



MEMORANDUM

TO: Section 106 Consulting Parties

FROM: Ms. Angela Tucker, Project Manager

PREPARED BY: Ms. Maggie M. Sunderland, Environmental Planner
Rummel, Klepper & Kahl, LLP

DATE: March 28, 2008

REFERENCE: Route 250 Bypass Interchange at McIntire Road
VDOT Project: 0250-104-103, PE-101; UPC Number: 60234
**Section 106 Consulting Parties
Meeting Minutes, February 26, 2008**

A meeting was held on February 26, 2008 to discuss the above referenced project as it relates to Section 106 of the National Historic Preservation Act. Attendees included the City of Charlottesville and consultants, the Virginia Department of Historic Resources, the Federal Highway Administration, the Virginia Department of Transportation, and other Consulting Parties. Other Consulting Parties include Piedmont Preservation (Daniel Bluestone), STAMP (Peter Kleeman & Rich Collins), APVA (Mary A. R. Howard), and North Downtown Residents Association (Colette Hall). An attendance sheet is attached to these minutes.

The purpose of this meeting was to solicit comments from Consulting Parties on the project and evaluate proposed alternatives to avoid and minimize potentially adverse effects to historic resources (agenda attached). The following bullets identify the major topics covered at the meeting.

- *Review of Last Meeting Minutes*
Eric Almquist distributed the meeting minutes and asked the Consulting Parties if there were any additions or changes to the minutes (none were given).
- *APE and Eligibility*
The project team received final comments on the APE and on National Register eligibility of historic resources.
- *Avoidance and Minimization Alternatives*
Owen Peery and Eric Almquist described in detail all ten alternatives that have been considered during the Section 106 process. They gave a brief synopsis of each alternative and discussed the reasons why each alternative was dismissed. The Consulting Parties and VDHR commented on each alternative.
- *Next Steps*
A meeting with the project's Steering Committee will be held in March. Consulting Parties will be invited to that meeting. The next Consulting Parties meeting will be held sometime in the Spring of 2008 in order to discuss effects of the single preferred alternative. The date and place have to yet to be determined.
- *Materials Distributed:*
 1. Minutes from January 10, 2008 Consulting Parties Meeting
 2. Letter from City to VDHR, February 6, 2008



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3. Avoidance and Minimization Alternatives Analysis Memorandum
4. Avoidance and Minimization Alternatives Mapping
5. Characteristics of Historic Properties
6. Assessment of Adverse Effects
7. Letter from FHWA to VDHR, February 15, 2008
8. Response to Comments Memorandum

Major Themes and Comments Discussed

Eric Almquist welcomed everyone and reviewed the materials in the handout packet. At the last meeting (January 10, 2008) the Area of Potential Effect (APE) and National Register of eligibility of resources were discussed. Those minutes were included in the materials handout.

Since the January 10th meeting, the City of Charlottesville submitted a letter to VDHR on February 6 regarding the National Register eligibility of all project area properties as well as the APE boundary. The APE submitted to VDHR was expanded based on the discussion at the January 10 meeting.

Marc Holma stated that his chief concern is conveying how the APE affects the examination of historic resources. VDHR looks at the entire resource as a whole regardless of whether only a portion of the property or resource is included in the APE. Thus, even though only part of McIntire Park is included within the APE as drawn, effects to all historic elements of the park will be evaluated for the project.

Rich Collins asked if the park is included in the cumulative effects. Marc Holma responded that the entire park will be considered. Rich Collins went on to ask if the way in which the park is evaluated will be altered in light of the February 15, 2008 letter from FHWA to VDHR regarding cumulative effects. Marc Holma replied that VDHR is putting together a written response to the FHWA letter. Ethel Eaton added that the particulars of the letter do not need to be discussed at this meeting but it will be worked out between FHWA and VDHR. Thus the evaluation of the park does not change because of the letter; potential cumulative effects to the park will be evaluated for the entire resource. VDHR and FHWA will report back to the group any results from their future meeting that relate to the interchange project.

APE and Eligibility

Peter Kleeman asked for clarification of the term "Architectural APE". He asked if the APE only includes architectural historic resources (such as buildings and structures) or does it include other resources such as the golf course. Eric Almquist responded that the term Architectural APE is used to differentiate between areas where there could be affects to architectural resources versus archaeological resources. Marc Holma clarified that it may be more appropriate to use the term "indirect" APE, since it encompasses the area which may be affected by audible or visual effects (which could impact architectural resources) as well as physical effects (which could impact archeological and architectural resources). Peter Kleeman expressed his desire to refer to the area potentially indirectly affected as the Indirect APE. The project team agreed and will make the change on future mapping.



