



Chapter 7: Draft Section 4(f) Evaluation

7.1 Introduction

Section 4(f) of the Department of Transportation Act of 1966, 49 USC §303(c), requires that, prior to the use of any of the land types listed below, it must be determined that there are no prudent and feasible alternatives which avoid such use and that the project includes all possible planning to minimize harm to such resources.

- A publicly owned park
- A publicly owned recreation area
- A publicly owned wildlife or waterfowl refuge
- Land from an historic property that is on or eligible for inclusion in the National Register of Historic Places (NRHP or National Register)
- Archaeological sites that will be preserved in place

According to FHWA regulations, a “use” can be either (1) direct, (2) constructive, or (3) temporary. See 23 C.F.R. § 771.135(p).

- A direct use occurs when land from a Section 4(f) resource is permanently incorporated into a transportation project
- A constructive use occurs when the proximity impacts of the project are so severe that they substantially impair the protected activities, features, or attributes that qualify the resource for Section 4(f) protection
- A temporary use occurs when there is a temporary occupancy of the Section 4(f) property that is adverse in terms of the statute’s preservationist purposes

In order for a park, recreation area, or wildlife/waterfowl refuge to qualify for protection under Section 4(f), it must be publicly owned. When these areas are owned by private institutions and individuals, even if such areas are open to the public, Section 4(f) does not apply.

Historic resources that are listed in, or are eligible for listing in, the National Register are not required to be publicly owned in order to be protected under Section 4(f). Archaeological sites must also be on or eligible for the National Register and important for ‘preservation in place’ in order to be considered a Section 4(f) resource.

7.2 Section 4(f) Resources – Parks, Recreation Areas, and Wildlife Refuges

The Section 4(f) evaluation for parks, recreation areas, and wildlife or waterfowl refuges involve the following steps: (1) identifying publicly owned lands that may be protected by Section 4(f) as parks, recreation areas, or wildlife or waterfowl refuges (see Figure 7.2.1); (2) evaluating the applicability of Section 4(f) to those lands; (3) determining whether any of the alternatives would result in a “use” of Section 4(f) protected park, recreation, or wildlife or



Figure 7.2.1: Potential Section 4(f) Resources



waterfowl refuge lands; and (4) evaluating avoidance and minimization alternatives for any such lands that would be used by an alternative.

For each site that was found to be protected by Section 4(f), this evaluation considered the potential for a direct use as well as the potential for a constructive use. A direct use involves a permanent physical impact. A constructive use involves proximity impacts that are so severe that they substantially impair the protected features, activities, or attributes of the resources.

1. Pleasant Lake Public Access Site

Description: The Pleasant Lake Public Access Site is located in St. Joseph County, south of Lakeville off US 31. The property is owned by the Indiana Department of Natural Resources, Division of Fish and Wildlife. The site covers approximately 106 acres and provides access to Pleasant Lake and Riddles Lake. Fishing is the major recreational use with largemouth bass, bluegill/redear, and crappie being the most common fish caught in the lakes.

Direct Use: Alternatives Cs, Es, and G-C avoid this site. None of the alternatives use property from this site.

Constructive Use: The centerline of Alternatives Cs and Es pass approximately 750 feet to the west of Pleasant Lake. The centerline of Alternative G-C passes approximately 1,500 feet to the southeast of Riddles Lake. These lakes are surrounded by forested lands, scattered housing, and the Riddle Lake Subdivision. Existing US 31 abuts land that is part of the Pleasant Lake Public Access Site and the centerline of existing US 31 is approximately 250 from the edge of Pleasant Lake. Given that this site is presently next to the US 31 transportation facility, it appears that there would be no substantial impairment to the use of this public access site from any of the alternatives. Therefore the proximity impact would not constitute a constructive use of this Section 4(f) resource.

Avoidance Alternatives: Not applicable. All of the alternatives avoid this resource.

