



April 1, 2020

Ms. Arlene K. Kocher
Division Administrator
Federal Highway Administration
Illinois Division
3250 Executive Park Drive
Springfield, Illinois 62703

Ref: *Disputed Effect Finding for Proposed Obama Presidential Center
Chicago, Illinois
ACHPConnect Log Number: 012213*

Dear Ms. Kocher:

On March 17, 2020, the Advisory Council on Historic Preservation (ACHP) received correspondence from the Federal Highway Administration (FHWA) regarding a disputed finding of effect for the referenced undertaking. The FHWA has requested that the ACHP provide its advisory comments on this finding in accordance with Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. § 306108) and Section 800.5(c)(2) of our regulations, "Protection of Historic Properties" (36 C.F.R. Part 800). Two consulting parties disagreed with the FHWA's finding that the undertaking will have "no adverse effect" (NAE) on the Jackson Park Terrace Historic District (JPTH). FHWA also notified the ACHP that several consulting parties objected to the "no adverse effect" finding for multiple other historic properties within the Area of Potential Effects (APE); however, FHWA requested that the ACHP provide its comments regarding the objections related to the JPTH. We interpret these disputes to apply specifically to the determinations FHWA made regarding the potential for elements of the broader undertaking to diminish the integrity, and therefore affect, individual historical properties, and not the agency's overall determination that the undertaking will have an adverse effect on historic properties. While the regulations do not require federal agencies to refer such property-specific disputes to the ACHP, we are offering our views on this matter to assist the agency in moving the Section 106 review process for this undertaking forward. In summary, it is the ACHP's advisory opinion that FHWA has applied the Criteria of Adverse Effect correctly in this case. The following analysis explains our position.

The Obama Foundation proposes to construct the Obama Presidential Center (OPC) on the western edge of Jackson Park located in south Chicago. The undertaking includes the construction of a 19.3 acre site with four buildings, underground parking facility, new pedestrian and bicycle pathways, and landscaped areas for multiple recreational uses. The City of Chicago and the Chicago Park District approved the Obama Foundation's site location and the proposed design prior to the initiation of this Section 106 consultation. FHWA is the lead federal agency for the Section 106 consultation as the City of Chicago proposes roadway changes and closures in Jackson Park. As part of this undertaking, the National Park Service (NPS) will be required to approve a potential conversion of parkland required under the Urban Park and Recreation Recovery Program (UPARR). Additionally, the United States Army Corps of Engineers (USACE) will need to issue permits under sections 404 and 408 of the Clean Water Act and

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alter an ecosystem restoration project funded under the Great Lakes Fishery & Ecosystem Restoration (GLFER) program. Both the NPS and USACE have designated FHWA as the lead federal agency for this consultation.

FHWA submitted the final Assessment of Effects (AOE) to the Illinois State Historic Preservation Officer (SHPO) and consulting parties on January 16th, 2020, and determined the undertaking will have an adverse effect to historic properties including the Jackson Park Historic Landscape District and Midway Plaisance, as well as the Chicago Park Boulevard System Historic District. The SHPO concurred with FHWA's finding. Within the APE, FHWA identified eight historic districts and 29 individual properties that are either listed or eligible for listing on the National Register of Historic Places (NRHP). FHWA determined that 31 historic properties will not be affected by the undertaking and five historic properties will not be adversely affected, including the JPTH. The JPTH is eligible for listing in the NRHP under Criterion A for its significance related to the development of low-income housing in Chicago; it is also eligible under Criterion C for its design and for being distinctive of a type, period, or method of construction for its Modernist design. FHWA reconfirmed this eligibility determination in its recent letter to the ACHP, **although the final AOE incorrectly states it is eligible under Criteria A, B, and C.**

The FHWA asserts that while the proposed OPC may be noticeably visible from some points in the JPTH, the OPC will not diminish the integrity of characteristics qualifying the property as eligible for the NRHP. FHWA states the views to Jackson Park from the JPTH do not contribute to the property's historic significance. The "physical and visual relationship" between the JPTH and Jackson Park and the Midway Plaisance is one of proximity and not significance. Further, FHWA supports its argument that the primary setting of the JPTH is the complex itself, which was intentionally designed to be fenced off and separated from adjacent properties in order to emphasize the sense of community within the JPTH. Additionally, FHWA asserts the urban residential setting surrounding the historic district retains integrity despite the previous developments to the north and south of the JPTH, and the undertaking will not diminish the character-defining elements attributed to its setting.

One point of disagreement between the FHWA and the consulting party appears to be whether the level of visual effects created by the proposed OPC will result in diminishing the JPTH's integrity, in accordance with 36 C.F.R. § 800.5(a)(1). It is apparent the proposed OPC will be visible from the JPTH due to its proximity to Jackson Park. According to the Historic Property Inventory Survey Form, the location of JPTH is significant as the planners sought to achieve their goal of building an economically and socially viable community at a prime location near the Midway Plaisance and Jackson Park. While the location was one of the key factors in selecting this site for development, the views towards Jackson Park have not been identified as contributing to the significance and integrity of this historic district. Further, the ACHP agrees with the FHWA that the character-defining elements attributed to the historic property's setting, location, feeling, and association, including the visual and spatial relationships of the buildings and landscaping, within and surrounding the JPTH will not be diminished. While Jackson Park is visible from the JPTH, the undertaking will not diminish the character-defining elements associated with this historic property.

In regards to the other consulting parties' objections to the findings of "No Adverse Effect" for several historic properties surrounding Jackson Park including from Jackson Park Watch, Preservation Chicago, and Ms. Elena Bashir, the FHWA believes the consulting parties provided either insufficient information or comments unrelated to Section 106 which prevents the federal agency from providing a response. As such, it **would be appropriate for FHWA to acknowledge these comments and provide a response to the consulting parties to facilitate future consultation, and clarify to the consulting parties whether these concerns may be addressed during the resolution of adverse effects pursuant to Section 106 review or would be better addressed during the National Environmental Policy Act (NEPA) review.**

We hope our comments are helpful to FHWA, and **we encourage FHWA to notify the consulting parties how their disputes have been addressed.** The ACHP looks forward to continuing to consult with FHWA in the resolution of the undertaking's adverse effect. Should you have any questions regarding our comments, please contact Sarah Stokely at 202-517-0224, or by e-mail at sstokely@achp.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Reid J. Nelson", with a long horizontal flourish extending to the right.

Reid J. Nelson
Director
Office of Federal Agency Programs