

ADA & Historic Renovations

Continuing Education Workshop
St. Louis Chapter of the AIA
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Thank you

**Len Sandler
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Source for several of the legal slides, Phenix Hall illustrations and some of the lists of evaluation points.

And to architects responsible for projects appearing in the powerpoint:

**Trivers Associates
Ayers Saint Gross
Cooper Robertson
MVVA**

ADA True or False?



- ADA is a building code
- ADA is a one-time requirement
- ADA only governs the historic building itself
- ADA only covers wheelchair users
- Every historic building must be 100% accessible
- My historic building can't be made accessible
- All ADA fixtures and fixes are ugly and institutional
- The SHPO or local historic preservation commission won't let me make my building accessible
- I'm better off if I adhere strictly to ADA minimums
- It will cost me less if I wait for someone to complain
- My building is grandfathered and exempt from ADA
- If I settle an ADA lawsuit I can't be sued again

ADA and Historic Preservation

Agenda

- **ADA Basics**
 - Who's Covered and Who's Protected
 - Basic Duties and Responsibilities
- **ADA + Historic Preservation**
 - Step-by-Step Evaluations
 - Analysis of the Goals and Options
 - Hot Topics and Case Studies

ADA General Rules

Who is Protected?

Who is Protected?

- An Individual with an ADA Disability
 - Physical or Mental Impairment
 - That substantially limits one or more major life activities
 - Disability in fact, record or history of disability, or perceived disability
- Meets eligibility criteria for program, service, etc., if applicable
- Is excluded from participating, denied benefits, goods, services, or otherwise discriminated against
- By reason of disability
- Or is a person associated with an individual with a disability

ADA General Requirements for Private and Public Entities

- Do Not Discriminate
- Provide services, goods, programs, etc. in most integrated setting appropriate to needs of individuals with a disability
- Make reasonable modifications to policies, practices, or procedures necessary to avoid discrimination
- Provide necessary auxiliary aids and services to effectively communicate

ADA General Requirements for Private and Public Entities

- **Construct new facilities to be accessible to and usable by persons with a disability**
- **Make alterations to existing facilities accessible to and usable by persons with a disability**
- **Remove architectural and structural communications barriers in public accommodations if readily achievable**
- **Make websites, devices and other technology accessible to persons with a disability**

Disability Laws Regulations Policies and Legal Resources

- **Americans with Disabilities Act**
 - Title III Public Accommodations
 - Title II State and Local Government
 - Title I Employers
- **Federal Rehabilitation Act**
- **ADA Department of Justice Regulations**
- **US DOJ ADA Technical Assistance Manuals**
- **U.S. Access Board ABA Standards and Agency Regulations**
- **Agency Decisions & Settlement Agreements**
- **Court decisions**
- **Department of the Interior (Historic Landmarks & Districts)**
- **National Park Service**
- **Antiquities Act**

ADA
ABA

Title II
Title III

Important
Differences

- Title III of the ADA (Public Accommodations) applies to privately-owned facilities.
- Title II of the ADA (State & Local Governments) applies to facilities owned by state and local governments. Title II does not directly address construction, but access to buildings is covered under a broad mandate that prohibits a public entity from denying a disabled individual the benefits of the entity's services, programs, or activities.
- The DOJ regulations for buildings owned by state and local government, codified at 28 CFR 35 Subpart D (28 CFR §35.149 - §35.151), are the same as those for privately-owned buildings – new construction and alterations must comply with the 2004 ADAAG and barriers must be removed when it is readily achievable to do so. The standards are somewhat higher for public entities, however; under 28 CFR §35.150(b)(3), public entities are required to give priority to methods that provide physical access to individuals with disabilities.
- Properties owned or leased by the federal government are not covered by the ADA. Instead, they are covered by the Architectural Barriers Act of 1968 (ABA) and by Sections 501 and 504 of the Rehabilitation Act of 1973. The ABA stipulates that all buildings designed, constructed, and altered by the federal government, or with federal assistance, must be accessible. The Guidelines for the ABA (ABAAG) are slightly different from the ADAAG, but the same exceptions are allowed for historic properties.

Federal
Projects

ABA & ABAAS

Section 102

Universal
Design

Programmatic Accessibility Guidelines for National Park Service Interpretive Media



NPS UNIVERSAL DESIGN and ACCESSIBILITY SCOPING FORM for ABAAS FACILITIES

Use for facilities, buildings (new and existing), parking and drop-off areas, and sites (walks, ramps, plazas, lawns, etc.)

PROJECT & PMIS NO.:

DATE:



Title II Public Entities Program Access

US DOJ
28 CFR Part 35

US Interior
Department

Title II Program Access:

- Cannot deny or exclude from participation or access because facilities are inaccessible to or unusable by individuals with disabilities.
- Not required to make structural changes to existing facilities where other methods are effective in achieving compliance
- Must give priority to methods of providing program accessibility that permit individuals with disabilities to have physical access to the historic property

**Title II
Public Entities
Mandates
US DOJ
28 CFR Part 35**

**US Interior
Department**

- A public entity shall operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This paragraph does not —
 - Necessarily require a public entity to make each of its existing facilities accessible to and usable by individuals with disabilities
 - Require a public entity to take any action that would threaten or destroy the historic significance of an historic property
 - Require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens

ADA Requirements at Alterations

- Under the DOJ regulations, alterations must comply with the ADA Standards unless it is technically infeasible to do so. Technical infeasibility is a fairly high bar. Something is technically infeasible only if it would require removing or altering a load-bearing member that is an essential part of the structural frame, or because other physical constraints prevent modification or addition of features to comply with the ADAAG requirements. The fact that compliance would be extremely expensive does not mean it is technically infeasible.
- However, the ADAAG includes certain exceptions for alterations. For example, in new construction, ramps on accessible routes cannot have a slope steeper than 1:12. In existing buildings, ramps can have a slope of 1:10 when the rise is not more than 6 inches and 1:8 when the rise is not more than 3 inches, if such slopes are necessary due to space limitations. (ADAAG §405.2).

ADA Definitions

Historic Preservation Programs and Properties

- Historic preservation programs means programs conducted by a public entity that have preservation of historic properties as a primary purpose.
- Historic Properties means those properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic under State or local law.
- Alteration: A change that affects *or could affect* the usability of the building or facility or any part thereof such as remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions.

Projects with Multiple Requirements



Step 1

Planning for Access

Planning Accessibility Modifications

Historic properties are distinguished by features, materials, spaces, and spatial relationships that contribute to their historic character. Often these elements, such as steep terrain, monumental steps, narrow or heavy doors, decorative ornamental hardware, and narrow pathways and corridors, lack of contrast, and uneven flooring, pose barriers to persons with disabilities.

A four-step approach is recommended to identify and implement accessibility modifications that will protect the integrity and historic character of historic properties:

- Determine the programmatic and regulatory requirements for the project.
- Review the historical significance of the property and identify character-defining features;
- Assess the property's existing and required level of accessibility; and
- Evaluate accessibility options within a preservation context.

STEP 1

Project Description

What Type of Activity is Involved?

- New Construction
- Alteration
- Existing Facility

What Accessibility Compliance Standard Applies?

- Readily Accessible To and Usable By Persons with Disabilities
- New Construction
- Alterations to Maximum Extent Feasible
- Barrier Removal that is Readily Achievable

What are the Historic Preservation Considerations?

- The historic significance of the building or the facility
- Consult with SHPO or Certified Local Government HPC

What are the Goals?

- Programming for the project (existing & proposed)
- Level of access desired
- Critical nature of historic components

STEP 2

Evaluation of Inaccessible Features and Programs

IF the programs in the building are to remain, information should be developed on the nature of these activities, their locations, functions, operational characteristics, and spatial requirements. Define and locate the routes to each program space and to associated areas (e.g. restrooms).