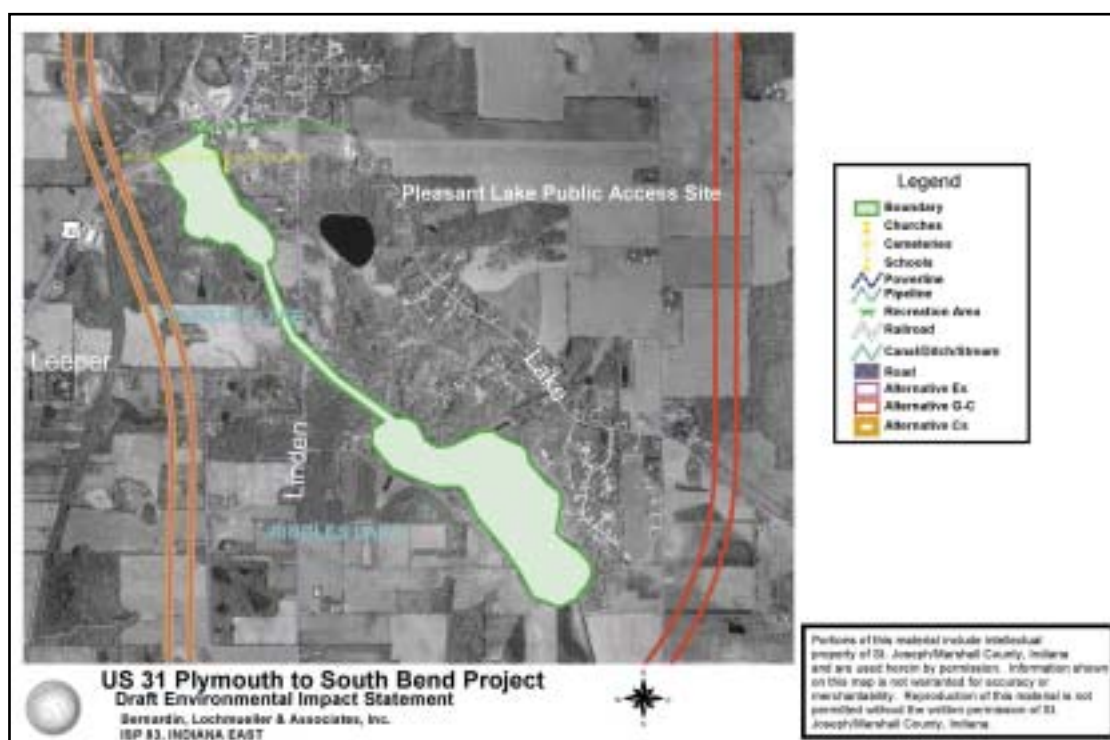


Figure 7.2.2: Pleasant Lake Public Access Site and the US 31 Alternatives

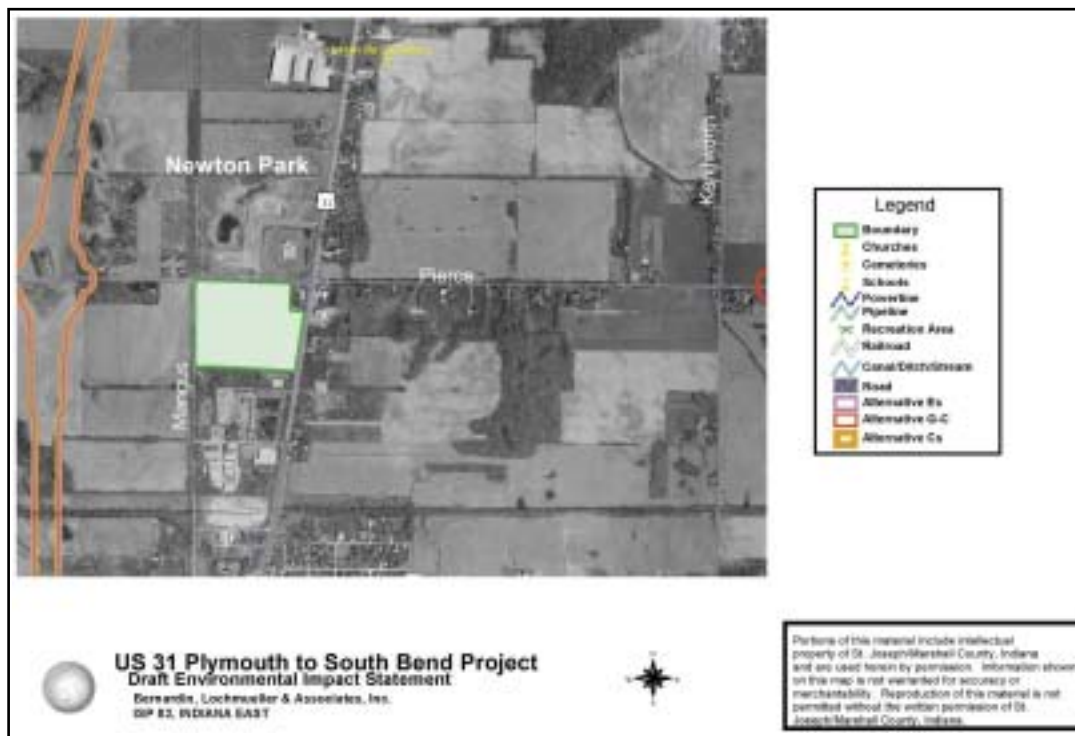


Figure 7.2.3: Newton Park and the US 31 Alternatives

Measures to Minimize Harm: Not applicable. All of the alternatives avoid this resource.

2. Newton Park

Description: Newton Park is a privately owned recreational facility located at the corner of US 31 and SR 4 (see Figure 7.2.3). The facility has been recently constructed and offers baseball facilities and other sporting activities. According to the FHWA Section 4(f) Policy Paper, “When parks, recreational areas, and wildlife and waterfowl refuges are owned by private institutions and individuals, even if such areas are open to the public, Section 4(f) does not apply.” Section 4(f) does not apply to Newton Park.

7.3 Section 4(f) Resources – Historic and Archaeological Resources

Section 4(f) applies to historic properties and archaeological sites that are listed in or are eligible for listing in the National Register. Section 106 is the process that identifies listed and eligible historic and archaeological resources. Section 4(f) applies to listed or eligible sites if preservation in place is warranted. Efforts were made to avoid and/or minimize use of Section 4(f) historic resources. To address potential historic districts, areas were evaluated that had been previously identified as potential National Register historic districts in county *Interim Reports*. While some of these areas retained sufficient integrity to be considered potentially eligible districts, others were deemed not eligible due to alterations or lack of integrity.

