



Chapter 7: 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 Potential 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 waterfowl refuge lands; and (4) evaluating avoidance and minimization alternatives for any such lands that would be used by an alternative. The alternatives considered in this evaluation include the Non-Preferred Alternatives Cs, Es, and G-C and the Preferred Alternative G-Es.

The No-Build Alternative would have no impact on these resources.



Figure 7.2.1: Potential Section 4(f) Resources



7.2.1 Pleasant Lake Public Access Site

Description: The Pleasant Lake Public Access Site is located in St. Joseph County, south of Lakeville off US 31. (See Figure 7.2.2) 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. This site is open to all the public. The major use as a recreation area open to all the public identifies the Pleasant Lake Access Site as a Section 4(f) resource.

Direct Use: Alternatives Cs, Es, G-C, and G-Es 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 Alternatives G-C and G-Es pass 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 will 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.

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

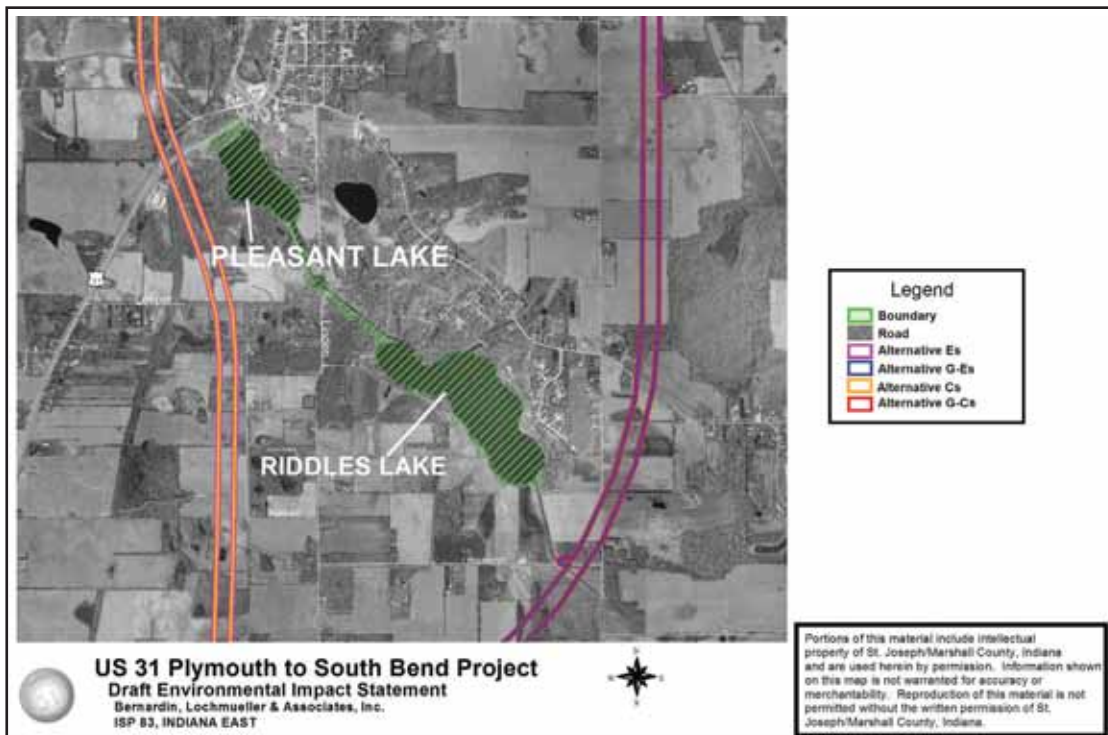


Figure 7.2.2: Pleasant Lake Public Access Site



7.2.2 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.

