



United States Department of the Interior  
NATIONAL PARK SERVICE  
Minute Man National Historical Park  
174 Liberty Street  
Concord, Massachusetts 01742



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MIMA

January 30, 2023

Ms. Cassandra Chase Ostrander, Program Development Team Leader  
Federal Highway Administration  
Massachusetts Division  
55 Broadway, 10<sup>th</sup> Floor  
Cambridge, MA 02142

Subject: Massachusetts Department of Transportation-Route 2A Repaving and Road Improvement Project, Federal Highway Administration Section 106 Determination of No Adverse Effect

Dear Ms. Ostrander,

The National Park Service (NPS) has reviewed the recent submission by the Federal Highway Administration (FHWA) of the *Request for Concurrence: Section 106 Determination of No Adverse Effect* for Massachusetts Department of Transportation (MassDOT) Route 2A Repaving and Road Improvement Project to the Massachusetts Historical Commission (MA SHPO). While the NPS is very supportive of the overall goals and objectives of this undertaking, we cannot agree with the finding of no adverse effect in this submission.

Route 2A serves as an integral thoroughfare through Minute Man National Historical Park (NHP). This segment of Route 2A is designated an All-American Road and the Battle Road Scenic Byway in recognition of its significance as the primary route in which the British Regulars retreated to Boston under fire from Colonial Minutemen and Militiamen during the Battle of Lexington and Concord on April 19<sup>th</sup>, 1775. The Minute Man NHP Historic District, which includes sections of the Battle Road that are not aligned with modern-day Route 2A, surrounds the corridor to the north and south of the MassDOT project area from the intersection of Lexington Road to Old Massachusetts Avenue.

As noted in previous letters to MassDOT, Minute Man NHP was authorized in 1959 by P.L. 86-321 “to preserve for the benefit of the American people certain historic structures and properties of outstanding national significance associated with the opening of The War of the American Revolution.” In 1992, P.L. 102-488 reaffirmed the congressional intent of Minute Man NHP to preserve and interpret “the historic

landscape along the road between Lexington and Concord.” The park was administratively listed in the National Register in October 1966 with the initial, full historic district nomination signed by the Keeper of the National Register in November 2002, and an additional update via a continuation sheet in 2006. The park is currently preparing an update to the historic district nomination to include the addition of the Colonel Barrett Farm, which was acquired in 2012, recent scholarship on the park’s numerous archeological resources and cultural landscapes, as well as expanded periods and levels of significance.

After careful review of the submitted determination of effect by FHWA to the MA SHPO dated January 10, 2023, the NPS believes that the FHWA and MassDOT are not taking into account the cumulative effects of the proposed Route 2A project on the Minute Man NHP Historic District and that the undertaking as proposed would result in an Adverse Effect on the district. As a consulting party under Section 106 of the National Historic Preservation Act (NHPA), and the primary land manager along the entirety of the project area and within the Area of Potential Effect (APE), the NPS submits these comments on the determination of effect by MassDOT and FHWA.

### *Section 106 of the NHPA Comments*

#### **Cultural Landscapes and Effects on the Minute Man NHP Historic District**

**Minute Man NHP Cultural Landscapes:** The NPS has documented component cultural landscapes within Minute Man NHP. Of those, the following are within the APE, the Brooks Farm, Hartwell Area, Paul Revere Capture Site, Nelson Farm, and Fiske Hill cultural landscapes. As noted in the congressional reaffirmation in 1992, the landscape along Battle Road (North Great Road), which includes segments of present-day Route 2A and is the historic alignment of the road, highlights the significance of the landscape and its importance to the park. These cultural landscapes as a cohesive group in the historic district demonstrate to visitors the significance of the topography, road alignment (circulation), stone walls, waterways, vegetation, buildings, and land use as well as its evolution from the colonial period through to its continued agricultural use in the early-mid 20<sup>th</sup> century. Per the 2005 *Cultural Landscape Report for Battle Road Unit-Minute Man National Historical Park, Volume I*, the overall cultural landscape retains integrity to the 1775 period (Dietrich-Smith, et al, 128).