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Regarding the Vietnam Veterans War Memorial, Daniel Bluestone quoted Section 15.2-1812 of the Code of Virginia, which states:

“A locality may, within the geographical limits of the locality, authorize and permit the erection of monuments or memorials for any war or conflict, or for any engagement of such war or conflict, to include the following monuments or memorials: Algonquin (1622), French and Indian (1754-1763), Revolutionary (1775-1783), War of 1812 (1812-1815), Mexican (1846-1848), Confederate or Union monuments or memorials of the War Between the States (1861-1865), Spanish-American (1898), World War I (1917-1918), World War II (1941-1945), Korean (1950-1953), Vietnam (1965-1973), Operation Desert Shield-Desert Storm (1990-1991), and Operation Iraqi Freedom (2003). If such are erected, it shall be unlawful for the authorities of the locality, or any other person or persons, to disturb or interfere with any monuments or memorials so erected, or to prevent its citizens from taking proper measures and exercising proper means for the protection, preservation and care of same. For purposes of this section, "disturb or interfere with" includes removal of, damaging or defacing monuments or memorials, or, in the case of the War Between the States, the placement of Union markings or monuments on previously designated Confederate memorials or the placement of Confederate markings or monuments on previously designated Union memorials.

The governing body may appropriate a sufficient sum of money out of its funds to complete or aid in the erection of monuments or memorials to the veterans of such wars. The governing body may also make a special levy to raise the money necessary for the erection or completion of any such monuments or memorials, or to supplement the funds already raised or that may be raised by private persons, Veterans of Foreign Wars, the American Legion or other organizations. It may also appropriate, out of any funds of such locality, a sufficient sum of money to permanently care for, protect and preserve such monuments or memorials and may expend the same thereafter as other funds are expended.”

(Code 1950, § 15-696; 1962, c. 623, § 15.1-270; 1982, c. 19; 1988, c. 284; 1997, c. 587; 1998, c. 752; 2005, c. 390.)

Marc Holma asked how the project team is addressing this law, even though it is not related to Section 106 issues. Eric Almquist responded that he would need to review the law again and respond at a later date.

Follow-up: The operative words in the statute are “disturb or interfere with” which includes “removal of, damaging or defacing.” The City has recognized the need to take “proper measures” to “protect, preserve, and care for” the War Memorial. As stated at the February 26 meeting, none of the “retained” build alternatives” (B, E2, C1, and G1) or currently preferred alternatives (C1 and G1) would result in relocation, removal, damaging, or defacing of the memorial. Furthermore, the project team is working with the Steering Committee and the caretakers of the memorial to develop a concept plan for appropriate treatment of the memorial space.

Regarding the potential National Register Eligibility of the Memorial, Eric Almquist explained that a reasonable amount of research and time has gone into the process of identifying historic properties for this project. Identifying if the Vietnam Veterans Memorial is indeed the first of its kind would require substantial research and may never be determined definitively. Moreover, if it



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were the first memorial of its kind, we do not feel that Criterion G would apply. The team has considered comments from the Consulting Parties, has reviewed the research and has made the recommendation to VDHR that the Memorial not be eligible for listing on the National Register. The project team will review comments on this recommendation from VDHR. The Memorial is a very important resource and it has been and will continue to be thoroughly considered by the project team.

Marc Holma noted that VDHR has 30 days to respond to a request or letter. He explained that an architectural evaluation team is available to assist Mr. Holma and Ms. Eaton in reviewing the memorial. These specialists would be consulted on the eligibility of the Vietnam Veterans Memorial.

Follow-up: After additional review, VDHR responded via letter to the City on March 7, 2008 that they believe the Memorial is not individually eligible for the National Register, however, it should be considered as a contributing element to the McIntire Park historic property. The City/FHWA agree with this recent recommendation and will include the Memorial as an historic characteristic of the park when applying the criteria of adverse effects under Section 106.

Eric Almquist informed the Consulting Parties that the Rock Hill Academy Landscape is recommended to be eligible for the National Register. The input from the Consulting Parties and the research they shared with the team helped the team reach this recommendation. Daniel Bluestone asked why then, if the Rock Hill Academy Landscape is recommended eligible, is it not entirely included in the mapped APE? Eric Almquist referred back to Marc Holma's earlier comment that regardless of the APE boundary, effects to the entire resource will be evaluated when applying the criteria of adverse effect.

