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December 2011/January 2012

# CHRS Highlights Citizen Participation in Federal Review of the Virginia Avenue Tunnel Project

By Beth Purcell and Shauna Holmes

On November 14, 2011, CHRS held a workshop, *How to be Heard During Federal Project Reviews*, for people interested in how to participate effectively in federally-mandated environmental and historic preservation reviews for projects on and near Capitol Hill, such as CSX's Virginia Avenue Tunnel expansion. The workshop primarily addressed two laws—the National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act. Regulations implementing both laws offer citizens the right to information about proposed projects as well as opportunities to make their views and concerns known to the involved federal agency and project proponents. The Federal Highway Administration (FHWA)

is the lead federal agency for the Virginia Avenue Tunnel project, with the National Capital Planning Commission (NCPC) and the National Park Service (NPS) also involved.

Transportation Committee Chair Monte Edwards moderated the workshop and introduced the two speakers: Peter Byrne, a professor at Georgetown University's Environmental Law and Policy Institute, and Shauna Holmes, CHRS Second Vice President and an expert on Section 106 review who worked for the agency responsible for the Section 106 regulations. Attendees included ANC commissioners, Capitol Hill residents who live near the Virginia Avenue Tunnel, and representatives of interested organizations.

## NEPA (42 USC 4332(C))

Professor Byrne explained that NEPA requires FHWA to consider a project's effects on the environment and to consider alternatives. "Environment" includes not only matters such as air and water quality, noise, vibrations, traffic, wildlife, and hazardous materials, but also historic and cultural resources. However, NEPA does *not* require avoiding or minimizing effects, and does *not* require choosing the alternative with the least harmful environmental effect. In some cases, an agency will prepare a detailed

*Continued on page 8*

## CHRS Schedules December 12 Meeting on Hine PUD Application

The CHRS Zoning Committee and Board of Directors have scheduled a public meeting for 7:00 pm, December 12, 2011, at the Hill Center, to hear a presentation on the Hine PUD (Planned Unit Development). The PUD was filed Wednesday, November 23. For more information, contact Gary M. Peterson, Chair of CHRS Zoning Committee, at [pgarylaw@aol.com](mailto:pgarylaw@aol.com) or 547-7969.

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# President's Column: Capitol Hill's "Big Dig" — The Virginia Avenue Tunnel

By Beth Purcell

The Virginia Avenue rail tunnel runs 4,000 feet under Virginia Avenue, SE from 2nd Street to 11th Street, within the Capitol Hill Historic District. The current tunnel has only one track. It needs to be expanded to two tracks and lowered to handle double-stacked intermodal container freight trains. This project appears very worthwhile and needed. We understand that the tunnel will be expanded using the "cut and cover" method: The soil and street pavement will be removed, a temporary road surface will be constructed over the trench/new tunnel, and a temporary surface-level run-around railroad track will be constructed near Virginia Avenue.

The project raises many environmental and historic preservation issues, including:

- Many cubic yards of soil will be dug up and trucked out of the neighborhood.
- Construction will cause noise and vibration.
- Construction offices, equipment, and supplies must be located somewhere near the project.

This issue of the *News* outlines citizens' opportunities to be heard in the federal regulatory process that will set the rules for expanding the Virginia Avenue Tunnel. See also [www.chrs.org](http://www.chrs.org). On November 14, 2011, CHRS held a workshop on how citizens can participate.

If you live or have a business on or near Virginia Avenue, you should seriously consider participating in the public process under the National Environmental Policy Act (NEPA), Section 4(f) of the Department of Transportation Act, and Section 106 of

the Historic Preservation Act (Section 106). The public process for all three Acts will likely be combined.

The Section 106 review process is especially relevant for people living on or near Virginia Avenue. The lead federal agency, Federal Highway Administration (FHWA), must consider the views of the public in reaching decisions on any adverse effects on the Capitol Hill Historic District and on avoiding, minimizing, or mitigating adverse effects on historic properties, such as the Capitol Hill Historic District.

In general, buildings constructed before 1946 in the Capitol Hill Historic District are "contributing buildings." Consulting parties with a demonstrated legal or economic relation to the project area are entitled to additional participation rights. If your building was built before 1946, you should seriously consider writing to FHWA and requesting "consulting party" status under Section 106. If your house is newer, but adjacent to pre-1946 houses, also consider requesting to be a consulting party. The public process is underway. ★



PHOTO COURTESY NORMAN METZGER

Marine Corps Brass Quintet at Hill Center grand opening celebration.