In MassDOT’s December 15, 2022, letter to FHWA, and also included in your January 10, 2023 submission to MA SHPO, there is an acknowledgment that the NPS has systematically endeavored to transition different areas of the modern landscape. This is especially true within the Hartwell Tavern Area in Lincoln, from a mid-late 20<sup>th</sup> century residential and commercial area back to a more compatible landscape supporting the significance of multiple features dating from the American Revolution including the Ephraim Hartwell Tavern, the Samuel Hartwell Chimney and House site, and the Captain William Smith House. This core area of the park protects the historic alignment of the Battle Road and directly contributes to the historic district’s ability to meet national significance under National Register criteria. **The proposed Bedford Road crossing is squarely located within a highly significant area.** Part of this area’s importance is the transition from the present-day alignment directly in front of the Captain William Smith House, one of the oldest buildings in the park (ca. 1692), to the Battle Road alignment within the park boundaries. The former Virginia Road at this location was acquired by the park in 1997. The park has recognized the importance of these Battle Road alignment transitions through the installation of granite markers to identify that shift and the mileage distance to Boston. This marking system is used

throughout the historic district to provide a visual cue for visitors of where the retreat of the main column of British Regulars occurred.

Whereas FHWA and MassDOT's assessment is focused solely only on the view from the Captain William Smith House as part of their analysis of effects from the Bedford Road crossing, they are not taking into consideration the entirety of the area that includes not only the Smith House, but several additional nationally significant features. Most notably is the location and setting of the battle itself as British troops and colonial militia exchanged gunfire at this site, as evidenced by a nearby British grave, musketball recovery in this proximity, and historical narratives of the battle. The raised topography to the southwest of this site, known as Captain Smith's 'Hill Pasture,' and bend in the road contributed to the strategic advantage of the colonists at this location. Furthermore, the location includes significant views from Bedford Road and Route 2A into the park and towards the Captain William Smith House. Additional key aspects of historical integrity are the materials, workmanship, feeling, and association of the landscape setting in which the running battle took place along former Virginia Road and present-day Route 2A. At this bend in the Battle Road at Bedford Road is the Samuel Hartwell Farm Cellar Hole archeological site. This archeological resource is one of a few intact colonial sites on National Park land south of North Great Road/Route 2A in this area. In addition, the site retains materials and workmanship from the colonial period and is vulnerable to site disturbance with the proposed crosswalk construction.

Currently, modern landscape features at this location are minimal with a stop sign at the junction of Bedford Road, a no u-turn sign on Route 2A, and wooden power poles on the south side of Route 2A that visually blend with the forested area at Bedford Road. Although the traffic is a distraction and contributes to a diminishing of the feeling of the battle scene, the introduction of a crosswalk with associated infrastructure at a historic bend in the Battle Road would have a greater effect on the setting and feeling of this area of the historic district. Furthermore, the introduction of crosswalk infrastructure to support and invite an increase of pedestrian and bicyclist traffic in this location, which is a documented safety concern per MassDOT and the Town of Lincoln, would continue that diminishment by moving back towards a modern suburban landscape that is both jarring and invasive in such a critical, historic location. The historic feature, Captain Smith's 'Hill Pasture' is now bisected by a steep descent in Route 2A west of Bedford Road, which makes this a particularly dangerous pedestrian crossing location.

Over the past few years, the NPS have been actively trying to discourage the development of social trails in this area of the park. This crosswalk location will invite further degradation of the historic district's landscape with more use by the public in an area that is not consistent with the Minute Man NHP General Management Plan. In addition, the park has already planned to reduce the unwanted use of this area as part of our Great American Outdoors Act (GAOA) project. We are proposing to restore the landscape in front of the Captain William Smith House and eliminate the current social trail that is causing resource damage.