An accessibility inventory should provide information on dimensional and operational features throughout the building and its site. For example, information that should be recorded includes the clear opening of doorways when open at a 90 degree angle, door opening pressure, the slope and length of existing ramps and walkway gradients, handrail types and location, configuration of level areas at doorways, the dimensions of existing restrooms and breakrooms, operability of door hardware and toilet fixtures, corridor widths, existence of elevators, and existence of signage.

Exterior Accessibility Evaluation

A building survey or assessment will provide a thorough evaluation of a property's exterior accessibility. Most surveys identify accessibility barriers in the following areas: building and site entrances; surface textures, widths and slopes of walkways; parking; grade changes; size, weight and configuration of entrance doorways; and continuity of pedestrian pathways. The survey must extend to the Public Right-of-Way and to all site arrival points.



Step 3

Inventory Historic Features

Historic Features Inventory: This inventory consists of surveying the building to determine its overall historical and architectural significance and, specifically, to determine which of its architectural elements are worthy of preservation. Special attention should be given to those aspects that might be adversely affected by accessibility modification.

Information involving historical evaluation of the building and proposed changes is necessary to obtain the required approval of federal, state and local authorities. A determination of the historic value of the building may already have been made, as indicated by its listing in the National Register of Historic Places or in a state or local register of historic resources.

A building cannot be assumed to be without historic value if such a determination has not been made.

Historic Evaluation

- If available, the property's nomination file should be reviewed to learn about its significance. Review of the written documentation should always be supplemented with a physical investigation to identify which character defining features and spaces must be protected whenever any changes are anticipated. If the level of documentation for a property's significance is limited, it may be necessary to have a preservation professional identify specific historic features, materials, and spaces that should be protected.
- For most historic properties, the construction materials, the form and style of the property, the principal elevations, the major architectural or landscape features, and the principal public spaces constitute some of the elements that should be preserved. Every effort should be made to minimize damage to the materials and features that convey a property's historical significance when making modifications for accessibility. Very small or highly significant properties that have never been altered may be extremely difficult to modify.
- Secondary spaces and finishes and features that may be less important to the historic character should also be identified; these may generally be altered without jeopardizing the historical significance of a property. Nonsignificant spaces, secondary pathways, later additions, previously altered areas, utilitarian spaces, and service areas can usually be modified without threatening or destroying a property's historical significance.

Additional Research

Many buildings of historical significance have not yet been surveyed or, if so, have not been officially placed on a historical register. In the case of accessibility retrofitting accomplished with Federal aid, it is the responsibility of the federal agency involved to nominate the building to the National 20 Register.

It is important to remember in this inventory that the building's historical integrity encompasses not only the unimpaired quality of the original architectural materials, but also any significant additions or alterations made over the building's life. Later changes that do not detract from the original features are often worthy of preservation in their own right and also deserve to be respected within an accessibility plan. It is also important to remember that historic materials and structural elements may be concealed by applied finishes and added elements.

In some cases, the building may qualify but there are no plans to list the property with local, state or federal entities. This does not mean that the historic features lack importance or that a survey is not required.

ADA/ABA

Step-By-Step Integration of Accessible & Historic Features

What are the Options and Alternatives?

- Comply.
- Modify operations, policies and procedures.
- Comply within the context of recognized exceptions.
- Comply with equivalent methods of barrier removal.
- Provide auxiliary aids and services
- Provide alternate access to goods, services, etc.
- Temporary remediation and phased improvements.

Two Basic Approaches to Providing Access

- Program or activity changes: These changes involve rearranging program functions to make them accessible, thereby avoiding direct architectural changes.
- Architectural changes (reversible and non-reversible): Reversible changes do not involve the removal of significant amounts of historic finish or structural material and leave either no damage or easily repairable damage to those historic finishes, details, and/or design and spatial characteristics involved. Non-reversible changes involve the removal of significant historic finishes details, and/or design and spatial characteristics. They often have a negative effect on historic buildings and therefore should be avoided.

Barrier Removal Planning

Once a property's significant materials and features have been identified, and existing and required levels of accessibility have been established, solutions can be developed. Solutions should provide the greatest amount of accessibility without threatening or destroying those materials and features that make a property significant. Modifications to improve accessibility should generally be based on the following priorities:

- Making the main or a prominent public entrance and primary public spaces accessible, including a path to the entrance;
- Providing access to goods, services, and programs;
- Providing accessible restroom facilities; and,
- Creating access to amenities and secondary spaces.

Alterations

- When an alteration affects a *primary function area*, the alteration must provide an accessible path of travel from the altered area to the entrance and to the bathrooms, telephones, and drinking fountains serving the area, if it is technically feasible to do so. A primary function area is defined as any area where a major activity for which the building is intended takes place. This includes both the customer services areas and work areas in places of public accommodation, and all offices and work areas in commercial facilities. Alterations to provide an accessible path of travel are only required to the extent that the costs do not exceed 20 percent of the cost of the original alteration. (28 CFR 36.403(f)).

ADA General Rules

Potential Defenses and Justifications

What are Potential Justifications for Non-Compliance?

- Modification is not reasonable or necessary
- The action fundamentally alters the nature of the service, program, or activity
- The action imposes an undue financial and administrative burden
- Barrier Removal is not readily achievable
- Alteration or barrier removal threatens or destroys the historic significance of a historic building or facility
- Modification or action poses a direct threat to health or safety of others

Basic ADA Exceptions at Historic Properties

- Per the ADAAG, Minimal Requirements for Accessibility in Historic Buildings are considered:
- A minimum of one accessible route from the site to an accessible entry.
- At least one accessible entry shall be provided. (If public entries cannot comply, then a non-public, unlocked entry may be provided, with directional signage provided at the public entries.)
- If toilets are provided, at least one toilet on an accessible route must be provided. (A unisex privacy restroom may be used.)
- ***These minimal requirements may only be used by exception, when it is formally and properly determined that meeting the standard requirements for alterations to buildings cannot be done, in order to preserve the historic nature. There may be issues even meeting the minimum requirements.***

EXCEPTIONS

- Accessible Route Exceptions
- Per the ADAAG, accessible routes are limited to walking surfaces with a running slope not steeper than 1:20, doorways, ramps, curb ramps excluding the flared sides, elevators, and platform lifts. The ADAAG requires that there be an accessible route from the accessible parking spaces, the public streets or sidewalks, and the public transportation stops. Under ADAAG §206.2.1 Exception 1, only one accessible route from a site arrival point to an accessible entrance is required for a historic property.
- The ADAAG requires that all stories and mezzanines be connected by an accessible route. However, under §206.2.3 Exception 7, historic properties are only required to have an accessible route on the level of the accessible entrance.
- Entrances Exception
- The accessible entrance to a historic property does not have to be the entrance used by the public. The entrance can be an unlocked entrance that is not used by the public or a locked entrance with a notification system or remote monitoring.

EXCEPTIONS

- If an entity believes that following the usual standards would threaten or destroy the historic significance of a feature of the building, the entity should consult with the State Historic Preservation Officer (SHPO). Use of an exception will be allowed only if the SHPO agrees that compliance with the usual standards would threaten or destroy the historic significance of a feature.
- SHPO's findings should be in writing and saved in the project file.

ADA Title II

State and Local Government

The Exception

28 CFR § 35.151(b) Alterations:

- Alterations to historic properties shall comply, to the maximum extent feasible, with the provisions applicable to historic properties in the design standards specified in § 35.151(c).
- If it is not feasible to provide physical access to an historic property in a manner that will not threaten or destroy the historic significance of the building or facility, alternative methods of access shall be provided pursuant to the requirements of § 35.150.