## Hill Center Grand Opening on November 19

The Hill Center is now officially open! The Old Naval Hospital has been transformed into a community center holding classes, art shows, and special events. The celebration on November 19, which welcomed the whole community, included music by the Marine Corps Brass Quintet. A number of CHRS events are being held at the Hill Center this fall, so come to the events, and look around!

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[www.CHRS.org](http://www.CHRS.org)

Celebrating more than 50 years helping to preserve and protect Capitol Hill's residential character, the Society is the largest civic association on Capitol Hill, and one of the largest in the District of Columbia. From the beginning, the Society has played a key role in maintaining the diverse, residential character of our neighborhood. With your participation, we will continue to do so for many years to come.

To start or renew a CHRS membership:

- ★ On the web at [www.CHRS.org](http://www.CHRS.org)
- ★ Call (202) 543-0425; choose option 2
- ★ Pick up a form at one of our meetings

Starting at just \$25 per year for a single membership, it's a great deal.

# CHRS Endorses Updated Window Guidelines

By Janet Quigley

The DC Historic Preservation Review Board (HPRB) has adopted new Design Guidelines for Window Repair and Replacement that provide increased flexibility for owners of historic homes. The guidelines, approved October 27, stress that repair is preferable to replacement for many reasons, but clarify that alternatives to wood such as fiberglass, wood composites and metal will be considered if they are able to replicate the appearance of wood or other original material.

In a letter of support, CHRS commended the guidelines for being helpful to owners while preserving respect for the historic appearance of buildings, and welcomed HPRB's reliance on visual aspects in evaluating replacement windows rather than simply requiring an "in kind" replacement of wood windows. This more-nuanced approach allows for inclusion of new materials that may fit the criteria now or in the future, keeping in mind that the life span of many new materials has yet to be verified. CHRS also supported the emphasis on window retention and repair, noting that companies selling replacement windows have been very effective in persuading people that their products are the only solution, particularly in terms of energy efficiency, when in fact restored windows can provide comparable efficiency.

The new report includes many photographs illustrating "do's" and "don'ts" such as a pocket window that is noticeably smaller than its window opening and examples of styles that match or are compatible with surrounding structures. Items

still prohibited include vinyl windows (which so far do not approach the appearance of wood windows), "sandwich" muntins (dividers set in between panes of glass rather than on their exterior), and in most cases aluminum capping. Permits are still required for replacement windows but not for repairs, painting, storm windows, screens or security bars.

The guidelines make an environmental case for window repair, which promotes sustainability and energy efficiency.

- **Quality, Craftsmanship, Durability:** Windows made before 1940 used slow-growth wood that is harder and denser than today's lumber, and is more resistant to rot and insects. With proper maintenance, slow growth wood windows can last over 100 years.
- **Ease of Repair:** Unlike today's windows, older windows are designed to be disassembled so that individual components can be restored and upgraded.
- **Embodied Energy:** The total energy expended to create, transport and install a product is conserved by retaining historic windows, with no toxic by-products. Accomplishing all work locally yields additional economic and sustainability benefits.

HPRB's Window Repair and Replacement design guidelines can be found at [www.preservation.dc.gov](http://www.preservation.dc.gov) under Preservation Services, and at CHRS.org's Resources and Links. The DC Preservation League maintains an online directory of contractors who specialize in older buildings at [www.dcpreservation.org](http://www.dcpreservation.org). ★

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# Historic Preservation Briefs

By Nancy Metzger

## Council Considers Historic District Notification Bill

There is renewed hope that the city will finally have a system to remind owners of historic landmarks and properties within historic districts about their responsibilities to obtain permits before embarking on exterior renovations and alterations. On October 25, DC Council Chairman Kwame Brown held a Committee of the Whole hearing on Bill 19-0429, "Historic District Property Improvement Notification Act of 2011," introduced by Councilmember Jack Evans (Ward 2). The hearing was over in a record 20 minutes or so as all parties attending agreed it would be a good practice for the city to notify historic property owners and others in historic districts of their responsibilities to obtain permits by including a notice that would be mailed with the tax notices.

After testimony from citizens groups, including CHRS, in favor of the legislation, Stephen Cordi, Deputy Chief Financial Officer (CFO) from the Office of Tax and Revenue (OTR), spoke briefly, saying that OTR anticipated it would be possible to have the system in place to go out with the tax notices in 2012. State Historic Preservation Officer David Maloney offered two phrasing changes to reflect the Historic Preservation regulations, and Chairman Brown indicated that the Bill would be scheduled for readings and a vote, depending on the report from the Office of the Chief Financial Officer concerning Sufficiency of Funds. On November 2, the CFO issued a report saying, "Funds are sufficient in the FY 2012 through FY 2015 budget and financial plan to implement the provisions of the proposed legislation." The Gray

Administration has indicated its support for the legislation as well.

