

Chapter 5 Section 4(f) Resources

5.1 Introduction

The US Department of Transportation Act of 1966 (23 USC 138 and 19 USC 303), Section 4(f), states that the Secretary of Transportation may not approve the use of land from a publicly owned park, recreation area, wildlife and waterfowl refuge, or any historic sites unless a determination is made that:

- There is no feasible and prudent alternative to the use of land from the property; and,
- The action includes all possible planning to minimize harm to the property resulting from such use.

The DEIS listed the following properties as Section 4(f) resources within the project area:

- MacGregor Park
- Westfield-Washington Township public school recreation facilities
- Monon Greenway
- South Union Trail
- Hunt House
- T.J. Lindley Farm
- Westfield Historic District

5.2 Changes Since the DEIS

5.2.1 MacGregor Park

MacGregor Park is a planned future park (see Appendix A, Sheet 13). The existing access from US 31 was originally the driveway for the landowner who occupied the property. The existing drive is not adequate for proper ingress/egress to and from a park. Furthermore, the drive's direct access to US 31 created an unsafe situation, adjacent to the most hazardous intersection in the corridor (SR 38).

A Categorical Exclusion (CE) for the MacGregor Park Primary Access Road from SR 38 has been approved as a stand alone project to enhance safe access to MacGregor Park. The MacGregor Park Primary Access Road project provides a typical roadway cross section that includes an 11 foot wide raised/curb median, a single 11 foot wide travel lane in each direction, 4-7 foot shoulders, and a 3:1 or 4:1 side slope to open ditches. The north end of the access road will cross Lindley Ditch. The Lindley Ditch structure is estimated to be a 36'-9¹/₈" single span timber bridge with a clear roadway width of 32'-6".

FHWA approved the "*de minimus*" finding for the MacGregor Park Primary Access Road from SR 38 on April 9, 2008 (see Appendix C). The new access to MacGregor Park will be completed prior to removal of the existing access road to MacGregor Park from US 31. This improvement will provide safer access to the future Park.

5.2.2 Hunt House

As described in Chapter 4, the Hunt House is no longer considered eligible for listing on the National Register of Historic Places by the Indiana SHPO (see Appendix C). Therefore, the Hunt House is no longer considered a historic property or Section 4(f) resource.

5.2.3 Lindley Farm

The DEIS indicated that there were no Section 4(f) resource impacts to the Lindley Farm associated with Alternative F4. The re-evaluation revealed that the removal of the existing access to the Lindley Farm does constitute a Section 4(f) use. New safer access to the parcel will be provided from SR 38 (see Appendix A, Sheets 12 and 13) to the existing property line. Furthermore, the property owner will be compensated so they can connect their existing driveway to the new frontage road to the north of their property. A retaining wall will be constructed along the west side of the southbound ramp from SR 38 to US 31, thereby avoiding direct impacts to the historic property. A “net benefit” is achieved when the transportation use, the measures to minimize harm and the mitigation incorporated into the project results in an overall enhancement of the Section 4(f) property when compared to both the future No-Action or avoidance alternatives and the present condition of the Section 4(f) property. The new access to the property from SR 38 will be much safer than the existing access directly onto US 31, and therefore will result in a net benefit to the historic property.

Mitigation and Measures to Minimize Harm

A Memorandum of Agreement was prepared in response to a finding of adverse effect under Section 106. The stipulations of the MOA were included in the DEIS. The MOA is currently under amendment to reflect the change in status of the Hunt House and to document SHPO concurrence in the application of the Net Benefit Section 4(f). Commitments regarding the Lindley Farm have not changed. A copy of the amended MOA will be included in the FEIS.

Findings

1. *No-Action Alternative*

The No-Action alternative is not feasible and prudent because it would neither address nor correct the transportation need cited as the Purpose and Need (see Chapter 2), which necessitated the proposed project.

2. *Improve the transportation facility in a manner that addresses purpose and need without use of the Section 4(f) property*

It is not feasible and prudent to avoid relocating the access of the Lindley Farm because to reduce congestion and improve safety (project Purpose and Need, Chapter 2) the US 31 facility is being upgraded to a limited access freeway. An alternative that included simply a widening of US 31, without removing unlimited access locations, was dismissed in the Preliminary Alternatives Analysis because it would not fully satisfy the Purpose and Need of the project. An unlimited access drive at the Lindley Farm would create an unsafe situation at this location. Relocating the access from US 31 to SR 38 would be safer for both motorists on US 31 and those entering/leaving Lindley Farm. Therefore, leaving the access from US 31 would not be in compliance with the project Purpose and Need.

3. *Build a new facility at a new location without a use of the Section 4(f) property*

The DEIS considered an alternative that would allow the Lindley Farm to maintain its current access to US 31 by shifting the mainline of the highway west of the property (G Alternatives). It is not feasible and prudent to avoid the Lindley Farm by constructing at a new location because the G Alternatives would result in substantial environmental impacts and significant increase in project cost. The G Alternatives were found to incur an additional \$12 million in total project cost, approximately seven additional acres of wetland impacts, four additional stream crossings, approximately 2,000 linear feet of additional stream impacts, and 50 acres of additional forestland impacts.

FHWA finds that the do-nothing and avoidance alternatives described above are not feasible and prudent, and that all possible planning has been incorporated into the project to minimize harm to the historic property. The existing direct access to US 31 created an unsafe situation for both the property owner and the motoring public. The existing access from US 31 is just south of the most hazardous intersection in the corridor (SR 38). As noted above, none of the historic property is being taken as part of the project, and the access to the historic property from SR 38 will be much safer, both for the owner of the historic property and the motoring public. As such, FHWA finds that the relocation of the Lindley Farm access, together with the measures taken to minimize harm and mitigate for the loss of access result in an overall enhancement of the Section 4(f) property when compared to both the future do-nothing or avoidance alternatives and the present condition of the Section 4(f) property, considering the activities, features and attributes that qualify the property for Section 4(f) protection.