ADA
Title III
Public
Accommodations
The
Exception

- 28 CFR § 36.405 Alterations: Historic preservation.
- (a) Alterations to buildings or facilities that are eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470 et seq.), or are designated as historic under State or local law, shall comply to the maximum extent feasible with this part.
- (b) If it is determined that it is not feasible to provide physical access to an historic property that is a place of public accommodation in a manner that will not threaten or destroy the historic significance of the building or the facility, alternative methods of access shall be provided pursuant to the requirements of subpart C of this part.

Federal Projects:

Section 106

- Section 106 is the regulatory heart of the NHPA. Codified at 16 U.S.C. § 470f, Section 106 requires that federal agencies consider the effects of their actions on historic resources before funding, licensing, or otherwise proceeding with projects that may affect historic resources listed in, or eligible for listing in the National Register of Historic Places. The kinds of undertakings requiring Section 106 review are broad and inclusive and may affect historic resources either directly or indirectly. For example, a federal agency may be required to perform a Section 106 review before approving funds to build a new convention center in or near a historic district or before issuing a permit to fill in a wetlands area that would allow the construction of new houses that could harm the historic character of a nearby village.

User Groups and Exceptions



The Last Resort:

Alternative Experience

- Alternative Experience: In the interpretation of a building, such as a display to commemorate a historic theme, it may be possible to provide the experience of an inaccessible part of the building in an accessible location through techniques such as audio-visual aids or models and dioramas (see figure 10). Tactile interpretive aids such as models are especially important to the blind (see figure 11)

Rules of Thumb & General Suggestions

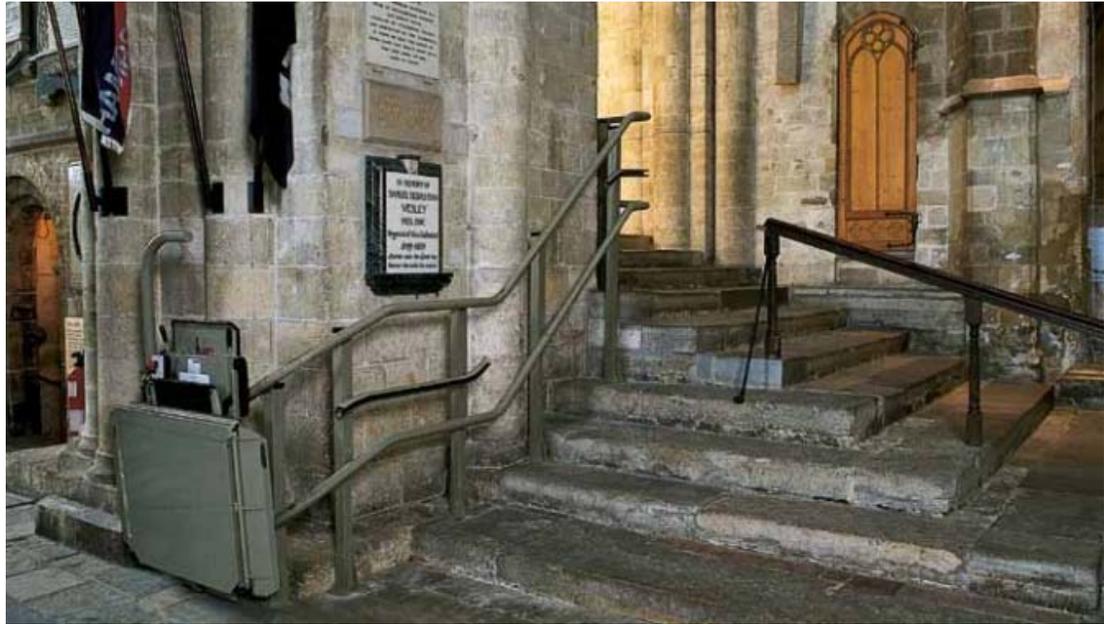
Historic Buildings Visitor Expectations

- A parking spot close to the venue with plenty of room to get in and out of the vehicle
- A clean accessible restroom
- Pathways that are easy to identify and navigate with a cane, walker or wheelchair
- Water fountain for drinking
- No-step or ramp access to the main places
- An elevator to access other floors when they are open to the public
- An audio or video program of spaces that are not accessible at floor levels
- Clear signage and instructions and information
- See, hear, or touch exhibits
- Participate with and accompany family and friends

Site access



Reversible.

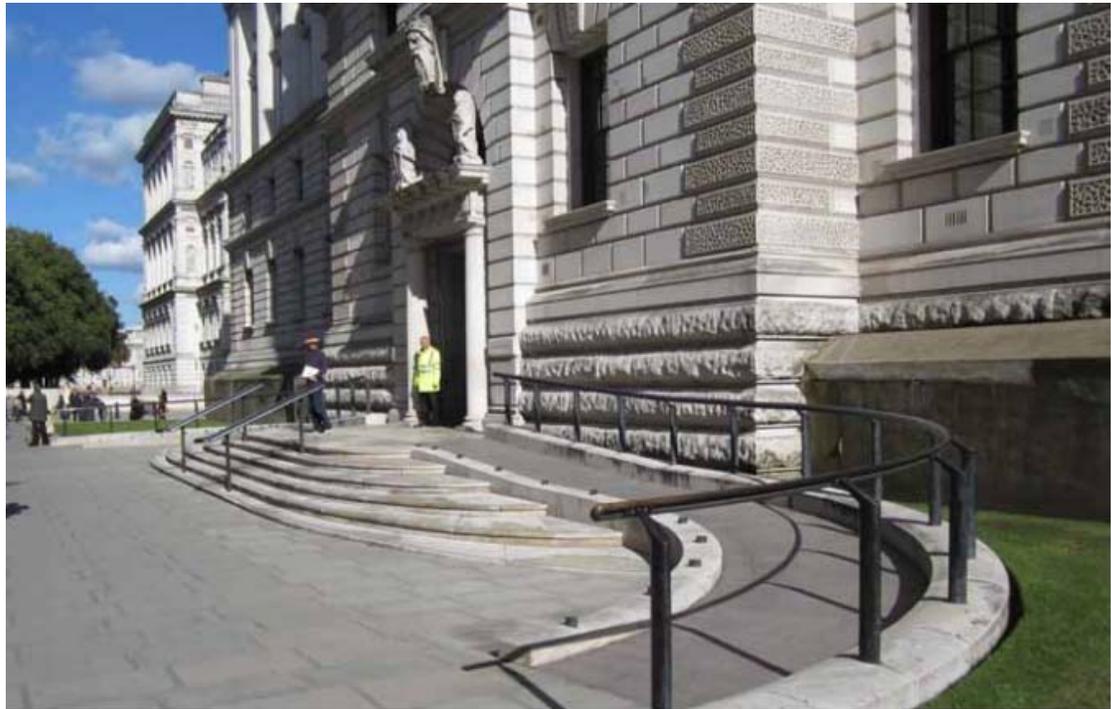


Solutions that preserve critical elements



Figure 34: Cooper-Hewitt Museum, New York, New York. An excellent example of minimal destruction to the historic fabric and the character of the space, is the incorporation of an elevator shaft where the organ (a) was originally placed. Every attempt was made to duplicate materials, textures, color, and details when the pipe organ was removed to accommodate the elevator as shown in b. Photos: Norman McGrath, Courtesy of Hardy Holzman Pfeiffer Associates.