Archaeological sites, even if eligible for the National Register, are not necessarily protected by Section 4(f). The FHWA Section 4(f) Policy Paper states that, “*Section 4(f) does not apply if FHWA after consultation with the State Historic Preservation Officer and the Advisory Council on Historic Preservation determines that the archaeological resource is important chiefly because of what can be learned by data recovery... and has minimal value for preservation in place.*”



There are two properties already listed on the National Register and five properties eligible for the National Register that are protected by Section 4(f). Details concerning each of these historic properties are included in Section 5.6. There would be no permanent or temporary use from any of these historic Section 4(f) resources. Descriptions of the Section 4(f) issues concerning each resource are as follows:

1. Evergreen Hill

Description: Evergreen Hill includes an Italianate-style residence (circa 1873), that has both an older rear portion which may have been the original building and a modern addition, an English barn, a large frame shed, a smaller frame structure, a smokehouse, and an additional outbuilding that was once a corncrib and is now a small cottage. There is also a cemetery just west of the house and a new, non-contributing garage building. The thirty-eight acre farm retains its original rural context. This property was listed on the National Register in 2001. Figure 7.3.4 shows Evergreen Hill in relation to the US 31 alternatives.

Direct Use: Alternatives Cs, Es, and G-C avoid this site. This property is located over 1,000 feet from any of the alternatives. None of the alternatives use property from this site. With no right-of-way needed, there is no direct use of this Section 4(f) resource.

Constructive Use: The centerlines of Alternatives Cs, Es, and G-C are over 1,000 feet from this property. The property is located on the north side of Ireland Road, a city street with over 6,000 vehicles per day. Figure 7.3.4 shows that Ireland Road is between this historic site and the US 31 alternatives. The Section 106 review (see Section 5.6, Historic and Archaeological Resources) identified that Alternatives Cs and G-C are likely not visible from even the second floor of the residence. At the present time, Evergreen Hill experiences light intrusion from the businesses to the south that have security lighting. For both Alternatives Cs and G-C, the predicted noise levels at points on the property would be below 60.0 dBA. The impacts from Alternatives Cs and G-C would not substantially impair the

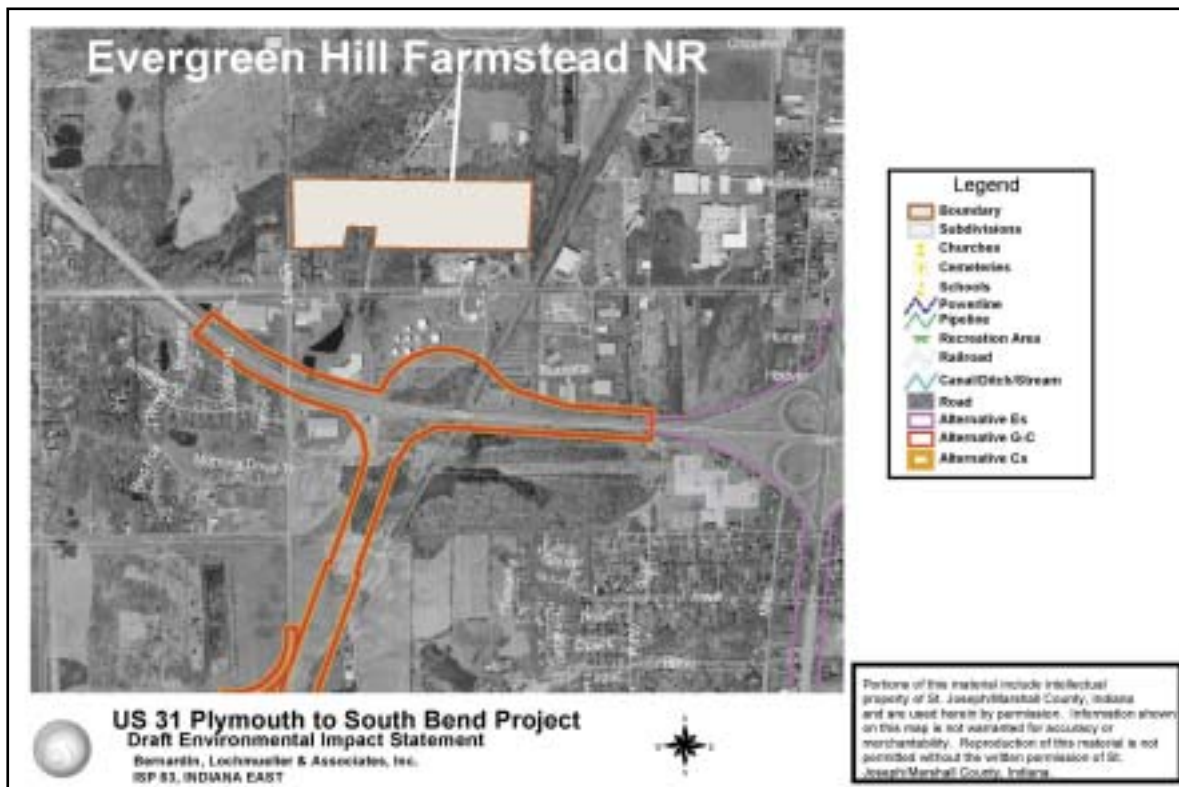


Figure 7.3.4: Evergreen Hill National Register Property

US 31 Plymouth to South Bend

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use of this property. Therefore, the proximity impacts would not constitute a constructive use of this Section 4(f) resource.

Avoidance Alternatives: Not applicable. All of the alternatives avoid this resource.

Measures to Minimize Harm: Not applicable. All of the alternatives avoid this resource.

