

Appendix I

Section 4(f) Resources

**Updated Draft Environmental Assessment and Draft Section 4(f) Determination
ALP Phase I Improvements at BWI Marshall Airport**

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APPENDIX I:

Section 4(f) Resources

The following attachments are included in this appendix to support the Section 4(f) analysis:

- Attachment 1: Section 4(f) Resources in the Noise Impact Study Area
- Attachment 2: Department of Transportation Section 4(f) *De Minimis* Impact Determination
- Attachment 3: Concurrence Letters on *De Minimis* Impact to Andover Park and BWI Trail from Anne Arundel County Department of Recreation and Parks (March 24, 2017, August 20, 2018, January 23, 2019 and November 22, 2019)

Attachment 1:
Section 4(f) Resources in the
Noise Impact Study Area

**Updated Draft Environmental Assessment and Draft Section 4(f) Determination
ALP Phase I Improvements at BWI Marshall Airport**

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Attachment 1:

Section 4(f) Resources in the Noise Impact Study Area

This attachment identifies Section 4(f) Resources within the Noise Impact Study Area and provides a comparison of the noise exposure at the resource sites under the 2027 Proposed Action Alternative and the 2027 No Action Alternative.

Section 303(c), Title 49 USC, commonly referred to as Section 4(f) of the Department of Transportation Act of 1966, states that the "...Secretary of Transportation will not approve a project that requires the use of any publicly-owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, state, or local significance or land from a historic site of national, state, or local significance as determined by the officials having jurisdiction thereof, unless there is no feasible and prudent alternative to the use of such land...and [unless] the project includes all possible planning to minimize harm resulting from the use."

"Use" in the context of Section 4(f) encompasses both physical use as well as constructive use. Physical use involves a physical taking of the Section 4(f) property. This could include purchase of land or a permanent easement, physical occupation, or alteration of structures or facilities on the property.¹ As stated in the FAA Order 1050.1F Desk Reference, "The concept of constructive use is that a project that does not physically use land in a park, for example, may still, by means of noise, air pollution, water pollution, or other impacts, dissipate its aesthetic value, harm its wildlife, restrict its access, and take it in every practical sense."²

The Noise Impact Study Area is defined as the area where the noise is 65 Day-Night Average Sound Level (DNL) or greater. The Noise Impact Study Area boundary is represented by the Future 2027 DNL 65 dB contour for BWI Marshall Airport completed as part of this EA and Section 4(f) Determination.

Seventeen Section 4(f) resources were identified within the Noise Impact Study Area: four parks, twelve Maryland Inventory of Historic Properties (MIHP) sites and/or districts, and one recreation area. The AEDT noise models prepared for the 2027 Proposed Action and 2027 No Action Alternatives were run to determine noise exposure at the identified resource sites. For Section 4(f) resources encompassing a wider area (such as parks or historic districts), a central point within the resource was selected to determine noise levels. For resources located along the boundary of the Noise Impact Study Area, a central point in the area within the Noise Impact Study Area was selected.

Table 1 summarizes the resources and the associated noise exposure for the 2027 Proposed Action and 2027 No Action Alternatives. **Figure 1** identifies the Section 4(f) resources in relation to the Noise Impact Study Area. As shown in the table, there is no discernable change in noise exposure at the Section 4(f) resources. This is consistent with the minimal change in the contours

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from the No Action and Proposed Action Alternatives. Aircraft operations would be the same under all alternatives, with the exception of maintenance runup operations modeled under the Proposed Action Alternative.

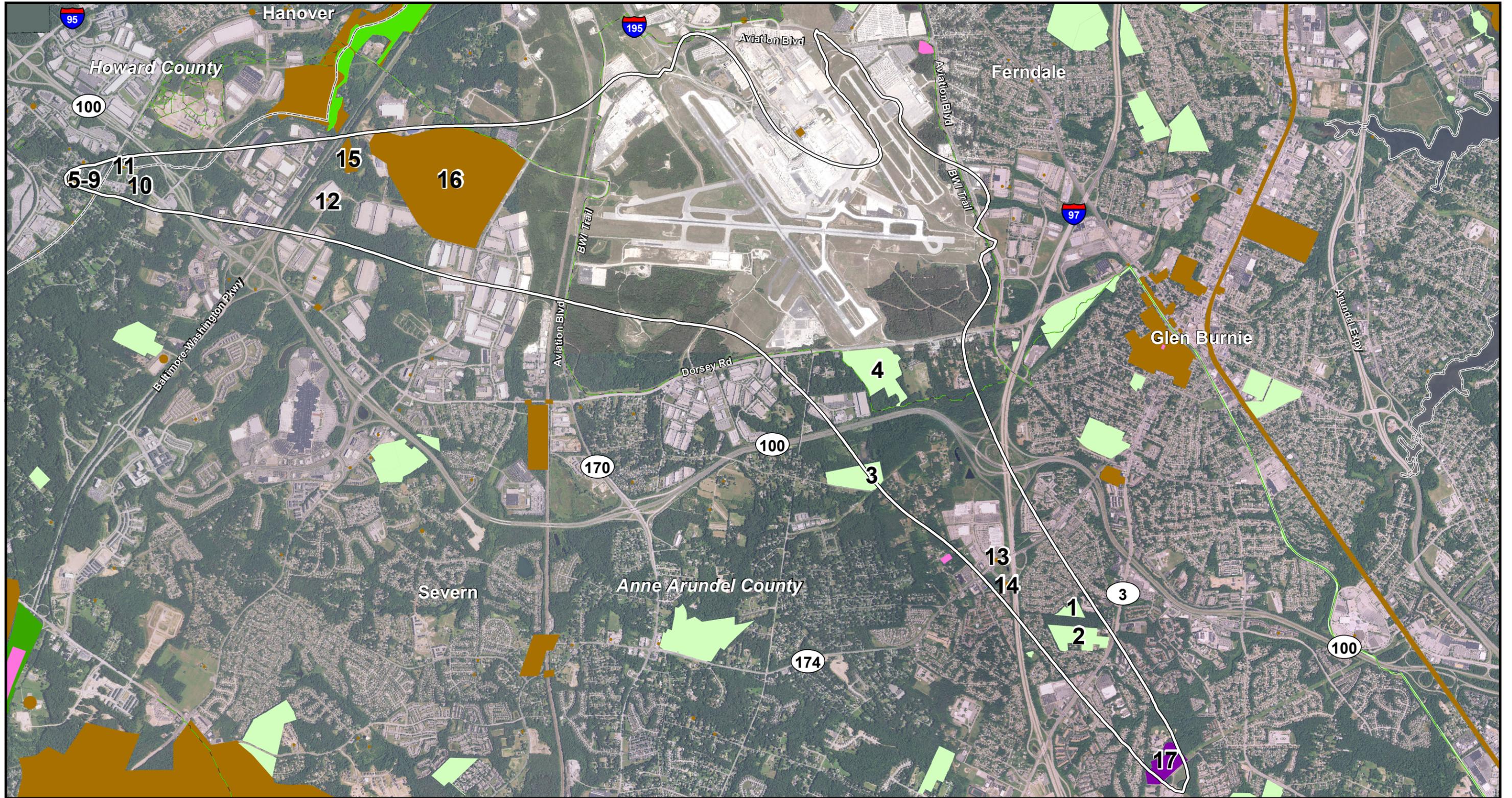
It should also be noted that the BWI Trail is a Section 4(f) resource within the Noise Impact Study Area. As shown on Figure 1, the trail runs through multiple areas of the Noise Impact Study Area and therefore was left out of the noise exposure analysis. However, based on the results of the noise exposure analysis at the other sites, it can be concluded that there would also be no change in noise exposure along the BWI Trail.

Table 1
Noise Exposure at Section 4(f) Resources

Figure ID	Section 4(f) Resource	Resource Type	2027 No Action Exposure (DNL)	2027 Proposed Action Exposure (DNL)	Exposure Change (DNL)
1	Glen Burnie Park	Park	68	68	0
2	North Arundel Aquatic Center	Park	68	68	0
3	Queenstown Park	Park	65	65	0
4	Friendship Park	Park	77	77	0
5	House (7011 Lennox Ave)	MIHP	65	65	0
6	House (7024 Cedar Ave)	MIHP	65	65	0
7	House (7032 Cedar Ave)	MIHP	65	65	0
8	House (6909 Linden Ave)	MIHP	65	65	0
9	House (6901 Linden Ave)	MIHP	65	65	0
10	Bridge 0204900	MIHP	66	66	0
11	Bridge AA5009	MIHP	65	65	0
12	Charles A. Brauer House	MIHP	69	69	0
13	Cosby House	MIHP	69	69	0
14	Gaither House	MIHP	67	67	0
15	Patapsco State Park	MIHP	66	66	0
16	Stoney Run Road Survey District	MIHP	69	69	0
17	Old Mill High School Recreation Area ¹	Recreation Area	66	66	0

Note: ¹ The various sports fields associated with Old Mill High School are considered as a recreation area for purposes of this Section 4(f) analysis.

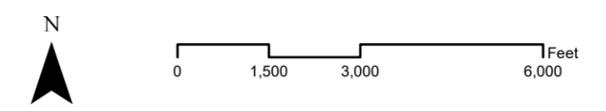
Source: AEDT Version 2d and HNTB Analysis, 2019.



LEGEND

- Noise Impact Study Area
- Airport Property Boundary
- County Boundary
- National Park
- State Park
- Local Park
- National Register Historic Places
- Maryland Inventory of Historic Properties
- Recreation Area
- Trail

**Section 4(f) Resources within the Noise Impact Study Area
Figure 1**



Sources: Aerial - USDA NAIP (2016), US Fish and Wildlife Service, Maryland iMAP, National Park Service, Maryland Department of Natural Resources, Anne Arundel County GIS

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Endnotes

¹ FAA, Order 1050.1F Desk Reference (July 2015), p. 5-6.

² FAA, Order 1050.1F Desk Reference (July 2015), p. 5-6.

Attachment 2:

Department of Transportation Section 4(f)

De Minimis Impact Determination

Attachment 2

Department of Transportation Section 4(f)
De Minimis Impact Determination

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Attachment 2:

Department of Transportation Section 4(f) *De Minimis* Impact Determination

This appendix includes documentation to support the Federal Aviation Administration’s (FAA) *de minimis* impact determination with respect to a physical use of Section 4(f) properties at BWI Marshall Airport: Andover Park and the BWI Trail. The *de minimis* impact determination is related to proposed improvements being evaluated as part of the *Updated Draft Environmental Assessment and Draft Section 4(f) Determination for ALP Phase I Improvements at BWI Marshall Airport*.