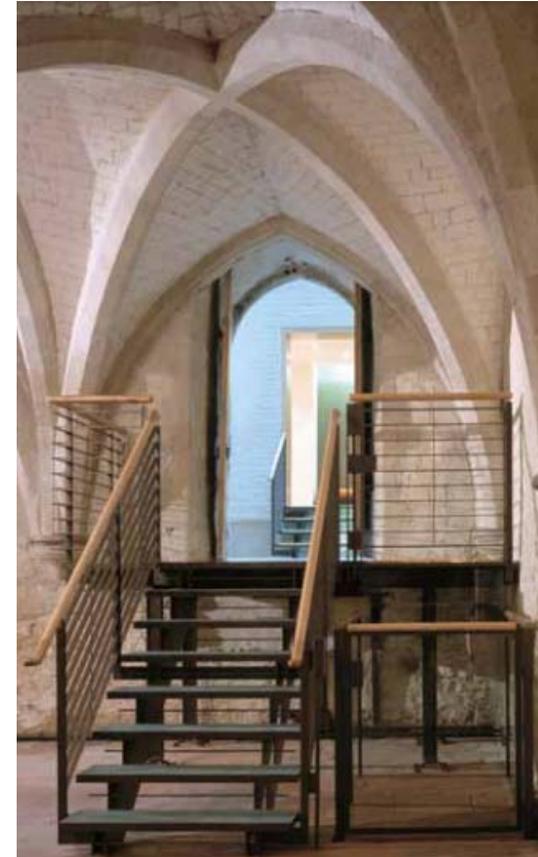
Access without
visual intrusion



Routes and recurring problems



Access that
preserves
historic
materials



Signage

The oft
forgotten
requirement



Figure 41: Accessibility Signage. Not only does the symbol imply access instructions to overcome a physical barrier, it also shows that thought and consideration have been given to provide equal opportunity for all in enjoying the programs and activities available within the historic building.
Photo: Baird M. Smith.

Doors

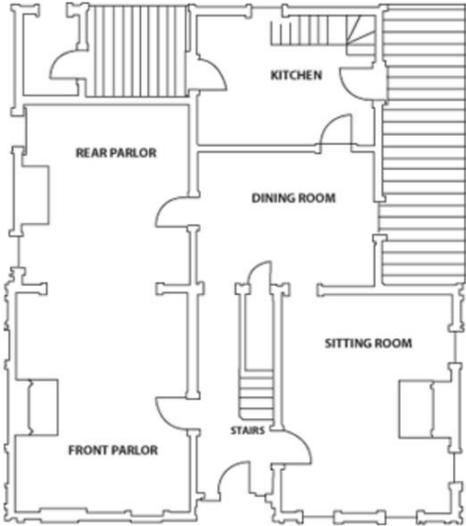
Historic doors generally should not be replaced, nor should door frames on the primary elevation be widened, as this may alter an important feature of a historic design.

Most accessibility standards require at least a 32" (82 cm) clear opening with manageable door opening pressures. The most desirable preservation solution to improve accessibility is retaining historic doors and upgrading the door pressure with one of several devices.

Automatic door openers (operated by push buttons, mats, or electronic eyes) and power-assisted door openers can eliminate or reduce door pressures that are accessibility barriers, and make single or double-leaf doors fully operational.



Case Study:



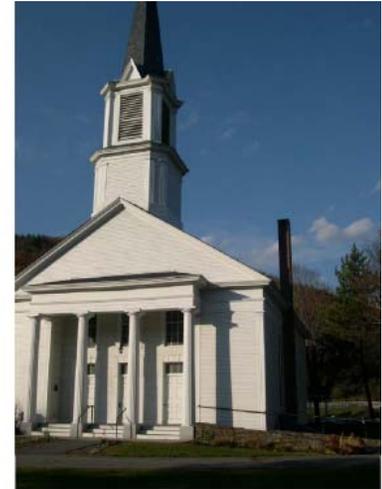
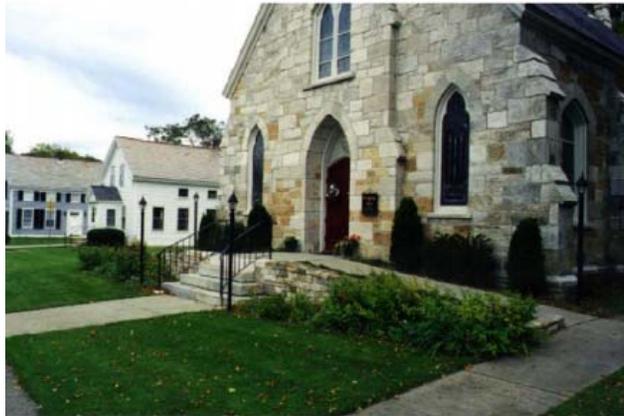
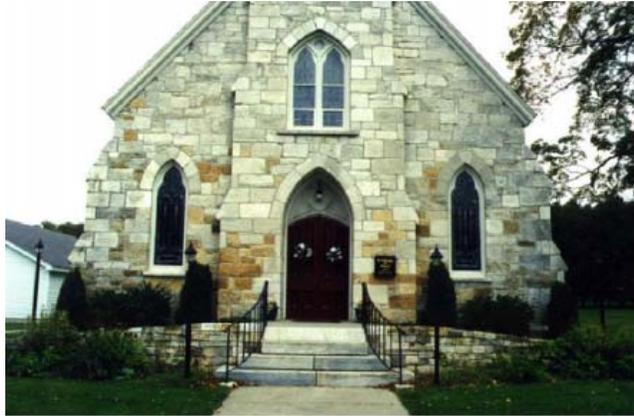
Vertical Access: Platform Lifts

Check your jurisdiction.

At a minimum, platform lifts must meet the technical accessibility standards of ASME A18.1 (1999 or most recently adopted version), including, but not limited to: · the weight capacity of the platform lift is a minimum of 750 pounds · interior dimensions of the platform lift are a minimum of 12 square feet · the width of the door of the platform lift is a minimum of 32 inches clear · the rise of the platform lift is a maximum of 12 feet, or as otherwise approved in a variance from the Elevator Safety Board · there is an accessible route to and into the platform lift · the platform lift is capable of independent, keyless operation.

Back up power may be required.

Use the
general path of
circulation



Not the best
solution?



Figure 22: Ramped Entrances. With all good intentions, the designer of this ramp missed two important considerations: 1) the addition of the ramp and more important the bulky landing set within the door frame have both seriously compromised the character of the entry facade; 2), the 90 degree corner on the landing is dangerous and difficult for many disabled individuals to negotiate. Alternative methods of entry should have been utilized in this case. Photo: Charles Parrott.

Phenix Hall and Bagel Works Litigation

[www.nhd.uscourts.gov/
sites/default/files/opini
ons/13/13NH055.pdf](http://www.nhd.uscourts.gov/sites/default/files/opinions/13/13NH055.pdf)



ADA Title III Phenix Hall Solutions and Settlement

<http://www.drcnh.org/PhenixHall.html>

Public Accommodations



ADA Title III

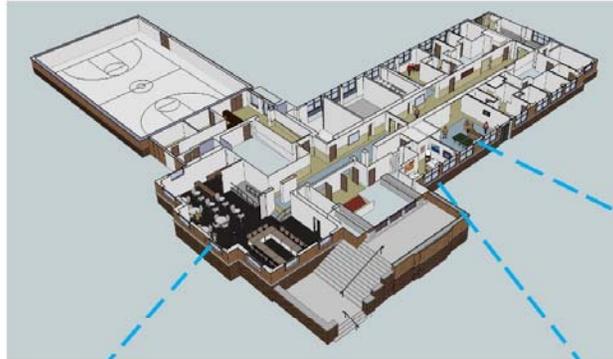
Garfield
Commons

Historic Stairs



Title III Garfield Commons

Incorporation of
Vertical Access,
Universal
Design &
Supportive
Programs



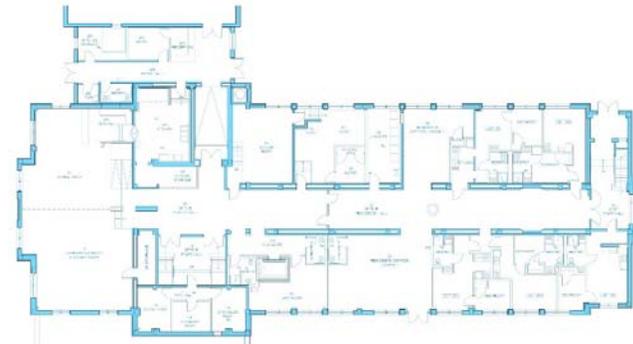
COMMUNITY ROOM



ART ROOM



DINING ROOM



Title II Public Entities Program Access

St. Louis City Hall



ABA & NPS

Site Design at
the Arch



Arch Grounds



Site Design at the Arch



Case Study:
Old Courthouse

Additional
Scoping for
Programs &
Technical
Requirements



Dates to 1928 with major additions and changes in the 1850s, 1860s, 1940s and more.

