Meeting Title: SWLRT Section 106 Consultation

Date: 12/3/2015 **Time:** 1:30 PM **Duration:** 3 hours

Location: Southwest LRT Project Office , Conference Room A
6465 Wayzata Boulevard, Suite 500
St Louis Park, MN 55426

Meeting called by: Greg Mathis, MnDOT CRU

Attendees: SHPO: Sarah Beimers
Hopkins: Nancy Anderson, Kersten Elverum
St. Louis Park: Meg McMonigal
St. Louis Park Historical Society: John Olson
Minneapolis: Brian Schaffer
MPRB: Michael Schroeder
KIAA: Jeannette Colby, Tamara Ludt
CIDNA: Craig Westgate
FTA: Maya Sarna (on phone)
SPO: Nani Jacobson, Ryan Kronzer, Mark Bishop, Sophia Ginis, Dan Pfeiffer, Kelly Wilder, Kelcie Campbell
MnDOT: Jon Vimr

Purpose of Meeting: Meeting with consulting parties to continue Section 106 consultation process

--- Agenda & Discussion ---

1. **Welcome & Overview**
   Greg Mathis from the Minnesota Department of Transportation (MnDOT) Cultural Resources Unit (CRU) welcomed attendees, led introductions, and provided a brief overview of the agenda.

2. **APE Revisions and Historic Property Identification**
   Greg provided an update on efforts since the last consultation meeting.
   - The Project's architecture/history and archaeological APEs were revised in October 2015 to account for the pared down Project scope presented at the July 29, 2015 consultation meeting and to reflect the 60 percent (%) Project plans that were used to make the Final Determination of Effect (DOE); and the State Historic Preservation Office (SHPO) has concurred.
   - Reports for four additional historic property surveys were finalized and submitted to the SHPO:

- Phase I Architecture/History survey (report Volume 7): documented and evaluated properties added to the APE in October 2014, and all architecture/history properties within the entire APE constructed in 1966. No listed or eligible properties were identified.
- Phase I Architecture/History survey (report Volume 8): documented and evaluated architecture/history properties added to the APE in October 2015. No listed or eligible properties were identified.
- Phase II Archaeological survey of Site 21HE0459 (Minneapolis): documented and evaluated this site, which was determined not eligible for the National Register.
- Phase I survey of the Glenwood Parcel (Minneapolis): documented and evaluated an area added to APE in October 2014. No listed or eligible properties were identified.

3. Determination of Effect Summary

Greg explained that the Federal Transit Administration (FTA) issued its Final DOE on historic properties on November 10, 2015.

- The report provided to consulting parties documents FTA's assessment of Project effects on historic properties in the APE, provides a finding of effect for each property, then presents the final DOE for the Project as a whole. The findings also account for measures identified as a result of consultation completed thus far to minimize effects and avoid adverse effects.
- Due to a change of effect, there is one finding that is different from the preliminary determinations of effect discussed with consulting parties, which is an adverse effect finding for the Chicago, Milwaukee, St. Paul & Pacific Railroad (CMStP&P) Depot (HE-SLC-008) in St. Louis Park.
- In summary, FTA found the project will have:
  - An Adverse Effect on 5 properties.
  - No Adverse Effect on 12 properties.
  - No Adverse Effect on 14 properties with implementation of measures in the Memorandum of Agreement (MOA).
- Due to the Project's adverse effects on 5 historic properties, its Final DOE is that the project will have an Adverse Effect on historic properties.

4. Resolution of unresolved Adverse Effects

Greg presented a summary of the process for resolving adverse effects.

- 36 CFR 800.6(a) requires continued consultation to resolve adverse effects on historic properties, including consideration of measures to avoid, minimize, and mitigate adverse effects. These measures will be documented the Project's MOA, which is a legally binding agreement.
- The adverse impacts to Archaeological Sites 21HE0436 and 21HE0437 were resolved through previous consultation, while adverse effects to the CMStP&P Depot, Kenilworth Lagoon, and Grand Rounds Historic District remain unresolved.
  - Brian Schaffer from the City of Minneapolis noted that for Sites 21HE0436 and 21HE0437, the Project and City still need to work out some details to reach agreement on

how the sites are interpreted on the ground surfaces within the City-owned right-of-way and how these elements will be maintained.