This *de minimis* determination has been revised to include consideration of the BWI Trail. This *de minimis* impact determination has been made after considering measures to minimize harm, and determining that the project would not adversely affect the activities, features, or attributes qualifying Andover Park for protection under Section 4(f).¹

I.1 Overview

Section 4(f) of the U.S. Department of Transportation (DOT) Act of 1966 (now codified as 49 U.S.C. § 303) protects significant publicly owned parks, recreational areas, wildlife and waterfowl refuges, and public and private historic sites. As stated in the 1050.1F Desk Reference, “Section 4(f) provides that the Secretary of Transportation may approve a transportation program or project requiring the use of publicly owned land off a public park, recreation area, or wildlife or waterfowl refuge of national, state, or local significance, or land of an historic site of national, State, or local significance, only if there is no feasible and prudent alternative to the using that land and the program or project includes all possible planning to minimize harm resulting from the use.”²

“Use” in the context of Section 4(f) encompasses both physical use as well as constructive use. Physical use involves a physical taking of the Section 4(f) property. This could include purchase of land or a permanent easement, physical occupation, or alteration of structures or facilities on the property.³ As stated in the FAA Order 1050.1F Desk Reference, “The concept of constructive use is that a project that does not physically use land in a park, for example, may still, by means

¹ The *de minimis* impact determination will not be finalized until after public input has been received and considered during the public comment period.

² Federal Aviation Administration (FAA), *Order 1050.1F Desk Reference*, July 2015, p. 5-1.

³ FAA, *Order 1050.1F Desk Reference* (July 2015), p. 5-6.

of noise, air pollution, water pollution, or other impacts, dissipate its aesthetic value, harm its wildlife, restrict its access, and take it in every practical sense.”⁴

As explained in Federal Highway Administration’s *Section 4(f) Policy Paper*, a *de minimis* impact determination is a finding. The Policy Paper states further that “It is not an evaluation of alternatives and no avoidance or feasible and prudent avoidance alternative analysis is required. The definition of all possible planning in 23 CFR 774.17 explains that a *de minimis* impact determination does not require the traditional second step of including all possible planning to minimize harm because avoidance, minimization, mitigation, or enhancement measures are included as part of the determination.”⁵

I.2 Proposed Action

The Maryland Department of Transportation’s Maryland Aviation Administration (MDOT MAA), owner and operator of BWI Marshall Airport, is proposing improvements at the Airport to meet FAA design standards; enhance airfield safety and efficiency; accommodate existing and anticipated demand; improve customer service; and property acquisition for NEPA review. Meeting FAA design standards includes obstruction removal on and off airport property as defined by the (Federal Aviation Administration) FAA’s *Safe, Efficient Use and Preservation of the Navigable Airspace* (14 Code of Federal Regulations Part 77). “Part 77” defines the standards used to determine if an object is an obstruction to air navigation. Any object that exceeds the height of the Part 77 defined imaginary surfaces is considered an obstruction. Objects that are determined to be obstructions are presumed to be hazards to air navigation unless further aeronautical study concludes that the objects are not a hazard. The FAA strives to keep their navigable airspace clear of any objects that could interfere with the safety or efficiency of aircraft navigation. Obstructions to the primary surface for Runways 15R-33L and 15L-33R include vegetation and man-made obstructions, including NAVAIDs.

The MDOT MAA is preparing an Environmental Assessment (EA) to identify and disclose the potential environmental impacts of these proposed improvements.

I.3 Section 4(f) Resources

Section 4(f) resources include public parks, recreation areas, wildlife and waterfowl refuges and historic sites. The Section 4(f) resources within the Study Area of the Proposed Action for the EA include two parks, Friendship Park – Thomas A. Dixon Observation Area and Andover Park; two recreation areas, the BWI Trail and Lindale Middle School; and one historic site, the Benson-Hammond House, are within or adjacent to the Physical Development Study Area. Refer to Figure 4.6-1 of the EA for the locations and photographs of these Section 4(f) resources. A complete discussion of the visual and temporary impacts of all the Section 4(f) resources due to the project

⁴ FAA, Order 1050.1F Desk Reference (July 2015), p. 5-6.

⁵ U.S. DOT Federal Highway Administration (FHWA), “Section 4(f) Policy Paper,” July 20, 2012, <https://www.environment.fhwa.dot.gov/4f/4fpolicy.asp#determine> (accessed 3/28/17).

alternatives is included in *Section 5.5, Department of Transportation Act: Section 4(f) Resources*, of the EA.

Based on analysis of the project alternatives, Andover Park would experience a permanent physical use of the property due to proposed vegetation removal to an area of Andover Park where approximately 70 trees penetrate the navigable airspace. Andover Park is located at 605 Andover Road in Linthicum, Maryland, north of BWI Marshall Airport. The BWI Trail would experience a permanent physical use due to a new proposed vehicle service road (VSR) crossing along Aviation Blvd to allow access to the proposed Fire Training Facility. There would also be a temporary physical occupancy of the trail during the construction of the VSR and utility connections. Additionally, the BWI Trail would experience temporary physical occupancy due to the reconstruction of the existing VSR crossing at Stoney Run Rd to allow access to the proposed Airline Maintenance Facility, as well as during proposed utility connections under the trail.

I.3.1 Andover Park

Andover Park is located north of the airport at the corner of Andover Road and Main Avenue, and lies within the Part 77 surfaces for the Runway 15L end. The 41-acre park is owned by the Anne Arundel County Department of Recreation and Parks (Department) and includes various sports fields, picnic areas and an equestrian center. Mane Event equestrian center operates out of Andover Park. The equestrian center is situated between the sports fields of Andover Park to the west and Lindale Middle School to the east. Mane Event is a non-profit equestrian education and recreation program. The center has a focus on special needs and physical therapy, allowing riders of all abilities the opportunity for equestrian recreation. Part of Andover Park lies within the Part 77 surfaces for the Runway 15L end.

I.3.2 BWI Trail

The BWI Trail is a 12.5-mile recreational trail that encompasses the main airport campus, running parallel to much of Aviation Boulevard and Dorsey Road.⁶ The trail has an asphalt surface, with the exception of wooden boardwalks which are utilized in environmentally sensitive areas. The majority of the trail is on MDOT MAA property, however, it was built and is maintained through a Memorandum of Understanding (MOU) between MDOT MAA, Anne Arundel County Department of Recreation and Parks (DRP), and the Maryland Department of Transportation's State Highway Administration. There are sections of the BWI Trail within the Study Area.

I.4 Impact to Andover Park

Analysis indicates that vegetative obstruction removal proposed as part of the Proposed Action is expected to be necessary at Andover Park. With the use of aerial photogrammetry from 2012

⁶ Anne Arundel County, Maryland, *BWI Trail (Thomas A. Dixon Observation Area)*, <http://www.aacounty.org/locations-and-directions/bwi-trail>, accessed 5/15/18.

and field verification of multiple trees in the Fall of 2016, it is estimated that approximately 70 trees penetrate the navigable airspace on part of the Andover Park property, as shown on **Figure I-1**.

I.4.1 2015 ALP Alternative

The 2015 ALP Alternative would result in the removal of approximately 70 trees on Andover Park property, as shown on Figure I-1, in order to comply with FAA 14 CFR Part 77 regulations. The proposed vegetative removal is located along the edge of the park property that borders with Andover Recreation Center to the south. The vegetation removal at this property would not alter the use of the park sports fields and picnic areas. The proposed vegetative obstruction removal on the property could result in visual changes to park users.

A review of the project impacts and proposed tree removal show that the impacts to the park would not adversely affect the activities, features, or attributes qualifying Andover Park for protection under Section 4(f).

I.4.2 Sponsor's Preferred Alternative

The Sponsor's Preferred Alternative would result in the same impacts to Andover Park as described for the 2015 ALP Alternative and shown on Figure I-1. The proposed tree removal is identical for both of the action alternatives in this area of the park that is within navigable airspace.

I.4.3 No Action Alternative

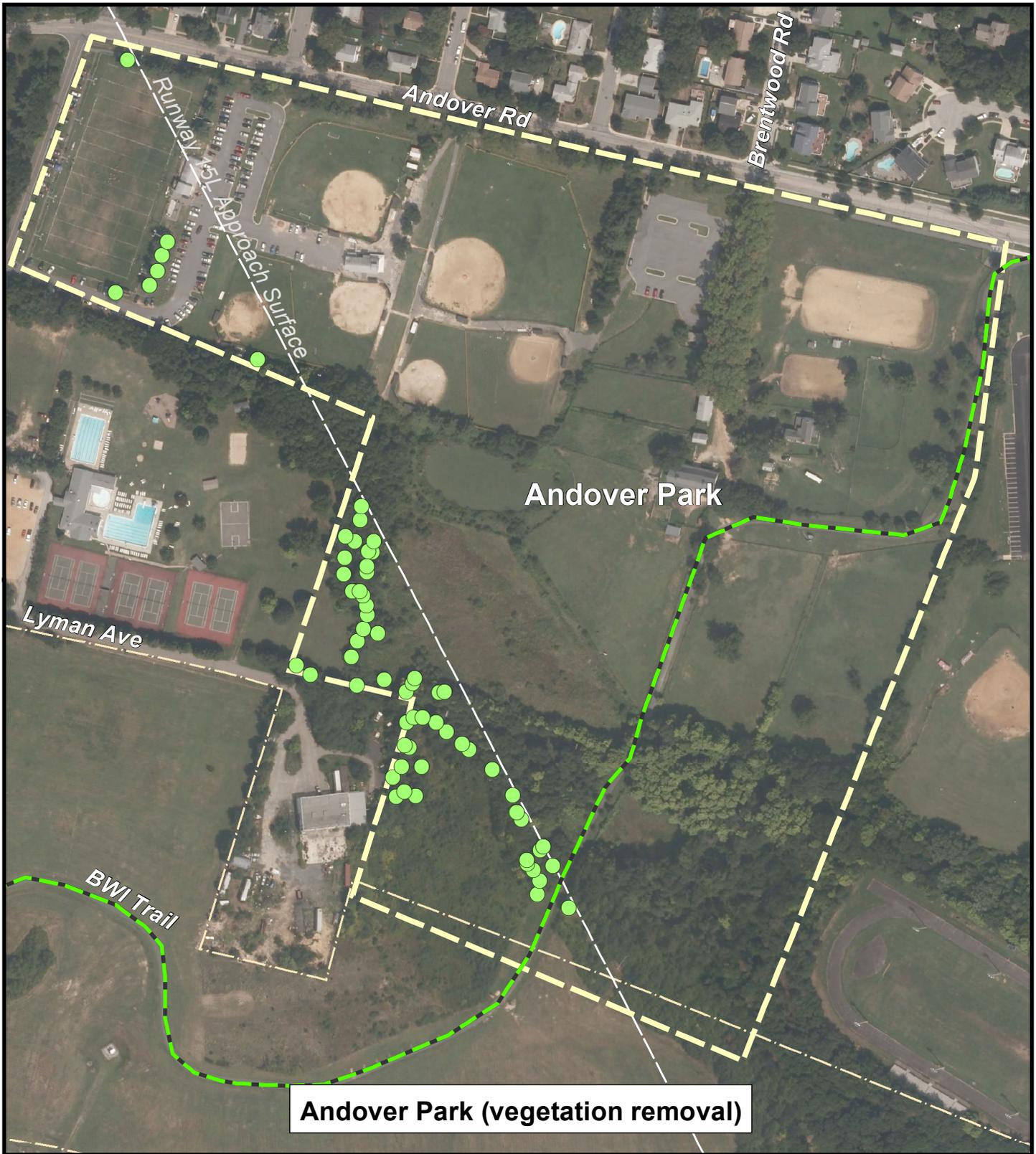
The No Action Alternative would have no physical or visual impacts to Andover Park.