Old Courthouse

- An historic building built in multiple stages beginning in 1828 with major additions and changes in the 1850s, 1860s, 1940s and more.
- Considerations:
 - Accessible routes
 - Restrooms

Existing First Floor - 2010

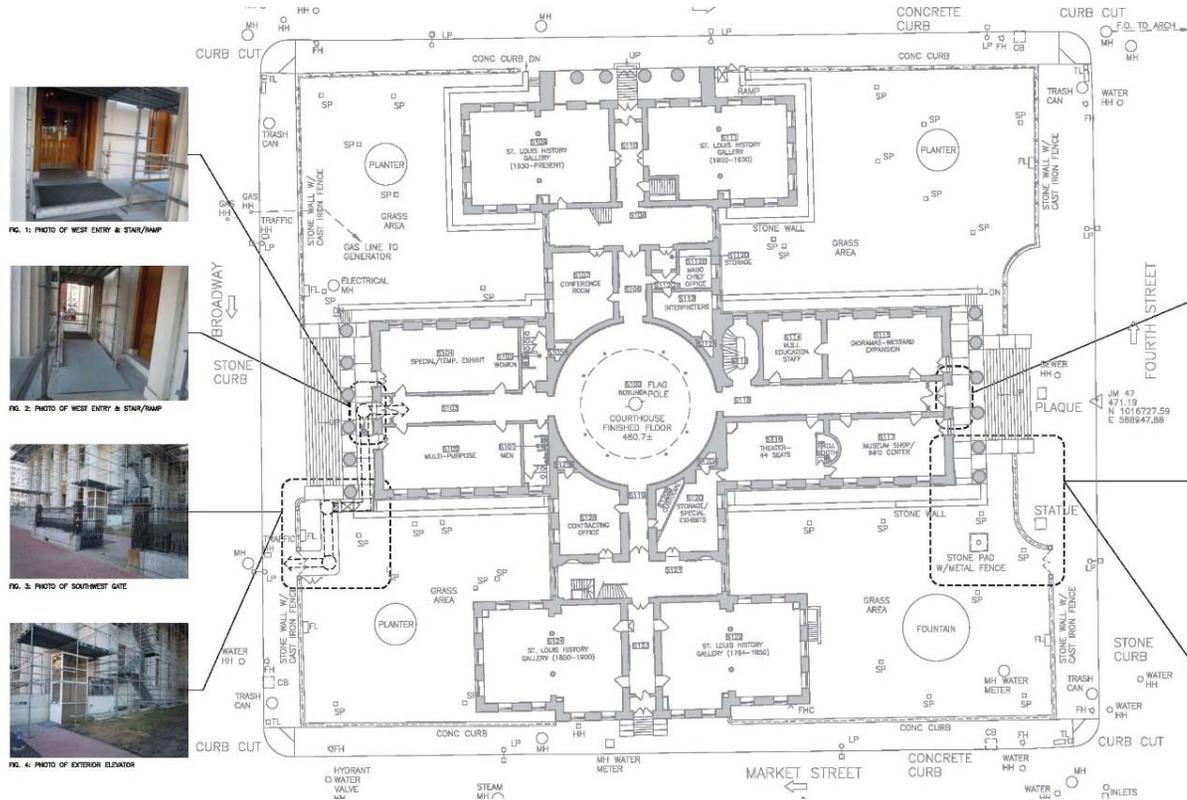


FIG. 1: PHOTO OF WEST ENTRY & STAIR/RAMP



FIG. 2: PHOTO OF WEST ENTRY & STAIR/RAMP



FIG. 3: PHOTO OF SOUTHWEST GATE



