



U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of Airport Planning
and Programming

800 Independence Avenue, SW.
Washington, DC 20591

December 8, 2016

Mr. Reid Nelson
Director, Office of Federal Agency Programs
Advisory Council on Historic Preservation
401 F Street NW, Suite 308
Washington, DC 20001-2637

**Subject: Advisory Opinion on the FAA’s Determination of No Adverse Effect
Bowman Field Airport (LOU), Louisville, Kentucky**

Dear Mr. Nelson:

Thank you for your advisory opinion letter of November 3, 2016, in response to our request for the Advisory Council on Historic Preservation’s (ACHP) review¹ of our finding of “No Adverse Effect” (NAE) for the subject undertaking by the Louisville Regional Airport Authority (LRAA).

We appreciate that your letter stated in part that “all of the consulting parties have indicated their support of the safety improvement measures that LRAA will need to take to facilitate the operation and use of Bowman Field.” We also appreciate that your letter included the following key acknowledgements:

We acknowledge that FAA reconsidered the boundaries of the area of potential effects (APE) in March 2016 and received the concurrence of the Kentucky State Historic Preservation Officer (SHPO) that such an APE better reflects the extent to which direct and indirect effects may occur on historic properties. Likewise, we acknowledge the efforts of FAA’s Federal Preservation Officer (FPO) in conducting a supplemental analysis of effects on historic properties in the memorandum drafted on July 8, 2016, in response to comments received regarding the May 2016 NAE.

After careful review of both the ACHP advisory opinion and of the extensive stakeholder input that the LRAA and Federal Aviation Administration (FAA) considered, we respectfully disagree with the ACHP’s characterization of the proposed undertaking as representing “substantial tree removal,” and the ACHP’s opinion that the FAA had not adequately documented its evaluation of the overall undertaking.

I am attaching a more detailed response to ACHP’s key points. After careful consideration of the ACHP’s advisory opinion, the details of the proposed undertaking and the extensive environmental review process that has been conducted—as well as further consultation with

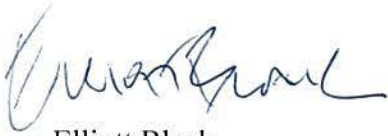
¹ Pursuant to 36 CFR § 800.5(c)(3)(i)

the FAA's Federal Preservation Officer (FPO)—we are confirming our finding that the Bowman Field Airport Area Safety Program would have no adverse effect on any historic property.

It may be helpful to note that the FAA's FPO is not part of the FAA's Office of Airports. Rather, that position is part of the Office of Environment and Energy, and provides a valuable independent perspective on proposed undertakings such as this one.

If you have any questions about this, please contact Katherine B. Andrus, FAA's Federal Preservation Officer and National Tribal Consultation Official, at 202-267-9458, or by email at Katherine.Andrus@faa.gov.

Sincerely,



Elliott Black
Director, Office of Airport Planning and Programming

Attachment

cc: Katherine Andrus, Federal Preservation Officer, FAA
Steven Hicks, Acting Director, Southern Region Airports Division, FAA
Phillip Braden, Manager, Memphis Airports District Office, FAA
Michael Hines, Manager, Airport Planning and Environmental Division, FAA

**Summary of the FAA’s Review and Consideration of the ACHP’s Opinion Regarding
FAA’s “No Adverse Effect” Finding for the Bowman Field Safety Program**

On May 24, 2016 the Federal Aviation Administration FAA made a finding of “No Adverse Effect” under Section 106 of the National Historic Preservation Act for the Bowman Field Safety Program. We requested that the Advisory Council on Historic Preservation (ACHP) review our finding under 36 CFR § 800.5(c)(3)(i). The ACHP provided its advisory opinion by letter dated November 3, 2016. The ACHP advised the FAA that “the criteria of adverse effect (AE) has not been adequately applied on all eligible historic districts in a manner that addresses the effect of substantial tree removal on the settings of these historic properties,” and provided specific comments which are addressed below.

- 1) . . . *FAA’s NAE finding is incorrectly limited in that it assesses effects on individual historic properties while the undertaking appears to be a program of related vegetation management activities that may have an effect on all sides of the Bowman Field Airport.*

FAA Response: In support of our request for the ACHP’s review, the FAA provided a description of the undertaking specifying the FAA’s involvement, the APE (including photographs and maps), and steps taken to identify historic properties. That documentation clearly identifies the undertaking as acquisition of easements by the Louisville Regional Airport Authority (not the FAA, as the ACHP states in its letter) on 44 residential parcels shown on the map depicting the APE and the trimming or removal of trees on these parcels and other publicly-owned land that penetrate the Terminal Instrument Procedures (TERPS) approach surfaces of the airport.

The undertaking involves selective trimming and/or replacement of those trees that have or may reach a certain height (determined with respect to the location of the tree within the TERPS approach area) within the APE, which consists of four discrete areas corresponding to runway ends.² This does not, in the FAA’s view, constitute “a program . . . that may have an effect on all sides of the Bowman Field Airport.”