I.5 Impact to BWI Trail

In order to access the proposed Fire Training Facility (P45) it will be necessary for a proposed VSR to cross the BWI Trail. The Fire Training Facility will not generate extensive vehicle traffic and will require gated access. Additionally, temporary occupancies to the trail are possible during construction depending on construction methods, as discussed in the following paragraphs.

I.5.1 2015 ALP Alternative

The BWI Trail runs along Aviation Boulevard, paralleling the Airport property line. A VSR is proposed off Aviation Boulevard to the relocated fire training facility (P45), south of the existing intersection with Cromwell Park Drive and across from the Maryland State Police Glen Burnie Barrack P. As shown in **Figure I-2**, the VSR would intersect the BWI Trail and result in an added permanent crossing. This section of the BWI Trail is on MDOT MAA property. An access gate is proposed to the west of the trail and would not impact trail operations once constructed. The BWI Trail crosses over many access roadways as it loops around the Airport campus. Additionally, the proposed access roadway would carry minimal traffic. Construction-related activity would result in a temporary occupancy of the BWI Trail. A *de minimis* concurrence letter was sent to Anne Arundel County DRP on August 8, 2018 due to the new permanent crossing. Concurrence that the proposed improvements would not adversely affect the BWI Trail was received from the DRP on August 20, 2018.

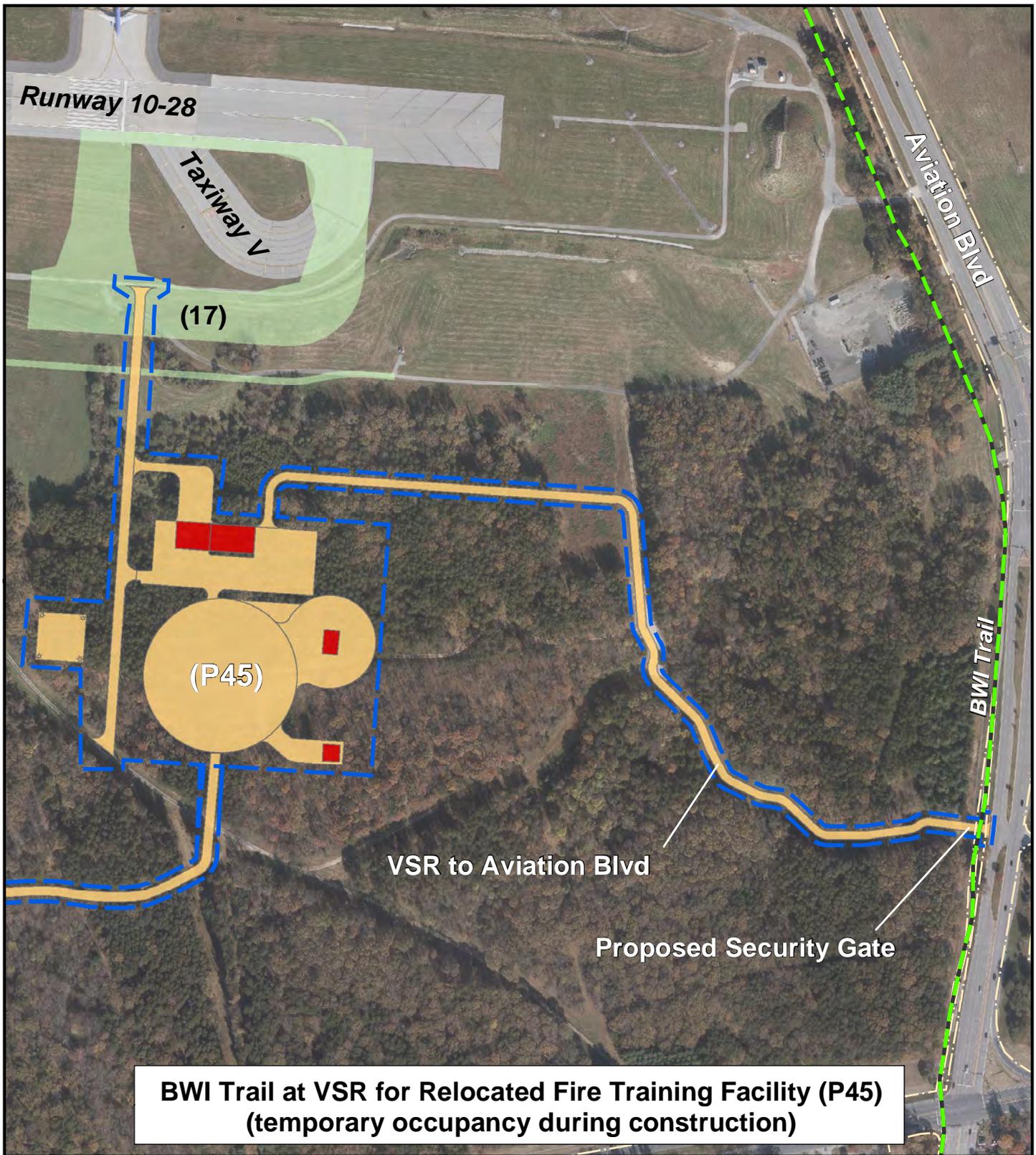


LEGEND

-  Andover Park Boundary
-  BWI Airport Property Boundary
-  Andover Park Tree Obstruction
-  BWI Trail

**Impacts to Section 4(f) Resources - Andover Park
Figure I-1**





LEGEND

-  BWI Airport Property Boundary
-  BWI Trail
-  New Impervious
-  Other EA Projects
-  Limit of Disturbance
-  Building

**Impacts to Section 4(f) Resources
BWI Trail with 2015 ALP Alternative for
Relocated Fire Training Facility
Figure I-2**



Additionally, the proposed Airline Maintenance Facility (P11) includes reconstruction of the existing VSR entrance where it crosses the BWI Trail (at the intersection with Stoney Run Road) due to the roadway being realigned toward the new maintenance facility, as shown in **Figure I-3**. The construction-related activity may result in a temporary impact to the trail depending upon construction methods.

The temporary impacts to the trail during construction would not constitute a “use” in accordance with the guidance provided in FAA Order 1050.1F Desk Reference. The 1050.1F Desk Reference states, “A temporary occupancy of a Section 4(f) property for project construction-related activities is usually so minimal that it does not constitute a use within the meaning of Section 4(f).” Given the ambient aircraft noise and other nearby land uses (vehicular roadways, etc.), construction-related noise is not anticipated to be noticeable for a prolonged duration or to interfere with trail activities. No permanent adverse physical impacts would occur to the trail, and no temporary or permanent interference with Section 4(f) activities would occur.

I.5.2 Sponsor’s Preferred Alternative

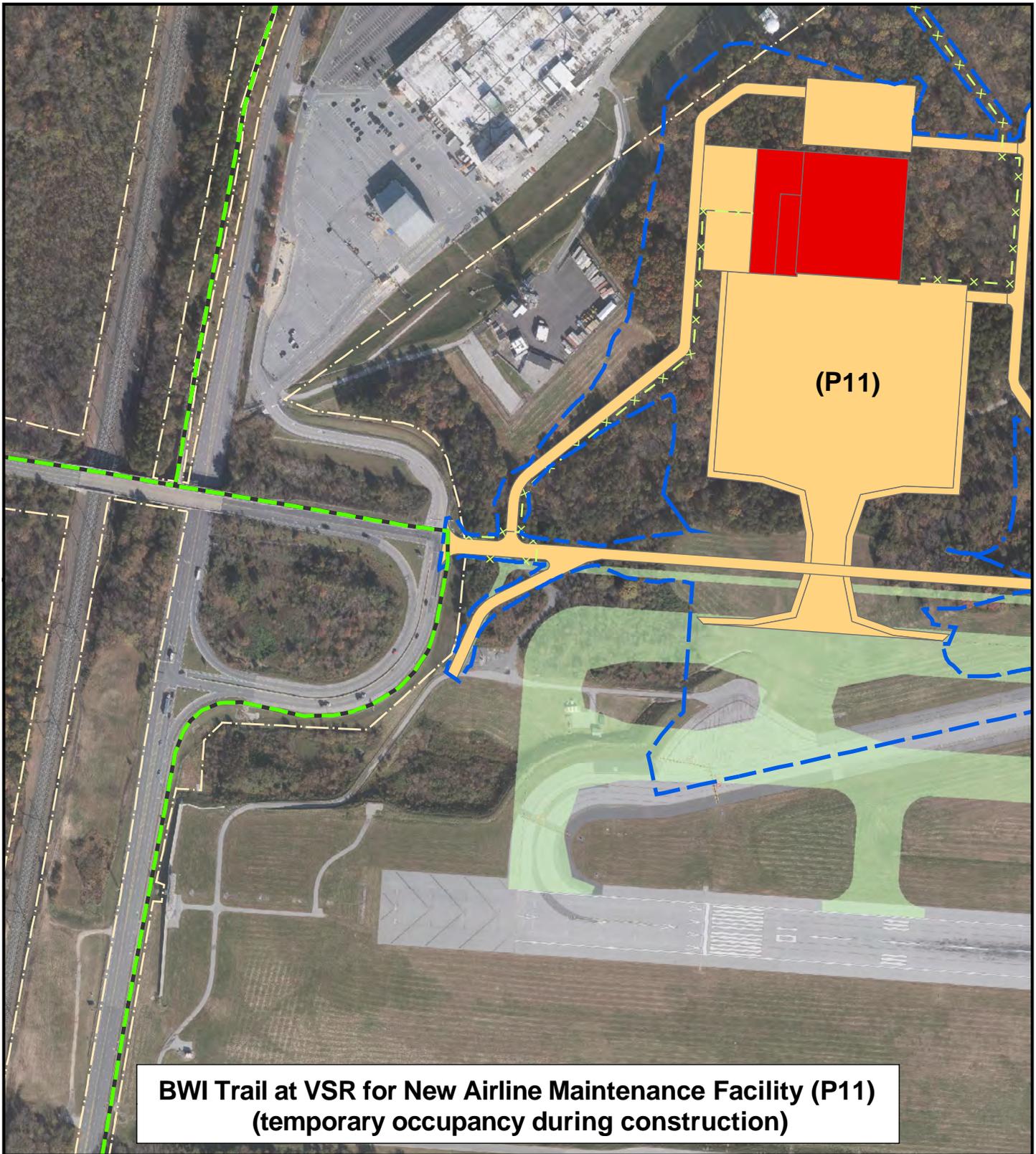
Under the Sponsor’s Preferred Alternative, the relocated fire training facility (P45) would be located further east, closer to Aviation Boulevard as shown on **Figure I-4**. The Sponsor’s Preferred Alternative layout for the relocated facility would include a VSR connection to Aviation Boulevard at the intersection of Cromwell Park Drive. As with the 2015 ALP Alternative, the proposed access roadway under the Sponsor’s Preferred Alternative would carry minimal traffic. The Sponsor’s Preferred Alternative also includes proposed utility connections under the BWI Trail and Aviation Boulevard. Construction activity while the VSR is reconstructed and utility connections are placed would result in a temporary occupancy of the BWI Trail.