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

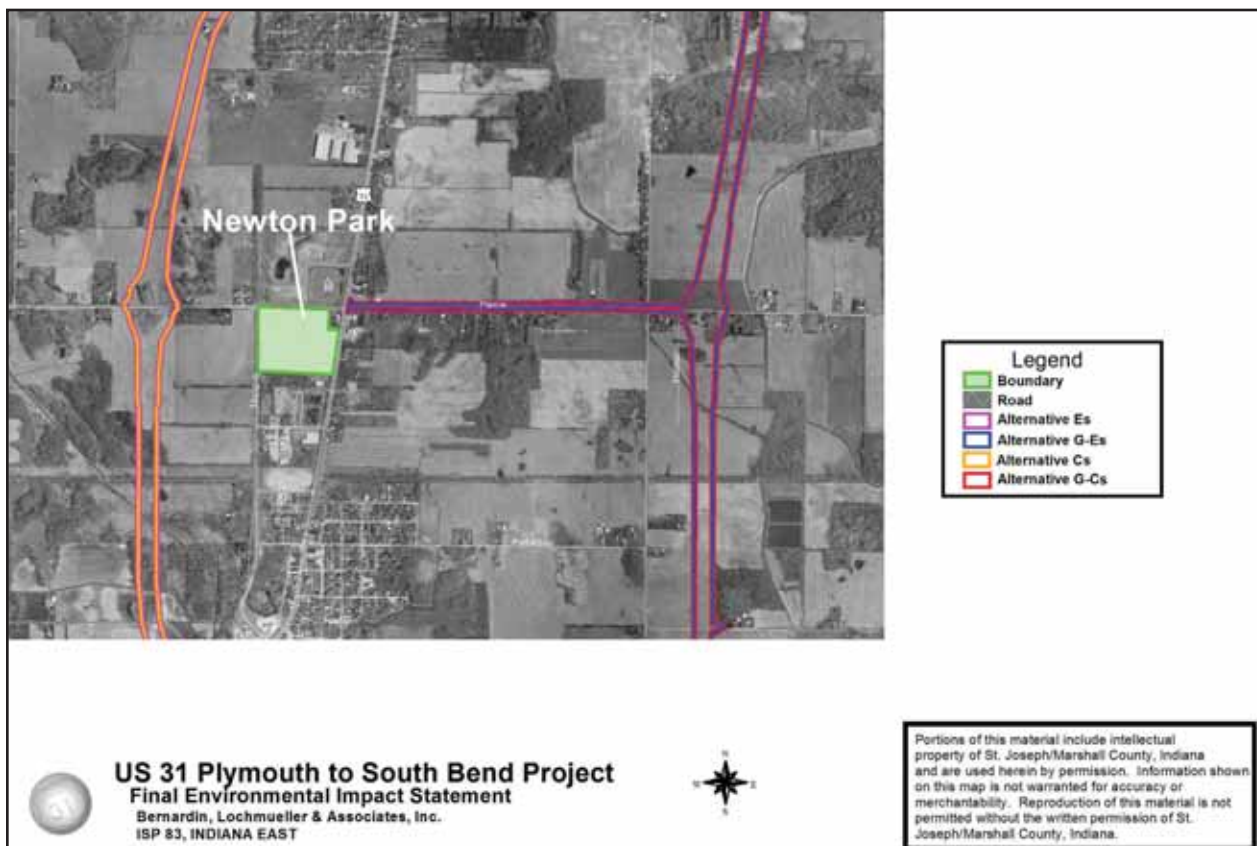


Figure 7.2.3: Newton Park



7.2.3 Erskine Golf Course

Description: The Erskine Golf Course is an 18 hole course located at 4200 Miami Road in South Bend. The property is owned by the South Bend Parks and Recreation Department. The access to the golf course is from Miami Road. The course covers approximately 300 acres and is shown in Figure 7.2.4. This site is open to all the public for a reasonable cost. The major use as a recreation area open to all the public identifies the Erskine Golf Course as a Section 4(f) resource.

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

Constructive Use: Alternatives Cs, Es, G-C, and G-Es all end at an interchange with US 20. As shown in Figure 7.2.4, Alternatives Es and G-Es would require a reconstructed interchange configuration at US 20. The nearest ramps of this reconstructed US 20 interchange would be approximately 1,700 feet southwest of the golf course. As part of the mitigation efforts, Fellows Street would be extended southward over existing US 20 to Jackson Road. Improvements to existing Fellows Street would end at the intersection with Ireland Road (see Figure 7.2.4). At the present time, Ireland Road along the golf course carries 17,685 vehicles per day. The Fellows Street extension will not change the configuration of the intersection with Ireland Road and will not shift the intersection any closer to the golf course. Presently, the nearest point of the golf course is over 500 feet away from the Ireland Road and Fellows Street intersection. There will be no impairment to the use of this golf course from any of the alternatives or from the improvements to Fellows Street. 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.

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

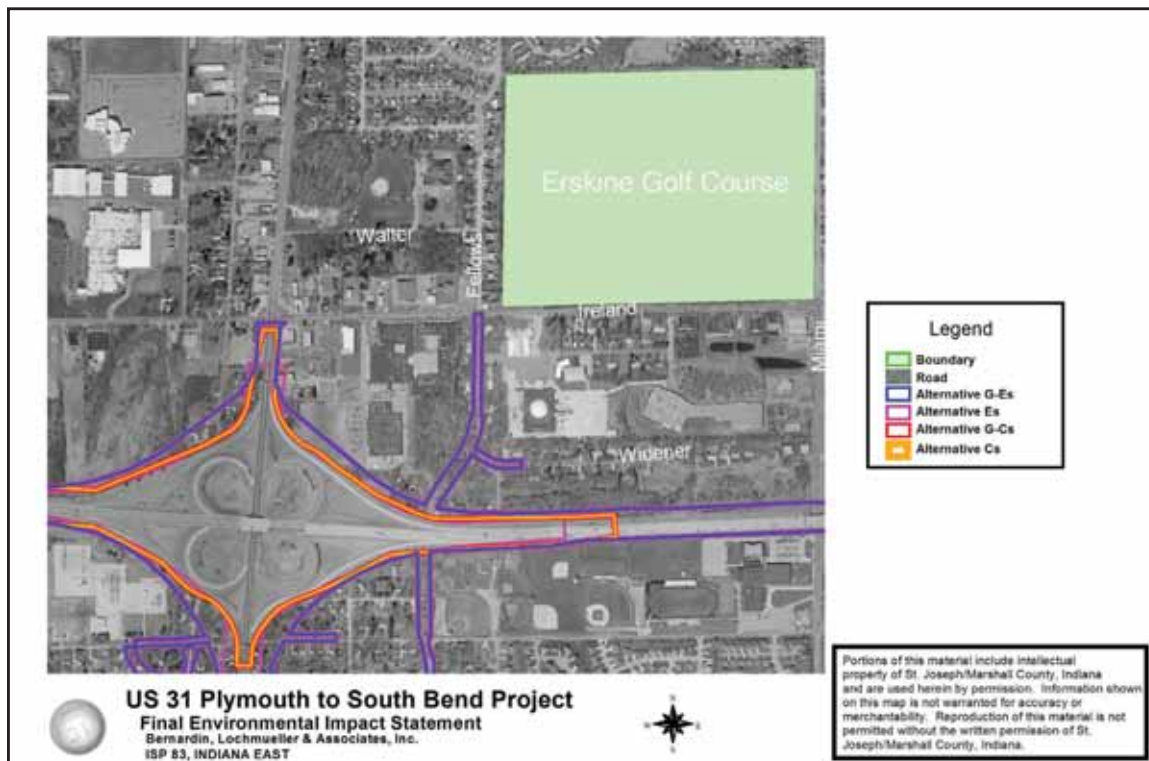


Figure 7.2.4: Erskine Golf Course



7.2.4 Southeast Little League and Jackson Fields

Description: The South Bend Community School Corporation owns 10 baseball fields located just west of the Jackson Middle School. The Southeast Little League South Bend District #11 leases seven fields (5 baseball fields and 2 softball fields) for their games. The remaining three ball fields (2 baseball fields and 1 softball field) are known as Jackson Fields and are managed by the South Bend Community School Corporation. The main entrances to the ball fields are from Jackson Road. Figure 7.2.5 shows the fields. Since the South Bend Community School Corporation leases the fields out to private organizations, the use of these fields is permitted to only select groups and not the entire public. Section 4(f) does not apply to the Southeast Little League and Jackson Fields, and none of the alternatives would require use of this property.

