



**Public Employees for Environmental Responsibility**

962 Wayne Avenue • Suite 610 • Silver Spring, MD 20910 • 202-265-PEER(7337) • fax: 202-265-4192  
e-mail: info@peer.org • website: www.peer.org

September 28, 2017

John M. Fowler, Executive Director  
Advisory Council on Historic Preservation  
401 F Street NW, Suite 308  
Washington DC 20001-2637  
E-mail: achp@achp.gov

Dear Mr. Fowler:

On behalf of Public Employees for Environmental Responsibility (PEER) and Dunes Action, we request that the Advisory Council on Historic Preservation immediately require the National Park Service (NPS) to engage in a Section 106 consultation pursuant to the National Historic Preservation Act of 1966, 54 U.S.C. §§300101, 306108, concerning a project at Indiana Dunes State Park. The project relates to the restoration and rehabilitation of a building known as the Pavilion, constructed circa 1929-1930. (Several photographs of the Pavilion are attached as Ex. A hereto.) PEER and Dunes Action are very much in favor of the appropriate restoration of the Pavilion, but have concerns about some planned inappropriate modifications to the Pavilion and its associated cultural landscape. The Pavilion is eligible for the National Register of Historic Places.

A developer is being allowed to make these inappropriate modifications with the approval of the Pavilion's owner, the Indiana Department of Natural Resources (IDNR) and the National Park Service.

Until now, the Pavilion has retained most of its visual integrity, but this project threatens to significantly and negatively alter its appearance as well as its historical uses. The inappropriate modifications relate to additions to the Pavilion that were never there historically.

1. The addition on the rooftop of an 1800 square foot bar/pub with seating for as many as 200 people.
2. The addition of two balconies on the north (Lake Michigan side) at the second floor level.
3. The addition of outdoor dining terraces beneath the proposed balconies.

These modifications would negatively impact the overall appearance of the Pavilion, which is visible from the surrounding dunes. The rooftop was formerly graced only by four American flags and was historically used by the public as an observation deck. The planned modifications would add a modern bar and food service facility to the roof, including 34 tables, all of which would presumably have umbrellas. In addition to being unsightly, this addition would preclude the previous public use as an observation deck. The two balconies on the second level on the Lake Michigan side of the Pavilion would only offer limited additional restaurant seating at the



expense of a permanent alteration to the historic lakeside façade. Window openings would be converted to doorways, further altering the structure. Space beneath the balconies would be used for “dining terraces.” Windows there would also be converted to doorways. All of these modifications are unnecessary for the appropriate use of the Pavilion and would significantly alter its historic character.

This project involves the National Park Service, as the building and the entire park are encumbered by the Land and Water Conservation Fund Act (LWCFA). For the past two years, PEER and Dunes Action have been expressing concerns to NPS that the project constitutes a conversion under the LWCFA and that it should be subject to Section 106 consultation. NPS officials have responded that there is no federal undertaking that would trigger Section 106. NPS officials claim they are “only offering informal technical advice regarding changes to the existing pavilion and will not be approving, funding, or permitting any specific action. . . .” Ex. B hereto. However, in contradiction to this claim, NPS has also repeatedly stated that it is reviewing proposed plans and uses for the Pavilion, and on that basis will determine whether construction can go forward in compliance with the LWCFA. In addition, NPS has required the IDNR to modify its lease with the private developer in order to comply with the LWCFA. Just recently, an NPS official sent us a letter dated September 20, 2017 (Ex. C hereto) informing us that: 1) NPS had determined that the proposed uses of the renovated Pavilion are compliant with the LWCF and do not require conversion procedures; and 2) NPS had approved the revised lease as compliant with the LWCF. Based on these conclusions, NPS states, “work on the pavilion can proceed.”

Thus, we believe it is more than apparent that NPS has approved this project and permitted specific action to go forward. Section 106 procedures must apply.

Additionally, NPS admitted in its August 9, 2017 letter to PEER that Section 106 will be triggered when the proposal for the second phase of this project, an adjoining conference/banquet center, proceeds. (Ex. B hereto). Thus, NPS is taking the position that it can allow modifications to the actual historic structure to go forward without Section 106 consultation, but then will engage in consultation regarding a new adjoining building. By then, of course, the alterations to the historic building will be a *fait accompli*. Consultation should take place at this stage, before that happens.

I am attaching plans for the Pavilion portion of this project (Ex. D hereto). The areas marked in yellow indicate the inappropriate additions.

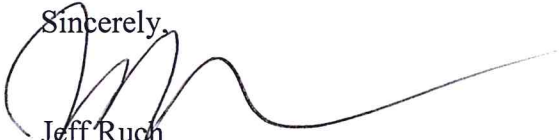
We are prepared to give the ACHP as much additional information about this matter as is needed.

The public has never had the opportunity to respond to the significant changes being planned for the Pavilion. On behalf of the thousands of supporters of Dunes Action and PEER, we are asking the ACHP to initiate a Section 106 review in order to give this historic structure an opportunity to be appropriately preserved through a fair and impartial review with the public’s opinions being heard.



We hope to receive a positive response from you as soon as possible, as the developer is likely to commence work on these modifications as soon as they can. Thank you in advance for your consideration.

Sincerely,



Jeff Ruch  
Executive Director  
PEER

Norman D. Hellmers  
904 Institute Street  
Valparaiso, Indiana 46383  
(219) 462-6222  
norm.hellmers@gmail.com  
on behalf of Dunes Action

cc: Mr. Cameron Clark, State Historic Preservation Officer  
Director, Department of Natural Resources  
402 West Washington Street  
Indiana Government Center South  
Room W256  
Indianapolis, IN 46204  
Email: dhpa@dnr.in.gov