As with the 2015 ALP Alternative, the proposed Airline Maintenance Facility (P11) under the Sponsor’s Preferred Alternative includes reconstruction of the existing VSR entrance where it crosses the BWI Trail (at the intersection with Stoney Run Road) due to the roadway being realigned toward the new maintenance facility. Additionally, the Sponsor’s Preferred Alternative proposed Airline Maintenance Facility (P11) includes a water line connection that would cross under the BWI Trail at the location shown in **Figure I-5**. The construction-related activity may result in a temporary impact to the trail depending upon construction methods.

As a result of the additional project planning for the relocated fire training facility and Airline Maintenance Facility, an updated *de minimis* concurrence letter was sent to Anne Arundel County DRP on December 20, 2018 and again on October 15, 2019 to indicate the Sponsor’s Preferred Alternative impacts to the BWI Trail. Concurrence that the proposed improvements would not adversely affect the BWI Trail was received from the DRP on January 23, 2019 and November 22, 2019.

I.5.3 No Action Alternative

The No Action Alternative would have no physical or visual impacts to the BWI Trail.



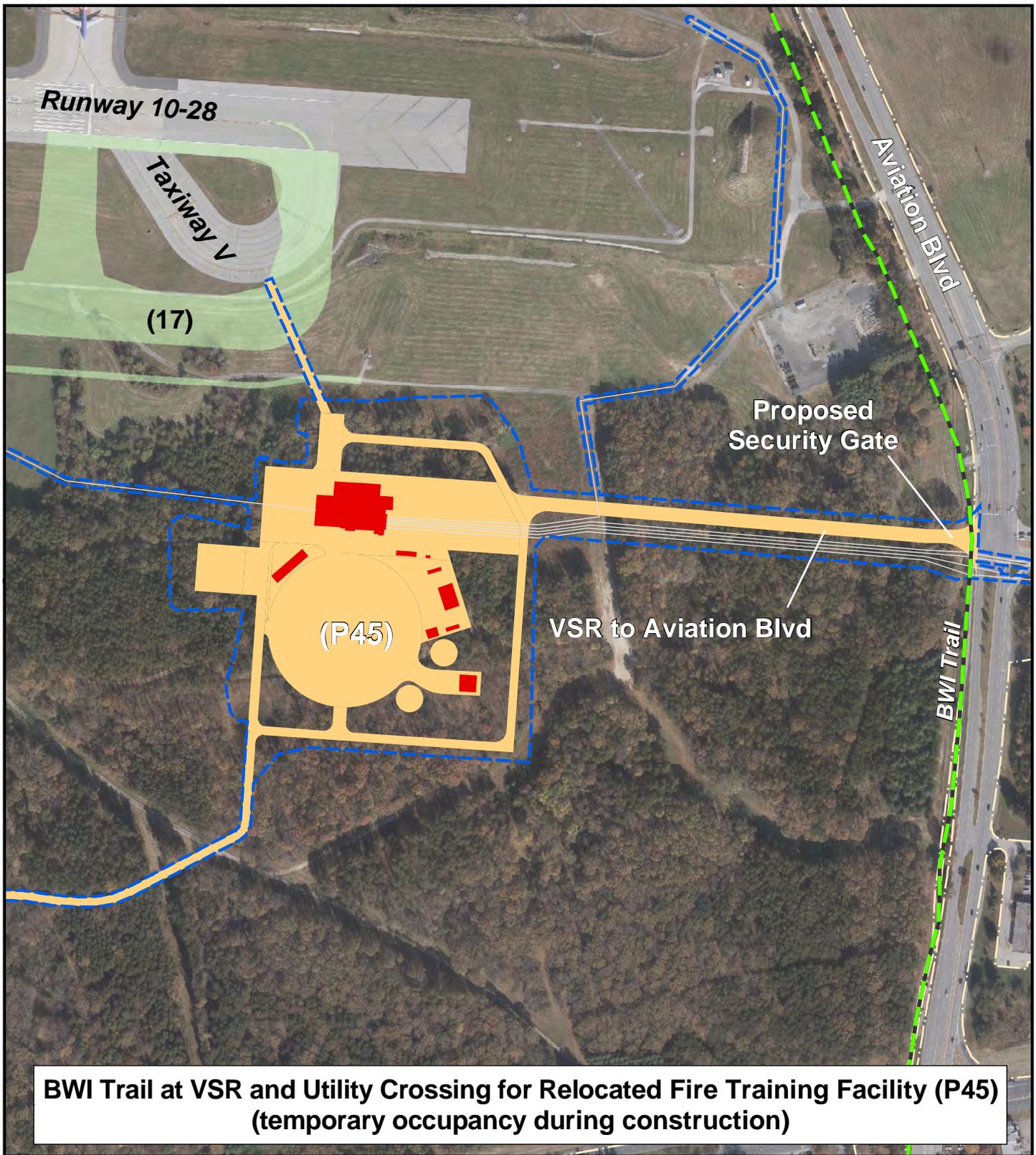
**BWI Trail at VSR for New Airline Maintenance Facility (P11)
(temporary occupancy during construction)**

LEGEND

- BWI Airport Property Boundary
- BWI Trail
- New Impervious
- Other EA Projects
- Limit of Disturbance
- Building
- Proposed Fence

**Impacts to Section 4(f) Resources
BWI Trail with 2015 ALP Alternative for
New Airline Maintenance Facility
Figure I-3**



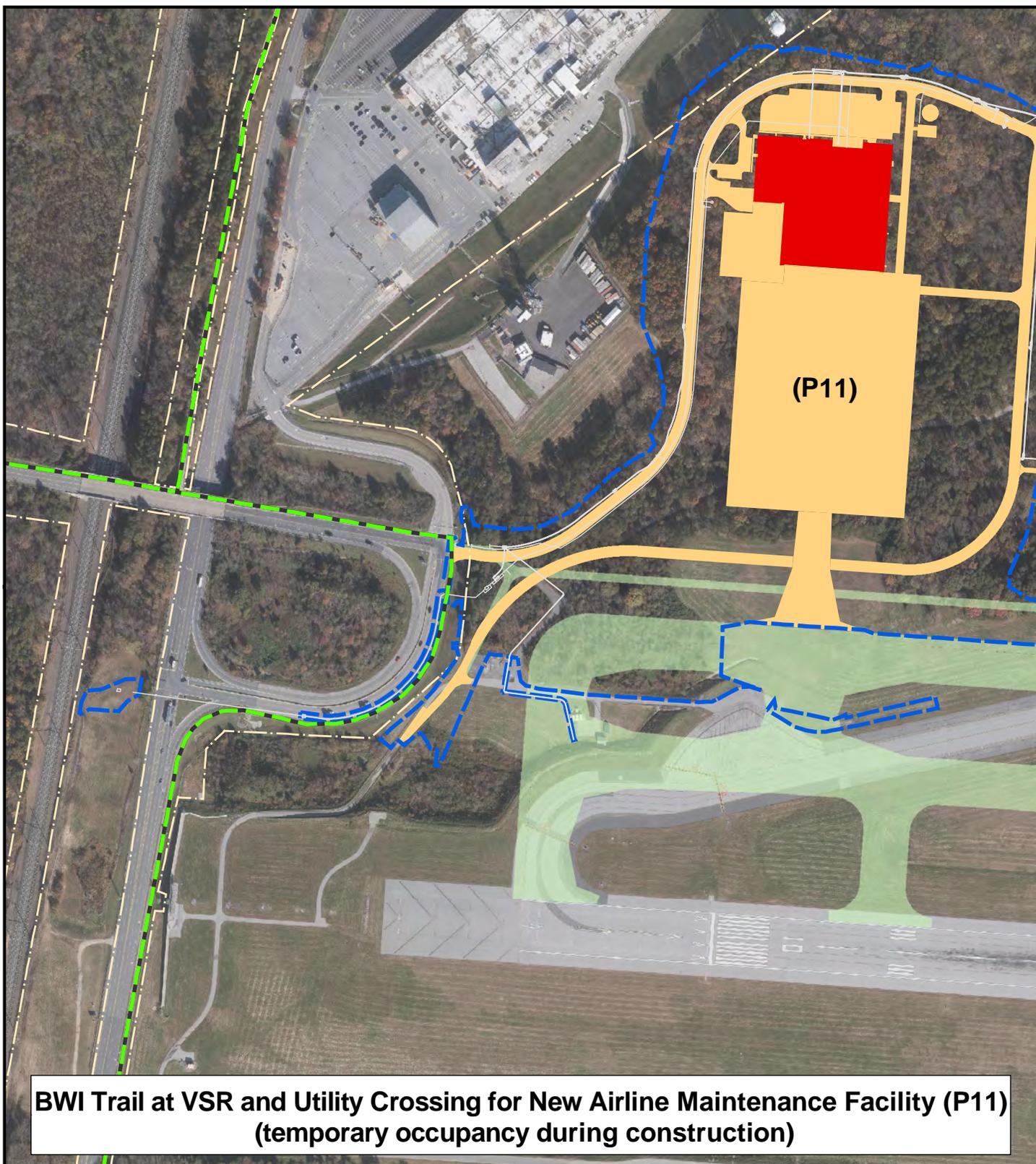


LEGEND

- BWI Airport Property Boundary
- BWI Trail
- New Impervious
- Other EA Projects
- Limit of Disturbance
- Building
- Utility Line

**Impacts to Section 4(f) Resources
BWI Trail with Sponsors Preferred Alternative for
Relocated Fire Training Facility
Figure I-4**





LEGEND

- BWI Airport Property Boundary
- BWI Trail
- New Impervious
- Other EA Projects
- Limit of Disturbance
- Building
- Utility Line

**Impacts to Section 4(f) Resource
BWI Trail with Sponsors Preferred Alternative for
New Airline Maintenance Facility
Figure I-5**



0 100 200 400 Feet

I.6 Regulatory Requirements

As stated in the Order 1050.1F Desk Reference, procedural requirements for complying with Section 4(f) are set forth in DOT Order 5610.1C. The FAA also uses Federal Highway Administration/ Federal Transit Administration (FHWA/FTA) regulations in 23 CFR part 774 (73 *Federal Register* 13368 (March 12, 2008) and 73 *Federal Register* 31609 (June 3, 2008) and FHWA guidance (e.g., Section 4(f) Policy Paper,⁷ 77 *Federal Register* 42802 (July 20, 2012)). These requirements are not binding on the FAA; however, the FAA may use them as guidance to the extent relevant to aviation projects.⁸

I.6.1 Applicability of the *De Minimis* Impact Determination

The FHWA Section 4(f) Policy Paper specifies that an impact to a public park, recreation area, or wildlife and waterfowl refuge may be determined to be *de minimis* if the transportation use of the Section 4(f) property, including incorporation of any measure(s) to minimize harm (such as any avoidance, minimization, mitigation, or enhancement measures), does not adversely affect the activities, features, or attributes that qualify the resource for protection under Section 4(f).⁹

The FAA is making a *de minimis* determination because the impact to Andover Park and the BWI Trail meets, or will meet, the following guidance, as provided in FHWA's Policy Paper:

“The impacts of a transportation project on a park, recreation area, or wildlife and waterfowl refuge that qualifies for Section 4(f) protection may be determined to be *de minimis* if:

- 1) The transportation use of the Section 4(f) property, together with any impact avoidance, minimization, and mitigation or enhancement measures incorporated into the project, does not adversely affect the activities, features, or attributes that qualify the resource for protection under Section 4(f);
- 2) The public has been afforded an opportunity to review and comment on the effects of the project on the protected activities, features, or attributes of the Section 4(f) property; and
- 3) The official(s) with jurisdiction over the property, after being informed of the public comments and FHWA's [in this situation, the FAA's] intent to make the *de minimis* impact finding, concur in writing that the project will not adversely

⁷ U.S. DOT FHWA, Section 4(f) Policy Paper, July 2012, <https://www.environment.fhwa.dot.gov/4f/4fpolicy.pdf>, p. 44 (accessed 3/28/17).