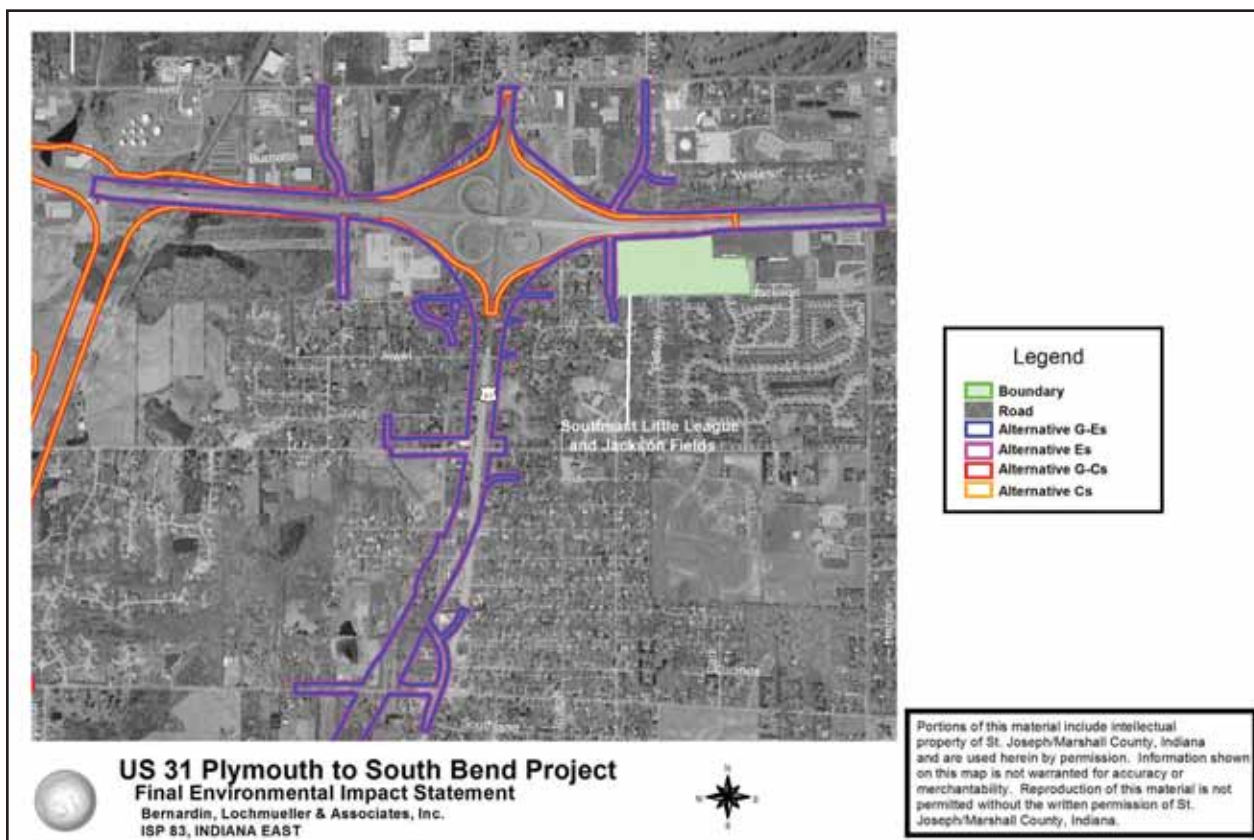


Figure 7.2.5: Southeast Little League and Jackson Fields



7.3 Potential 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. Section 4(f) does not apply to archaeological sites that are determined to be important chiefly because of what can be learned by data recovery and has minimal value for preservation in place (23 CFR 771.135(g)(2)). 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(23 CFR 771.135(g)(2)).*”

There are two properties already listed on the National Register and seven properties eligible for the National Register that are protected by Section 4(f) within the APE of this project. 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. Each resource includes a description of the Section 4(f) issues. The alternatives considered in this evaluation include the Non-Preferred Alternatives Cs, Es, and G-C and Preferred Alternative G-Es.



7.3.1 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 7.3.6 shows Evergreen Hill in relation to the US 31 alternatives.

Direct Use: Alternatives Cs, Es, G-C, and G-Es 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 Section 106 process concluded with an effect finding of “no adverse effect” for this property. Constructive use does not occur when the Section 106 effect finding is “no adverse effect” (23 CFR 771.135 (p)(5)(i)).