2. Lakeville High School

Description: Lakeville High School was built in 1931, following the school consolidation acts of 1899 and 1907. It is the most intact consolidated high school remaining in St. Joseph County. It is a two-story, “T”-plan brick building in simple Collegiate Gothic style. Lakeville High School was listed in the NR in 1991 and presently is a community center. Figure 7.3.5 shows Lakeville High School in relation to the US 31 alternatives.

Direct Use: Alternatives Cs, Es, and G-C avoid this site. This property is located over 2,500 feet from Alternatives Cs and Es and over one mile from Alternative G-C. None of the alternatives use property from this site. With no right-of-way needed, there is no direct use of this Section 4(f) resource.

Constructive Use: The centerlines of Alternatives Cs and Es are over 2,500 feet to the west of this property. The property is located on the west side of existing US 31, which carries over 27,000 vehicles per day. As discussed in the Section 106 review, with the school’s present location next to US 31, it appears there would be no substantial impairment to the integrity of the historic property from Alternatives Cs and Es, which are actually located more distant than is the present highway. Therefore, the proximity impacts would not constitute a constructive use of this Section 4(f) resource.

Avoidance Alternatives: Not applicable. All of the alternatives avoid this resource.

Measures to Minimize Harm: Not applicable. All of the alternatives avoid this resource.