⁸ FAA, Order 1050.1F Desk Reference, p. 5-3.

⁹ U.S. DOT FHWA, Section 4(f) Policy Paper, July 2012, <https://www.environment.fhwa.dot.gov/4f/4fpolicy.pdf>, p. 44 (accessed 3/28/17).

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affect the activities, features, or attributes that qualify the property for protection under Section 4(f)."¹⁰

Andover Park

A review of the project impacts and proposed tree removal show that the impacts to Andover Park would not adversely affect the activities, features, or attributes qualifying Andover Park for protection under Section 4(f). Because the trees proposed for removal are not essential to the recreational value of Andover Park, the project would not adversely affect the activities, features, or attributes that qualify the park for protection under Section 4(f).

Finally, the official with jurisdiction over Andover Park, Anne Arundel County Department of Recreation and Parks, was informed and concurred in writing that the project will not adversely affect the activities, features, or attributes that qualify the property for protection under Section 4(f). A "Request for Concurrence on De Minimis Impact to Andover Park" was submitted to the Department on March 17, 2017. Signed concurrence from the Director of the Department was received on March 24, 2017.

BWI Trail

A review of the impacts to the BWI Trail show that permanent crossing of the trail by the VSR to reach the relocated fire training facility would not adversely affect the activities, features, or attributes qualifying the trail for protection under Section 4(f). The BWI Trail is crossed by many access roadways as it loops around the Airport campus. Additionally, the proposed VSR would have minimal traffic.

The BWI Trail was built and is maintained through a MOU between MDOT MAA, Anne Arundel County DRP, and the MDOT SHA. This section of the BWI Trail is on MDOT MAA property, and both the permanent crossing and the construction related activity would result in a *de minimis* impact to the trail.

Additionally, a *de minimis* concurrence letter was sent to Anne Arundel County DRP on August 8, 2018, for their agreement that the proposed improvements would not adversely affect the BWI Trail. Concurrence from DRP was received on August 20, 2018. Upon further project planning, new details of the project location were provided to DRP on December 20, 2018. Concurrence that the proposed improvements would not adversely affect the BWI Trail was received from the DRP on January 23, 2019.

The construction-related activity at the VSR crossing and as part of the reconstruction of the intersection at the intersection with Stoney Run Road for the new Airline Maintenance Facility would be temporary and would not constitute a "use" in accordance with the guidance provided in FAA Order 1050.1F Desk Reference, as any impacts to users would be temporary and

¹⁰ U.S. DOT FHWA, Section 4(f) Policy Paper, July 2012, <https://www.environment.fhwa.dot.gov/4f/4fpolicy.pdf>, p. 44 (accessed 3/28/17).

mitigated by a minor trail detour to avoid the construction area. Likewise, potential temporary impacts to the trail during utility placement for both of these projects as part of the Sponsor's Preferred Alternative would also not constitute a "use." The 1050.1F Desk Reference states, "A temporary occupancy of a Section 4(f) property for project construction-related activities is usually so minimal that it does not constitute a use within the meaning of Section 4(f)." ¹¹ No permanent adverse physical impacts would occur to the trail, and no temporary or permanent interference with Section 4(f) activities would occur.

Given the ambient aircraft noise and other nearby land uses (vehicular roadways, etc.), construction-related noise is not anticipated to be noticeable for a prolonged duration or to interfere with trail activities.

The public will be afforded an opportunity to review and comment on the effects of the project on Section 4(f) resources during the Updated Draft EA comment period. Notice of the *de minimis* impact determination will be included as part of the advertisement for the publication of the Updated Draft EA.

Note: The *de minimis* impact determination will not be finalized until after public input has been received and considered during the public comment period.

I.7 Mitigation

Specific mitigation measures for Andover Park during and after removal of the trees will be determined between the MAA and the Department once final tree survey has been conducted to confirm the specific trees to be removed. Tree removal would be conducted in a manner that minimize impacts, and would be coordinated thoroughly with the Department to ensure that the Department's needs are accommodated in terms of schedule, safety, and maintenance of park access.

To minimize impacts to BWI Trail users, a gate would be constructed west of the trail to limit access to the Fire Training Facility eliminating unnecessary vehicle traffic crossing the trail. Additionally, DRP has requested a Stop sign be placed prior to crossing the trail in either direction so that trail users are granted the right of way.

During construction of the VSR for access to the Fire Training Facility and the reconstruction of the existing VSR entrance to the proposed Airline Maintenance Facility where it crosses the BWI Trail (at the intersection with Stoney Run Road), use of the BWI Trail will be maintained through use of alternative marked paths/trails. If the Sponsor's Preferred Alternative is selected and utility placement under the BWI Trail is necessary, the use of the trail will also be maintained for trail users via marked alternative paths/trails. Additionally, the areas of BWI Trail that may be temporarily affected would be replaced in-kind and the land would be returned fully to its existing condition/use.

¹¹ FAA Order 1050.1F Desk Reference, July 2015, p. 5-6.

I.8 Coordination

Agency coordination and public involvement must occur before a *de minimis* impact determination can be finalized.

I.8.1 Agency Coordination

The Anne Arundel County Department of Recreation and Parks received scoping information in July 2016 regarding the EA underway for the proposed improvements. Members of the Department's staff attended the Agency Scoping Meeting for the EA on August 25, 2016. Additionally, the MAA requested and received entrance from the Department to the Andover Park property to verify the species and estimated location of the trees proposed for removal in September 2016.

As noted in Section I.6, following an analysis of the impacts to Andover Park due to the proposed tree removal, the Department was informed of the project's impacts, and concurred in writing that the Proposed Action will not adversely affect the activities, features, or attributes that qualify the property for protection under Section 4(f). An additional *de minimis* concurrence letter was sent to DRP related to the permanent crossing and temporary impacts to the BWI Trail from the proposed VSR on August 8, 2018. Concurrence that the proposed improvements would not adversely affect the BWI Trail was received from the DRP on August 20, 2018. Upon refined project planning, more details regarding potential impacts to the BWI Trail were sent to DRP in a letter on December 20, 2018, and again on October 15, 2019 for concurrence. Concurrence that the proposed improvements would not adversely affect the BWI Trail was received from the DRP on January 23, 2019, and again on November 22, 2019.

See **Attachment 3** for correspondence between the MAA and the Department, including the concurrence letters.

I.8.2 Public Involvement

In accordance with 23 CFR 774.5(b)(2), the public was afforded the opportunity to review and comment on the effects of the Proposed Action on Andover Park during the first Draft EA and Draft Section 4(f) Determination comment period and at the Public Meeting that was held during the Draft EA comment period. Notice of the *de minimis* impact determination was included as part of the advertisement for the publication of the Draft EA and Draft Section 4(f) Determination and the public meeting issued January 5 and 14, 2018. No comments were received specific to impacts to Section 4(f) resources. This Updated Draft EA and Draft Section 4(f) Determination was issued to allow comments on updates to the Draft EA and Draft Section 4(f) Determination since the January 5, 2018 issuance, including a draft *de minimis* determination for impacts to the BWI Trail associated with the VSR for access to the proposed Fire Training Facility. Any comments received on this draft *de minimis* determination will be documented and responded to in the same manner as other comments on the Proposed Action and included in Appendix N. Documentation of the comments and responses will be incorporated into the project file.

I.9 Conclusion

In accordance with guidance specified in 23 CFR §§ 774.3 and 774.17 and the FAA Order 1050.1F Desk Reference on *de minimis* impact determinations, after considering any measures to minimize harm, the FAA has determined that the Proposed Action would not adversely affect the activities, features, or attributes qualifying Andover Park or the BWI Trail for protection under Section 4(f). Additionally, the official with jurisdiction over the property was informed of the FAA's intent to make a *de minimis* impact determination, and concurrence with the determination was received. Following consideration of public comments during the public review process for the Updated Draft EA and *de minimis* determination, the FAA may finalize this determination that the impact to Andover Park and the BWI Trail is considered *de minimis*.

**Updated Draft Environmental Assessment and Draft Section 4(f) Determination
ALP Phase I Improvements at BWI Marshall Airport**

Attachment 3:

**Concurrence Letters on *De Minimis* Impact to Andover Park and BWI Trail
from Anne Arundel County Department of Recreation and Parks**

March 24, 2017, August 20, 2018, January 23, 2019, and November 22, 2019



Larry Hogan
Governor

Boyd K. Rutherford
Lt. Governor

Pete K. Rahn
Secretary

Ricky D. Smith, Sr.
Executive Director/CEO

March 17, 2017

Mr. Rick Anthony
Director
Anne Arundel County Department of Recreation and Parks
1 Harry S. Truman Parkway
Annapolis MD 21401

Dear Mr. Anthony:

This letter is regarding the proposed impacts to Andover Park (605 Andover Road) in Linthicum, Maryland, which is owned by the Anne Arundel County Department of Recreation and Parks (Department), and is located north of Baltimore/Washington International Thurgood Marshall (BWI Marshall) Airport. As discussed in information provided previously, the Maryland Department of Transportation's Maryland Aviation Administration (MAA), owner and operator of BWI Marshall Airport, is proposing improvements at the Airport including obstruction removal on and off airport property as defined by the Federal Aviation Administration's (FAA) *Safe, Efficient Use and Preservation of the Navigable Airspace* (14 Code of Federal Regulations Part 77). The FAA strives to keep their navigable airspace clear of any objects that could interfere with the safety or efficiency of aircraft navigation. The MAA is preparing an Environmental Assessment (EA) to identify and disclose the potential environmental impacts of the proposed improvements necessary to meet FAA criteria, enhance airfield safety and efficiency, meet existing and forecast demand and improve customer service through the year 2020.

As you are aware, analysis indicates that vegetative obstruction removal is expected to be necessary at Andover Park. Your Department received scoping information in July 2016 regarding the EA underway for the proposed improvements, and members of your staff attended the Agency Scoping Meeting for the EA on August 25, 2016. Additionally, the MAA requested and received entrance from your Department to the Andover Park property to verify the species and estimated location of the trees proposed for removal in September 2016.