FIG. 4: PHOTO OF EXTERIOR ELEVATOR



FIG. 5: PHOTO OF EAST ENTRY

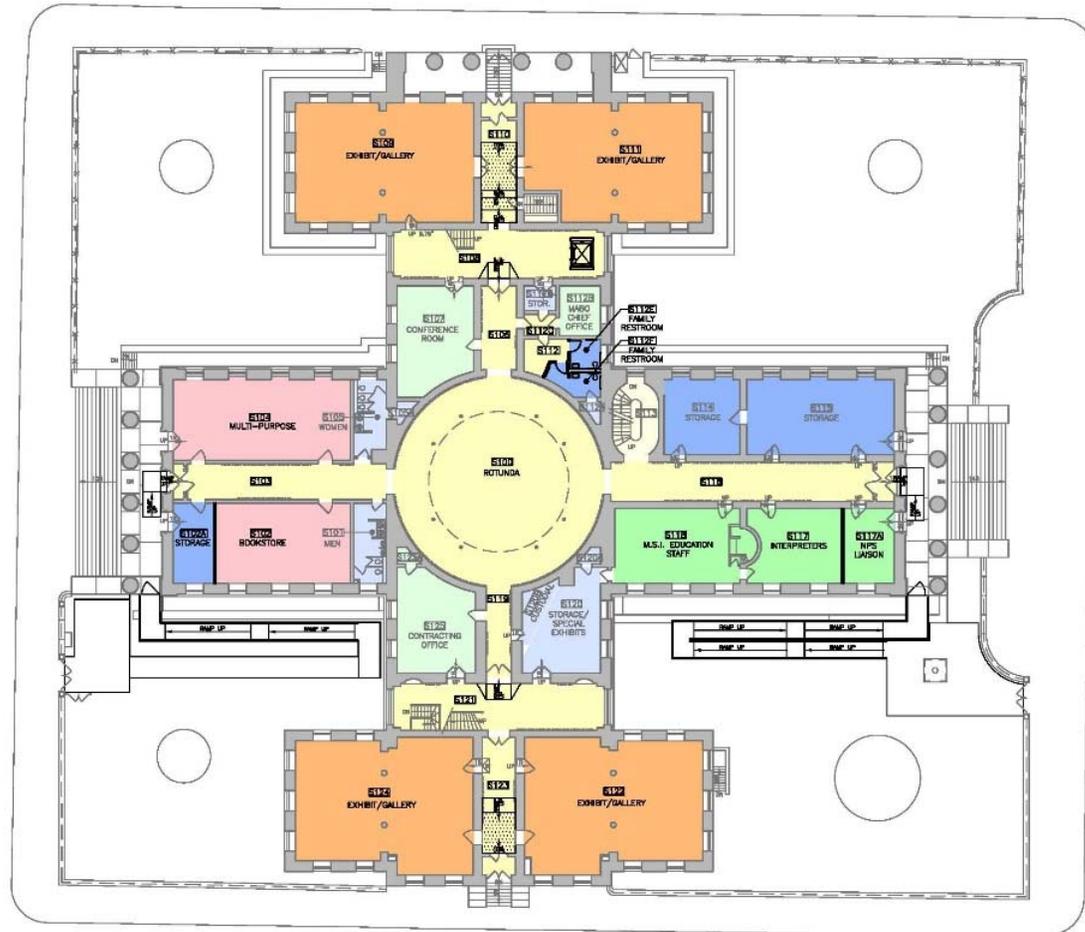


FIG. 6: PHOTO OF SOUTHEAST GATE



FIG. 7: PHOTO OF SOUTH END OF EAST PORTICO

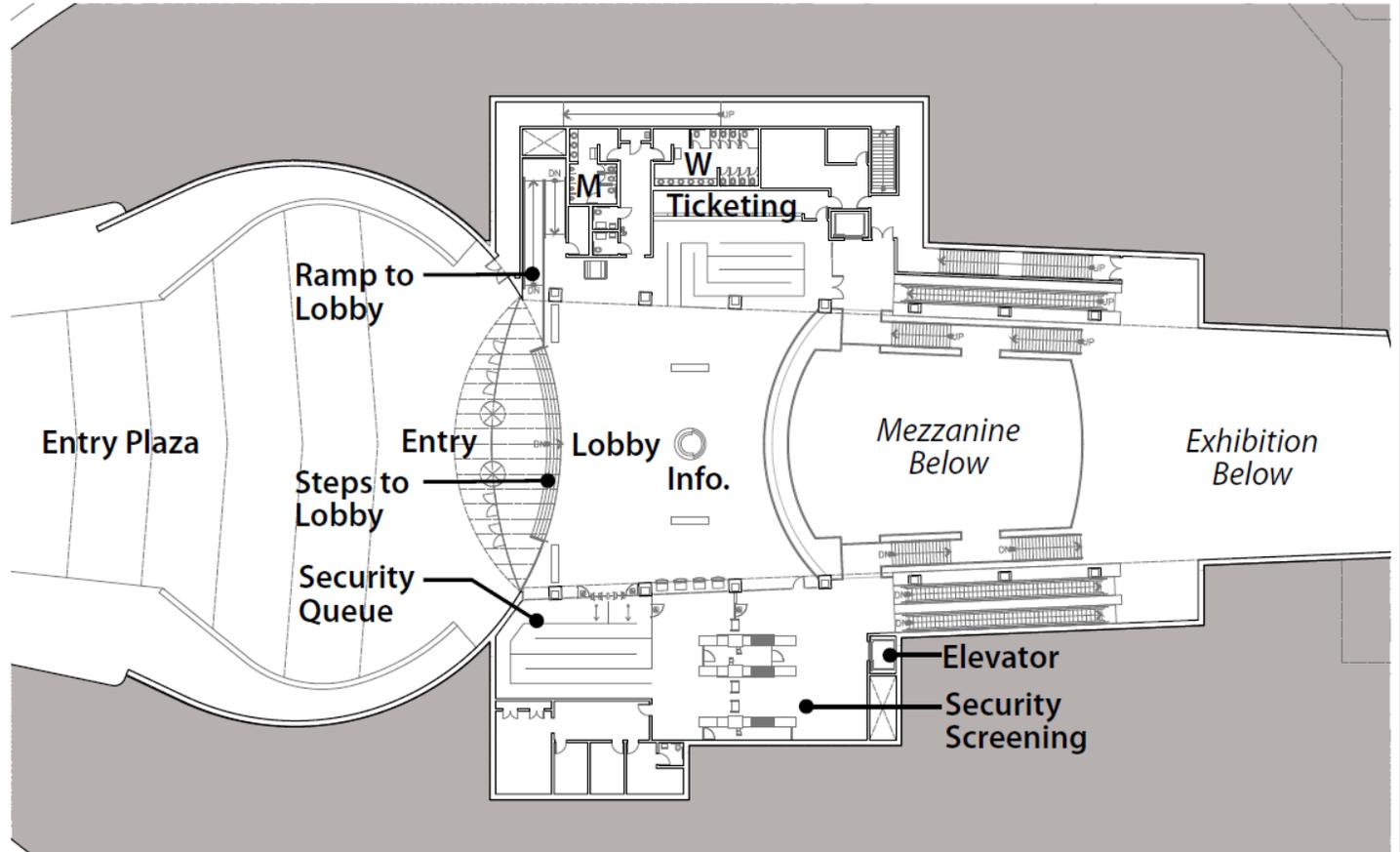
The Future:
Continuous
path from West
to East
Vertical Access
Family
Restrooms



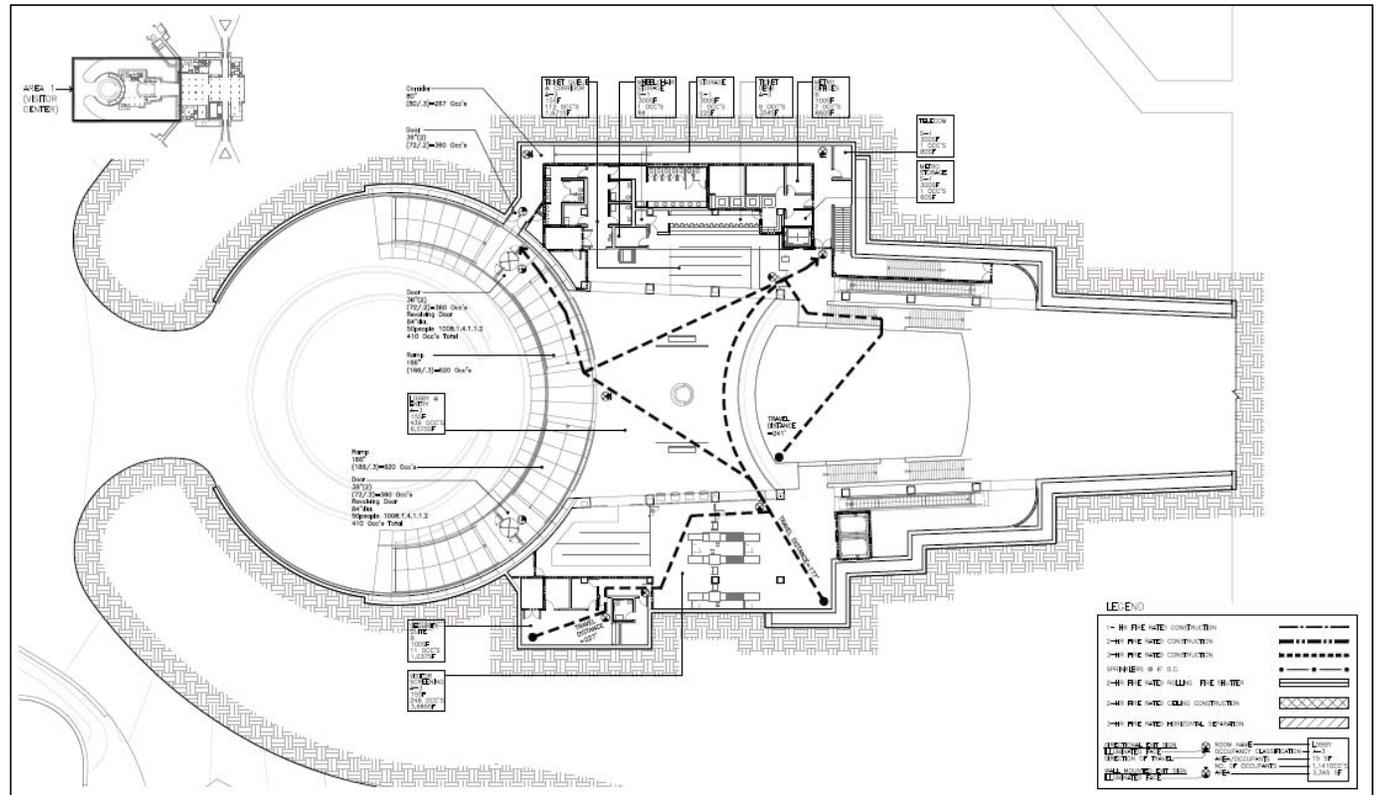
Historic
Preservation
&
Universal
Design