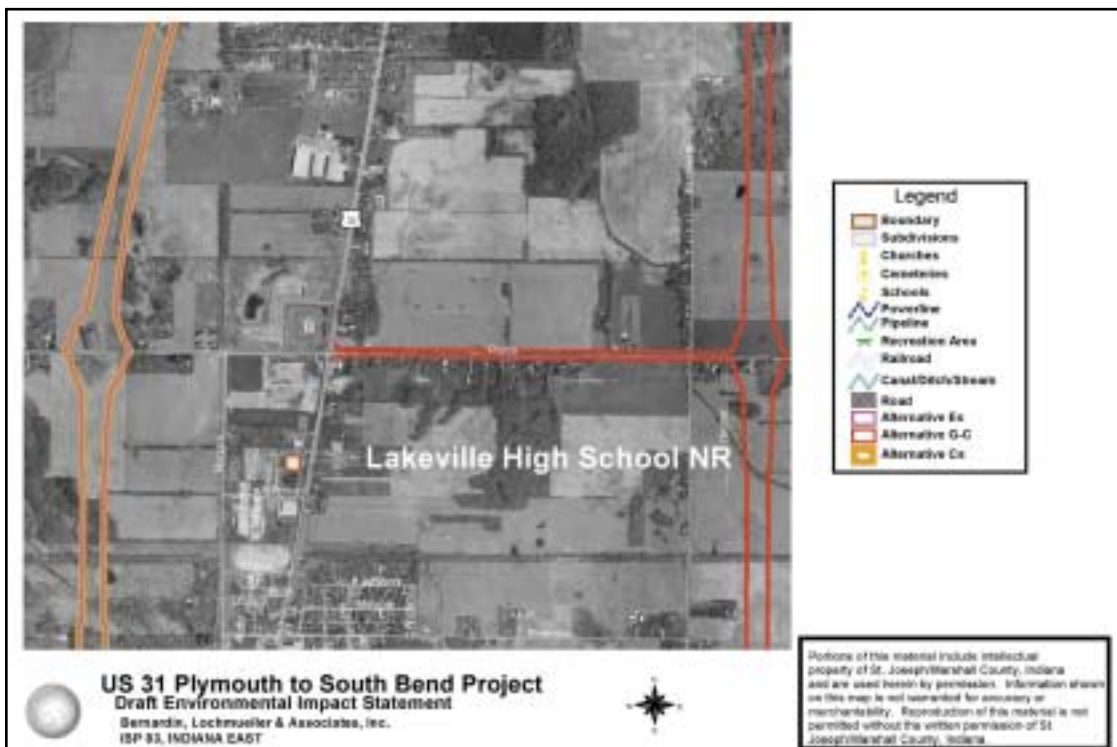


Figure 7.3.5: Lakeville High School National Register Property

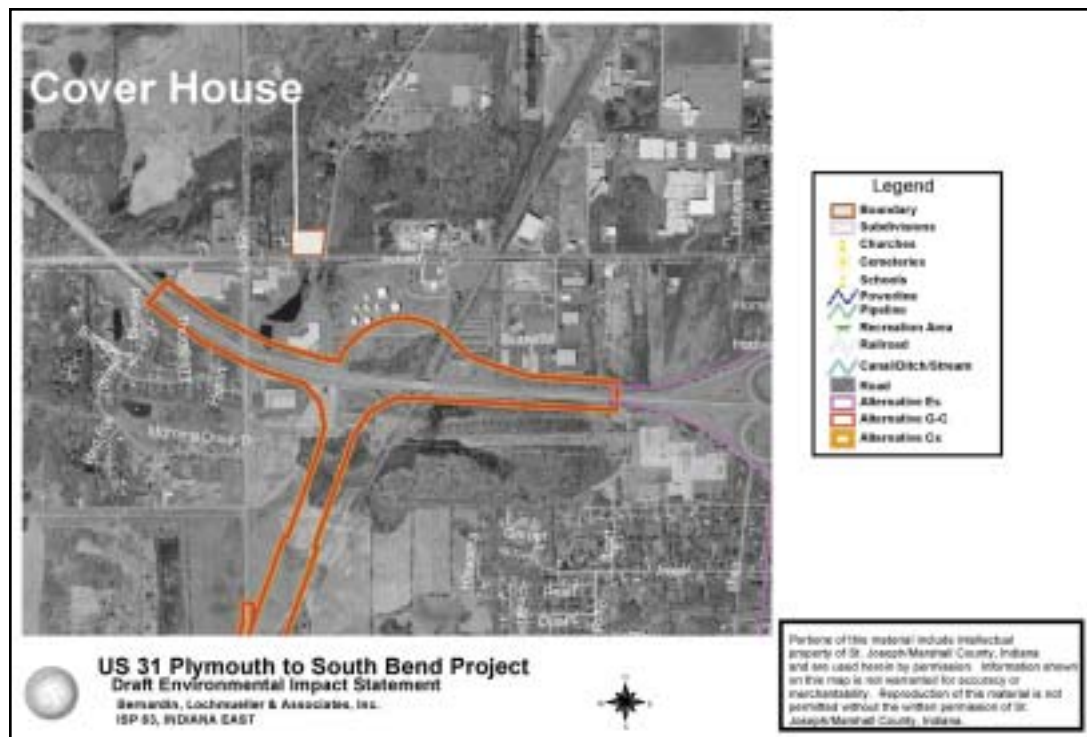


Figure 7.3.6: Cover House Property

3. Cover House

Description: Rated as Notable in the county *Indiana Historic Sites & Structures Inventory*, the Cover House is the best example of an architect-designed, Prairie-style house with significant architectural integrity in Centre Township. The Cover House is located along Ireland Road and is shown in Figure 7.3.6 in relation to the US 31 alternatives.

Direct Use: Alternatives Cs, Es, and G-C avoid this site. This property is located over 900 feet from Alternatives Cs and G-C and over one mile from Alternative Es. None of the alternatives use property from this site. With no right-of-way needed, there is no direct use of this Section 4(f) resource.

Constructive Use: The centerlines of Alternatives Cs and G-C are over 900 feet south from this property. The property is located on the north side of Ireland Road, a city street with over 6,000 vehicles per day. While buildings and terrain may mask much of visual effects of Alternatives Cs and G-C, the lights associated with these building provide light intrusion to the present setting. Traffic on US 20 and Ireland Road presently contributes to the ambient noise at this property. Therefore, any proximity impacts would not constitute a constructive use of this Section 4(f) resource.

Avoidance Alternatives: Not applicable. All of the alternatives avoid this resource.

Measures to Minimize Harm: Not applicable. All of the alternatives avoid this resource.

4. Emil Johnson House

Description: The Emil Johnson House is the best example of a Tudor Revival-style house in Centre Township, demonstrating distinctive characteristics of a type and period of construction. Rated as Outstanding in the *Indiana Historic Sites & Structures Inventory*, the house captures many of the design elements of the Art & Crafts period. Its leaded windows with geometric shapes and contrasting colors and textures accentuate those elements. The Emil Johnson House is located on Locust Road and is shown in Figure 7.3.7 in relation to the US 31 alternatives.

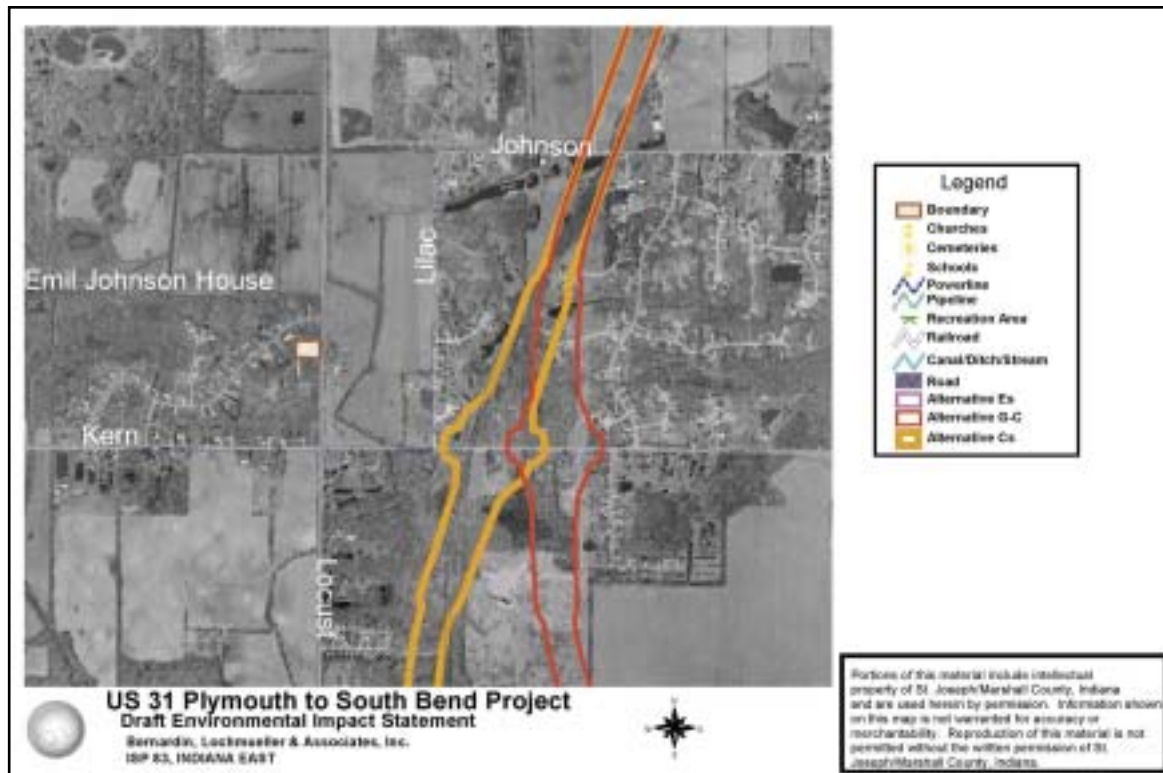


Figure 7.3.7: Emil Johnson House Property

Direct Use: Alternatives Cs, Es, and G-C avoid this site. This property is located over 1,550 feet from the Kern Road interchange on Alternative Cs, over 2,100 feet from the Kern Road interchange on Alternative G-C, and over one mile from the Kern Road interchange on Alternative Es. None of the alternatives use property from this site. With no right-of-way needed, there is no direct use of this Section 4(f) resource.

