The Impact of Interstates on Historic Preservation Law

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I - 5 2 6 E X T E N S I O N

THE IMPACT OF INTERSTATES ON HISTORIC PRESERVATION LAW

BY WILLIAM J. COOK

At the intersection of issues related to historic preservation, urban sprawl, and transportation, unlikely bedfellows have coalesced in opposition to the proposed extension of Interstate 526 through Charleston’s rural areas, marshlands, and rivers. The alliance includes citizens, preservation organizations, conservation groups, and local government, among others. Although these constituencies have not reached consensus, their opposition to a proposed interstate highway system extension through the heart of rural Charleston County provides a common thread. Debating the merits of this extension provides an opportunity to examine how interstate highways coincide with historic preservation law, and presents opportunities to advance an historic preservation agenda.

Although interstates and historic preservation may not appear related, early interstate development coincided directly with-and influenced-federal historic preservation law. This relationship is especially relevant now in light of society’s current notions of progress. Whereas interstates in the 1960s and 1970s represented the state-of-the-art in transportation strategy, hindsight shows that they often caused more problems than they solved. A modern approach favors consideration of all of the costs, along with the benefits, for more efficient growth that treads lightly upon natural resources.

Whether to adopt this holistic approach in Charleston in 2010 is a question that remains unanswered. The solution is not difficult, however, and does not involve reinventing the mousetrap or wheel. Studying the expensive lessons learned by cities recognized for sound urban planning—such as Portland, Oregon, and Greenville, South Carolina—yields important lessons. These cities, among several others in recent years, have taken down poorly conceived interstate extensions and freeway-style bridges that cut through historic areas, ruined the landscape, and caused noise, blight, and other environmental damage—at great public cost. These cities have realized great benefit to their rural and urban areas as a result, and chose this path for the reasons articulated here.

The I-526 Extension Debate

Since the 1980s, rush-hour drivers who travel the Savannah Highway (U.S. Hwy. 17) into and outside of Charleston’s city limits have experienced an exponential increase in traffic volume. This volume has grown in direct proportion to the area’s increasing population in
a way that could be best described as sprawl. “Big box” stores, automotive dealerships, and strip malls line this historic roadway, where a canopy of oak trees once stood. Neighborhoods and subdivisions have grown up on each side, but do not connect with one another in a coherent way. Along with daily commuters, residents of these areas use Savannah Highway to visit one another, run errands, and go to and from work and school. In this way, Savannah Highway performs like a typical Main Street, but one with five lanes and large intersections. Nevertheless, opposition to land use regulation remains high, even as the need for it grows. James Howard Kunstler, noted journalist and writer, refers to this phenomenon in his book, The Geography of Nowhere.

Commuters and residents experience this phenomenon on a daily basis because the Savannah Highway has reached its maximum capacity and can barely handle current needs. To the extent that it meets existing demands, this ability will not last long. Against a backdrop of rising frustration, public support for new roads has become increasingly emotional and strident, with users looking to other places in Charleston County to absorb the increasing demand. In response to this pressure, government officials support extending the existing I-526 across the Stono River, and crossing Johns and James Islands, blurring a once rural barrier and potentially impacting significant historic sites, including a battleground on Headquarters Island and a rare 18th-century plantation house, Fenwick Hall. Conservation groups point out environmental dangers to rivers and marshes that would result from interstate and bridge construction, along with loss of aesthetics and increased noise and light pollution. The debate can be summarized as follows:

**PRO:** Arguments in favor of extending I-526 tend to fall into three groups: convenience, profit, and safety. On one hand, commuters argue that new routes are needed into and out of the city from the area west of the Ashley River. Thus, I-526 will shorten time spent commuting. Next, many residents of this area believe that extension of I-526 will alleviate traffic near their homes. Still others argue that extending the I-526 will increase property values and allow new development opportunities. Finally, many residents of Seabrook and Kiawah Islands seek easier access across adjacent rural islands to other parts of Charleston County. They tout a need for improved

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**CON:** The first line of attack argues that interstate extension does not make sense in light of the facts. Citing out-of-date traffic studies used over two decades ago to justify the need for interstate expansion, the Coastal Conservation League argues that even though a new interstate may relieve congestion in some places temporarily, any relief will be short-lived because I-526 is already obsolete. Recent traffic studies by the Urban Land Institute show that most of Savannah Highway's traffic arises not from commuters, but residents moving amongst adjacent communities. Because these residents have no other transportation options, and live in neighborhoods that do not inter-connect, they use Savannah Highway not by choice, but due to a lack of one.