- Nani Jacobson from SPO suggested that the MOA will likely stipulate that the City will have to agree to any plan, rather than including details. Sarah Beimers from the SHPO echoed that many of the MOAs SHPO has recently signed stipulate that an interpretive plan will be developed and agreed to, and Brian agreed that would be a pragmatic approach.

Chicago, Milwaukee, St. Paul, & Pacific Railroad Depot

Greg described the Project in the vicinity of the CMStP&P Depot and the newly identified adverse effect.

- In the vicinity of the Depot, the Project runs within the existing railroad right-of-way and consists of the track structure, catenary, and other Project elements, including a crossover between the eastbound and westbound tracks.
- To minimize visual effects and avoid an adverse effect, the location of the signal bungalow for the crossover was shifted approximately 150 feet west along the Project alignment to a location just west of the depot property, to minimize its visual prominence from the depot and avoid obstructing the direct visual connection between the depot and the railroad corridor.
- A noise analysis conducted under NEPA identified noise impacts to residential properties near the Depot – per FTA criteria the Depot is not noise sensitive. The impacts are due to proximity to LRT, noise from the crossover track, and LRT bells sounding. Therefore, NEPA mitigation includes a noise wall. The need for the wall was determined two weeks before publication of the Final DOE. The wall, which extends in front the Depot property, is 8-11 feet tall and follows the LRT alignment, except where it jogs around the signal bungalow. Since the Depot is eligible under Criterion A, in the area of Transportation, its visual connection to, and association with, the existing tracks are important. The wall breaks this important visual connection; thereby causing an adverse effect to the Depot.
- Since the time the adverse effect was identified, the Project has been exploring avoidance, minimization and mitigation options, and has determined that the crossover can be moved further west along the alignment, which similarly pulls the noise wall further west, thereby avoiding an adverse effect. The revised plans handed out today shows the wall shifted about 230 feet west, just at the edge of the Depot property.
    - Nancy Anderson from the City of Hopkins asked how this adjustment will be documented. Greg responded that if consulting parties agree it will avoid the adverse effect, it will be documented in the MOA. Nancy also asked whether there are noise impacts in the new location, and Nani Jacobson replied that the Project is updating the noise analysis, but that the new location does not cause new noise impacts and the shortened noise wall mitigates the noise impacts to the residential area.
- John Olson from the St. Louis Park Historical Society asked if his organization is a signatory, and Greg explained that the signatories having legal responsibility under the MOA. Signatories are FTA, SHPO, and the Advisory Council on Historic Preservation, if they desire to participate. Invited signatories, include the Metropolitan Council and MnDOT CRU since they will have

responsibilities as well. Neighborhood organizations, cities, and other consulting parties review materials and provide input on the MOA, but are included as concurring parties to the agreement since they do not have legal responsibilities under it.

- Sarah asked about the MOA schedule. Greg and Nani explained that they are working on a draft of the MOA and expect to share it in early January 2016 and hold a consulting parties meeting in mid-January to review it. The final, execution ready MOA will be included in the Final EIS, which will be ready in early Q2, and the executed MOA will be included in the Record of Decision (ROD) anticipated for Q3, 2016. Additional consultation meetings will be held in February and March, as needed.
- Sarah said the SHPO appreciates the engineers' efforts in moving the noise wall. The new design is not perfect, but likely meets the requirements for no adverse effect and was a good effort.
- John explained that the property starts to go uphill to the west because of the other railroad that crosses over it, so you may not even be able to see the wall in its new location because of the slope, and hopefully the view of the depot will remain for people passing. He noted that the railroad wanted to get rid of the depot, but was convinced to move it instead. Although it could not remain in the right-of-way, they retained its angle and view to the track, so it could remain on the National Register of Historic Places.
    - Sarah asked what the property is used for today, and John explained that it is used primarily for storage, but also for interpretation. Sarah also asked if the Historical Society's board will review the design. John said they would.