Constructive Use: The property is west of the centerlines of Alternatives Cs, Es, and G-C and west of the Kern Road interchange for each of Alternatives Cs, Es, and G-C. As Figure 7.3.7 shows, there are several homes and forested lands located between this site and the alternatives. The Section 106 review identified that modern housing and trees will somewhat obscure the view of Alternatives Cs and G-C. The elevated interchange at Kern Road will likely be visible. For both Alternatives Cs and G-C, the ambient noise level was 44.6 dBA. The predicted noise levels at points on the property for the Alternatives Cs and G-C would be below 52.1 dBA and therefore, would not represent a substantial increase above ambient levels. Therefore, any proximity impacts would not constitute a constructive use of this Section 4(f) resource.

Avoidance Alternatives: Not applicable. All of the alternatives avoid this resource.

Measures to Minimize Harm: Not applicable. All of the alternatives avoid this resource.

5. Ullery/Farneman House

Description: The Ullery/ Farneman House is associated with the families of Ullery and Farneman and their role in the early history and settlement of the local community. Built circa 1855 and rated as Notable in the county *Indiana Historic Sites & Structures Inventory*, the two-story simple brick Italianate dwelling retains its integrity. The house is located along existing US 31 south of Kern Road and is shown in Figure 7.3.8 in relation to the US 31 alternatives.

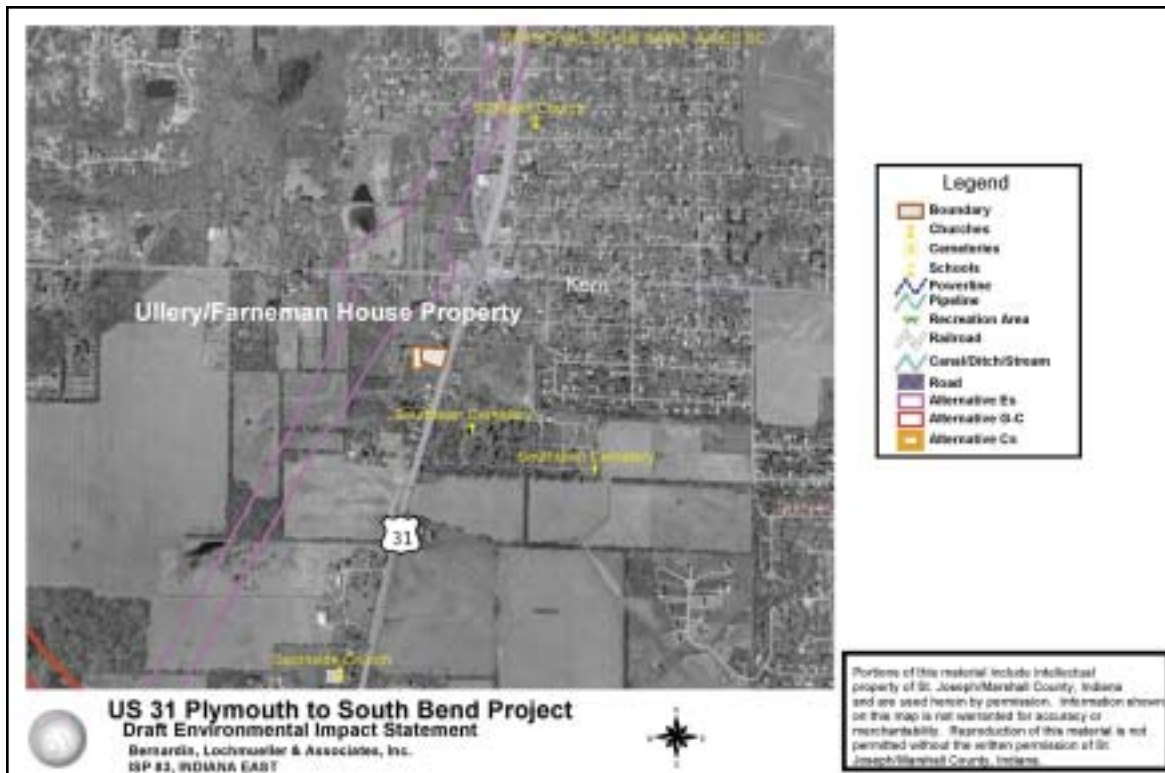


Figure 7.3.8: Ullery/Farneman House Property

Direct Use: Alternatives Cs, Es, and G-C avoid this site. None of the alternatives use property from this site. With no right-of-way needed, there is no direct use of this Section 4(f) resource.