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

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

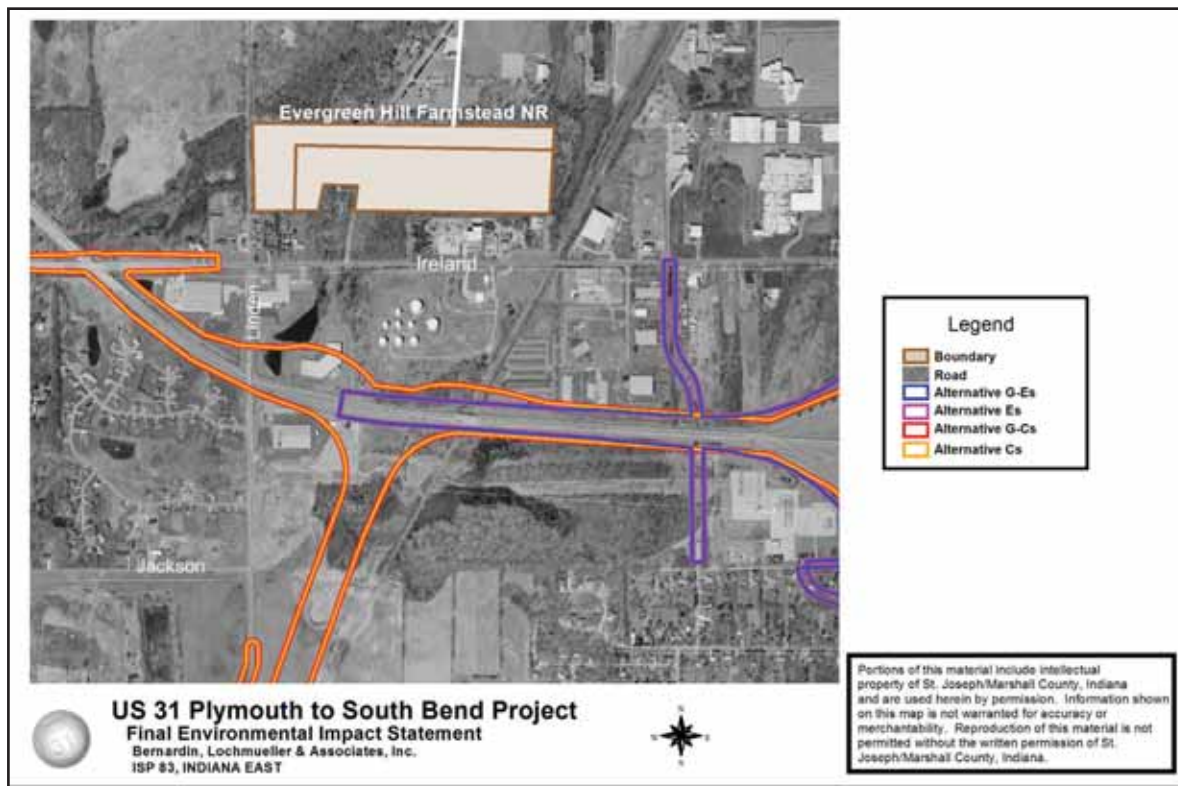


Figure 7.3.6: Evergreen Hill National Register Property



7.3.2 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 7.3.7 shows Lakeville High School in relation to the US 31 alternatives.

Direct Use: Alternatives Cs, Es, G-C, and G-Es avoid this site. This property is located over 2,500 feet from Alternatives Cs and Es and over one mile from Alternatives G-C and G-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 Section 106 process concluded with an effect finding of “no adverse effect” for this property. Constructive use does not occur when the Section 106 effect finding is “no adverse effect” (23 CFR 771.135 (p)(5)(i)).

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

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

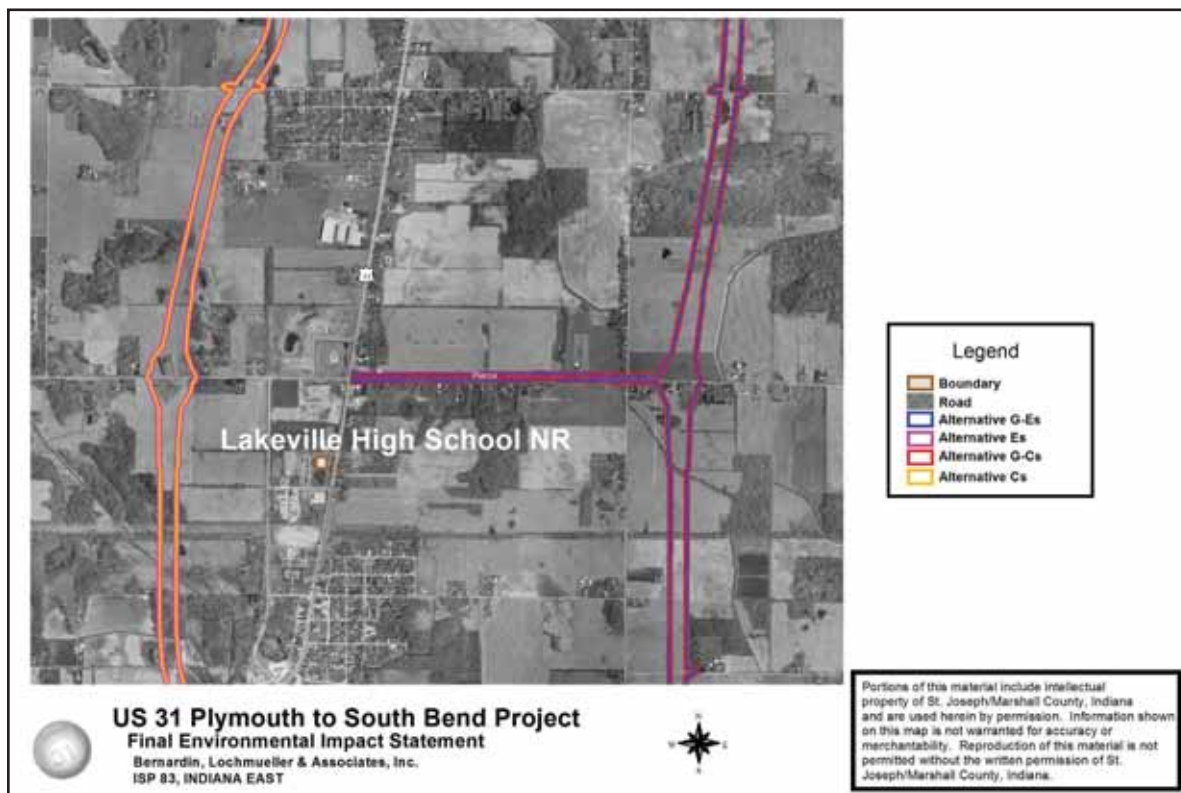


Figure 7.3.7: Lakeville High School National Register Property



7.3.3 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 7.3.8 in relation to the US 31 alternatives.

Direct Use: Alternatives Cs, Es, G-C, and G-Es avoid this site. This property is located over 900 feet from Alternatives Cs and G-C and over one mile from Alternatives Es and G-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 Section 106 process concluded with an effect finding of “no adverse effect” for this property. Constructive use does not occur when the Section 106 effect finding is “no adverse effect” (23 CFR 771.135 (p)(5)(i)).