Implementation of the provisions of this bill would complete the three-part plan for historic property notification that CHRS, other Historic Districts Coalition organizations, DC Preservation League, the Committee of 100, and the Historic Preservation Office have supported for over 5 years:

- Identification: Historic district signs on street posts so people are reminded daily that they live in a historic district.
- Disclosure: Requirement that a seller of a property within a historic district, or that has a historic easement, must provide a disclosure form stating its historic status that would be signed by the buyer at the time of sale.
- Notification: The city would notify each owner of a landmark building or historic district property of the requirement to obtain permits before starting exterior renovations.

The historic property disclosure form is now a part of real estate transactions and has proved to be beneficial in alerting new owners about their responsibilities under the Historic Preservation Act, particularly if they had not been informed of the historic district status. The signs, although not yet posted in every historic district as they are in Capitol Hill, have been effective in alerting people that they are in a historic district. Earlier efforts to have a notification process had not been successful.

## Professor Byrne Named Mayor's Agent Hearing Officer

One of the concerns among historic preservation organizations about the Mayor's Agent process in recent years has been the shift from an administrative law judge to a political appointee. (The Mayor's Agent is essentially the appeals judge in historic preservation cases.) CHRS has testified several times before the Council on the need for the Mayor's Agent to have legal experience because he or she is essentially running a court room, making procedural decisions, and considering the law and precedents in considering the appeals of Historic Preservation Review Board decisions.

Beginning this fall, Peter Byrne, Georgetown University law professor, has served as the Mayor's Agent Hearing Officer—holding hearings, making preliminary rulings and preparing opinions and judgments in the Mayor's Agent cases. Because Professor Byrne is not an employee of the Office of Planning or of the city, Harriet Tregoning will retain the title of Mayor's Agent and sign judgments that Professor Byrne prepares. Byrne is Faculty Director of the Georgetown Environmental Law and Policy Institute and teaches and writes in the areas of Property, Land Use, Constitutional Law and Higher Education Law and Policy.

## Historic Preservation Office Announces New System for Many City Notices

According to a press release from the Historic Preservation Office, "The Historic Preservation Office is now using GovDelivery, a digital subscription management system tailored for government agencies and organizations, to post information

related to public notices and general information of public interest. GovDelivery allows public users to easily find and subscribe to email update alerts on specific topics of interest."

The Historic Preservation Office added that, "email addresses on file with the Historic Preservation Office have been transferred over to the new system. Individuals may now change their addresses and add approximately 75 other email-based services from over 40 District agencies to their account. To access your account, please visit the Office of Planning website homepage at <http://planning.dc.gov>. At the top of the page select 'Subscribe to Emails.' After you type in your email address, you may review the DC offices offering updates."

### **St. Elizabeth's Hospital Added to Historic Preservation Brochure Series**

The District of Columbia Historic Preservation Office recently added a new historic district print brochure, "St. Elizabeth's Hospital Historic District," part of its Historic Preservation series, developed in cooperation with the DC Preservation League. Citizens may request individual copies of the new brochure by sending an email to [historic.preservation@dc.gov](mailto:historic.preservation@dc.gov). Please provide a mailing address. Orders will be sent via USPS. Individual print copies of other brochures in the series may also be ordered by completing the order form. Development and production of these brochures was made possible by a Historic Preservation Fund matching grant from the U.S. Department of the Interior, National Park Service. ★

## **Time Capsule: "Christmas on the Hill"**

From the CHRS newsletter of January 1965:

"As the twelfth day of Christmas brings this happy holiday season to an end, it is pleasant to recall some of the sights, sounds, and smells of Christmas on the Hill.

Eastern Market, inside and out, was an experience not soon to be forgotten. Pine, fir, balsam, cedar and spruce trees, in sizes and shapes to suit all tastes, spread their fragrance over C Street. Garlands of greenery, holly branches, evergreen wreaths, mistletoe, and tight little bouquets of red swampberries all seemed just right for Hill Houses.

The beautiful sounds of Christmas rang out from our churches on Christmas Eve, Christmas Day, and the Sunday after Christmas. The Hill should be especially grateful to St. Mark's for its Handel's *Messiah*, splendidly sung by two choirs accompanied by the Capitol Hill Symphony Orchestra at the midnight service on Christmas Eve. Traditional carols were sung at many other services, and Metropolitan Baptist Church sent its carolers to Union Station to entertain holiday travelers.

St. Joseph's displayed a new outdoor nativity scene, wooden figures in silhouette. Church of the Reformation again had a large and beautiful crèche on its front lawn. Visitors to St. James were deeply impressed by the color and stateliness of the Christmas ritual.