With the use of aerial photogrammetry from 2012 and field verification of multiple trees in the Fall of 2016, it is estimated that approximately 70 trees penetrate the navigable airspace on this property, as shown on the attached exhibit. In order to comply with FAA 14 CFR Part 77 regulations, the MAA proposes to remove these trees. Tree removal would be conducted in a manner that minimize impacts, and would be coordinated thoroughly with the Department to

Mr. Rick Anthony
Page Two

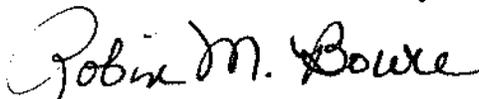
ensure that the Department's needs are accommodated in terms of schedule, safety, and maintenance of park access.

Under Section 4(f) of the U.S. Department of Transportation Act of 1966, Andover Park is considered a Section 4(f) resource. A review of the project impacts and proposed tree removal show that the impacts to the park would not adversely affect the activities, features, or attributes qualifying Andover Park for protection under Section 4(f). Based on the analysis that MAA is currently developing to support the forthcoming Environmental Assessment, MAA believes that the FAA would make a determination that the impact to the park property is considered *de minimis*.

In order to make the Section 4(f) *de minimis* finding, your written concurrence that this project will not adversely affect the activities, features, and attributes of the park property is necessary. To acknowledge that you have been notified of the intent to apply the Section 4(f) *de minimis* finding, and your agreement that the activities, features, and attributes of the park will not be adversely affected, please sign on the page below and return the signed copy to Ms. Robin M. Bowie, Acting Director, Office of Environmental Services at the letterhead address, email to rbowie@bwiairport.com, or fax to 410-859-7082. We request your concurrence by **April 17, 2017**.

Please note that this Section 4(f) *de minimis* concurrence does not indicate permission to remove any vegetation at this time. The MAA must complete the environmental review process (expected to be completed in December 2017) prior to beginning any design or coordination efforts to perform the tree removal. Additionally, the FAA will provide an opportunity for public review and comment on the *de minimis* impact determination at the time the Draft EA is published for comments. To request further information, please contact me by phone at 410-859-7103 or via e-mail at rbowie@bwiairport.com. Your cooperation in this effort is greatly appreciated.

Sincerely,



Robin M. Bowie, Acting Director
Office of Environmental Services

Mr. Rick Anthony
Page Three

As the official with jurisdiction over Andover Park, I hereby concur with the recommendation of the project proponents that the use and impacts associated with this project along with the identified avoidance, minimization, and mitigation measures, will not adversely affect the activities, features, and attributes that qualify the property for protection under Section 4(f).



Rick Anthony, Director
Anne Arundel County Department of Recreation and Parks

3/24/12

Date

Mr. Rick Anthony
Page Four

bcc: Mr. Marcus Brundage, REM, Environmental Specialist, FAA
Kim Hughes, P.E., Project Manager, HNTB Corporation



EA for Proposed Improvements 2016-2020 at BWI Marshall Airport



LEGEND

- Andover Park Boundary
- BWI Airport Property Boundary
- Off-Airport Tree Obstruction
- Andover Park Tree Obstruction

Andover Park Proposed Tree Removal



Sources: Aerial - USDA NAIP 2015, Anne Arundel County GIS, MAA

August 8, 2018

Mr. Rick Anthony, Director
Anne Arundel County Department of Recreation and Parks
1 Harry S. Truman Parkway
Annapolis, Maryland 21401

SUBJECT: Request for Concurrence on De Minimis Impact to BWI Trail; Environmental Assessment and Section 4(f) Determination for Proposed Improvements 2016-2020 at Baltimore/Washington International Thurgood Marshall Airport (BWI Marshall)

Dear Mr. Anthony:

In early 2017, Maryland Department of Transportation Maryland Aviation Administration (MDOT MAA) requested and received concurrence from the Anne Arundel County Department of Recreation and Parks (DRP) that vegetative obstruction removal within Andover Park, considered a Department of Transportation Section 4(f) resource, would be a *de minimis* impact. A *Draft Environmental Assessment (EA) and Draft Section 4(f) Determination for Proposed Improvements 2016-2020 at BWI Marshall Airport* was published on January 5, 2018. The MDOT MAA will be reissuing the Draft EA for proposed improvements at the Airport for public review in early September.

Although no comments were received on the Section 4(f) determination within the draft document, we will be updating the Draft EA to include a *de minimis* impact statement regarding the proposed vehicle service road (VSR) necessary for access to the proposed fire training facility. Figure 1 attached to this letter depicts the proposed project and crossing of the BWI Trail. As one of the officials with jurisdiction over the BWI Trail, also considered a Section 4(f) resource, the MDOT MAA is again requesting DRP concurrence on a *de minimis* impact to the trail.

As background for the project, a total reconstruction of the fire training facility is necessary due to the extensive design standard changes that have been issued since the existing facility was constructed in 1986. The proposed new facility location was chosen to avoid conflicts with other future projects on the Airport Layout Plan (ALP). The proposed VSR is needed to access the facility from Aviation Boulevard.

The proposed VSR would cross the BWI Trail. An access gate is proposed to the west of the trail and would not impact trail usage once constructed. The BWI Trail is crossed by many access roadways as it loops around the Airport campus. Additionally, the proposed VSR would have minimal traffic. The construction-related activity would be temporary and would not constitute a "use" in accordance with the guidance provided in FAA Order 1050.1F Desk Reference, as any impacts to users would be temporary and mitigated by a minor trail detour to avoid the

August 8, 2018

Mr. Anthony
Page 2

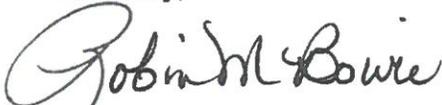
construction area. Given the ambient aircraft noise and other nearby land uses (vehicular roadways, etc.), construction-related noise is not anticipated to be noticeable for a prolonged duration or to interfere with trail activities.

Although the majority of the BWI Trail, including this proposed project, is on MDOT MAA property, the FAA understands that the trail was built and is maintained through a Memorandum of Understanding (MOU) between the MDOT MAA, the DRP, and the MDOT State Highway Administration (SHA). The FAA is required to make a determination on potential impacts to Section 4(f) resources. MDOT MAA believes that the FAA will determine that the impact to the trail is *de minimis*, as this project would not adversely affect the activities, features, or attributes qualifying the BWI Trail for protection under Section 4(f).

To assist the FAA in making the Section 4(f) *de minimis* determination, your written concurrence that this project will not adversely affect the BWI Trail is requested. To acknowledge that you have been notified of the intent to apply the Section 4(f) *de minimis* finding, and your agreement that the activities, features, and attributes of the trail will not be adversely affected, please sign on the page below and return the signed copy to Ms. Robin M. Bowie, Director, Office of Environmental Services at the letterhead address, email to rbowie@bwiairport.com, or fax to 410-859-7082. We request your concurrence as soon as possible to allow this documentation to be considered by the FAA for re-issuance of the Draft EA.

To request further information, please contact me by phone at 410-859-7103 or via e-mail at rbowie@bwiairport.com. Your cooperation in this effort is greatly appreciated.

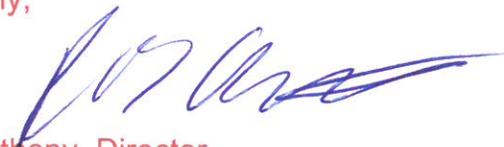
Sincerely,



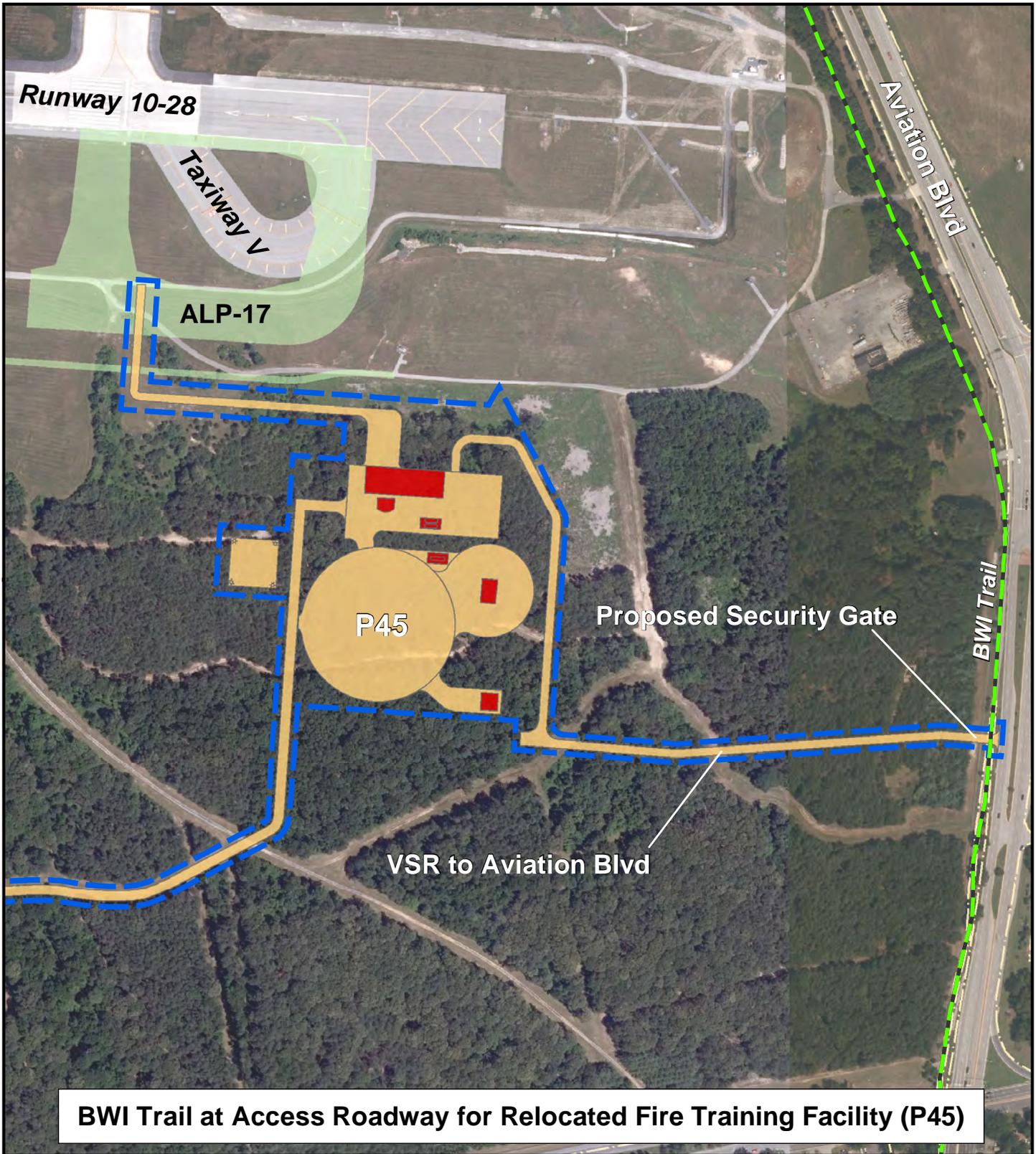
Robin M. Bowie, Director
Office of Environmental Services

The Department of Recreation and Parks for Anne Arundel County understands the request and need for the new access and crossing of the BWI Trail onto Aviation Boulevard from the BWI Marshall Airport. We accept this new intrusion across the trail and due to anticipated low volume of use of the access, we ask the access be designed and implemented such that it will have a Stop sign prior to crossing the trail in either direction, meaning the trail users will have the right of way. Please contact Parks Administrator Mark Garrity at 410-222-7317 with any questions.