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

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

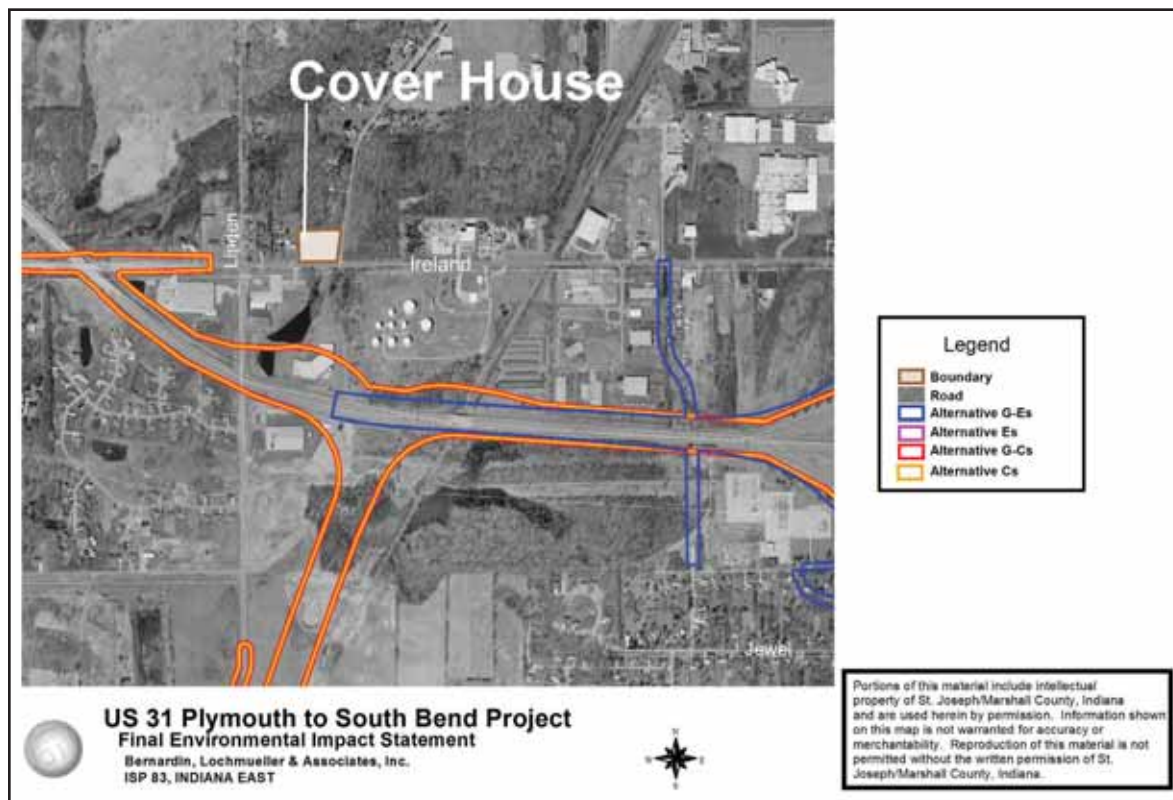


Figure 7.3.8: Cover House Property



7.3.4 Conrad Schafer Farmstead

Description: The Conrad Schafer Farmstead, located at 65154 Miami Highway in St. Joseph County, has a Greek Revival residence with Italianate influences constructed circa 1860, a Sweitzer barn, a Pennsylvania German barn, a milk house, a non-period garage, a non-period pole barn, a Harvestore silo, and modern grain bins. The residence has a stone foundation, clapboard siding, original windows, center door with original surround, and an original porch. The Sweitzer barn, one of only two in the study area, has a stone foundation, as does the Pennsylvania German bank barn, which has “Schafer Homestead 1853” on the façade. Figure 7.3.9 shows the farmstead in relation to the US 31 alternatives.

Direct Use: Alternatives Cs, Es, G-C, and G-Es avoid this site. This property is located over one mile from Alternatives G-C and G-Es and over two miles from Alternatives Cs and 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 Section 106 process concluded with an effect finding of “no adverse effect” for this property. Constructive use does not occur when the Section 106 effect finding is “no adverse effect” (23 CFR 771.135 (p)(5)(i)).

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

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

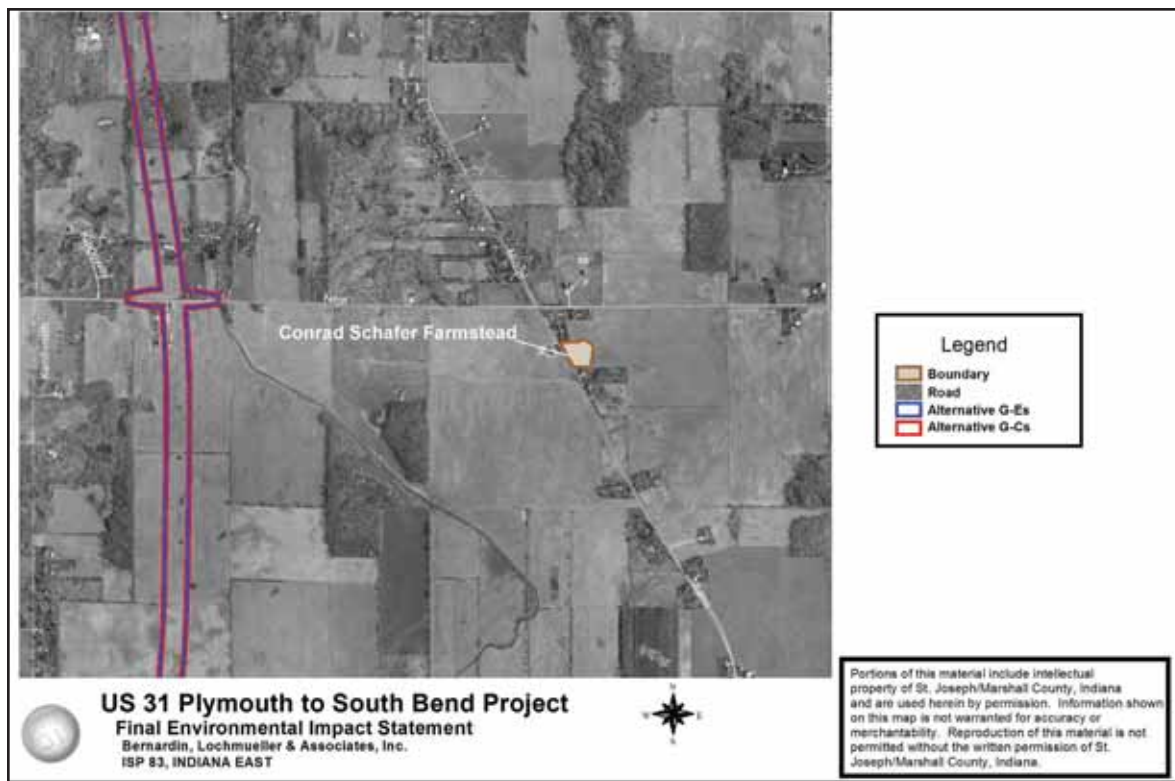


Figure 7.3.9: Conrad Schafer Farmstead



7.3.5 Emil Johnson House

Description: The Emil Johnson House is the best example of a Tudor Revival-style house of 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 7.3.10 in relation to the US 31 alternatives.