For the first time the Capitol Building had a large outdoor tree, placed at the foot of the Hill, and blazing with white lights.

Christmas decorations were everywhere . . . a holly wreath in each downstairs window at 128 Sixth Street, SE; twin evergreen wreaths with small bunches of fruits and nuts and tiny ears of corn on the Washburns' double front doors; a gorgeous arrangement of magnolia leaves, huge western pine cones, and white doves on the big front door of 802 Massachusetts Avenue, NE; exquisite decorations in every window of the Miller Furniture Company, Eighth and Pennsylvania, SE.

Restoration candles glowed in many windows and demonstrated on that foggy Christmas Eve how far a little light will shine. A special salute to the 700 block of East Capitol Street, where almost every house was lighted."

## **Volunteers Needed to Scan House Tour Brochures**

Work is underway to scan all of the past House and Garden Tour brochures for inclusion on the CHRS web site. Members Aneta and Scott Large are in the process of scanning the first set of brochures. If you would like to assist with this effort, please contact CHRS at [CapHRS@aol.com](mailto:CapHRS@aol.com).

# November Preservation Café Features Demonstration of Decorative Painting Techniques

By Amanda Molson

September Preservation Café speaker Carol Beach returned to the November Café for a hands-on demonstration of the painting techniques of stenciling, gilding, and comb painting. At September's presentation, we learned that decorative painting and faux finishing (in which paint is used to create the illusion of a different material) have a long history that dates back approximately 5,000 years. Techniques and design evolved to reflect the era, country, and fascination of the day. In the 1500s artists expressed the grandeur of European living through *trompe l'oeil* ("fool the eye") inset niches, while softer woods used in furniture of the 1700s benefitted from paint as a preservation method. Today's faux painting often expresses contemporary aesthetics through furniture and wall treatments.

Ms. Beach's first presentation featured gold leaf application, which she considers the most complicated faux finishing technique. In this process, a series of layers including gesso, paint, and varnish "size" are applied in succession to the item being gilded. Gold leaf, which can be purchased at art stores or ordered online, comes in a range of purity levels. Ms. Beach demonstrated the arduous task of applying gold leaf sheets using a gilder's tip (with the help of static electricity from one's own hair or sweater), versus the much easier technique of using patent gold leaf that is rubbed onto the surface from a transfer sheet. Attendees were also shown fake versions of gold and copper leaf, which are much more affordable and still quite convincing.

For her stenciling project, Ms. Beach started with a surface that she had prepared with paint. A stencil was taped to the dry surface, and a flat, stumpy brush was used to dab on creamy paint that would not run. A second layer of a very dry metallic paint was added as a highlight. Stencils can easily be purchased, or you can make your own using flexible cardboard, plastic, or Mylar. Ms. Beach also recommended Plaza Artist Materials ([www.plazaart.com](http://www.plazaart.com)) or Michael's for tools and stencil paint.

The final demonstration highlighted comb painting, which was very popular in Colonial America as a simple and affordable finishing technique for furniture and decorative boxes. Early combs were crafted of thick leather or cardboard, while modern-day combs are generally of a flexible rubber. In combing, a layer of wet paint is brushed over a layer of dry paint.

As the combing tool is dragged through the wet paint to reveal the dried color below, strokes may run in hatch marks, continuous straight lines, repetitive circles, curvy waves or any number of other imaginative solutions. Depending on the colors and stroke used, the end result could be quietly traditional or a more contemporary expression of metallic colors and abstraction.

Ms. Beach encouraged people to use sample boards to explore finishing techniques and colors before beginning work on the chosen surface. There are many books available on decorative painting, and Ms. Beach shared *Faux Easy* (Gary Lord, 2004) with the group as one example. Gather your paint, tools, and creativity because the cold winter months ahead will be a great opportunity to sharpen your decorative painting skills! ★

## Do You Know About Community Forklift?

If you're planning a renovation project or have just finished one, you should check out this nonprofit thrift store that specializes in building materials. Picture Home Depot crossed with Goodwill—you can donate renovation leftovers to receive a tax deduction or you can purchase materials at 30–90% below retail. Types of materials that you can donate or purchase include kitchen cabinets, flooring, lumber, windows, doors, appliances, plumbing fixtures, hardware, trim, mantels, etc. Almost everything in the 40,000-square-foot warehouse would have otherwise gone to the landfill, from the antique mantelpieces to insulated windows that are still in the original package. You can also find a range of sustainable products (including reclaimed lumber from Treeincarnation, reconditioned appliances from Alco, and vintage items in the Salvage Arts department).