Daniel Bluestone proposed that the east-west portion of the APE line in the Rock Hill property be moved north to the edge of the parking lot, just beyond the raised boxwood parterre that once stood in front of the Rock Hill Mansion. He also suggested that the north-south boundary line be moved east to the top of the wooded section of the garden, along the west edge of the line of the 1960s building. The interchange is clearly visible from these portions of the Rock Hill site and thus should be included in the APE. Daniel Bluestone requested the Consulting Parties take a field view to visit the site and see the viewshed for themselves. The Noise Technical Evaluation showed no impact to Rock Hill. Peter Kleeman submitted that the vegetated screening in the area may help to block the view of the proposed interchange but it would not lessen noise impacts to the site. Daniel Bluestone believes the entire garden should be included in the APE and submits that there could be up to a 10-decibel difference in different areas of the garden.

Colette Hall has noticed that the Rock Hill site has lost a lot of large trees over recent years and therefore visual screening is not what it once was. She went on to say that she and Peter Kleeman walked the Rock Hill site and agreed with Dr. Bluestone that the intersection is visible from the current MACAA buildings, particularly in winter.

Follow-up: VDHR has agreed with the City's/FHWA's recommendation that Rock Hill Academy Landscape be considered eligible for the National Register. The APE boundary was also expanded further to the northeast to include more of the Rock Hill property.



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Rich Collins asked for clarification on the difference between McIntire Road Extended and Meadowcreek Parkway. On the mapping handed out at the meeting, Meadowcreek Parkway is labeled as proposed, and McIntire Road Extended is not. Owen Peery replied both should be treated the same (proposed) and the project team would make this adjustment to the mapping.

Avoidance and Minimization Alternatives

Eric Almquist summarized the avoidance and minimization alternatives as described in the “Avoidance and Minimization Alternatives” memorandum and accompanying maps handed out at the meeting.

Rich Collins said that he believes the TSM description in the memo provided by RK&K is not adequate. It should be evaluated as a balanced alternative to the interchange.

Colette Hall asked if buses would be permitted on McIntire Road Extended / Meadowcreek Parkway. Because trucks would be prohibited she feels that buses should also be prohibited. She also asked if the bike path is extended north to the county. Angela Tucker responded that yes, the shared use path would provide a connection from the county to the park.

Owen Peery stated that the avoidance alternatives have merit for review and discussion, but none are reasonable alternatives to the interchange. Therefore the project did not feel that it would be appropriate to carry them forward.

Daniel Bluestone explained why he is disappointed with the process in general. The Consulting Parties were included in the project long after the alternative design process was begun. He believes that reasonable alternatives have been glibly dismissed. He would like to see detailed cost estimates and engineering for the one-way pair alternative (one lane northbound along rail alignment, one lane southbound on the McIntire Road Extended alignment).

Angela Tucker noted that the project team has made a great effort to work with the Consulting Parties and explore in detail each new potential alternative suggested by the group over the past year. She explained that the team has gone above and beyond their duty by thoroughly engaging stakeholders in design of the interchange while being sensitive to the needs of the community.

Regarding the TSM/TDM alternative, Owen Peery explained that many studies have been completed to prove merit of other area projects such as analyzing the entire regional model and investigating the Eastern Connector. However, the purpose of the Section 106 process and this meeting relates to the interchange and the interchange only, and the TSM/TDM options have merit but will not meet the Purpose and Need for this project alone. Rich Collins said that he is questioning the process, the Purpose and Need, and how the project is geared primarily towards automobiles. He feels that the congressional earmark and the desire for the road (McIntire Road Extended / Meadowcreek Parkway) have precluded any discussion of broader transportation alternatives.

Peter Kleeman submitted that the interchange without McIntire Road Extended does not meet the Purpose and Need either. FHWA has stated that there is not a 100% chance that the roadway will be built, but Peter believes that FHWA will probably not build the interchange if McIntire Road Extended is not built. He would like to see an analysis of the no-build intersection without the



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parkway. Eric Almquist said that the team has responded to similar comments at earlier meetings, however, the intent of this meeting is to address the Section 106 process (not independent utility, Purpose and Need, or whether or not the project should be completed). Additional response to these questions is included in the “Response to Comments and Questions” memorandum distributed at this meeting.