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 Section 106 process concluded with an effect finding of “no adverse effect” for this property. Constructive use does not occur when the Section 106 effect finding is “no adverse effect” (23 CFR 771.135 (p)(5)(i)).

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

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

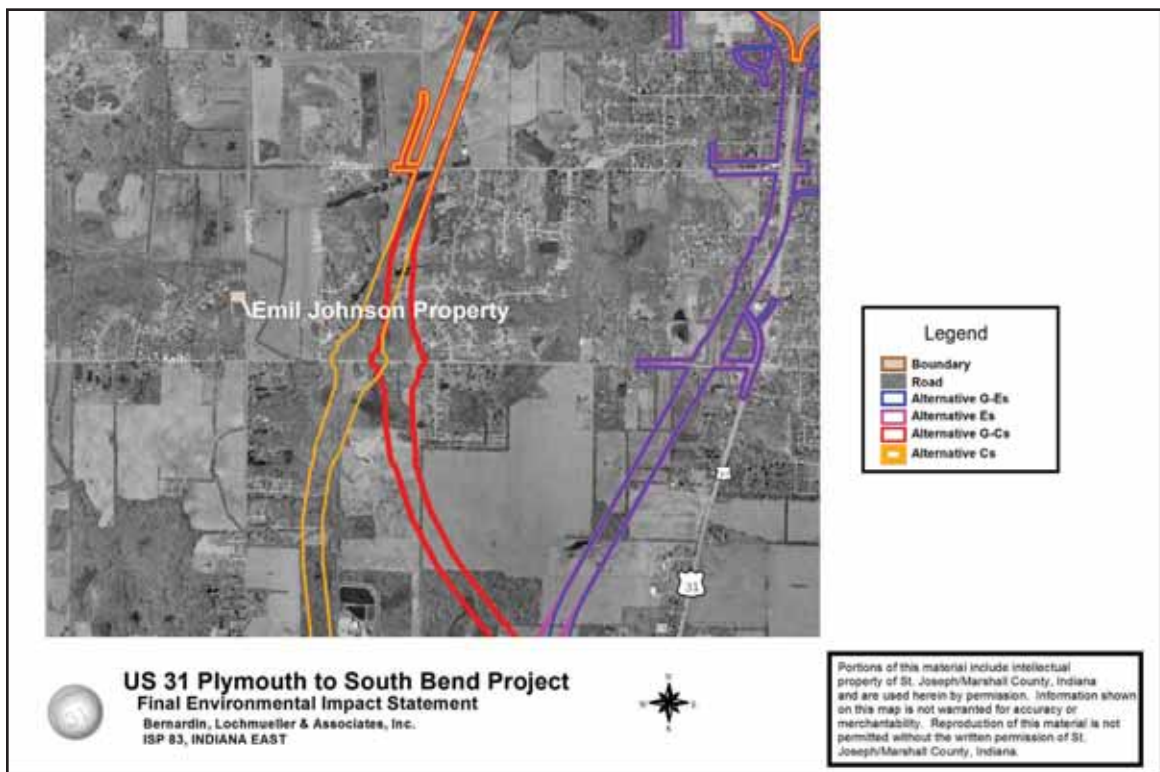


Figure 7.3.10: Emil Johnson House Property



7.3.6 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 7.3.11 in relation to the US 31 alternatives.

Direct Use: Alternatives Cs, Es, G-C, and G-Es 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 Section 106 process concluded with an effect finding of “no adverse effect” for this property. Constructive use does not occur when the Section 106 effect finding is “no adverse effect” (23 CFR 771.135 (p)(5)(i)).