Community Forklift is located inside the Beltway at 4671 Tanglewood Drive, Edmonston, MD 20781, near Hyattsville. They are closed Monday and Tuesday; open Wednesday through Sunday, varying hours. For more information and detailed directions, see their website ([www.CommunityForklift.com](http://www.CommunityForklift.com)) or call the store at (301) 985-5180.

# It Takes a Village ... to Maintain an Urban Forest

By Elizabeth Nelson

IMAGE COURTESY ELIZABETH NELSON



Elm sponsored by the CHRS Board and staff in honor of Beth Purcell's mother.

It's a cliché, of course, but everyone on Capitol Hill really does know everyone else. And never was that more apparent than the Saturday before Thanksgiving **Trees for Capitol Hill's** 20th fall tree planting. Members of that organization, which includes several members of CHRS, including our President, Beth Purcell, took to the streets to plant seventeen trees in tree boxes and pocket parks from one end of the Hill to the other.

At each stop, it seemed, we ran into friends and fellow Society members who are also likely to be Garden Club members, or even an ANC Commissioner. Not only was it fun to reconnect with old friends, it was reassuring to see all the younger people who share our interest in maintaining the unique and leafy

charm of our little village. It's a relief to know that there are others coming along to dig the holes and heft the root balls when the older backs and knees finally give out.

Special thanks are due to the North Lincoln Park Neighborhood Association for contributing to the cost of the trees, to Rich Cottrell of Merrifield who helped select the very choicest specimens, and to ANC 6A and the Capitol Hill Garden Club for making free daffodils bulbs available to tuck in with the trees. A dear friend of mine used to say, "yellow flowers promote cheerfulness"—certainly true of daffs in March. By the time you receive our next newsletter in February a few "early birds" may be brightening your view. ☆

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environmental impact statement (EIS), but in the case of the Virginia Avenue Tunnel, FHWA at present is complying with NEPA by conducting an environmental assessment (EA), a less-comprehensive study than an EIS.

Both an EA and an EIS provide opportunities for citizens to provide the agency with their views, comments, and concerns about a project's effects [see the NEPA flowchart for the timeline for citizen participation in an EIS or EA]. See also "Citizens Guide to NEPA" at [http://ceq.hss.doe.gov/publications/citizens\\_guide\\_to\\_nepa.html](http://ceq.hss.doe.gov/publications/citizens_guide_to_nepa.html) or Google "Citizens Guide to NEPA."

### Section 106 of the National Historic Preservation Act (16 USC 470)

Shauna Holmes provided an overview of Section 106 review and how to make the best use of it. Section 106 requires historic preservation review of certain federal projects and programs (referred to as "undertakings") that have the potential to affect historic properties. These are properties that are listed in or eligible for the National Register of Historic Places. It is only required when a federal agency carries out an undertaking; provides funds for an undertaking; or provides a license, permit, grant, loan or other approval.

The tunnel project requires federal approvals, and because the 100+ year old Virginia Avenue Tunnel is itself eligible for the National Register and runs through the Capitol Hill Historic District, which is listed in the National Register, FHWA has initiated Section 106 review for the Virginia Avenue Tunnel project. The project also has potential to affect other historic properties, including the L'Enfant Plan for the City of Washington and the historic St. Paul's AUMP Church on Eye Street, SE.

