

Final Section 4(f) Evaluation



IH 30

From Sylvan Avenue to IH 45

and

IH 35E

From Eighth Street to Empire Central

Dallas County, Texas

CSJ: 0009-11-181, 0196-03-199, 0196-03-205, 0442-02-132, 1068-04-116

U.S. Department of Transportation – Federal Highway Administration

and

Texas Department of Transportation

May 2005

Final Section 4(f) Evaluation

This document evaluates potential Section 4(f) involvement for the IH 30 and IH 35E reconstruction project in Dallas, Texas and discusses the regulations, proposed action, Section 4(f) resources, impacts, avoidance alternatives, and measures to minimize harm. It also identifies the Section 4(f) property that would be impacted and documents the planning efforts and coordination activities that demonstrate that use of the property is justified, necessary, and meets the requirements of the Section 4(f) legislation.

1. REGULATIONS

Section 4(f) of the Department of Transportation Act of 1966 (49 U.S.C. 1653, now 49 U.S.C. 303) declared a national policy that special efforts be made to preserve the natural beauty of the countryside, including public park and recreation lands, wildlife and waterfowl refuges, and historic sites. Section 4(f) prohibits the Secretary of Transportation from approving projects that require the use of significant publicly owned parks, recreation areas, or wildlife and waterfowl refuges, or any significant historic site protected under Section 4(f) unless a determination is made that:

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

When such resources are affected, the documentation of no feasible and prudent avoidance alternative and planning to minimize harm is included in the federal environmental document. A Section 4(f) occurs:

- When land is permanently incorporated into a transportation facility;
- Where there is a temporary occupancy of land that is adverse in terms of the statute's preservationist purposes; or
- When there is a constructive use of land. (23 CFR 771.135 [p])

Permanent Acquisition: The physical and permanent procurement of a protected resource for use by a transportation project is known as an actual or direct use.

Temporary Use: Short-term, temporary use (e.g., for a construction easement) of a Section 4(f) resource would not constitute a use under Section 4(f) as long as the following conditions are met: occupancy of the resource is temporary (i.e., shorter than the construction period for the entire project) and there is no change in ownership; changes or effects to the resource are minimal; there are no permanent adverse impacts resulting from the temporary use; and there is a documented agreement between relevant jurisdictions regarding temporary use of the resource.

Constructive Use: A constructive use occurs when a project does not incorporate land from a protected resource but when the project generates impacts due to proximity (e.g., noise or visual impacts) and these impacts are so severe that they impair preservation or utilization of the protected resource. Constructive use occurs when the project negatively affects the purposes for which the resource is of value to the public (i.e., its activities, features, or attributes). In other words, a constructive use determination considers the present use of the resource by the public as well as the attributes that made the resource valuable in the first

place. Constructive use resulting from increased noise applies only when the protected resource is "noise sensitive" and derives some of its value and use from its relatively quiet setting. To constitute a constructive use, the noise increase must not only be detectable to the human ear (i.e., greater than 2 to 3 dBA) and exceed the abatement criteria, but it must be severe enough to impair enjoyment of the Section 4(f) resource. Constructive use based on visual intrusion occurs when there is substantial impairment to the features, setting, or attributes of a protected resource when those features, settings, or attributes are important contributing elements to the value of the resource.

This report documents the assessment of potential Section 4(f) properties. It identifies those properties that were found not to be subject to Section 4(f) use, and the property where a Section 4(f) use is necessary. For this property, documentation of the planning efforts and coordination activities is provided that demonstrates that use of the property is justified, necessary, and meets the requirements of the Section 4(f) legislation.

2. PROPOSED ACTION

The Texas Department of Transportation (TxDOT) and Federal Highway Administration (FHWA) propose to reconstruct and widen IH 30 and IH 35E near downtown Dallas, Texas. The primary purposes of the project are to improve safety and traffic operations and reduce traffic congestion along IH 30, IH 35E, and the interchange of IH 30 and IH 35E near downtown Dallas. The proposed improvements, collectively referred to as Project Pegasus, extend along 11 miles of urban freeway, specifically:

- IH 30 from Sylvan Avenue on the west to IH 45 on the east; and
- IH 35E from Eighth Street on the south to Empire Central on the north; improvements on the northern end also include SH 183 from IH 35E to Empire Central.

