. and its contractor have initiated the coordination of this project with WMATA. WMATA requests that NCPC include a provision that requires the NLEOMF to continue its coordination with WMATA and obtain WMATA concurrence before construction.

*NCPC Response:*

In the EA, at page 52, the NCPC evaluation notes approximately 9,400 travelers enter or exit the Judiciary Square Station. Also at that point, the EA recounts that WMATA also provides Metrobus service along E Street with stops on each city block.

NCPC staff concurs with the recommendation by WMATA and notes that a provision for the final review will include documented demonstration of review and approval from WMATA of the final NLEM plans.

*Comment Letter 2*

From: Harriet Tregoning, Director of the District of Columbia Office of Planning

Letter Dated: October 19, 2007

*Comment 1:* To off-set the two year closure of E Street during construction; the lost revenue from on-street parking and rent of vault space, and lack of programming in the plaza, DCOP recommends implementing the sidewalk widening and improvements identified in the Judiciary Square Master Plan for the entire block of E Street between 4<sup>th</sup> and 5<sup>th</sup> Streets.

*NCPC Response:*

The applicant has indicated to NCPC staff that discussions with the Mayor in 2005 noted street improvements and the narrowing of the street in the vicinity of the proposed museum would be accomplished by the NLEM and D.C. Courts as required by DDOT and in conformance with the NCPC approved Master Plan. The Fund will be meeting with DDOT to complete street plans in the coming weeks and in development of the final design for NLEM.

It should be noted that discussions have taken place over the past two years with the District of Columbia's Department of Transportation, WMATA, and The National Park Service on the disposition and design of E Street. Regarding the E Street improvements, the Fund will reconstruct that portion of E Street under its control which will include two travel lanes, a bicycle path on the north and south sides of the street, the widening of the sidewalk and the two lay-by areas, in accordance with the Master Plan. The bus drop-off presently is now located along 5<sup>th</sup> Street and was a compromise, as a result of the D.C. Court's concern about having buses stopping and standing along E Street within the view corridor between the Pension Building and the Old City Hall Courthouse building, and security concerns about such large vehicles in proximity to Court buildings. The location of the bus drop-off was the subject of extensive discussions by and between NCPC, Commission of Fine Arts, DDOT and the D.C. Court of Appeals, and the agreement for the Judiciary Master Plan was a location that provided an access point to the museum for buses was along the east side of 5<sup>th</sup> Street between E and F Streets.

With regard to the consideration of the underground space as a vault, the Fund in researching its files finds the museum site is federal land, U.S. Reservation No. 7, and under the signed Public Law (106-492) authorizes the Fund to design and construct the museum at that location. Consequently, the District has no authority to collect vault space rent from this property. The Congress defined the museum boundaries and its disposition in the legislation that authorized the project.

As to the programming of plaza space, the design of the plaza has been carefully crafted as a space that accommodates through movement of pedestrian traffic, north to south, from the Pension Building (National Building Museum), through the Memorial to the D.C. Court of Appeals Courthouse and beyond. It also responds to the joint requirements and program needs, including Americans with Disability Act compliance features (universal access) for both the NLEM and the D.C. Court of Appeals.

*Comment 2:* Include Low Impact Development practices in the landscaping of the plaza design to decrease stormwater run-off and minimize the appearance of the security walls at the entrance to the plaza.

*NCPC Response:*

Upon completion, the museum would not increase the amount of impervious surface area on the site. A stormwater detention chamber will be used to restrict stormwater discharge to a flow rate equal to what it would be if the site was entirely pervious. Portions of the roof of the museum will have bio-retention landscape area, near the plaza towards the street, as limited size planting areas. Stormwater collected on the site will be routed through a sand filter that would further delay the stormwater and improve the water quality by filtering out contaminants prior to discharge into the stormwater system. This feature is located on the Mezzanine level below the East Entry Pavilion and in combination with planting beds to the north and south of the museum pavilions, function to decrease run-off. The planting beds are state-of-the-art "Structural Cells", making the museum one of the first projects in the District of Columbia to utilize this technology which allows each square foot of Structural Cell to equal 10 square feet of regular drainage area.

Due to full negotiations of the property use limits established by public law, the extent of agreement between the D.C. Courts and NLEM on the existence of additional landscape elements has been contentious, with only the present elements agreed to by both parties. Moreover, the realities presented by the constraints of the height of the water table underground and its impacts to underground space, the grades that must be met at the sidewalks, and the bottom landing of the Court's monumental stair, do not allow adequate height to incorporate actual sustainable planting beds within the plaza nearer to the Courts. As with the plaza area, the areas to either side of the security walls (which also affect the grade transition between the relatively level plaza and the sloping sidewalk) are a part of the roof of the museum and the structural constraints do not allow planting areas to be depressed into the roof. Staff continues to be of the opinion that the Fund's proposal achieves the best balance of urban design, functional use, and architectural objectives.