Constructive Use: The property is east of the centerlines of Alternatives Cs, Es, and G-C. Alternative Es is located approximately 300 feet to the west of the property while Alternatives Cs and G-C are located approximately 4,600 feet to the west of the property. The property is located on the west side of existing US 31, which carries over 31,500 vehicles per day. The Section 106 review revealed that with the Alternative Es, trees and modern housing will obscure much of the view of the roadway. Given the property's present location along US 31, there is some light intrusion from businesses along US 31. Future noise levels on the property with Alternative Es would be below 65.2 dBA. It appears there would be no substantial impairment to the integrity of the property from Alternative Es which is actually located more distant from the historic property than is the present highway. Therefore, the proximity impacts would not constitute a constructive use of this Section 4(f) resource.

Avoidance Alternatives: Not applicable. All of the alternatives avoid this resource.

Measures to Minimize Harm: Not applicable. All of the alternatives avoid this resource.

6. Francis Donaghue Farmstead

Description: The Francis Donaghue Farmstead contains an excellent example of a brick, high-style Italianate residence in a rural context in Centre Township. Rated as Notable in the *Indiana Historic Sites & Structures Inventory*, the farmstead consists of a residence, barn, poultry house, garage, privy, windmill, and well house. The landscape of the agriculture-related portion of the property contains a poultry house and a bank barn sited in an unusual fashion for this area. The Francis Donaghue Farmstead is located along Turkey Trail and is shown in Figure 7.3.9 in relation to the US 31 alternatives.

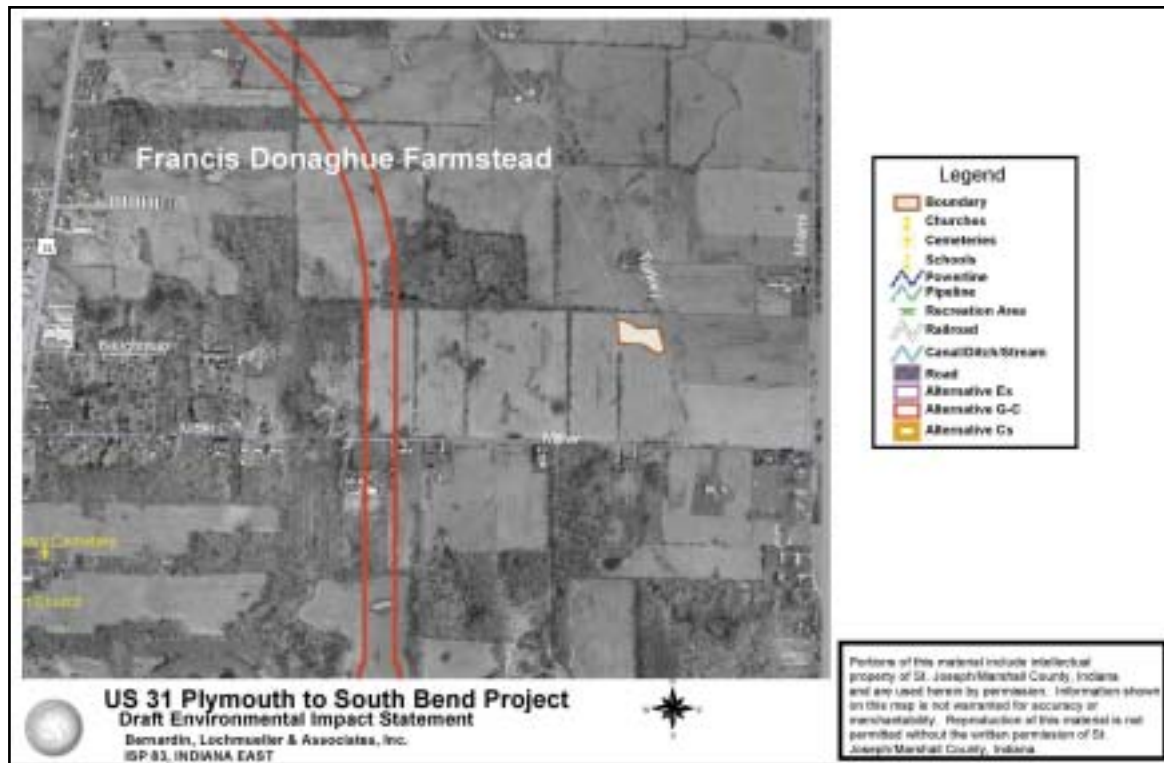


Figure 7.3.9: Francis Donaghue Farmstead Property

Direct Use: Alternatives Cs, Es, and G-C avoid this site. None of the alternatives use property from this site. With no right-of-way needed, there is no direct use of this Section 4(f) resource.

Constructive Use: Alternative G-C is located approximately 2,200 feet to the west of the property. Alternatives Cs and Es are located over one mile to the west of the property. The Section 106 review identified that Alternative G-C would likely be visible from the second level of the residence and from the barn. Predicted noise levels would be below 48.7dBA. It appears that there would be no substantial impairment to the use of this property from any of the alternatives. These proximity impacts would not constitute a constructive use of this Section 4(f) resource.

Avoidance Alternatives: Not applicable. All of the alternatives avoid this resource.

Measures to Minimize Harm: Not applicable. All of the alternatives avoid this resource.

7. W. O. Bunch Farm

Description: The W. O. Bunch Farm is the best example of a late-nineteenth-century, general-purpose Hoosier farm in Union Township in terms of its inventory of extant buildings and historic field patterns. Rated as Notable in the county *Indiana Historic Sites & Structures Inventory*, the farm consists of a residence, barn, and collection of nine outbuildings dedicated to different farm functions. The farm is located on Pierce Road just west of Kenilworth Road and is shown in Figure 7.3.10 in relation to the US 31 alternatives.