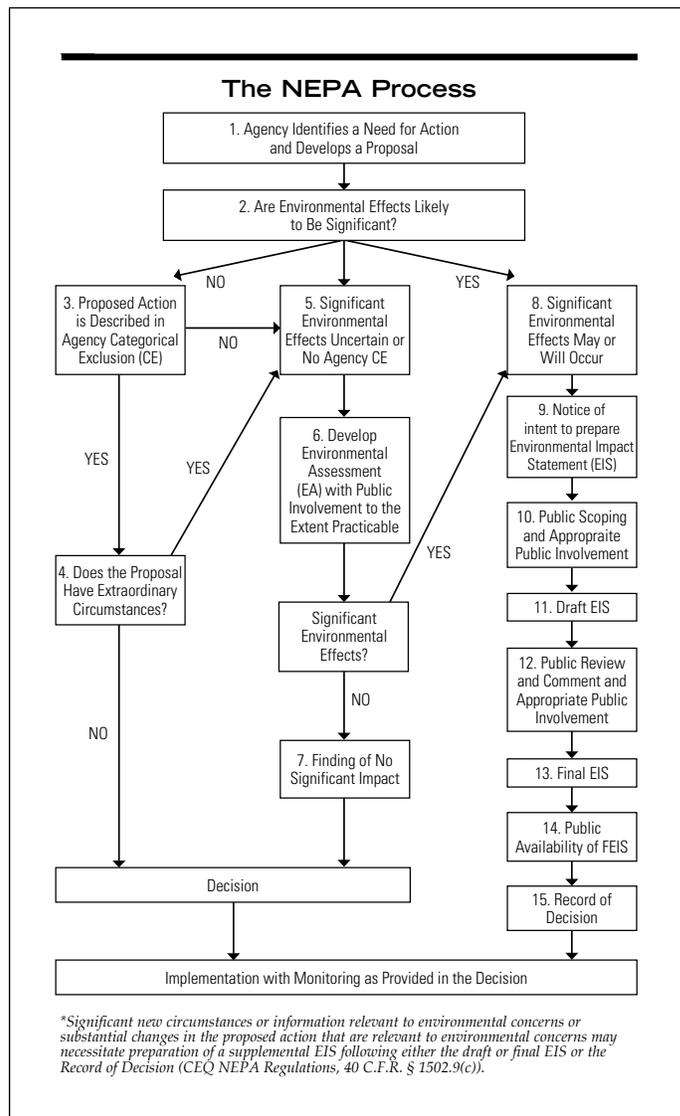
Section 106 review is a consultation process through which federal agencies must take into account the effects of undertakings on historic properties by seeking and considering the views of designated parties and the public. In the case of the tunnel project, FHWA must provide the public with information about the project and its effects on historic properties; seek public input about the project and its effects on historic properties; provide an opportunity for the public to comment; and consider the public's comments.

### Consulting Parties

As with NEPA, Section 106 requires providing information and opportunities for input to the public and other parties, as well as consideration of those views, but it cannot mandate preservation. Unlike NEPA, however, Section 106 review includes an additional category of participants called *consulting parties* that are entitled to take a more active role in the process. In review of the tunnel project, for instance, DC's State Historic Preservation Officer David Maloney is entitled to be a consulting party, along with DC Dept. of Transportation (DDOT) and

other local government officials, FHWA, NCPC, NPS, CSX, and the U.S. Commission of Fine Arts. The Advisory Council on Historic Preservation, an independent federal agency that issues and oversees compliance with the Section 106 regulations (36 CFR Part 800: Protection of Historic Properties) is also entitled to be a consulting party if it so chooses.

Consulting parties are entitled to more direct involvement in the Section 106 process and have enhanced rights to receive information and documentation and object to certain agency findings. For example, FHWA must provide consulting parties with documentation at specific points



SOURCE: A CITIZEN'S GUIDE TO THE NEPA (2007), COURTESY COUNCIL ON ENVIRONMENTAL QUALITY

during project review; consult them directly before issuing findings; notify them of FHWA's findings; invite and consider their views regarding effects on historic properties; include them in identifying ways to avoid, minimize or mitigate adverse effects; and provide them a copy of the Memorandum of Agreement that stipulates mitigation measures.

In addition to the consulting parties listed above, additional persons or organizations may ask to be consulting parties. These are individuals or organizations that have a demonstrated interest in the project due to the nature of their legal or economic relation to the project or affected properties, and/or their concern with the project's effects on historic properties.

CHRS has requested consulting party status in the Virginia Avenue Tunnel review, and we encourage other organizations and neighbors to write to FHWA and request consulting party status if they believe

that they have a demonstrated interest as described above. If you do, make a strong, clear case for your "demonstrated interest" and copy CSX, David Maloney, DDOT, NCPC, NPS, ACHP, and CFA [see list of contacts in this issue of the *News* for names and addresses]. If you do not receive a response from FHWA within a reasonable time, you should follow up.

### Potential Section 106 Findings

During Section 106 review there are several points at which an agency could make findings and determinations [see Section 106 Review flow chart], including:

- The area of potential effects
- No historic properties affected
- Historic properties affected
- No adverse effects
- Adverse effects

If FHWA finds that the tunnel project could adversely affect historic properties, it will continue

consultation to reach agreement about ways to avoid, minimize, and/or mitigate adverse effects.