The project goal as presented by MassDOT and FHWA is to "improve access, safety, and mobility along Route 2A." The current configuration at Bedford Road asks people walking and biking who seek to cross Route 2A to prudently observe traffic yielding the right of way before safely crossing. The proposed crosswalk may inadvertently create a false sense of security for those choosing to cross the road, discouraging prudent traffic observation by creating the perception that traffic has stopped, when it is possible compliance with the warning devices installed may be less consistent than desirable. Surprisingly, it may be safer for those walking and biking for no crosswalk to be added at Bedford Road

as evidenced by FHWA's *Safety Effects of Marked Versus Unmarked Crosswalks at Uncontrolled Locations*. In comparison, the proposed crossing at Bedford Lane, which is supported by the NPS, is approximately 400 yards west of Bedford Road and has better sight lines for approaching traffic. The short difference between the two proposed crossings and the fact that Route 2A at Bedford Lane is not the historic alignment of Battle Road, leads to a solution that has less of an effect on the historic district while meeting the project's purpose and need. The Ranger Station at Bedford Lane, while a contributing resource to the historic district, its significance is locally-focused, compared to the national significance of the Captain William Smith House and Battle Road. The Bedford Lane crossing also offers fully accessible grades on both sides of the road, ensuring universal access. Constructing a crosswalk at Bedford Lane will improve safety for people crossing Route 2A, has the support of both the park and the Town of Lincoln community, and avoids resource damage within the highly significant area of the Minute Man NHP Historic District at Bedford Road.

The improvement of the intersection at Lexington Road is located within view of the Brooks Farm Cultural Landscape. Whereas the NPS is supportive of this safety improvement and the removal of incompatible infrastructure such as the flashing beacons, there is a lack of acknowledgement of another important alignment area of the historic Battle Road and its relationship to a significant witness structure, the Samuel Brooks House (ca. 1692). By shifting from a Y-juncture to a T-juncture, the alignment of the historic Battle Road will be altered where it continues from Route 2A onto Lexington Road. The proposed plans do not incorporate any treatment or marker feature to continue to demonstrate to the public where the historic alignment of Battle Road was once this roadway change is implemented. This is a concern and could be detrimental to the battle scene in this significant area as it continues toward the Town of Concord. The NPS is recommending a design solution here to incorporate either the granite markers that the park has utilized to mark an alignment transition or other appropriate marking to highlight this important piece of the battle landscape.

The proposed crossing at Mill Street and the Paul Revere Capture Site is located at the Paul Revere Cultural Landscape area. This immediate location has more integrity challenges due to the non-contributing Hagenian House and Shed, and the non-contributing parking lot for the Paul Revere Capture Marker and Site (contributing). The NPS supports a crossing at the Mill Street location and will continue to work with MassDOT to further refine the crossing details. The proposed location of the crossing, while on the portion of Route 2A that is aligned with the historic Battle Road, is further away from where it transitions back into the park which is east of the Hagenian House and the Mill Street juncture. By having the crossing to the west, it avoids this significant transition area for Battle Road and keeps disturbance in an area that has already been compromised by the non-contributing Hagenian House and parking lot.

### **Significant Archeological Resources and Recent Scholarship for the Minute Man NHP Historic District**

**Archeology:** As we continue to explore the battle through archeological investigations, the area of Lincoln from Elm Brook Hill through the Hartwell Tavern and Samuel Hartwell Farm Cellar Hole site continues to provide new insight. Whereas we appreciate MassDOT's commitment to archeological monitoring during construction especially in the highly significant areas such as by the Samuel Brooks House and the Brooks Hill Fight archeological site at Lexington Road, the NPS is particularly concerned with potential effects to archeological resources after the project is complete with the invitation to the public to cross into NPS land where resource damage can occur. This is most acute where the Bedford Road crossing is

proposed. The Samuel Hartwell Farm Cellar Hole site (LIN-HA-54) is identified on NPS land at the juncture of Bedford Road and Route 2A. Recent scholarship regarding the running battle in North Lincoln point to the significance of three strategic bends in the road where intense firing took place and soldiers were mortally wounded and buried, the first two bends being part of the ‘Bloody Angle(s)’ and the third bend is in front of the Captain William Smith House, at the site of the proposed crosswalk. Whereas the boundary limits of archeological site (LIN-HA-54) haven’t been fully identified beyond NPS land, it is in an area that is relatively avoided by the public since there are no visitor resources inviting them to the site. With the installation of the crossing proposed at this juncture, this heightens the potential risk for this archeological site where one does not currently exist. In addition, by inviting the public to cross into the park at the north side of Route 2A where we are currently having active resource damage due to a social trail, this will further exacerbate a problem where we have firmly identified to MassDOT, FHWA, and the Town of Lincoln that we do not plan on formalizing a trail head or access point for continued use by the public. In fact, as mentioned earlier, this is an area that we have identified for restoration through our GAOA project to help address the social trail issue. Except for Patriots’ Day and emergency access via former Virginia Road, this area of the park is not an official access point into the Battle Road trail system. That formal location is at the Hartwell Tavern parking area which is adjacent to the Bedford Lane corridor and where the proposed crossing for the Route 2A project is supported by the NPS.