Jefferson
National
Expansion
Museum

Entry Level



Sloped Walks and an Integrated Entry



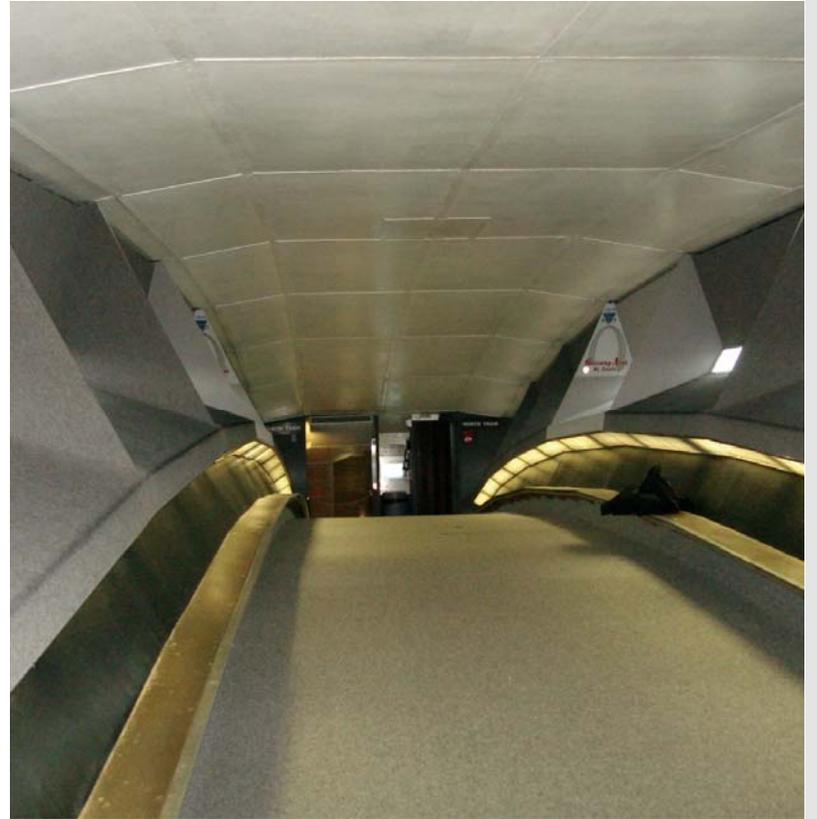
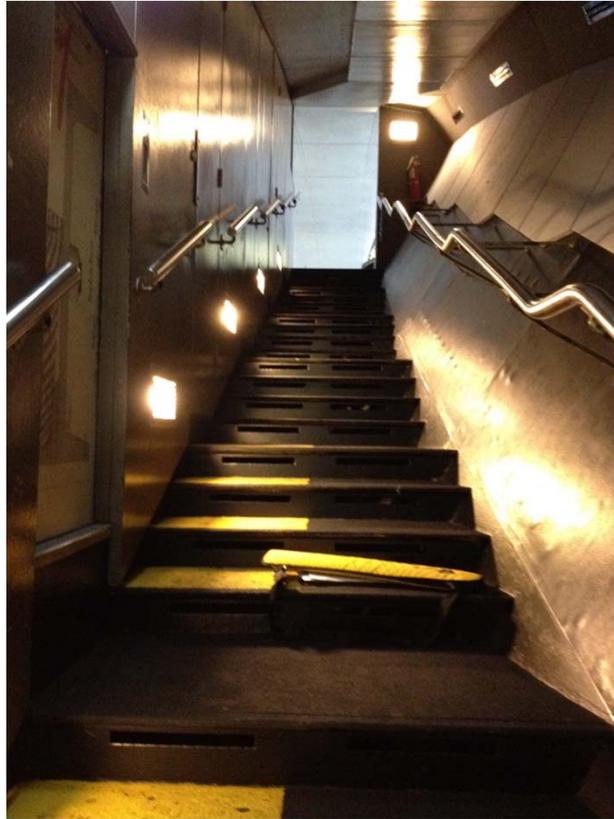
Museum



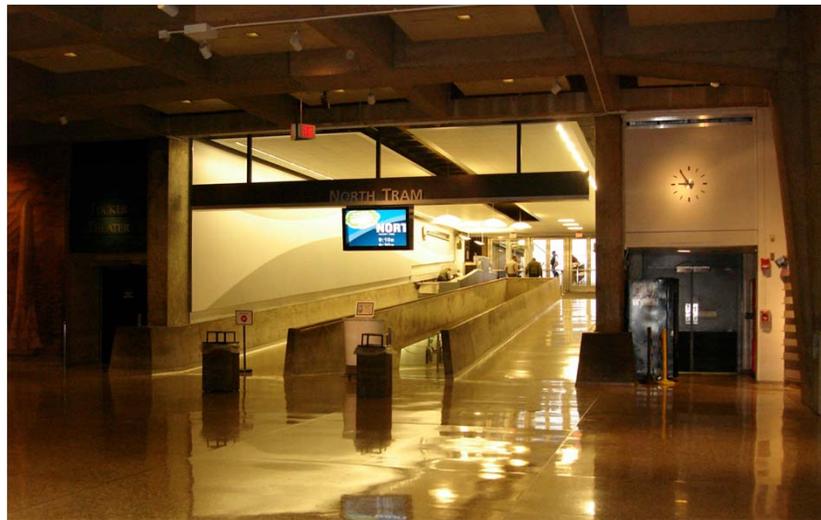
Technical Infeasibility?



Technical Infeasibility?

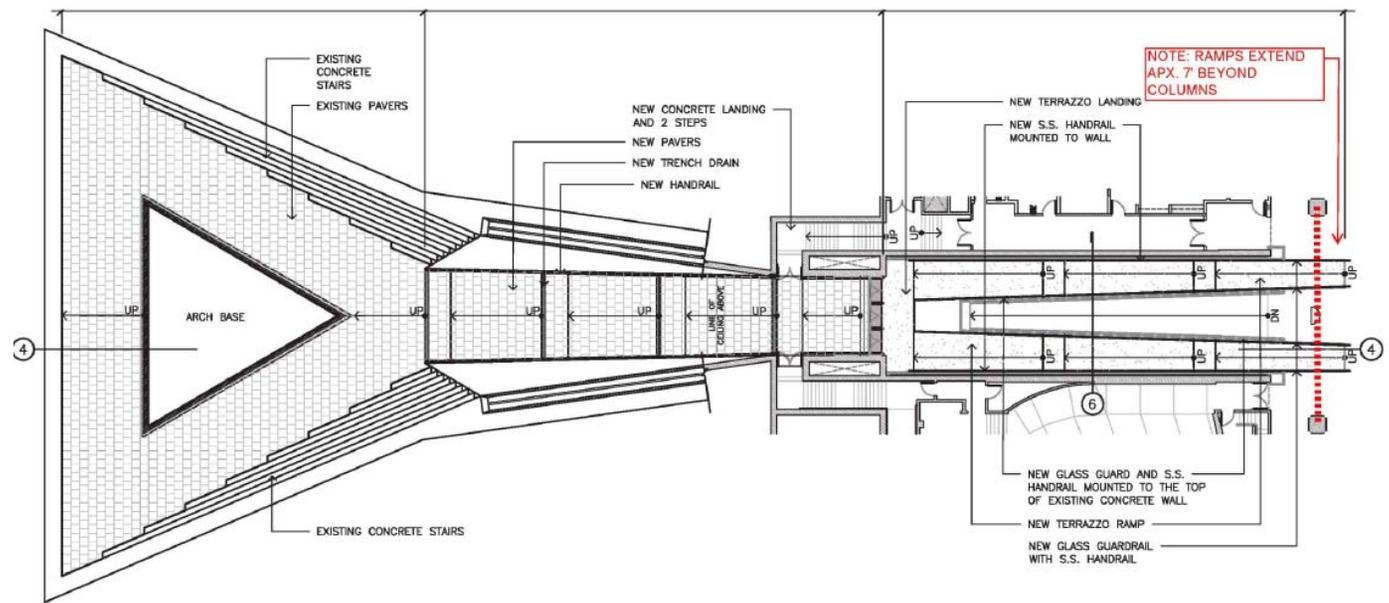


Historically
Infeasible?