Sincerely,



Rick Anthony, Director
Department of Recreation and Parks
1 Harry S. Truman Parkway, Annapolis MD 21401



BWI Trail at Access Roadway for Relocated Fire Training Facility (P45)

LEGEND

-  BWI Airport Property Boundary
-  BWI Trail
-  New Impervious
-  Other ALP Projects
-  Limit of Disturbance
-  Building

Figure 1
Section 4(f) Impact



December 20, 2018

Mr. Rick Anthony, Director
Anne Arundel County Department of Recreation and Parks
1 Harry S. Truman Parkway
Annapolis, Maryland 21401

SUBJECT: Preferred Alternative Location of Vehicle Service Road; Request for Updated Concurrence on De Minimis Impact to BWI Trail

Dear Mr. Anthony:

As you may recall, the Anne Arundel County Department of Recreation and Parks (DRP) responded to correspondence from the Maryland Department of Transportation Maryland Aviation Administration (MDOT MAA) in August 2018 related to the *de minimis* impact to the BWI Trail, a Section 4(f) resource, as a result of one of the proposed improvements in the *Draft Environmental Assessment (EA) and Draft Section 4(f) Determination for Proposed Improvements 2016-2020 at BWI Marshall Airport* (Draft EA). A copy of the original (August 2018) correspondence between MDOT MAA and the DRP regarding this project is enclosed. The MDOT MAA acknowledges the DRP's request for a Stop sign prior to crossing the trail in either direction so that trail users may have the right of way.

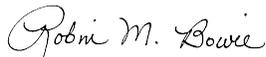
Since our previous correspondence, the MDOT MAA has conducted additional planning in anticipation of reissuing an *Updated Draft Environmental Assessment (EA) and Draft Section 4(f) Determination for Proposed Improvements 2016-2020 at BWI Marshall Airport* for public review in early 2019. As part of refined project planning and efforts to avoid and mitigate impacts to waters of the U.S., the original location where the vehicle service road (VSR) crosses the BWI Trail has been relocated to a location slightly north of the original placement. As a reminder, the VSR is needed to connect a proposed fire training facility to Aviation Boulevard. **Figure 1** shows the updated Preferred Alternative for the facility and the new location where the VSR is proposed to cross the BWI Trail. Utilities would also cross the trail in this location. It is expected that construction of the fire training facility would occur between 2021 and 2022. The impact to the BWI Trail (both temporary and permanent) would be the same as stated in the August 2018 correspondence.

As part of the Draft EA proposed improvements, a new airline maintenance facility was also proposed. Again, due to additional planning, it is now expected that as part of the maintenance facility project, utilities would need to cross under the BWI Trail at the location shown in **Figure 2** (See Inset 1). Also, reconstruction of the roadway entrance where it already crosses the BWI Trail is proposed due to the roadway being realigned toward the new maintenance facility (See Inset 2). The construction-related activity may result in a temporary impact to the trail depending upon construction methods but would not constitute a "use" in accordance with the guidance provided in FAA Order 1050.1F Desk Reference. The MDOT MAA considers it prudent to make the DRP aware of the potential temporary impacts even though concurrence is not required for this temporary use. Any impacts to trail users would be temporary and mitigated by a minor trail detour to avoid the construction area. It is anticipated that construction of the airline maintenance facility would begin in late 2019 and take approximately 18 months to complete.

Although the majority of the BWI Trail, including these proposed projects, are on MDOT MAA property, the FAA understands that the trail was built and is maintained through a Memorandum of Understanding (MOU) between the MDOT MAA, the DRP, and the MDOT State Highway Administration (SHA). The FAA is required to make a determination on potential impacts to Section 4(f) resources for federal actions under the agency's purview. MDOT MAA believes that the FAA will determine that the impact to the trail is *de minimis*, as the crossing of the BWI Trail would not adversely affect the activities, features, or attributes qualifying the BWI Trail for protection under Section 4(f).

To assist the FAA in making the Section 4(f) *de minimis* determination, your written concurrence that the revised, Preferred Alternative location of the VSR would not adversely affect the BWI Trail is requested. To acknowledge that you have been notified of the intent to apply the Section 4(f) *de minimis* finding, and your agreement that the activities, features, and attributes of the trail will not be adversely affected, please sign on the page below and return the signed copy to Ms. Robin M. Bowie, Director, Office of Environmental Services at the letterhead address, email to rbowie@bwiairport.com, or fax to 410-859-7082. We request your concurrence as soon as possible to allow this documentation to be considered by the FAA for re-issuance of the Draft EA.

Sincerely,



Robin M. Bowie
Director, Office of Environmental Services

cc: Kim Hughes, HNTB

December 20, 2018

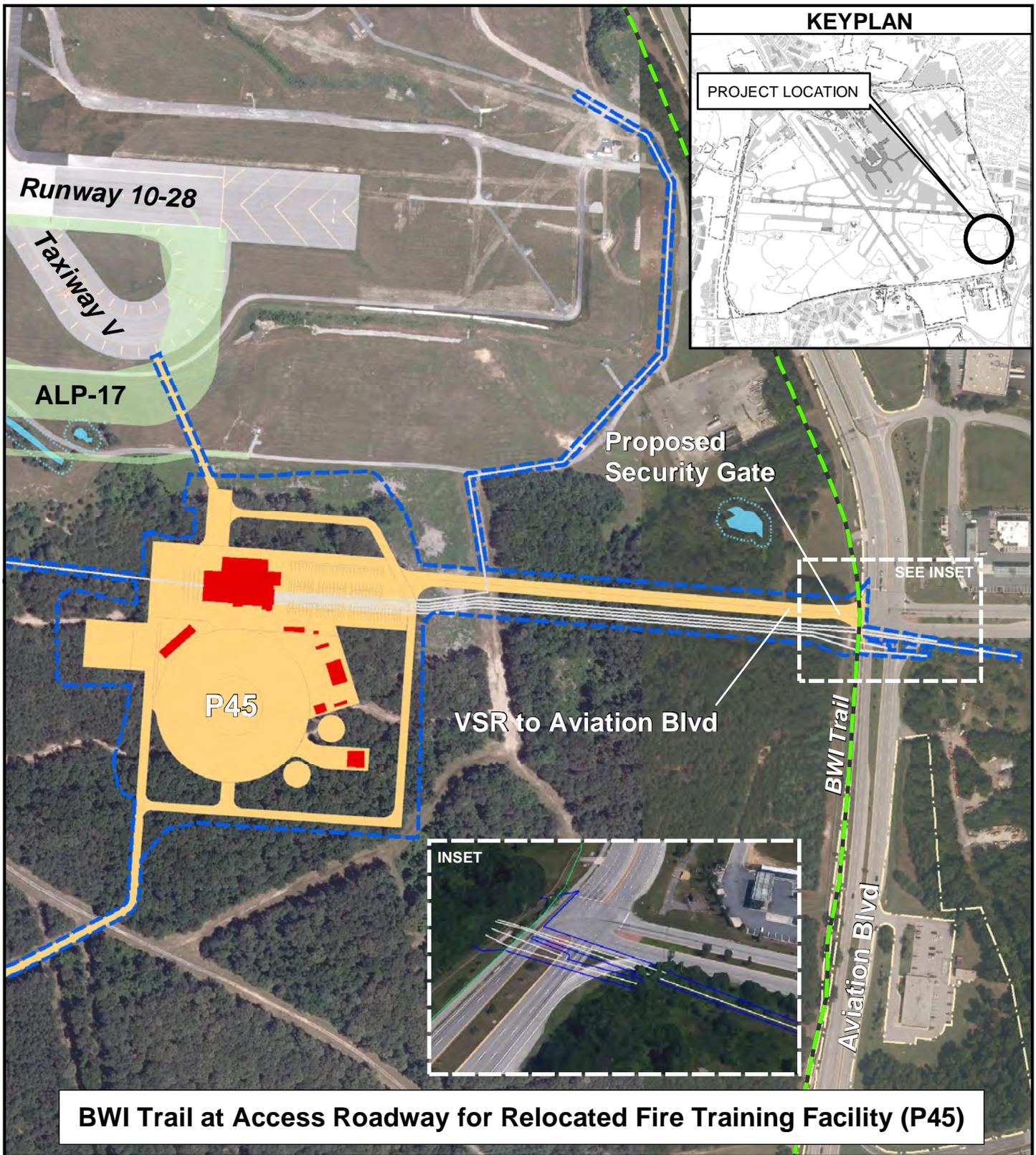
Mr. Anthony
Page 3

As an administrator of the BWI Trail in accordance with the 1996 Memorandum of Understanding for the Operations and Maintenance of the BWI Trail at Baltimore/Washington International Airport (e.g., official with jurisdiction), I hereby concur with the recommendation of the project proponents that the use and impacts associated with the proposed relocated fire training facility vehicle service road, along with the identified avoidance, minimization, and mitigation measures, will not adversely affect the activities, features, and attributes that qualify the property for protection under Section 4(f).



Mr. Rick Anthony, Director
Anne Arundel County Department of Recreation and Parks

1/23/19
Date



LEGEND

- BWI Airport Property Boundary
- BWI Trail
- Limit of Disturbance
- Wetland with 25' Buffer
- Utility Line
- Building
- New Impervious
- Other ALP Projects