Project Pegasus focuses on the IH 30/IH 35E interchange on the western edge of downtown Dallas, locally known as the "Mixmaster," the depressed portion of IH 30 south of downtown, locally known as the "Canyon," and the portion of IH 35E from the Mixmaster to SH 183, also referred to as "Lower Stemmons." The project encompasses all interconnecting cross-streets and associated direct connections and access ramps, including IH 30 interchanges with IH 45, and IH 35E, and IH 35E interchanges with Spur 366, Dallas North Tollway (DNT), and SH 183.

Based on TxDOT's Major Transportation Investment Study (conducted from 1996 to 1998) and subsequent Project Pegasus analysis, the evaluation of alternatives together with stakeholder and public agency involvement resulted in the identification of one Build Alternative. More information about the purpose, need and description of the proposed action is contained in **Chapter 1** of the Environmental Assessment. An explanation of the process used to develop the project alternatives and a description of the Build Alternative are included in **Chapter 2**.

3. SECTION 4(f) RESOURCES

Stemmons Park

The Section 4(f) property discussed herein refers to Stemmons Park, which is located immediately southeast of the interchange of IH 35E (also known as the Stemmons Freeway) and Oak Lawn Avenue. This City of Dallas public park, acquired in 1973, is 4.9 acres in size and is formally designated as municipal parkland. The park is primarily open space without any specific recreational improvements, and is open to motorists as well as to pedestrians and bicyclists. The park contains a variety of mature trees and has a small drainage channel (Turtle

Creek) running through it. It is planned to become a trailhead location for the junction of two City of Dallas hike-and-bike trails: the Katy Trail extension and the proposed Old Trinity Trail. According to the City, other possible future improvements include parking, water fountain, picnic facilities, benches, and perhaps a public art element. A map showing the location of Stemmons Park is included in **Figure 1**. A letter from the City of Dallas Parks and Recreation Department confirming the park's designation as municipal parkland and describing the planned use is attached, and photographs of the park are included in **Figure 2**. No federal land and water conservation [Section 6(f)] funds were used for the acquisition or development of Stemmons Park.

Other Potential Section 4(f) Resources

Five other public parks are located either near or adjacent to the IH 30 and IH 35E freeways within the project area: Pegasus Park, Reverchon Park, Dealey Plaza, Martyrs Park and Old City Park. These parks are all owned and maintained by the City of Dallas. No property from any of the aforementioned parks is required for the Build Alternative. There would be no temporary or constructive use of these parklands, as any noise sensitive or visually sensitive parkland or feature that may currently exist is already subject to the existing traffic noise levels and urban transportation setting. Old City Park is expected to experience slightly higher noise levels (69 dBA) in the 2026 design year; the 2003 noise level was measured at approximately 65 dBA.

In addition, as part of its official trail plan the City of Dallas has proposed the construction of a hike-and-bike trail along the Lower Stemmons Freeway. Friends of the Old Trinity Trail (a non-governmental organization) developed a trail corridor master plan that identifies potential pathway connections along and to the Old Trinity River Channel between Oak Lawn and Motor Street, with connections to Trinity Railway Express and future Dallas Area Rapid Transit (DART) rail stations that will serve and be served by the trail. The Dallas Park & Recreation Board adopted this plan in October of 2004. These trail facilities would be accommodated by the Build Alternative (in terms of horizontal and vertical clearances) and the City of Dallas would likely pursue a joint-use agreement with TxDOT in order to cross the state's right-of-way.

4. IMPACTS ON STEMMONS PARK

The Build Alternative would have a direct, adverse effect on Stemmons Park. The project would require approximately 0.7 acres of the park's 4.9 acres in order to widen the freeway, provide access to Oak Lawn Avenue, and provide a continuous frontage road along IH 35E. The map in **Figure 1** shows the area of parkland proposed to be permanently converted to transportation use.