Kenilworth Lagoon and Grand Rounds Historic District

Greg explained that the adverse effect to the Grand Rounds Historic District is due to the adverse effect to the Kenilworth Lagoon, which is a contributing element to the district.

- Previous consultation has focused on minimizing the overall effect on the Lagoon, which resulted in the development of the three-bridge concept with fewer piers in the water and a trestle freight bridge. To minimize the effect, the Project and consulting parties have agreed to several MOA measures:
    - Design new crossing in accordance with the *Secretary of the Interior's* (SOI's) Standards.
    - Continued design review of new crossing.
    - A noise wall on the LRT bridge, about two feet tall with rail dampers to mitigate the adverse noise effect.
- While the adverse effects on the Lagoon have been minimized, the Project will still result in an adverse effect, so the goal for the meeting today is to identify mitigation to resolve the adverse effect on Kenilworth Lagoon and the Grand Rounds Historic District.
- Kenilworth Lagoon has three segments:
    - The Lagoon (between Lake of the Isles and the Kenilworth Crossing) – the east part, which is wide and formally landscaped;
    - The middle section, or Area Between the Bridges (between the Kenilworth Crossing and Burnham Road), which is an intimate space; and
    - The Channel (between Burnham Road and Cedar Lake), which is the west part.
- An important question is what can be done to compensate for the impacts to the feeling of each of these spaces.

- In August, fieldwork confirmed evidence of WPA Rustic style retaining wall along the north side of the channel, extending to Burnham Road. Therefore, the Project is proposing to rehabilitate/reconstruct all of the Lagoon's WPA Rustic style retaining walls as mitigation for the adverse effect. The exception would be the wall under the LRT bridge that needs to be removed to construct the bridge, but is proposed to not be rebuilt to better differentiate this portion of the crossing. This allows the shoreline under the arch bridges to be treated consistently sine they are more integrated into the landscape, whereas the approach for the freight rail bridge is to pass over the space. The Project would be doing all work within its limits of disturbance already, work outside those limits would be done as mitigation.
- Nancy asked why the walls were there to begin with, whether they still serve the same purpose, and whether there is coordination ongoing with the watersheds.
    - Greg replied that the walls were originally built to control erosion, which has a problem dating to when soon after the channel was first opened. Mark Bishop from SPO said they would still serve that purpose and that the Project is coordinating with the Minnehaha Creek Watershed District as part of the permitting process.
- Greg explained that this proposal came about because the middle portion of the Lagoon is the primary portion adversely affected, and this proposal would help preserve a historic feature, which from a historic property standpoint, is a better option than something like interpretation, which does not preserve the historic property.
    - Nancy asked what responsibility the Project has to replace the walls if they are already gone. Nani replied that the Project includes the walls within the limits of disturbance, but would only go beyond as mitigation for the adverse effect. Sarah likened the idea to replacing a missing cornice from a historic house, which would restore the property's integrity.
- Michael Schroeder from the Minneapolis Park and Recreation Board (MPRB) pointed out that the Project has established there was a wall, but that it is now degraded. The proposal would expand the area of disturbance, and he questioned how constructing walls away from the area of impact would mitigate it. Sarah explained that it is analogous to compensatory mitigation for wetland impacts. Michael said he saw it as being differentiated because for wetlands, the compensation is scalable and replaces function. Sarah responded that for SHPO, the proposed mitigation is a huge benefit to the historic property. Nani also responded, explaining that although the physical impact is at the crossing, the adverse effect is to the entire Lagoon as a historic property, and the district. Sarah explained that for many Federal Highway Administration projects, they rehabilitate an adjacent bridge instead of simply documenting the one that had to be demolished, and SHPO prefers this approach.
- Michael asked what financial responsibility MPRB would have, noting that they would not be able to afford to maintain the new walls. He anticipates that a new wall will degrade as well, as the previous wall did. Sarah noted that installing new walls that would just degrade as well sounds like a bad idea and asked if maintenance cost concerns could be resolved through an endowment, like for the Stillwater Lift Bridge. Michael responded that it would make sense to come up with a new way to perpetuate infrastructure, through an MOA with funding and maintenance entities. Nancy asked who typically provides funding for such an endowment, and Sarah said that the federal agencies do, although the exact amount is typically defined in a separate memorandum of understanding.