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

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

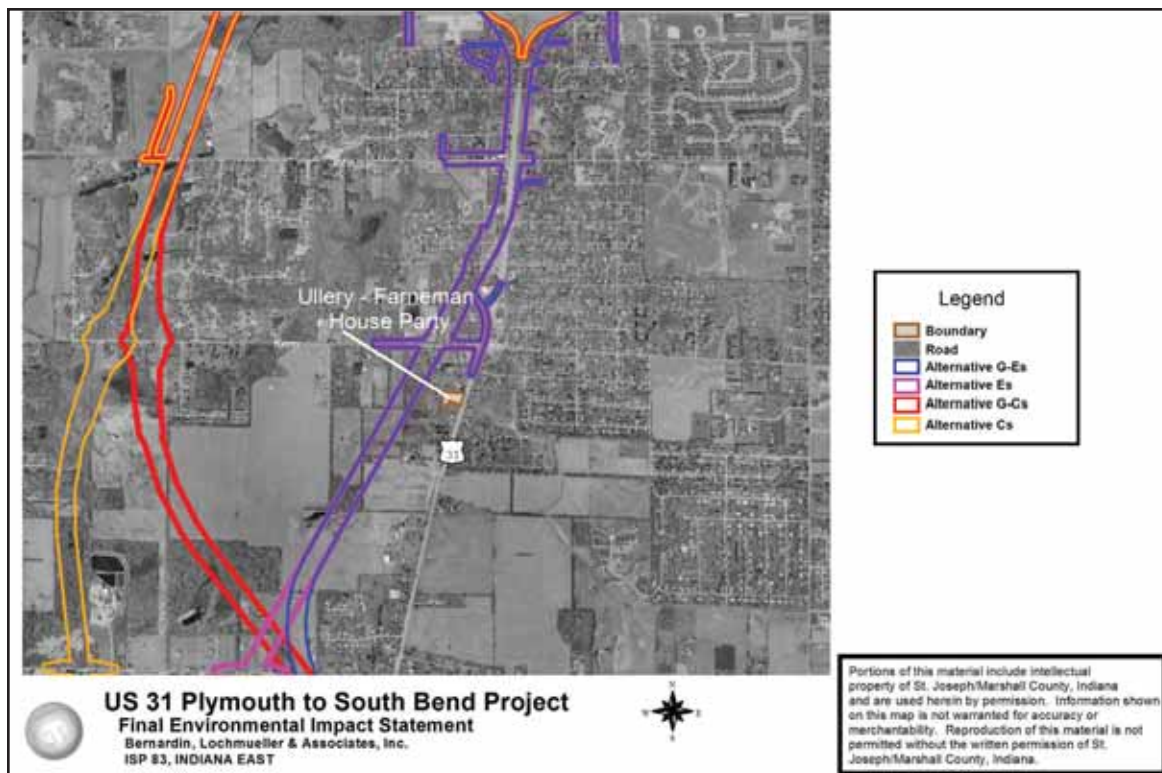


Figure 7.3.11: Ullery/Farneman House Property



7.3.7. 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 7.3.12 in relation to the US 31 alternatives.

Direct Use: Alternatives Cs, Es, G-C, and G-Es avoid this site. This property is located over 2400 feet from Alternatives G-C and G-Es and over one mile from Alternatives Cs and 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 Section 106 process concluded with an effect finding of “no adverse effect” for this property. Constructive use does not occur when the Section 106 effect finding is “no adverse effect” (23 CFR 771.135 (p)(5)(i)).

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

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

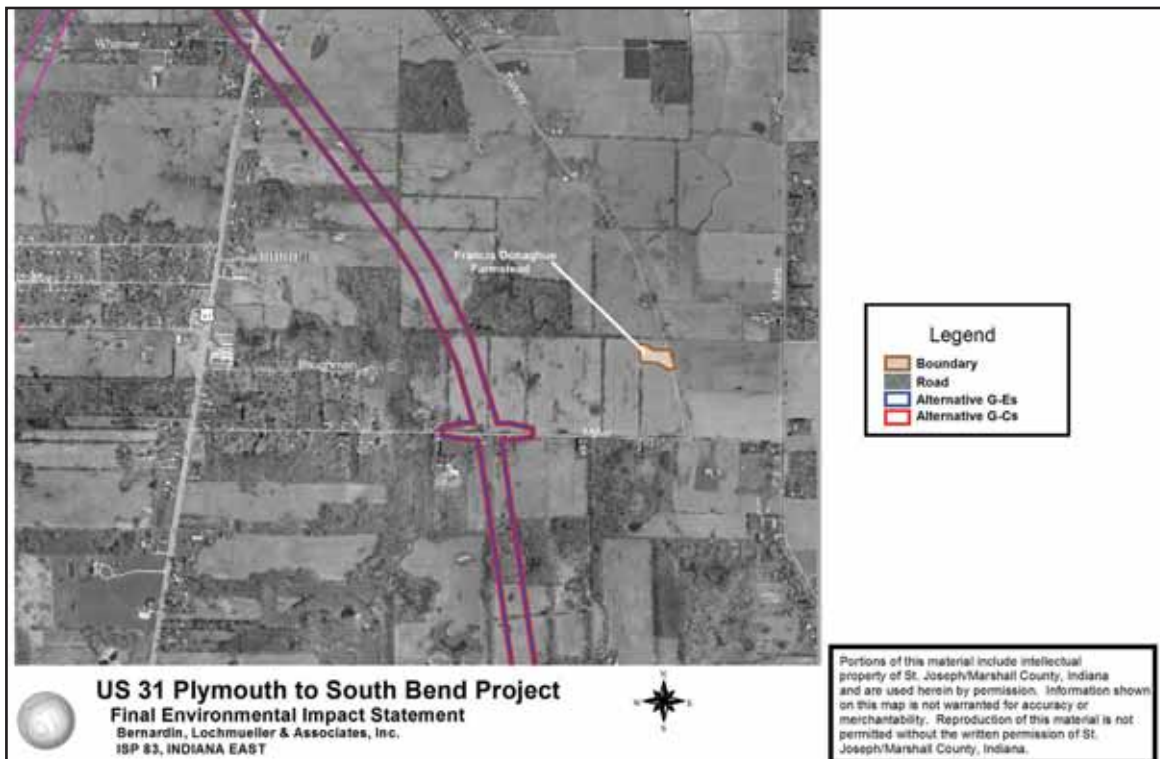


Figure 7.3.12: Francis Donaghue Farmstead Property



7.3.8 Court Farmstead

Description: The Court Farmstead, located at 18681 Osborne Road in St. Joseph County, has a residence, a small well house, a granary, a livestock holding facility, a garage, a drive-through corncrib, silos, a poultry house, and a large barn. The one-and-one-half story Queen Anne cottage, circa 1895, has a brick foundation, metal siding, and original windows and doors. The granary rests on stone piers and has vertical wooden siding. The drive-through corncrib is two-stories high and standing on a concrete foundation. Figure 7.3.13 shows the Court Farmstead in relation to the US 31 alternatives.

Direct Use: Alternatives Cs, Es, G-C, and G-Es avoid this site. This property is located approximately one mile from Alternatives G-C and G-Es and over two miles from Alternatives Cs and 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 Section 106 process concluded with an effect finding of “no adverse effect” for this property. Constructive use does not occur when the Section 106 effect finding is “no adverse effect” (23 CFR 771.135 (p)(5)(i)).