Stemmons Park also receives traffic noise. Noise levels at the park, determined to be 67 dBA in 2003, would increase to 78 dBA in 2026. However, noise at this location comes from a variety of sources, including IH 35E, the DART railroad, Harry Hines Boulevard and the DNT. To be effective a noise wall for this receiver would need to be constructed around the perimeter of the park. This type of barrier would not be consistent with the City of Dallas's intention of using the park as a trailhead for its proposed hike-and-bike trail network, and could also pose public safety concerns. Hike-and bike trailhead activities are not particularly sensitive to noise.



Figure C-1
 Proposed Right-of-Way
 Needed from Stemmons Park
 IH 30 and IH 35E

CSJ: 0009-11-181, 0196-03-199
 0196-03-205, 0442-02-132, 1068-04-023

- Legend
-  Area Needed
 -  Park





Park entrance looking north toward Oak Lawn.



Stream looking south toward IH 35E.



Stream looking south toward IH 35E exit ramp to Oak Lawn.



Looking north toward Trinity Railroad Express.



Looking south east toward Dallas North Tollway off ramp.

5. AVOIDANCE ALTERNATIVES

No Build Alternative – While it would not impact Stemmons Park, the No-Build Alternative does not result in improved safety and traffic operations and reduced traffic congestion along IH 30, IH 35E, and the interchange of IH 30 and IH 35E near downtown Dallas. Without the proposed improvements specifically in the vicinity of Stemmons Park, the project's desired cross-section could not be maintained, resulting in discontinuous main lanes and frontage roads and no access to Oak Lawn Avenue from northbound IH 35E.

Avoidance Alignment – Initial efforts for avoiding or minimizing the acquisition of Stemmons Parkland included the use of retaining walls in the freeway improvement design. **Figure 3** shows a conceptual alignment for IH 35E that avoids taking property from Stemmons Park. This alignment shifts the freeway right-of-way approximately 100 feet to the west just far enough to completely avoid the park, while maintaining the desired cross-section and full access to Oak Lawn Avenue. However, this alignment results in the displacement of 13 additional commercial buildings located immediately west of IH 35E. An alignment shift to the east is not feasible due to the presence of Harry Hines Boulevard, DNT, DART rail lines, and Dallas Infomart complex. The avoidance alignment would have the negative effect of removing approximately \$21 million of property from the tax base, and the employment loss from the removal of approximately 300,000 square feet of office space.

6. MEASURES TO MINIMIZE HARM

Measures to minimize the Build Alternative's adverse effect on Stemmons Park have been developed by the TxDOT analysis team, in cooperation with representatives of the City of Dallas. These measures are contained in the attached letter from the City of Dallas to TxDOT dated May 9, 2005, and summarized as follows:

- TxDOT will acquire fee simple ownership of the 0.7 acres of Stemmons Park from the City of Dallas as soon as legally possible and at a price to be determined through an independent appraisal;
- The City of Dallas is bound by Chapter 26 of the Texas Parks and Wildlife Code to utilize proceeds from the sale of the park land for the acquisition of additional park land, which will be subject to the approval of the Parks and Recreation Board and the City Council;
- The City of Dallas will work with the community to utilize the proceeds to benefit the Old Trinity Trail project to the extent possible; and
- TxDOT will accommodate the trail crossing in the reconstruction design for IH 35 at Oak Lawn Avenue. TxDOT would also accommodate trail users and minimize interruption of trail activities during the construction of Project Pegasus.