- Michael asked why they would introduce a wall today to control erosion and manage shoreline when there are other ecologically appropriate ways to do so. Greg explained that reconstructing the walls is a logical mitigation strategy as it helps preserve and maintain the historic property, and restore a feature to help compensate for the adverse effect. Sarah said that if there is a way to keep the walls idea in play, but see if there is a more ecologically appropriate way to implement them, that would be ideal. Michael asked rhetorically what WPA would do today, mentioning that Natascha Wiener from SHPO previously noted they likely would not build walls today, and he thinks that is true, even around an artificial lake. Mark said that the area where the blue line is shown on the plan sheets is a gradual slope ripe for shoreline stabilization, but from a technical perspective it does not need to be a stone wall.
    - Maya Sarna from FTA asked if MPRB has an ecological solution it would like to introduce. Michael responded that throughout the system, where there are degraded walls, they are removing rip rap and walls and introducing more natural edges, for example along the upper stretches of the Mississippi River within the city. This aligns with their comprehensive plan and current maintenance practices. Maya said that FTA would not object to a more sustainable solution.
- Nani said that the issue at hand is not just whether the chosen solution is environmentally sustainableor whether it mitigates an adverse effect, but rather how they can work together. Maya agreed that this is a goal of the consultation process, explaining that if an approach makes long-term sense and the parties agree to it, there would technically be agreement on resolving an adverse effect.
- Sarah stated that if the wall reconstruction is off the table, they need to find another way to mitigate the adverse effect, for example through completing the Grand Rounds Historic District National Register nomination or through developing a management plan.
- Jeannette Colby from KIAA said that if shoreline stabilization is what is feasible for MPRB, it is worth considering. Sarah agreed that they have to consider if this is the case, since SHPO and MPRB will continue to work together on projects like Bassett Creek, where they will have to balance ecological and historic considerations. Sarah said she likes the idea of the walls being built, but not the idea of them falling into the water again.
- Craig Westgate from CIDNA asked if shoreline stabilization takes more space than walls. Michael said there is sufficient space and that the footprint is probably the same in the end since they have to bring in fill. Mark explained that shoreline stabilization is easier – using bio rolls or reinforced slopes, they can match the natural contours to hold erosion in check, and MPRB can more easily maintain it. Jeannette noted that they should learn from the Lake of Isles work and past mistakes by considering quality and what is sustainable.
- Michael said he was not sure either solution is fully correct. Sarah continued that if the walls indicated by a blue line on the plans will not be rebuilt, the Project needs to establish which walls will remain (in green) and how to manage ecological and historic concerns. She and Craig also noted that if the idea comes back, there needs to be a discussion about funding for maintenance.
- Nani confirmed that consulting parties are not opposed to rehabilitating the existing walls where needed, and Michael confirmed this was the case.
- Sarah asked if the Project can evaluate the ecological impacts, and Michael added that the feasibility of an ecological option should match the feasibility assessments that have been done for the walls.