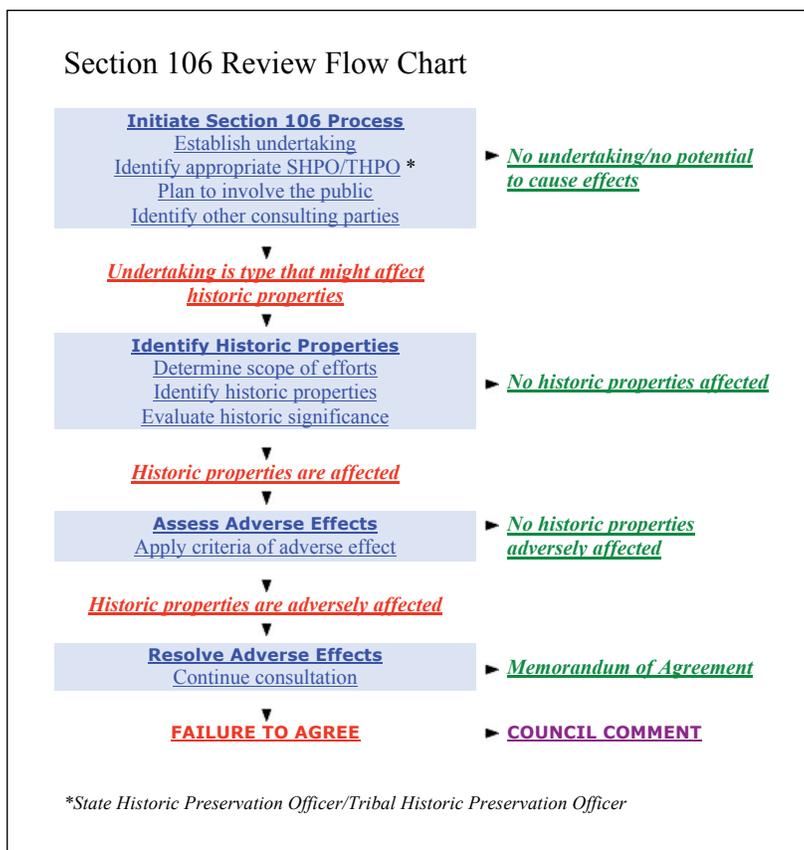
Adverse effects diminish a historic property's integrity of location, design, setting, materials, workmanship, feeling, or association. They may be direct or indirect, and they include reasonably foreseeable adverse effects that may occur later in time, be further removed in distance, or be cumulative. Examples of adverse effects include, but are not limited to: destruction, damage, alteration, or neglect; introducing visual, atmospheric or audible elements that diminish the historic property's integrity; changes in the character of the property's use or setting; and transfer, lease, or sale out of federal ownership or control.

To ensure your concerns about effects on historic properties are heard, write to FHWA about your views and copy David Maloney [see list of contacts]. Attend public meetings about the project and take advantage of any and all opportunities to provide comments to FHWA, DDOT, or CSX. Look for public notices FHWA must provide, as well as information and documentation that FHWA must make available to the public. CHRS plans to post public notices on [www.chrs.org](http://www.chrs.org). Also, *Protecting Historic Properties: A Citizen's Guide to Section 106 Review* is available at [www.achp.gov/docs/CitizenGuide.pdf](http://www.achp.gov/docs/CitizenGuide.pdf) and has many useful tips about how the process works and how to participate in it.

### Section 4(f) of the Department of Transportation Act (23 USC 138)

Professor Byrne also discussed Section 4(f) at the workshop as an additional statute that offers protections for properties of concern to Hill residents due to the tunnel project. Section 4(f) provides generally that FHWA "may approve a transportation program or project

IMAGE COURTESY SHAUNA HOLMES



*Continued on page 11*

# Virginia Avenue Tunnel Project Contacts

Mailing addresses and contact information for the Virginia Avenue Tunnel Project agencies and officials.

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# Looking Back On Capitol Hill

By Nancy Metzger

Last month's "Looking Back" included remembrances from Mary Jerrell about her family's house at 808 East Capitol Street with its Latrobe stove as well as the gas light in the alley being lit at dusk. These were excerpts of an interview given in 2003 with Andrea Kerr for the Ruth Ann Overbeck Oral History Project ([www.capitolhillhistory.org](http://www.capitolhillhistory.org)). The Jerrell family moved from Virginia to Capitol Hill in 1920 when Mary was five; her father owned a furniture store downtown. She remembered the schools she attended (Wallach, Towers, and Hine) as well as many of her neighbors, including the family who lived in the third-floor apartment of their house. That story starts with the creation of an alley in the square surrounded by 8th, 9th, and A streets, NE, and East Capitol Street. The alley (c. 1922) led to garages being built inside the square.

JERRELL: "... We had more garages than cars around that alley. And then after a while, Mr. Seton—I remember he was the one who had the most garages ... decided to sell his house; they wanted to build an apartment building, the Davmar [18 Ninth Street, NE]. That apartment building is still there, on the land that Mr. Seton used to have, with all his garages. And we had rented part of our house, it's a three-story house ... to a family named Brimer who left us when the Davmar was built because they were offering one month's rent free, probably the second month, so we lost our tenants to it. But the Brimers, if you know the Good Humor ice cream on the stick ... they were the ones that started that business, the Brimers were. And I could remember Mr. Brimer bringing this gadget with all these little sticks, some way he could pull it out and

dip it in, about six of them at a time, into the chocolate and showed how they made it, and that was, I think, the beginning of the Good Humor business."