**Guardrails Materials:** The presentation of steel backed timbers as an option to be installed, though delayed in the project, is a welcome opportunity to improve the views from and into the cultural landscapes of Minute Man NHP Historic District. The current use of w-beam guardrails is a detraction of the landscape when compared to the stone walls or split-rail fencing that is visible throughout the Battle Road corridor. The NPS has a proven track record within our scenic parkway system (such as the George Washington Memorial Parkway in the Washington, DC Metro Area) of utilizing steel backed timber guardrails where the speed limit is 40 mph. FHWA have been strong partners with the NPS on this issue and, in fact, the NPS is part of the task group working with FHWA on the current testing of the TL-3 steel back timber guardrails. As previously mentioned to MassDOT, the NPS encourages them to reconsider the use of National Cooperative Highway Research Program (NCHRP)-350 compliant steel backed timber guardrail (FHWA approved design available upon request). Please see the link here or the enclosure for the “Clarifications on Implementing the ASSHTO Manual for Assessing Safety Hardware, 2016 and updated 2021” and specifically under “November 2019, #3, on page 5 which discusses the [flexibility allowed by FHWA and American Association of State Highway and Transportation Officials \(AASHTO\)](#). The commitment of using the steel-backed timber guardrails as proposed by MassDOT should not be contingent upon consulting parties accepting the current plan as is, to meet an arbitrary schedule, but rather the right thing to do in support of the Battle Road Scenic Byway.

### *Other Compliance Comments*

#### **New Access Point Authority**

In the proposed project, FHWA and MassDOT have included a pedestrian access point at Bedford Road. In doing so, they are effectively creating a new permanent access point into Minute Man NHP. FHWA authority is limited to the right-of-way within Route 2A and does not have the authority to create this access point into NPS land. Only NPS, the land manager on both sides of the road in this location, has the authority to do so, as per the Minute Man NHP General Management Plan. This location will be a crosswalk to no connecting infrastructure and creates a dangerous situation to pedestrians who use it and

a nuisance to the NPS, by creating an unnecessary hazard. As stated above, the NPS is not supportive of the pedestrian crossing at Bedford Road and would like it removed from the project.

### **National Environmental Policy Act (NEPA)**

Based on the Section 106 Findings Document, which includes the pedestrian crossing at Bedford Road, FHWA and MassDOT are creating a new access point into Minute Man NHP. This is an unacceptable location for access into the park, and an action like this would require the NPS to add additional infrastructure to accommodate this new access point. This would also trigger internal compliance to account for new circulation within the park. This internal compliance would include NEPA, in the form of an Environmental Assessment (EA), as well our own Section 106 process.

FHWA has also stated that this currently proposed project qualifies for a Categorical Exclusion (CE) under NEPA; however, according to FHWA's NEPA Implementing Regulations: 23 CFR 771.117(a).

*(b) Any action that normally would be classified as a CE but could involve unusual circumstances will require the FHWA, in cooperation with the applicant, to conduct appropriate environmental studies to determine if the CE classification is proper. Such unusual circumstances include:*

*(4) Significant environmental impacts;*

*(2) Substantial controversy on environmental grounds;*

***(3) Significant impact on properties protected by Section 4(f) requirements or Section 106 of the National Historic Preservation Act; or***

*(4) Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action.*

The NPS believes that under FHWA's own CE regulations item (b)(3) above, this proposed action does not qualify for a CE, and the NPS requests that FHWA complete an Environmental Assessment with a thorough public review to determine the full extent of the impacts from this proposed project, as well as the best location for crosswalks.