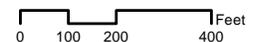
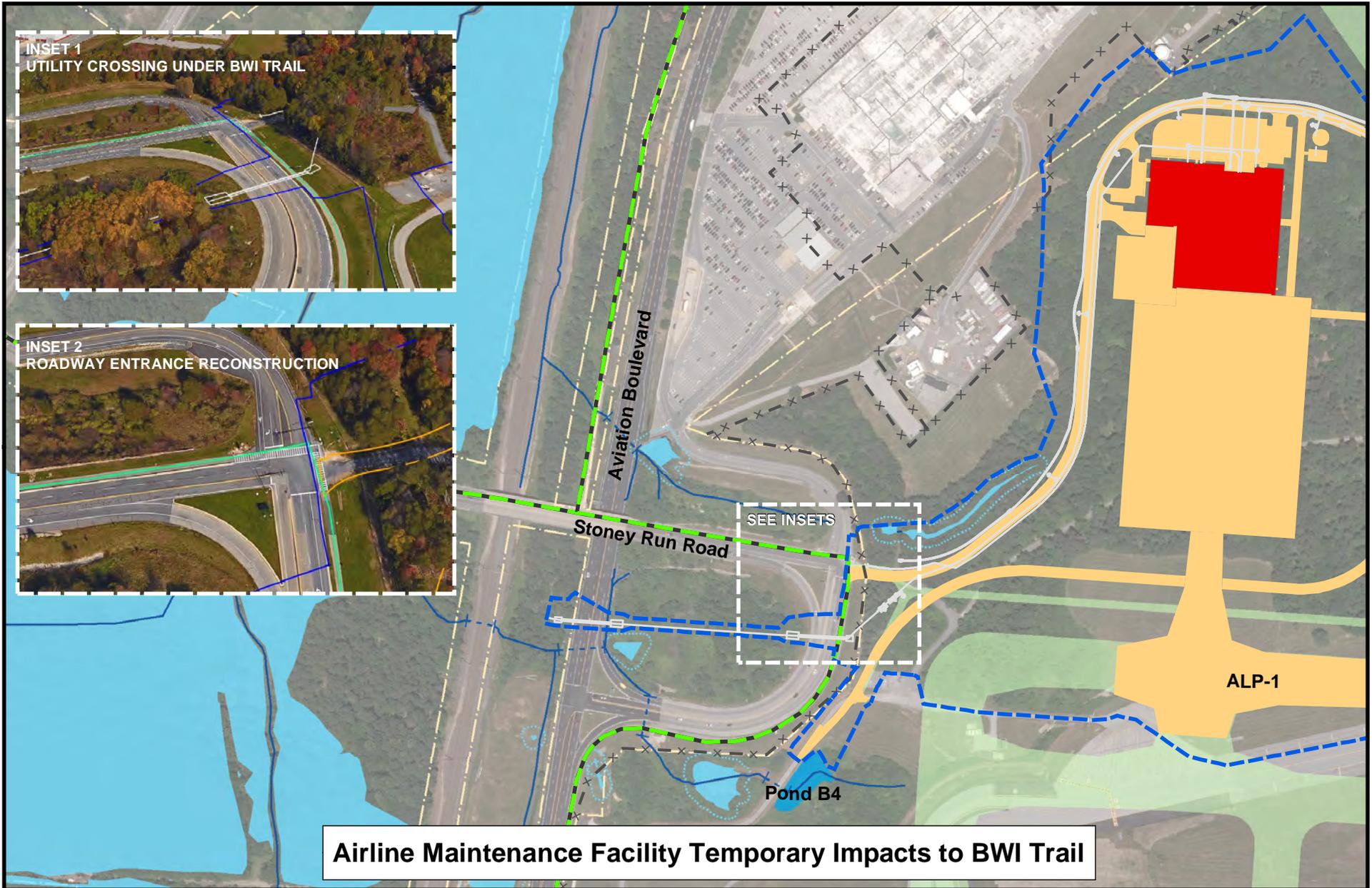


Figure 1
Section 4(f) Impact



LEGEND

- BWI Airport Property Boundary
- BWI Trail
- Limit of Disturbance
- Wetland with 25' Buffer
- Stream
- Existing Fence
- Building
- New Impervious
- Other ALP Projects
- Utility Line

Figure 2
Temporary Section 4(f) Impact



October 15, 2019

Mr. Rick Anthony, Director
Anne Arundel County Department of Recreation and Parks
1 Harry S. Truman Parkway
Annapolis, Maryland 21401

SUBJECT: Updated Preferred Alternative Location of Utility Crossing for Airline Maintenance Facility; Request for Updated Concurrence on *De Minimis* Impact to BWI Trail

Dear Mr. Anthony:

As you may recall, the Anne Arundel County Department of Recreation and Parks (DRP) responded to correspondence from the Maryland Department of Transportation Maryland Aviation Administration (MDOT MAA) in December 2018 related to the *de minimis* impact to the BWI Trail, a Section 4(f) resource, as a result of two of the proposed improvements in the *Draft Environmental Assessment (EA) and Draft Section 4(f) Determination for Proposed Improvements 2016-2020 at BWI Marshall Airport* (Draft EA). A copy of the December 2018 correspondence between MDOT MAA and the DRP regarding these projects is enclosed.

Since our previous correspondence, the MDOT MAA has conducted additional planning in anticipation of reissuing an *Updated Draft Environmental Assessment (EA) and Draft Section 4(f) Determination for ALP Phase I Improvements at BWI Marshall Airport* (Updated Draft EA) for public review in late 2019. As part of refined project planning, proposed utilities for the new airline maintenance facility would need to cross under the BWI Trail at a new location and would parallel the trail as it continues south along the Stoney Run Rd ramp, as shown in **Figure 1** (See Inset 1). Previously utilities were proposed to cross under the BWI Trail at a more southern location and would continue directly west under Aviation Blvd, as shown in Figure 2 of the December 2018 correspondence.

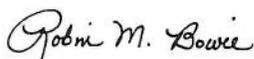
The proposed reconstruction of the roadway entrance where it already crosses the BWI Trail is still proposed due to the roadway being realigned toward the new maintenance facility (See Figure 1, Inset 1). The construction-related activity may result in a temporary impact to the trail depending upon construction methods but would not constitute a “use” in accordance with the guidance provided in FAA Order 1050.1F Desk Reference. The MDOT MAA considers it prudent to make the DRP aware of the potential temporary impacts even though concurrence is not required for this temporary use. Any impacts to trail users would be temporary and mitigated by a minor trail detour to avoid the construction area. It is anticipated that construction of the airline maintenance facility would begin in Spring 2020 and take approximately 18 months to complete.

Although the majority of the BWI Trail, including these proposed projects, are on MDOT MAA property, the FAA understands that the trail was built and is maintained through a Memorandum

of Understanding (MOU) between the MDOT MAA, the DRP, and the MDOT State Highway Administration (SHA). Following review of agency and public comments on the Updated Draft EA and Draft Section 4(f) Determination, the FAA is required to make a determination on potential impacts to Section 4(f) resources for federal actions under the agency's purview to complete the review process. MDOT MAA believes that the FAA will determine that the impact to the trail is *de minimis*, as the crossing of the BWI Trail would not adversely affect the activities, features, or attributes qualifying the BWI Trail for protection under Section 4(f).

To assist the FAA in making the Section 4(f) determination, your written concurrence that the revised, Preferred Alternative location of the utility crossing under the BWI Trail would not adversely affect the BWI Trail is requested. To acknowledge that you have been notified of the intent to apply the Section 4(f) *de minimis* finding, and your agreement that the activities, features, and attributes of the trail will not be adversely affected, please sign on the page below and return the signed copy to Ms. Robin M. Bowie, Director, Office of Environmental Services at the letterhead address, email to rbowie@bwiairport.com, or fax to 410-859-7082. We request your concurrence as soon as possible to allow this documentation to be considered by the FAA for re-issuance of the Updated Draft EA.

Sincerely,



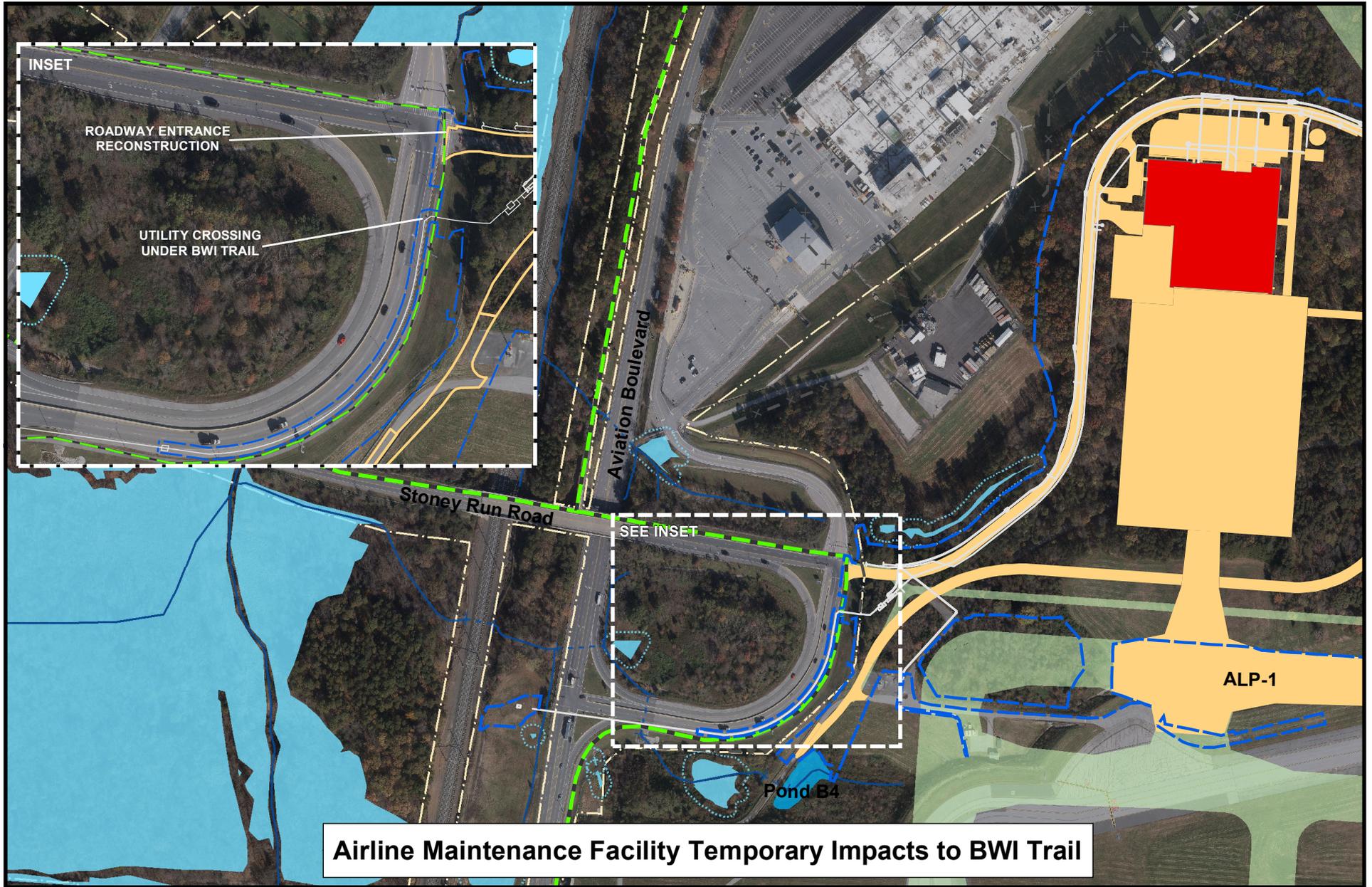
Robin M. Bowie, Director
Office of Environmental Services

As an administrator of the BWI Trail in accordance with the 1996 Memorandum of Understanding for the operations and maintenance of the BWI Trail at Baltimore/Washington International Airport (e.g. official with jurisdiction), I hereby concur with the revised Preferred Alternative location of the utility crossing under the BWI Trail would not adversely affect the activities, features, and attributes of the trail.



Rick Anthony, Director
Anne Arundel County
Department of Recreation and Parks

11/22/2019
Date



LEGEND

- BWI Airport Property Boundary
- BWI Trail
- Limit of Disturbance
- Wetland with 25' Buffer
- Stream
- Existing Fence
- Building
- New Impervious
- Other ALP Projects
- Utility Line

Figure 1
Temporary Section 4(f) Impact