A mix of preservation, access, reversible routes and perseverance.

Ramp Option A

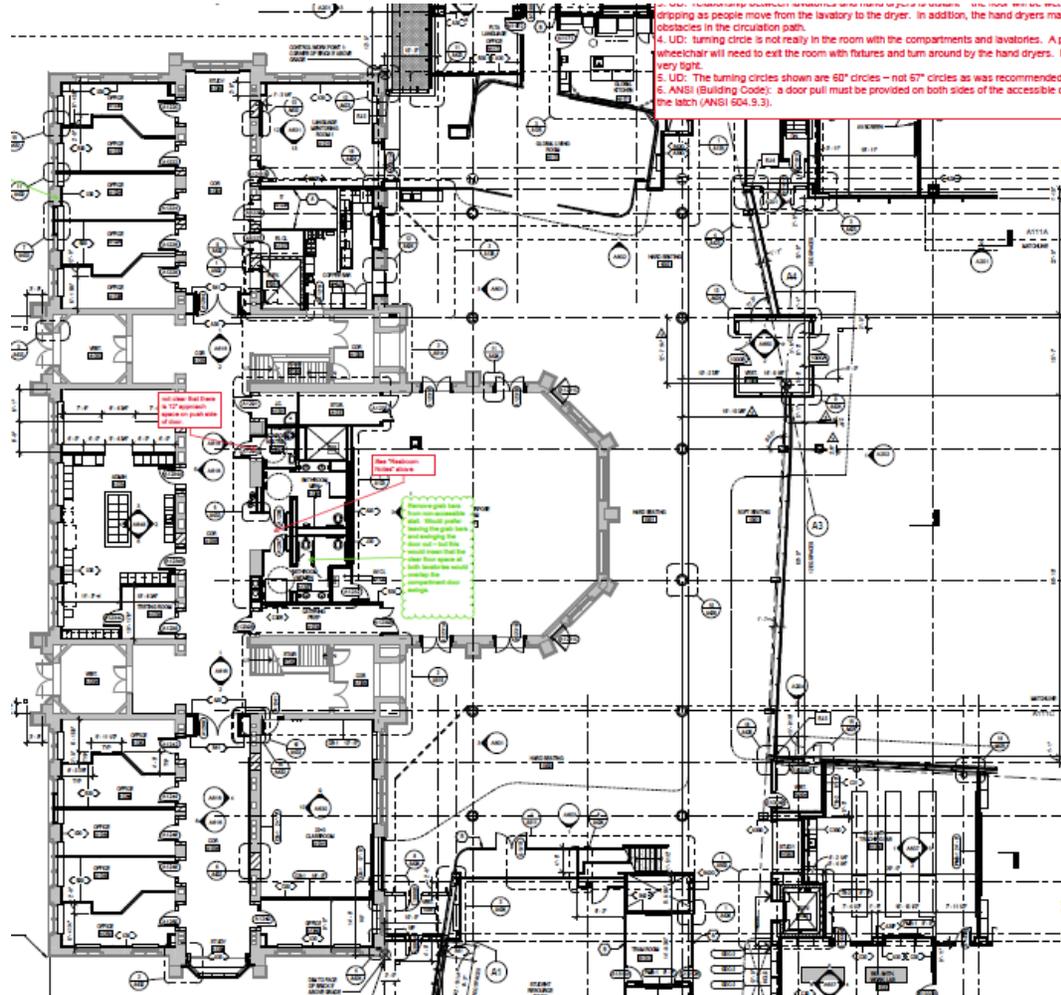


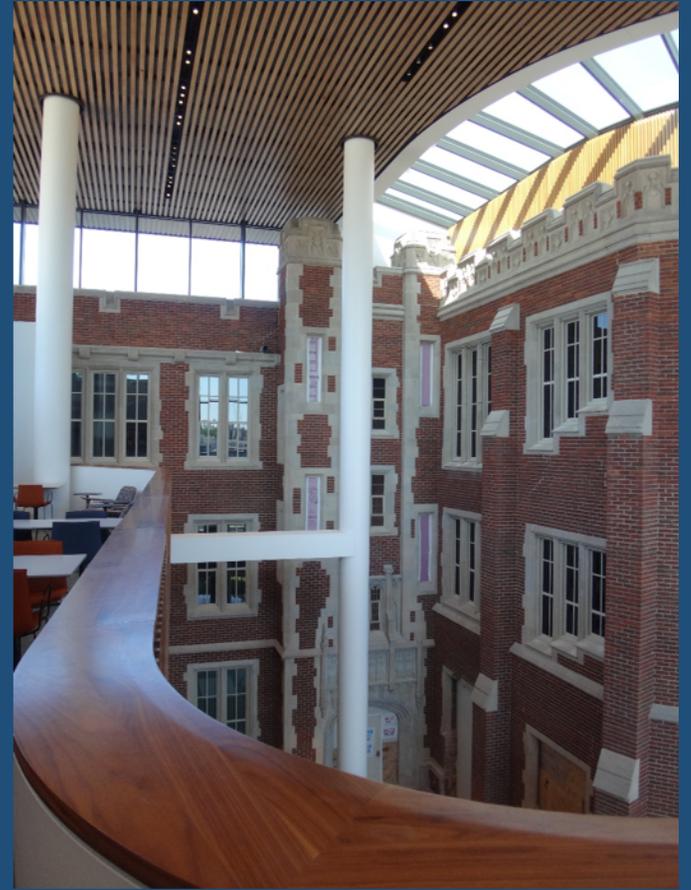
OVERALL RAMP PLAN (TYPICAL OF NORTH AND SOUTH EXITS)
NOT TO SCALE

Programming Decisions and Long Term Impact



Circulation spaces





Select ADA, Access, and Preservation Resources

- ADA.gov Home Page <https://www.ada.gov/index.html>
- ADA Legal and Technical Materials https://www.ada.gov/2010_regs.htm
- ADA Title III Public Accommodations Materials https://www.ada.gov/ada_title_III.htm
- ADA Title Technical Assistance Manuals For Business, Non-Profits and Government <https://www.ada.gov/ta-pubs-pg2.htm>
- Preservation Brief 32 -- Making Historic Properties Accessible <https://www.nps.gov/tps/how-to-preserve/briefs/32-accessibility.htm>
- ADA Requirements for Historic Properties <http://www.structuremag.org/?p=7540>
- Improving Accessibility of Historic Buildings and Places (Ireland) <http://www.ahrrga.gov.ie/app/uploads/2015/07/Access-Improving-the-Accessibility-of-Historic-Buildings-and-Places-2011.pdf>
- Easy Access to Historic Buildings (Historic England) <https://historicengland.org.uk/images-books/publications/easy-access-to-historic-buildings/>
- U.S. Access Board ADA Standards and Technical Assistance <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards>
- ADA Information Line: 800.514.0301 (voice) 800.514.0383 (TTY)
- Great Plains ADA Center <http://www.gpadacenter.org/>

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