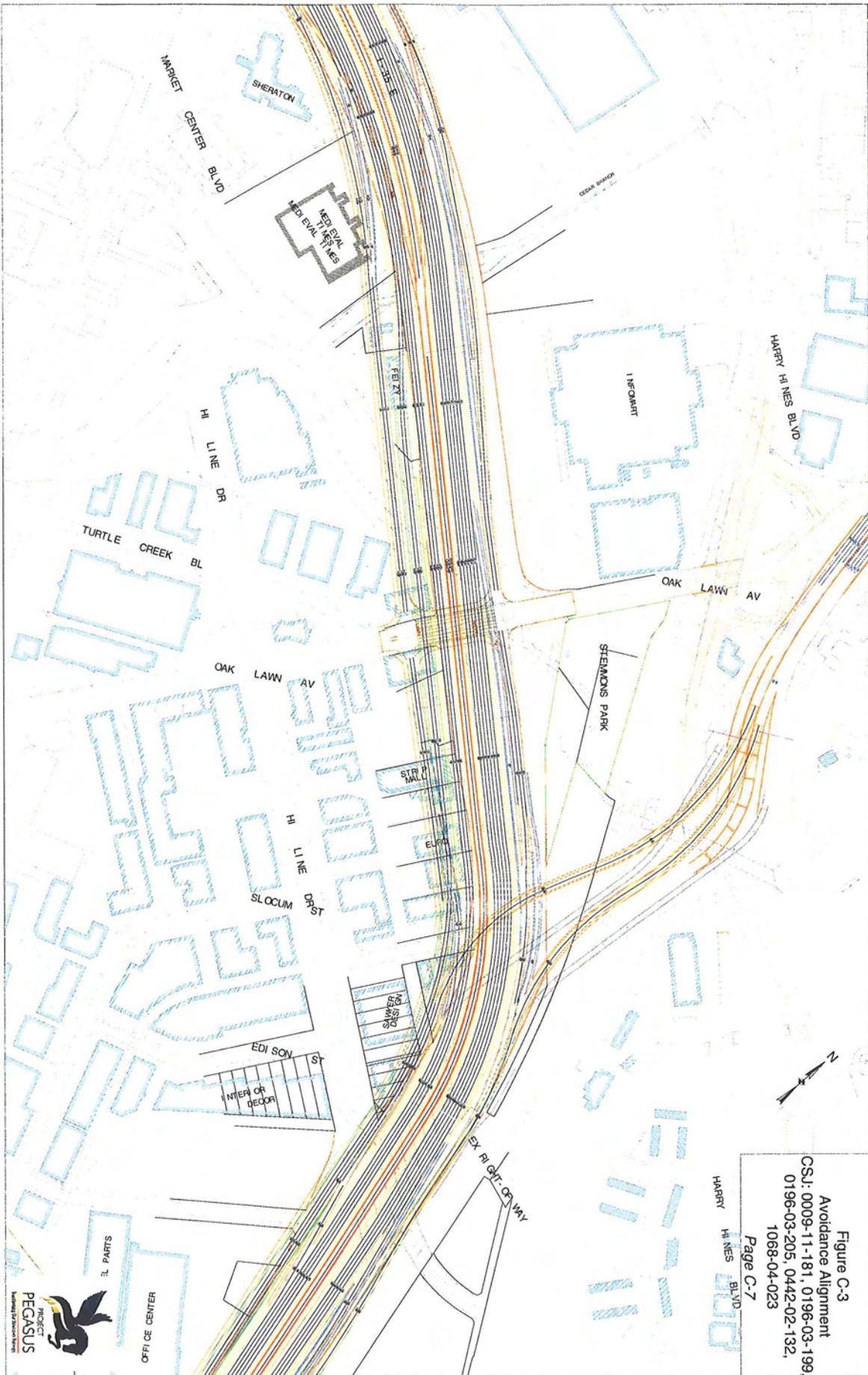


Figure C-3
 Avoidance Alignment
 CSJ: 0009-11-181, 0196-03-199,
 0196-03-205, 0442-02-132,
 1068-04-023
 Page C-7
 HARRY HINES BLVD



7. COORDINATION

Coordination of these issues with all interested parties, which includes TxDOT, the City of Dallas, and members of the public, has been on going throughout the environmental assessment process. In its letter of July 9, 2003, (attached), the City of Dallas notes that Chapter 26 of the Texas Parks and Wildlife Code restricts the use of municipal parkland to park use only. The City Council must advertise and hold a Public Hearing to consider the change of use and taking of parkland. The Public Hearing must document that there is no "prudent and feasible" alternative to the use and taking of the parkland, and that all sufficient planning has occurred such that the use and taking of the property minimizes and mitigates the impact to the remaining parkland. The City also notes that compensation of the taking of park property shall be based on fair market value based on an independent fee appraisal.