Moreover, an extended interstate will not alleviate current traffic congestion but, rather, increase it at other points throughout Charleston County where it currently does not exist—a conclusion consistent with predictions of the Berkeley-Charleston-Dorchester Council of Governments. For example, the Savannah Highway and Folly Road will still have failing levels of service immediately after I-526 is built. Building parallel roads alongside existing ones, the League argues, provides a more efficient solution and represents sound urban planning. No new bridges should be constructed in order to preserve Johns Island's rural character, and future growth should concentrate in places where people already work and live. The City of Charleston opposes a traditional interstate, but supports two new bridges and a parkway of a smaller scale to promote connectivity between different regions. The City, too, supports construction of parallel roads, but far fewer of them, along with a roadbed it describes as a parkway, divided by planted medians. Both groups have submitted their plans to the S.C. Department of Transportation, which has taken them under review.

**Connections between the Interstate System and Historic Preservation Law**

**INTERSTATE HIGHWAY DEVELOPMENT:** The link between interstate highway construction and historic preservation is a subtle, but important one. It also shows a distinct, but parallel development in terms of how the laws governing these areas have evolved. The Dwight D. Eisenhower National System of Interstate and Defense Highways, started in 1956 and commonly known as the Interstate Highway System, is a network of limited-access highways, named after President Eisenhower, who promoted their cause. President Eisenhower, who first encountered the German Autobahn during his World World II service in Europe, viewed interstate highways as an important component of national defense and commerce. U.S. car manufacturers joined his efforts, forming a powerful coalition.

As of 2006, over 46,000 miles of U.S. interstates account for the longest system of highways in the world. They also share another distinction as the largest public work project undertaken by government anywhere since the Roman Empire. Interstates serve almost every major U.S. city, with many interstates passing through urban centers. One final aspect is that although the federal government provides 90% of funding and the means of regulation, state governments bear responsibility for the final 10% of funding, along with complete responsibility for interstate construction, operation, and ownership. South Carolina, for example, owns its portions of I-20, I-26, I-77, I-85, and I-95, along with any spurs or extensions such as I-385 and I-526. Plans are also underway for the construction of I-73 that will connect the Grand Strand with Michigan.

**CONNECTIONS WITH HISTORIC PRESERVATION LAW:** In recognition of the inevitable destruction that interstate construction brings, federal, state, and local governments rallied in the early- to mid-1960s. They were
spurred on by the efforts of First Lady "Lady Bird" Johnson to beautify America, namely its roadways. The pressure exerted by these efforts led Congress in 1966 to pass the National Historic Preservation Act, or NHPA; the National Environmental Policy Act, or NEPA; and Section 4(f) of the Department of Transportation Act, otherwise known as Section 4(f). Although a full explanation of these statutes exceeds the scope of this article, they provide the federal law that lays out the national policy for the preservation of cultural and historic resources. Even though these statutes lack enforcement power, they provide important procedural protections to the extent federal undertakings and historic resources are involved.

Section 4(f)—the “highway law”—is considered the strongest preservation law at the federal level. It deserves special recognition here for several reasons. In summary, unlike NHPA and NEPA, Section 4(f) prohibits federal approval or funding of transportation projects that require the “use” of any historic site, public park, recreation area, or wildlife refuge, unless (1) there is “no feasible and prudent alternative to the project,” and (2) the project “includes all possible planning to minimize harm to the project.” For example, the effects of a proposed highway on the economic vitality of a nearby historic district (listed on the National Register under NHPA) from nearby commercial activity would probably mandate application of Section 4(f). To date, the U.S. Department of Transportation has canceled several major highway projects because of Section 4(f) that would have negatively affected historic properties. Court action pursuant to Section 4(f) has stopped others.

Looking Ahead

Because an extension of I-526 may impact historic areas such as Headquarters Island and Fenwick Hall, and could destroy valuable archaeological sites, such as Civil War shipwrecks under the Stono River and former plantations in its vicinity, NEPA will likely require public disclosure, hearings, and consideration of I-526’s impact. At the local level, the special character of this region demands that government leads in a positive direction, one that honors the special character of this region and lessens sprawl. Preservationists, therefore, must ensure that zoning laws are re-studied and updated to protect the built and natural environment from the increased development pressures that always come with expanded roadways. Although the jury remains out on whether the proposed extension of I-526 will move forward, one thing is clear: to the extent that interstate highway expansion jeopardizes this area’s cultural and historic heritage, preservationists and advocacy groups have powerful legal tools to further their missions.

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References:

External Links:
Interstate Highway information http://www.fhwa.dot.gov/programadmin/interstate.cfm