[Editor's Note: At least in Washington. The *Wikipedia* entry for Good Humor Corporation states that the company started in Youngstown, Ohio, in the early 1920s; "Thomas J. Brimer (1900–1978) purchased the Good Humor franchise for the Detroit area and by 1929 opened his second plant in Chicago where the mob demanded \$5,000 protection money and destroyed part of the Chicago fleet when Brimer refused. The resulting publicity helped put Good Humor on the map." And apparently put the Brimers in Capitol Hill, where he operated the Good Humor of Baltimore/Washington franchise.] ★

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## NEPA Workshop, *continued from page 9*

... requiring the use of publicly owned land of a public park [or] recreation area ... of national, State, or local significance, or land of an historic site of national, State or local significance... only if—

- there is no prudent and feasible alternative to using that land; and
- the program or project includes all possible planning to minimize harm to the park, recreation area... or historic site resulting from the use."

The Virginia Avenue Tunnel project is very likely to affect Virginia Avenue Park and may affect Garfield Park and historic resources too. For purposes of Section 4(f), a "use" includes temporary land occupancy

(e.g., staging construction equipment in a park) [see 23 CFR § 774.17]. It is not clear whether "use" also includes noise or vibrations. However, the regulations state that a "constructive use" occurs when "proximity impacts" of a project "are so severe that the protected activities, features, or attributes that qualify the property for protection under Section 4(f) are substantially impaired." [See 23 CFR § 774.15]. Because of potential effects on historic properties—including those both publicly and privately owned—David Maloney, Director of the DC Historic Preservation Office, will play a key role during the Section 4(f) process as well as NEPA and Section 106 review.

FHWA, like many federal agencies, appears to be coordinating and combining the NEPA, Section 4(f), and Section 106 reviews into a single process. For that reason, offer your comments to FHWA, DDOT, and CSX at every opportunity. When there's a specific comment period, be sure to get your comments submitted before the deadline. And if you miss a deadline, bear in mind that members of the public may provide their comments at any time. Earlier is better than later, however, and written comments that are copied to and shared with others are best. ★



**Capitol Hill Restoration Society**  
420 Tenth Street, SE  
Washington, DC 20003

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## Mark Your Calendar!

### DECEMBER

**5** Monday, 6:30 pm  
CHRS Historic Preservation Committee.  
Kirby House, 420 10th Street, SE, first  
floor. Details: Nancy Metzger, 546-1034.

**8** Thursday, 7:30 pm  
CHRS Zoning Committee. Kirby House,  
420 10th Street, SE, first floor Details:  
Gary Peterson, 547-7979.

**9** Friday, 6:30-9:00 pm  
CHRS Membership Forum: CSX Virginia  
Avenue Tunnel Project. Hill Center,  
921 Pennsylvania Avenue, SE.  
Details: 543-0425.

**12** Monday, 7:00 pm  
Public Meeting to hear a CHRS Zoning  
Committee and Board of Directors  
presentation on the Hine PUD. Hill  
Center, 921 Pennsylvania Avenue, SE.  
Details: Gary Peterson, 547-7979.

**17** Saturday, 7:00 am  
Audubon's Annual Christmas Bird  
Count. Meet at the parking lot,  
Kenilworth Aquatic Gardens, 1550  
Anacostia Avenue, NE. CHRS will pay  
the administration fee for members.  
Details: Lou DeMuoy, (301) 656-3146 or  
lou.demuoy@gmail.com.

**20** Tuesday, 6:30 pm  
CHRS Board of Directors. Capitol Hill  
Townhomes, 750 6th Street, SE, second  
floor. Details: Beth Purcell, 622-4303.

### JANUARY

**2** Monday, 6:30 pm  
CHRS Historic Preservation Committee.  
Kirby House, 420 10th Street, SE, first  
floor. Details: Nancy Metzger, 546-1034.

**12** Thursday, 7:30 pm  
CHRS Zoning Committee. Kirby House,  
420 10th Street, SE, first floor.  
Details: Gary Peterson, 547-7979.

**17** Tuesday, 6:30 pm  
CHRS Board of Directors. Capitol Hill  
Townhomes, 750 6th Street, SE, second  
floor. Details: Beth Purcell, 622-4303.

**26** Thursday, 7:00 pm  
The Anacostia River: Forum on the River  
Watershed. Anacostia Community  
Museum, 1901 Fort Place, SE.  
RSVP: (202) 633-4844.