The data presented by MassDOT during their November 4, 2022, consulting parties meeting of pedestrian use from Bedford Road as a basis for installing a crosswalk at this location was disingenuous by using Patriots' Day Weekend (2022) as the primary data gathering point. The park's signature event of Battle Road Day invites thousands of visitors and hundreds of living history reenactors onto the Battle Road Trail including around the Captain William Smith House (MassDOT Consulting Parties Meeting Power Point-November 2022). Standard national highway design practice (as evidenced by FHWA's Traffic Data Computation Method POCKET GUIDE) is to base highway design on traffic volumes from the 30th highest hour of the year, not the weekend of the year mostly likely to experience the highest traffic volumes.

## **Section 4(f)**

The NPS has coordinated this project with the Department of Interior and have confirmed that this project would qualify for a Constructive Use under Section 4(f) of the National Transportation Act of 1966. FHWA must comply with 23 CFR 774.15 to determine whether there is a constructive use of Section 4(f) property. Under Section 4(f), FHWA will be required to complete a Section 4(f) Evaluation. As a reminder, the Section 4(f) Constructive Use Regulation states:

*Constructive use occurs when impacts of a project in proximity to an adjacent or near-by Section 4(f) property are so severe that the activities, features, or attributes that qualify the property for protection under Section 4(f) are substantially impaired.*

*Substantial impairment occurs when the protected activities, features, or attributes of the Section 4(f) property are substantially diminished. As a general matter this means that the value of the resource, in terms of its Section 4(f) purpose and significance, will be meaningfully reduced or lost. The degree of impact and impairment must be determined in consultation with the officials with jurisdiction in accordance with 23 CFR 774.15(d)(3).*

Due to the addition of the Bedford Road crossing, FHWA will need to work closely with the NPS, the official with jurisdiction, to determine the degree of impact and impairment to Minute Man NHP from the proposed project.

## **Conclusion**

Cumulatively, the NPS feels that the combination of the different elements of the project apart from the actual repaving leads to an **Adverse Effect** to the Minute Man NHP Historic District. The landscape of the Battle Road Unit which surrounds the Route 2A corridor in this area of Lincoln and Concord, is an important part of the overall significance of the Minute Man NHP Historic District. The very nature of the series of events that happened at both Colonel Barrett's Farm and North Bridge, as well as earlier that day at Lexington Green, resulted in a battlefield that was more than just a single location in Concord or Lexington. It resulted in the extension of the battlefield associated with the Battle of Lexington and Concord for miles along Battle Road and the surrounding landscape as the British Regulars retreated. The Colonial minutemen and militia gathered into this battle corridor to engage with the Regulars as they retreated back to the safety of Boston. Since its founding in 1959, Minute Man NHP has been in a delicate balance to maintain the integrity of the historic battlefield with the modern landscape that surrounds us from Massport's Hanscom Field and Hanscom Air Force Base to the north, Interstate 95 to the east, and Route 2A itself. As it relates to MassDOT's proposed Route 2A Roadway Repaving and Improvement Project, it is not the single introduction of a new feature that affects our integrity, but rather the cumulative effect of incompatible changes that are the biggest threat to Minute Man NHP.

While we appreciate MassDOT and FHWA's consultation efforts on this project, the retention of the Bedford Road crossing at the highly significant location at the center of the park's Battle Road unit tips the cumulative scale of this project and results, in our opinion, in an **Adverse Effect** on the historic district. The NPS has been stating its concerns about the crossing at Bedford Road since our first letter to MassDOT on the project dated July 23, 2021, and it's regrettable that these concerns were not incorporated into the planning of this project.

If you have any questions, please do not hesitate to reach out to me by email at [simone\\_monteleone@nps.gov](mailto:simone_monteleone@nps.gov) or by phone at (978) 505-3285. We look forward to continuing the conversation and reaching a successful conclusion to the Section 106 consultation, as well as working through the Section 4(f) and NEPA processes with MassDOT and FHWA as part of the efforts to protect the visitor experience and cultural landscape of Minute Man NHP.

Sincerely,

*Simone Monteleone*

Simone Monteleone  
Superintendent

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Enclosure-Map of Minute Man National Historical Park with Cultural Landscapes Identified

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# Enclosure: Cultural Landscapes and Minute Man National Historical Park