- Nani suggested they put the walls idea aside for a moment and consider whether an ecological solution could be mitigation. Sarah asked whether walls could be reconstructed ecologically, and Mark said the Project can look at whether both are feasible and what tradeoffs there are. Specifically, Sarah said they need to determine whether not reconstructing the walls can maintain the historic character of the Lagoon and meet the Secretary of the Interior's Standards.
- Nancy asked whether this assessment will include cost, pointing out that they are fighting to maintain landscaping along the whole alignment, and this could be costly. She also asked how changing the existing state of a property can be mitigation when it is off site. Greg and Nani explained that the Project is already changing the existing state within the right-of-way, so they are looking for ways to mitigate the adverse effect on the historic property as a whole. Jeannette further clarified that the impacts are to the whole historic district, not just within the Project limits of disturbance. Nancy pointed out that there are no impacts from the Project to the area where they are proposing to reconstruct walls. Greg confirmed this was correct – the Project will be working within the limits of disturbance (grey shading on plan sheets), but to compensate for the adverse effect from that work on the whole property, they are proposing to reconstruct the walls in blue and green.
- Greg said they will look at whether the Project could develop a management plan, and Sarah said that the goal is to preserve the resource, so if it is not feasible to reconstruct the walls, they should look at other options for preserving the resource.
- Maya asked if there are other options for mitigation that consider an ecological approach.
- Greg asked if it would be better to do interpretation instead. Sarah replied that SHPO likes interpretation, but not if it simply involves more signs for MPRB to maintain. Jeannette agreed, noting that based on the neighborhood's concerns about trees and green space being eliminated, she would favor compensation with more green rather than more steel.
- Greg concluded the discussion, stating that the Project will explore the ideas discussed and bring information back in January. If there are additional comments about the walls, attendees can include them in their comments, which are due December 18, 2015.

Hopkins Commercial Historic District

Greg mentioned that the City of Hopkins was not in attendance at the last consulting parties meeting, so discussion of effects to the Hopkins Commercial Historic District had been postponed to this meeting and.

- The proposed measures to be included in the MOA to avoid an adverse effect on the district include:
    - The Project will prepare a National Register nomination for the district, which it would provide to SHPO, the City, and property owners to pursue actual listing.
    - The Project will also develop public education packet targeted for property owners and the City that includes a copy of the National Register registration form, information on tax incentives for rehabilitation, and information on how to properly maintain and rehabilitate historic properties.
- Kersten Elverum with the City of Hopkins asked how long the nomination would remain valid if it is prepared, but not submitted. Sarah explained that SHPO would finalize the nomination and notify property owners (a majority of the owners need to consent), and then submit it to the Minnesota Historical Society's State Review Board and then to the National Park Service. Brian

explained that the MOA can only say that the Project will prepare the nomination, because they cannot guarantee that it will be approved by owners, or that it will get approved by the Review Board or National Park Service. Tamara Ludt from Preservation Design Works asked if Kersten meant how long it can be held, and Sarah clarified that after five years, a property's integrity usually needs to be reexamined. Brian added that if the integrity was reevaluated, they would not need to redo all of the historical research again.

- Sarah noted that if a property is listed, non-profit building owners can apply for Legacy funds, and Kersten pointed out that the City now owns the Masonic Lodge. Brian said that the City of Minneapolis has used quite a bit of Legacy funding, even for some properties that it subsequently sold. Sarah added that there are also capital bonding dollars available from the State for publicly-owned properties like courthouses and libraries, which can cover up to 40% of project costs. Brian noted, however, that property owners can get bogged down with not knowing how they can use these funds, even though the *Secretary of the Interior's Standards* are fairly broad. Sarah added that National Register listing is basically honorary, so it does not require property owners to follow federal standards unless a locality implements its own regulations. Brian said they do have property owners who seek National Register listing so they can access historic preservation tax incentives, but forgo local designation to avoid the local oversight.
- Kersten asked if construction monitoring is still going to take place for the Minneapolis & St. Louis Railway Depot in Hopkins. Greg confirmed that it will be included as part of a Construction Protection Plan required by the MOA.

5. Next Steps

Nani explained that in January, they will plan to bring information back about mitigation for the adverse effect on the Kenilworth Lagoon/Grand Rounds Historic District, and get most other discussion wrapped up.