FHWA approved the Environmental Assessment and Draft Section 4(f) Evaluation as satisfactory for further processing on December 30, 2004. Sixty-seven members of the public, five of whom registered to speak, attended an Open House and Public Hearing held on February 22, 2005. No elected officials attended the Open House or Public Hearing.

The verbal and written comments received during and after the Public Hearing indicate general public support for the construction of the proposed improvements. Six commenters were in favor of the project, 11 had questions/suggestions about specific design elements, and one posed questions. There were no comments in opposition to the project and no comments regarding the proposed use of Stemmons Park land. TxDOT analyzed and responded to all comments. TxDOT evaluated each question and suggestion regarding modifications to the preliminary engineering design. In every case the design issue/question had been previously identified and investigated and the most feasible engineering solution had already been incorporated into the schematic plan and profile drawings displayed at the Public Hearing. In its Public Hearing Documentation, which included the Public Hearing Summary and Analysis and Public Comment and Response Report, TxDOT a) concluded that no changes to the public hearing schematic were needed, b) certified that all comments had been satisfactorily addressed, and c) recommended the project for approval as a Finding of No Significant Impact (FONSI).

8. CONCLUSION

There are no feasible and prudent alternatives to the use of the Section 4(f) land. The No-Build Alternative fails to achieve the desired improvements in safety and traffic operations and reduced traffic congestion along IH 30 and IH 35E. Alignment alternatives were considered but were severely constrained by the densely developed commercial district and numerous transportation facilities that surround Stemmons Park. The cost, social, economic, and environmental impacts, and community disruption resulting from such alternatives would reach extraordinary magnitudes.

The proposed action includes all possible planning to minimize harm to the Section 4(f) property. The Preferred Alternative employed the use of retaining walls in the vicinity of Stemmons Park in order to minimize the amount of parkland required for the transportation improvements. The agreed-upon parkland mitigation measures would result in the least harm on the park and help to support the City of Dallas' interest in developing the Old Trinity Trail.

Formal coordination with the Headquarters Offices of the Department of Interior (DOI) occurred during circulation of the Environmental Assessment and draft Section 4(f) Evaluation. No comments were received.

Based upon the above considerations, there is no feasible and prudent alternative to the use of land from Stemmons Park. The proposed action includes all possible planning to minimize harm to Stemmons Park resulting from such use.



CITY OF DALLAS

May 9, 2005

Mr. Stan Hall, P.E.
Texas Department of Transportation
P.O. Box 133067
Dallas, Texas 75313-3067

RE: Project Pegasus Section 4(f) Mitigation for Stemmons Park

CSJ: 0009-11-181, 0196-03-199, 0196-03-205, 0442-02-132, 1068-04-116, IH 30 from Sylvan Avenue to IH 45, IH 35E from Eighth Street to Empire Central
Dallas County, Texas

Dear Mr. Hall:

Thank you for your May 3, 2005 letter regarding Project Pegasus' impact to Stemmons Park and the planned Old Trinity Trail. You have indicated that TxDOT will require .7 acres of land from Stemmons Park to accommodate improvements to I-35, known as Project Pegasus. The City of Dallas Park and Recreation Department has worked with TxDOT throughout the planning process for Project Pegasus and agree that there is no prudent and feasible alternative to the taking of .7 acres of land from Pegasus Park. The following is our understanding of how TxDOT and the City will proceed:

- TxDOT would purchase, fee simple based on independent appraisal, .7 acres of land from Stemmons Park. This acquisition would occur as soon as possible upon TxDOT's receipt of a Finding of No Significant Impact from the Federal Highway Administration and a right-of-way "Release to Acquire." TxDOT understands that this acquisition is subject to the public hearing and approval process that the City Council must hold as required by the Texas Parks and Wildlife Code, Chapter 26. The City of Dallas acknowledges the public input received during the planning process for Project Pegasus. The City of Dallas is legally bound to utilize funds from the sale of park land for the acquisition of new park land, and will work with the community to utilize the proceeds from the sale of a portion of Pegasus Plaza to benefit the Old Trinity Trail project as best as possible. Any land acquisition by the City of Dallas will be subject to the approval of the Park and Recreation Board and the City Council.
- TxDOT acknowledges the City's Old Trinity Trail project and will work to accommodate the trail crossing in the reconstruction design for I-35 at Oak Lawn Avenue. Additionally, as the main trail will probably be constructed prior to the TxDOT improvements, TxDOT will work to accommodate trail users and minimize interruption of trail activities during the construction of Project Pegasus.

Please contact me directly at 214-670-4103 should you require additional information or documentation from our office. We look forward to working with TxDOT on Project Pegasus and the Old Trinity Trail project.

Sincerely,

Michael Hellmann, Sr. Park Planner

C: Willis Winters, Leong Lim, Dave Strueber, Pam Monk

RECEIVED

MAY 04 2005

CARTER & BURGESS, INC.
DALLAS

May 3, 2005

Michael Hellman
Senior Park Planner
City of Dallas Park and Recreation Department
1500 Marilla Street, Room 6FN
Dallas, Texas 75201

Reference: Project Pegasus Section 4(f) Mitigation for Stemmons Park

CSJ: 0009-11-181, 0196-03-199, 0196-03-205, 0442-02-132, 1068-04-116
IH 30 from Sylvan Avenue to IH 45, IH 35E from Eighth Street to Empire Central
Dallas County, Texas

Dear Mr. Hellman:

Thank you for helping establish the April 25, 2005 meeting to discuss the Section 4(f) mitigation for the Stemmons Park impacts. As discussed at the meeting, the proposed mitigation for inclusion in the final Section 4(f) Statement for this IH 30/IH 35E reconstruction project (known as Project Pegasus) would be:

- Acquisition of approximately 0.7 acres of land from Stemmons Park by the Texas Department of Transportation (TxDOT) for the proposed freeway improvements to IH 35E. The purchase price would be the fair market value of the land as determined through TxDOT's right-of-way acquisition process.
- The land needed from Stemmons Park would be acquired by TxDOT in a timely manner once the Environmental Assessment for the Project Pegasus receives a Finding of No Significant Impact from the Federal Highway Administration and a right-of-way "Release to Acquire" has been obtained.
- TxDOT acknowledges the Old Trinity Trail Master Plan (dated 2004) and would continue to work with the City of Dallas to accommodate the proposed trail under IH 35E. TxDOT encourages the City to use the proceeds from the sale of the Stemmons Park land to acquire other parkland needed for the development of the Old Trinity Trail.
- During construction of the above captioned project, TxDOT would coordinate with the City of Dallas to maintain pedestrian and bicycle access at the IH 35E and Oak Lawn Boulevard intersection to avoid or minimize interruption of trail activities.

If the City of Dallas concurs with this mitigation proposal, please respond as such in writing at your earliest convenience. Feel free to contact Tim M. Nesbitt, P.E. at 214-320-6245 with any questions.

Sincerely,



H. Stan Hall, P.E.
Advance Project Development Engineer

Carter Burgess

Dallas, Texas 75247-4925
Phone: 214.638.0145
Fax: 214.638.0447
www.c-b.com

December 3, 2003

Mr. Michael Hellman
Senior Park Planner
Park and Recreation Department
Dallas City Hall
1500 Marilla Street, Room 6FN
Dallas, Texas 75201

Reference: IH 30/IH 35E Reconstruction (Project Pegasus)
Control: 0009-11-181, 0196-03-199, 0196-03-205, 0442-02-132, 1068-04-023
Dallas County

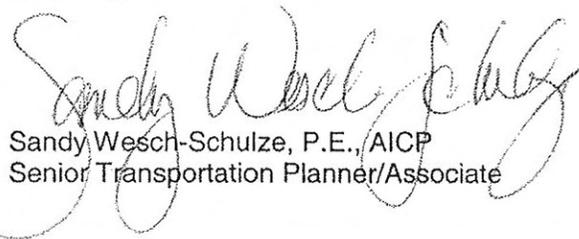
Dear Michael:

Enclosed is the draft Section 4(f) Statement for the reconstruction of IH 30 and IH 35E (Project Pegasus). The document discusses the regulations, proposed action, Section 4(f) resources, impacts, avoidance alternatives, and measure to minimize harm. The project would require TxDOT to acquire approximately 0.7 acres of Stemmons Park. Proposed measures to minimize harm are recommended on page C-6.