Direct Use: Alternatives Cs, Es, and G-C avoid this site. None of the alternatives use property from this site. The planned local road improvement project, the widening of Pierce Road, will likely have no direct impact if the improvement occurs to the north--rather than the south--side of the road. Therefore, there would be no direct use of this Section 4(f) resource for right-of-way for Alternatives Cs, Es, or G-C.

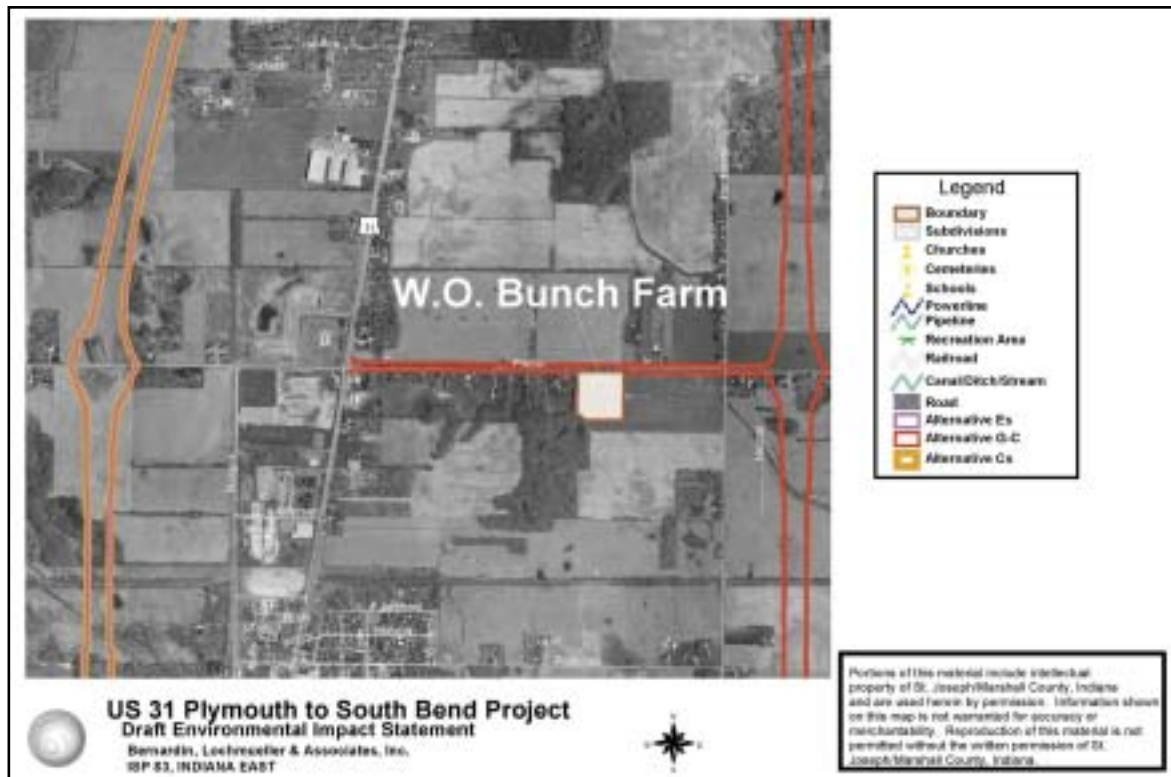


Figure 7.3.10: W. O. Bunch Farm Property

Constructive Use: The interchange of Alternative G-C with Pierce Road is located approximately 1,880 feet to the east of the property. Alternatives Cs and Es are located over one mile to the west of the property. As Figure 7.3.10 shows, Kenilworth Road and the residential development along the road will be between the W. O. Bunch Farm and Alternative G-C. The Section 106 review identified that there will be a change in the viewshed from the property with the introduction of a modern highway and an elevated, lighted interchange approximately 1,880 feet from the edge of the property. In addition, the interchange will increase traffic on Pierce Road in front of this property. Modeling indicates that noise levels on the property would be below 55.3 dBA. It appears that there would be no substantial impairment to the use of this property from any of the alternatives. These proximity impacts would not constitute a constructive use of this Section 4(f) resource.

Avoidance Alternatives: Not applicable. All of the alternatives avoid this resource.

Measures to Minimize Harm: Not applicable. All of the alternatives avoid this resource.

7.4 Section 6(f) Resources

The Land and Water Conservation Fund Act of 1965 established grants-in-aid funding to assist states in the planning, acquisition, and development of outdoor recreational land and water areas and facilities. Section 6(f) of the Act prohibits the conversion of any property acquired or developed with the assistance of the fund to anything other than public outdoor recreation use without the approval of the Secretary of the Department of the Interior.

Coordination with the Indiana Department of Natural Resources confirmed that there are no known resources funded by the Land and Water Conservation Fund Act that would be impacted by the US 31 project.



7.5 Conclusion

In accordance with 23 CFR 771.135(o)(1), the FHWA now makes the following determinations regarding the potential for the US 31 project to use Section 4(f) protected lands, as well as the potential for avoidance and minimization of harm to those lands during the future development of this project.

Alternatives Cs, Es, and G-C would not directly or constructively use any publicly owned park, recreational area, wildlife or waterfowl refuge, or land from a historic property on or eligible for inclusion in the National Register of Historic Places.