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

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

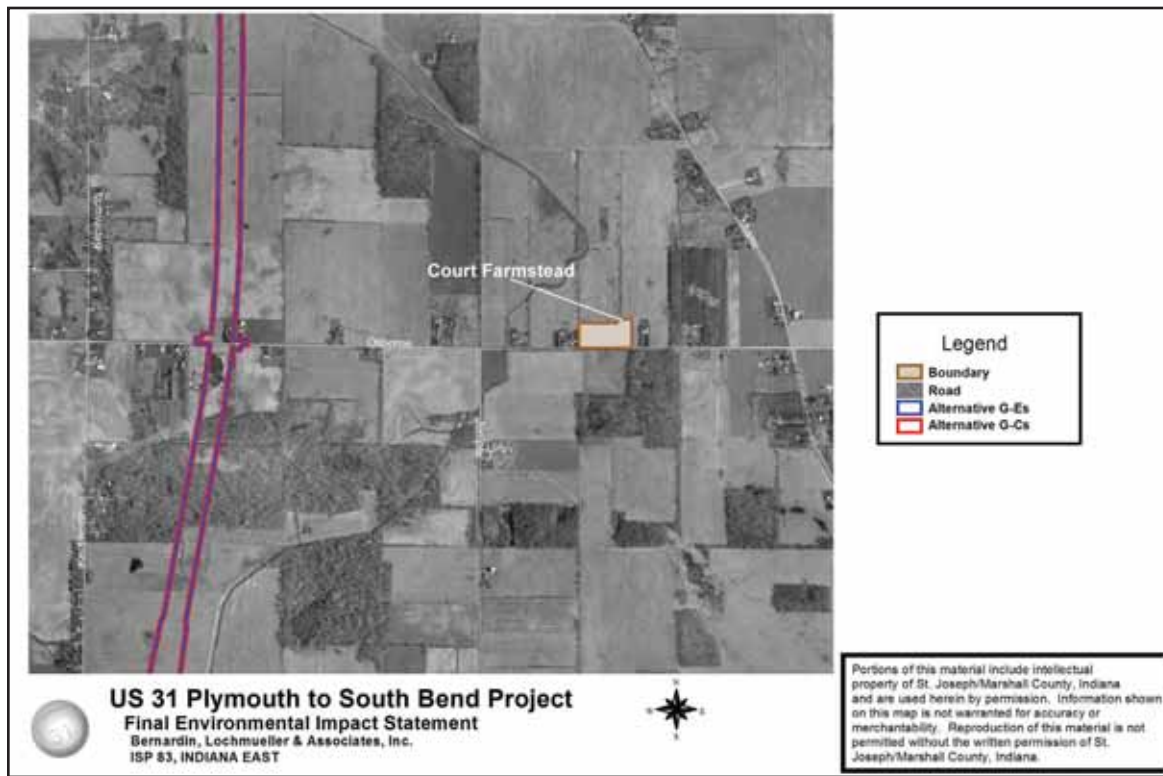


Figure 7.3.13: Court Farmstead Property



7.3.9 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 7.3.14 in relation to the US 31 alternatives.

Direct Use: Alternatives Cs, Es, G-C, and G-Es 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, G-C, or G-Es.

Constructive Use: The Memorandum of Agreement (in Appendix P) states that “the FHWA, in consultation with the Indiana SHPO, has determined that the adverse effect on the W.O. Bunch Farm will not result in a substantial loss or reduction of the historic property’s significance and the W.O.Bunch Farm will retain the features that make it eligible for listing in the National Register of Historic Places.” The Section 106 process has determined there is no substantial impairment to this property and thus no constructive use.

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

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

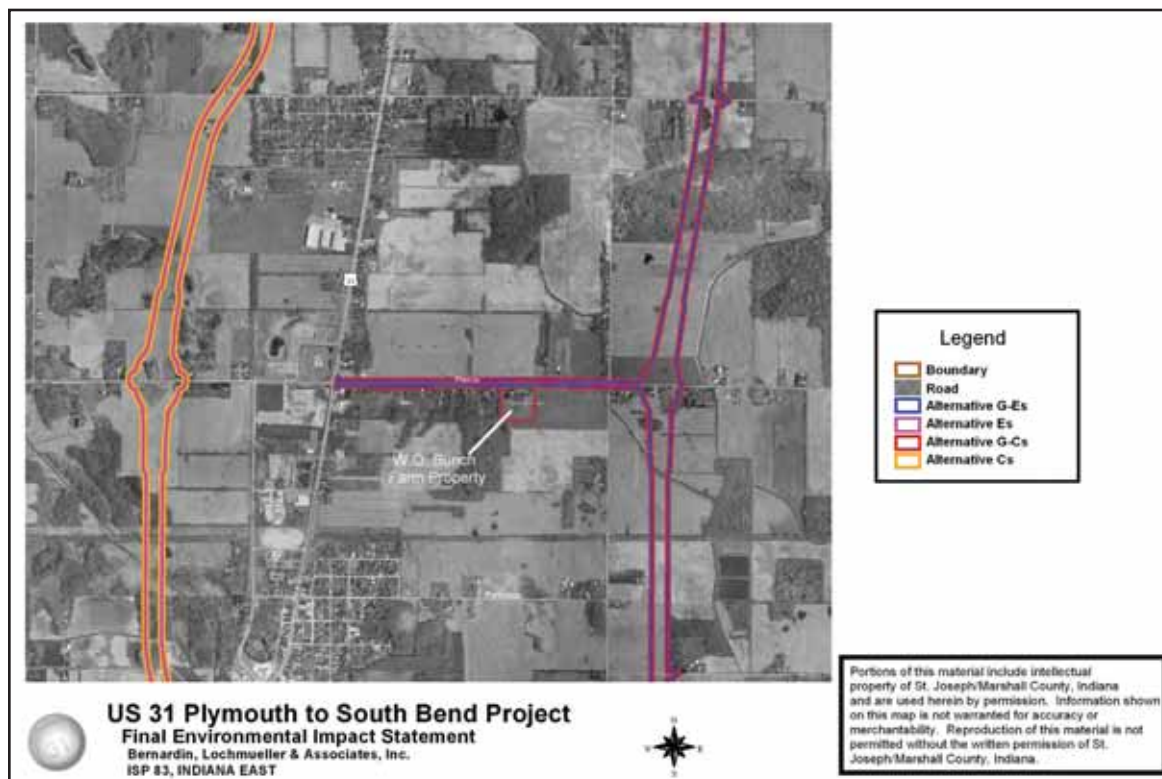


Figure 7.3.14: W. O. Bunch Farm Property



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.

This evaluation has determined that no use of a Section 4(f) resource would be created by the development of Alternatives Cs, Es, G-C, and Preferred Alternative G-Es. Preferred Alternative G-Es avoids all Section 4(f) resources.



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