*Comment 3:* The work with DDOT to resolve the outstanding transportation and mobility issue regarding the location of the bus drop-off, small vehicle lay-bys, street lights, bike lanes and six-foot pedestrian walkway on E Street that is to remain open throughout construction remains outstanding.

*NCPC Response:*

The bus drop-off and lay-by issues are discussed above at page 11. The EA notes measures during construction that would be implemented and coordinated by NLEM to undertake construction of the underground building. As portions of the NLEM construction would be permitted by District of Columbia responsible agencies to begin its implementation, NCPC finds the details of the street light locations, bike lane location and dimensions, and temporary provisions for the presence and location of pedestrian walking routes would be under the review and jurisdiction of the District Department of Transportation. The Fund has scheduled, and will continue to schedule, meetings with DDOT to define final requirements of the museum construction.

Specifics as to lights include six street lights in conformance with the D.C. Streetscape Standard specification. Two lights are on the north side of E Street and four on the south side. The spacing of the new street lights was established as follows: The street light on the north side E Street to the west of the centerline axis between the Pension Building and the Old City Hall Building is

placed where there was a single, asymmetrically located light previously. A counterpart is being placed symmetrically on the east side of the axis and in line with the original on the north side of E Street. The resulting spacing is 60 feet on center. The two fixtures mentioned are mirrored on the south side of the street so that they will similarly frame the view corridor axis. The two additional fixtures on the south side are centered on the planters that are attached to the museum's pavilions in the widened sidewalk area between the lay-bys and the emergency drive curb cuts.

Bike lanes will be provided and demarcated in accordance with the Judiciary Square Master Plan as addressed in the EA, and the Fund will be providing bike lanes on both sides (north and south) of E Street.

A six-foot wide temporary walkway will re-route pedestrian traffic around the construction site to the north, through a portion of the National Law Enforcement Officers Memorial for the duration of the construction of the museum. This walkway is shown on the Traffic Control Plan, which was filed with DDOT when the Fund obtained its permit for temporary closure of E Street between 4<sup>th</sup> and 5<sup>th</sup> Streets, NW.

*Comment 4:* Resolve non-compliance with the Downtown Streetscape Regulations by working with DDOT to develop a Memorandum of Agreement for maintaining non-standard materials in the sidewalk and necessary mitigation for removing three existing street trees.

*NCPC Response:*

See response to Comment 3. Similar review of the concerns cited for the sidewalk surfaces and removal of trees would be discussed in achieving the permitting of the construction by local authorities. If the appropriate mechanism for achieving the review is a Memorandum of Agreement, the NLEM officials have indicated they will achieve completion of an agreement.

The three trees noted by the comment are being removed by the D.C. Courts project. Six trees affected by the NLEM proposal are being replaced in the final design of the NLEM site. Of those, four are street trees on the Memorial side of E Street and two are part of the Courts' construction that are disturbed by the construction to build the museum.

The Fund indicates to NCPC its full intent to maintain all sidewalk surfaces in all areas of the museum project. The sidewalks within the boundaries of the museum site are a part of the museum and therefore the Fund, by authorization of the public law, already has the responsibility to provide this maintenance.

*Comment 5:* NLEM should determine the location of PEPCO vaults so that their impact on the environment can be assessed.

*NCPC Response:* According to NLEM officials, the final design plans of the NLEM will indicate that the PEPCO vaults are located north of the NLEM building within the National Law Enforcement Officers Memorial property. This relocation has been concurred with by the National Park Service. In addition, the staff has responded to this comment specifically in the Executive Director's recommended action (page 2 of this report).

Comment Letter 3

From: John G. Parsons, Associate Regional Director, Lands, Resources and Planning  
National Park Service, National Capital Region  
Letter Dated: November 1, 2007

*Comment 1:* While the National Park Service is fully supportive of the museum and its location, the EA could have included a listing of the alternative sites and buildings that were recommended or consider for use by the Memorial Fund.

*NCPC Response:*

NCPC staff notes the implementing legislation for the project provides parameters that noted the museum is to be bounded by court buildings but was not specifying or allowing the use of those buildings. In regard to alternative design configurations, the EA notes the progression of the museum design from earlier concept proposals to the present preliminary design phases.