We assessed the effects of the undertaking on all historic properties³ within the APE, taking into consideration the distinct character of each of these historic districts. We also considered the location of the parcels proposed for easement acquisition and the location of specific trees proposed for trimming or removal, which are concentrated in three of the

² The FAA initially proposed an APE confined to the four areas in which the easements would be obtained and trees trimmed or removed, but after consulting with the SHPO, and other consulting parties reached consensus on an expanded APE consisting of four larger, but still distinct areas. According to the SHPO, this APE encompasses “a sufficient buffer to address indirect (visual) effects around affected trees currently proposed for trimming or removal within approach surfaces.” Letter from Craig Potts, Executive Director and State Historic Preservation Officer, Kentucky Heritage Council to Aaron Braswell, Memphis Airports District Office, FAA (April 27, 2016).

³ These historic properties include one historic district listed in the National Register and nine potentially eligible historic districts. There were no additional historic properties identified within the APE by the SHPO or any other consulting party.

districts: Seneca Golf Course, Seneca Vista and Seneca Village. We felt that looking at the particularized impacts on each historic district was the most conservative approach to assessing the effects of the undertaking, which would impact only about 4 percent of trees in the overall project area. We did consider whether assessing effects on a larger potential district (i.e., the entirety of Seneca Park, or a much larger historic district encompassing all of the residential subdivisions, as recommended by one of the consulting parties) and determined that the overall outcome – a finding of “No Adverse Effect” – would be the same. Therefore, we conclude that our assessment of effects was not “incorrectly limited” and indeed took into consideration the entirety of historic properties potentially affected.

2) *FAA’s finding is problematic because it focuses on the number of trees to be trimmed or removed without giving due consideration to the diminishment of integrity of historic districts that may result from the overall operation of the safety improvement program (e.g., alteration of tree canopies resulting in visual and auditory effects).*

FAA Response: The FAA explicitly and thoroughly considered the extent to which the proposed removal of trees⁴ would alter the characteristics of each historic property that qualify it for the National Register, and whether such alteration would diminish the integrity of the landscape setting. The ACHP does not explain what diminishment of integrity it anticipates might result from the overall operation of the undertaking beyond the trimming and removal of trees. As noted in our assessment, the undertaking would not eliminate the mature tree canopy throughout the historic districts.

3) *The removal and trimming of mature trees in several of the historic residential suburbs may change the character of the property’s use or the physical features within the property’s setting that contribute to its historic significance (see 36 CFR § 800.5(a)(2)iv).*

FAA Response: In applying the criteria of adverse effect, the FAA expressly considered whether and how the removal of trees might affect the character of the landscape features within the historic properties’ setting (the properties’ use is not expected to change as a result of the undertaking), and the way in which those features contribute to each property’s historic significance.

4) *FAA does not document how it assessed the effect of the undertaking and all its parts.*

FAA Response: The FAA provided the ACHP with extensive documentation prepared by consultants to the LRAA, supplemented by an independent analysis of that documentation and comments from the consulting parties prepared by the FAA’s FPO, which laid out the step-by-step process through which the FAA assessed the effects of the undertaking to reach its finding of No Adverse Effect.

⁴ To be conservative in our evaluation, we assumed that all of the trees proposed for trimming or removal would be removed, but that is not actually the LRAA’s proposed undertaking.

- 5) . . . *consulting parties raised concerns about the cumulative effects that have already and will likely result from previous vegetation management activities around the airport. FAA has not adequately addressed these issues despite repeated requests from consulting parties.*

FAA Response: The FAA recognizes that adverse effects “may include reasonably foreseeable effects caused by the undertaking that may occur later in time . . . or be cumulative” (36 CFR 800.5), and addressed this issue at several points in the consultation process. We received a request from the ACHP for further information on our assessment of cumulative effects on Friday, October 28, 2016, and we provided a response the following Tuesday, November 1, 2016. That response explained that the foreseeable effects of the LRAA’s acquisition of avigation easements on these parcels include selective trimming of taller species of trees as they continue to grow.

Under the terms of the Avigation Easement (a sample of which was included in our submission to the ACHP), the LRAA would be acquiring an easement for airspace above the property, extending upwards from an imaginary plane (i.e., surface which is defined for each individual parcel. Under the easements, LRAA would acquire the right to trim trees to accommodate future growth up to 10 feet below that imaginary surface. The property owner would agree not to permit the growth of trees or other vegetation into this airspace in the future. The property owners may trim or remove trees on their property for other reasons at any time, as may other property owners in the historic districts.

Although no one can predict the precise extent of future tree trimming activities, which is dependent on the rate of growth and the mature height of different tree species (or the extent of tree trimming and removal by either the LRAA or individual property owners in the past), we noted that the natural cycle and historic pattern of residential subdivisions includes a change in the mixture of tree species, age and height as trees mature and are removed and replaced. Based on the characteristics of these historic districts, in which trees contribute to the park-like setting but are not part of a formal landscape design and do not in and of themselves contribute to the historic district, we concluded that selective trimming of taller trees would be in keeping with the historic character, and would not be cumulatively or foreseeably adverse.

Conclusion

After careful consideration of the ACHP’s advisory opinion and based on the details of the proposed undertaking, the FAA is confirming its finding that the Bowman Field Airport Area Safety Program would have No Adverse Effect on any historic property.