Rich Collins would like to see a compromise using TSM because it provides a creative solution to relieve traffic, minimizes impacts and avoids the park. Eric Almquist replied that the team has investigated the TSM alternative and has found that it alone will not address the project needs. However, some TSM options will be included in the project, especially for bicycles and pedestrians. Rich Collins replied that relying on yesterday’s model for today’s issues is part of his concern.

Peter Kleeman submitted that the No-build Alternative should be considered at the same level as the avoidance alternatives with regard to Section 106. Eric Almquist explained that review of the No-Build alternative is not relevant under Section 106. Marc Holma reiterated that if there is no Federal action / undertaking (as with the No-build scenario) then Section 106 does not apply.

Ms. Eaton reminded the group that the Consulting Parties and project team are charged with taking into account the alternatives and looking at the potential effects to historic properties. She recommended that the group work through each alternative and discuss reasons for dismissal. Based on this suggestion, Owen Peery walked through each of the alternatives using the summaries in the “Avoidance and Minimization Alternatives” memo (attached) as a guide. Some key points from the discussion follow:

Alternatives 4 & 5

- Daniel Bluestone remarked that he thinks the impact to historic resources from these avoidance alternatives would be less than interchange concepts. Angela Tucker agreed, but explained that many residences would be impacted, and the avoidance alternatives would not be a solution to existing and future issues at the interchange project location.

Alternative 7

- Daniel Bluestone recommended that the team consider closing the west ramp, add a noise wall and provide parking or pedestrian/bike access to McIntire Park and Rock Hill Landscape. Colette Hall stated that closing the ramps would have large unknown traffic effects to the surrounding communities.

Alternative 8

- Daniel Bluestone disagreed that two 1-lane roads would cause greater impacts than one 2-lane road, as stated in the memo. He believes that if you take one lane all the way along the railroad alignment to Preston Avenue than you will reduce traffic at the McIntire Road / Route 250 interchange.



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- Owen Peery responded that access at the Route 250 Bypass / McIntire Road intersection would still be needed in all directions with the one-way pair alternative, thus the need for the project would not be met. Changing grades and providing the full range of turning movements would still be necessary. Although you could remove one lane from the Route 250 off-ramp, the length of the ramps and location would still be the same. If you eliminate directional moves you could take out lanes from the interchange.

Alternative 10

Rich Collins submitted that the TSM options may not replace the interchange but could reduce the size of the interchange. Owen Peery replied that the interchange size is determined by terrain and VDOT and FHWA constraints. The interchange cannot be made smaller and still meet state and federal standards.

Next Steps

Eric Almquist stated that the alternatives were evaluated and re-evaluated per the recommendations and suggestions from the Consulting Parties. The next step is to talk to the Steering Committee about the Section 106 process to date. The members of the Consulting Parties are welcome to attend the next Steering Committee Meeting, which will likely be in March. The public is also invited. Due to time constraints, one person may represent the Consulting Parties at the Steering Committee meeting and provide a statement.

The next step for the Consulting Parties is to review how the alternative may potentially affect each resource. The team will systematically go through the resources using the criteria that makes them eligible and apply the criteria of adverse effects. The City / FHWA will consider the comments of the Consulting Parties before making an effect finding (e.g., adverse effect or no adverse effect). This discussion will take place after the preferred alternative is identified. Marc Holma stated that he would prefer that the effects discussion take place after the preferred alternative has been identified. Peter Kleeman believed that to be backwards.

Rich Collins stated that he believes FHWA's February 15 letter to VDHR raises issues between FHWA's determination of independent utility and the scope of cumulative effects. He asked Ed Sundra to explain cumulative effects as described in his letter. Mr. Sundra replied by saying that for cumulative effects, multiple projects may be considered, but under Section 106, only those that are caused by the Federal undertaking are considered in the effect evaluation. Thus, responsibility (mitigation) of the action is assumed by FHWA for this project only. Generally, the assessment of effects in the cumulative context results in the undertaking being viewed as having more overall impact, since other projects (such as the McIntire Park Master Plan and McIntire Road Extended) will also be affecting the park. The interchange would therefore be adding a smaller amount of impact than if these other projects were not considered.

VDHR and FHWA will be discussing cumulative effects and clarifying these issues at a later meeting outside of this project. As mentioned earlier, any items relevant to this project will be reported back to the group.



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Peter Kleeman said he has not seen any response on the comments concerning logical termini. Ed Sundra replied that the response to these comments were included in the packet that was just distributed to the group.

Rich Collins asked the team if there will be a response to the letter he sent to the City regarding the property owner intent for McIntire Park. Angela Tucker said she would respond via letter.