*Comment 2:* The EA should include the memorial to General Jose de San Martin within Judiciary Square from 1927-1970, which preceded the conversion of much of the open space to parking. The San Martin memorial was relocated to Virginia Avenue and the square ultimately complimented by the National Law Enforcement Officers Memorial. The EA should discuss the Joseph Darlington memorial and the Lincoln Statue erected by the citizens of the District of Columbia.

*NCPC Response:*

NCPC staff notes the clarification of the previous memorial location history regarding the San Martin statue. It is noted also that the statue was removed from Judiciary Square prior to the development of the National Law Enforcement Officers Memorial. With regard to the Darlington Statue, Sculptor Carl Paul Jennewein created the golden bronze figures of a nymph and faun above a marble fountain in the Judiciary Square area at 5<sup>th</sup> and D Streets, NW, in 1923 at the request of Joseph James Darlington's colleagues from the Washington Bar Association, shortly after Darlington's death. The statue remains in the open space where it originally was located.

The square featured the Lincoln Memorial Statue as a life-size, marble statue of Abraham Lincoln in front of the Courthouse and was dedicated on the third anniversary of Lincoln's assassination, on April 15, 1868. It was the first public monument to Lincoln. Citizens quickly raised the funds for the statue. Washingtonian Lot Flannery was the sculptor and the statue was first placed atop a tall column. Placed in storage when the Courthouse was enlarged from 1919-1920, the statue was re-erected on its current pedestal on April 15, 1923 and remains on the south entrance to the Courthouse.

*Comment 3:* The EA demonstrates a visual simulation on page 93 that the NPS hopes is improved with the placement of a more substantial handrail that is reminiscent of the railing of the entry steps to the National Gallery of Art at Madison Drive, NW.

*NCPC Response:*

NCPC notes the simulation is of the DC Courts stairs from the north-facing Addition. The design review of final drawings had been accomplished and finalized by the Commission of Fine Arts and the NCPC for that project, with final project plans approved on August 5, 2004.

*Comment 4:* The NPS notes the construction of the museum is to be preceded by its approval of the plans and the determination of sufficient funding. The NPS is accomplishing a review of the museum plans and in the not too distant future will receive information to determine the availability of funds to complete the museum. The NPS would appreciate learning of any concerns from the District Courts and other Court representatives who have received the EA.

*NCPC Response:*

NCPC appreciates the NPS efforts for accomplishing the museum, and to date of this FONSI, has received no additional comments or concerns by the DC Courts.

National Historic Preservation Act (NHPA)

The Commission serves as lead federal agency for the provisions of the National Historic Preservation Act. The staffs of the Commission, the D.C. State Historic Preservation Office, the Commission of Fine Arts, and the National Park Service, as well as representatives of the Committee of 100 and the D.C. Preservation League, have participated in consultation meetings over the past several years.

The consultation has resulted in the improved massing of the pavilions and their alignment and proportion in relation to the three court buildings surrounding them. The lowering of the cornice height of the pavilions, their greater transparency, and their improved massing were significant steps forward in the development of the design.

The Executive Director determined, and the DC SHPO concurred, that the placement of pavilions in Judiciary Square would have an adverse effect on Old City Hall, a National Historic Landmark, and the character of Judiciary Square's architectural and open space setting. The setting is also part of the Pennsylvania Avenue National Historic Site. A Memorandum of Agreement (MOA) has been drafted and was circulated among the parties for comments in 2006 and will be reviewed and updated by all the parties and re-circulated and executed prior to the Fund's submission of the final plans.

Staff's opinion is that the improved architectural compatibility of the pavilions and the refinements to the Court's security barrier, in relation to the buildings and setting of Judiciary Square, constitute the major minimization measures to reduce the adverse effect. The DC SHPO has informally concurred.

The Fund's applicant team includes an architectural historian and an archaeologist, as well as the architects. The team has conducted further research on the history of the use of Judiciary Square. The possibility of an educational exhibit on the history of Judiciary Square has been discussed

and will be further defined in the MOA. In addition, a publication or informational brochure on the archaeological record of the site has been discussed.

## CONSULTATION

### Coordinating Committee

The Coordinating Committee at its January 10, 2007 meeting reviewed the proposal and forwarded it to the Commission with the statement that the project had been coordinated with all agencies represented. The participating agencies are: NCPC, the District of Columbia Office of Planning, the National Park Service and the General Services Administration.

### Commission of Fine Arts

The Commission reviewed the revised concept design at its June 21, 2007 meeting, specifically those features not reviewed previously: the perimeter security elements, and the proposed new configuration of the curbs, sidewalks, two 40-foot lay-bys and the narrowed E Street roadway in the 400 block of E Street, NW. The Commission approved the concept design.