We would appreciate your review and comments on the assessment of effects and potential measures to minimize harm. This document is also currently under review by the TxDOT Environmental Affairs Division and Federal Highway Administration and cannot be released publicly until it receives their approval.

Please feel free to contact me at 214-638-0145 with any questions.

Sincerely,



Sandy Wesch-Schulze, P.E., AICP
Senior Transportation Planner/Associate

Enclosure

CC: Tim Nesbitt (TxDOT)
Jim Robertson (Hicks)



CITY OF DALLAS

Ms. Sandy Wesch-Schulze, P.E., AICP
Carter & Burgess
7950 Elmbrook Drive
Dallas, Texas 75247-4925

Re: IH 30/IH 35E Reconstruction (Project Pegasus)
Control: 0009-11-181, 0196-03-199, 0196-03-205, 0442-02-132, 1068-04-023
Dallas County

Dear Sandy:

I am in receipt of your December 3, 2003 letter and the draft Section 4(f) Statement for the reconstruction of IH 30 and IH35 (Project Pegasus). You have requested my review and comments of the proposed measures to minimize harm, specifically as it relates to Stemmons Park.

The "Measures to Minimize Harm" section on page C-6 list several mitigation options. These options appear to be legally acceptable. However, due to the current and on-going planning initiatives related to the Katy and Old Trinity Trails, as indicated in my July 9, 2003 letter, our preference would be the concepts that would provide trail improvements and adjacent land acquisition directly related to Stemmons Park.

Any proposed mitigation measures are subject to the required public hearing and City Council approval, as required by the Texas Parks and Wildlife Code and the Texas Local Government Code.

Please feel free to call me directly at 214-670-4103 should you have any questions.

Sincerely,

Michael C. Hellmann, Sr. Park Planner
Park and Recreation Department
Mhellma@ci.dallas.tx.us

C: Leong Lim

crossing at this location. However, the City will need to review the final recommended taking and intersection design prior to making this determination.

When TXDOT is ready to begin their right-of-way acquisition, I will need a survey and field note description for the area of the taking in order to initiate to required public hearing. All details regarding mitigation and compensation will need to be determined prior to the public hearing. This process takes approximately three months.

Please advise if you require additional information. I will be glad to assist you.

Sincerely,



Michael Hellmann, Sr. Park Planner
Park and Recreation Department
214-670-4103
mhellma@ci.dallas.tx.us

C: Leong Lim
Dave Strueber
Pam Monk



CITY OF DALLAS

July 9, 2003

Ms. Sandy Wesch-Schulze, P.E., AICP
Senior Transportation Planner
Carter & Burgess
7950 Elmbrook Drive
Dallas, Texas 75247-4925

RECEIVED
JUL 16 2003
CARTER & BURGESS, INC.
DALLAS

RE: IH 30/IH 35 Reconstruction (Project Pegasus)
Control: 0009-11-181, 0196-03-199, 0196-03-205
Dallas County
STEMMONS PARK

Dear Ms. Wesch-Schulze:

I am in receipt of your May 30, 2003 letter to Paul Dyer regarding the above referenced project as it pertains to Stemmons Park. You indicate that the Texas Department of Transportation (TXDOT) will require the use and taking of a portion of Stemmons Park.

Stemmons Park was initially acquired in 1973 and is 4.9 acres in size. The property is formally designated municipal park land and is classified as a community park. The current use of the park is primarily open space at this time. However, the park is identified to become a trail head location for the junction of the Katy Trail extension and the proposed Trinity Meanders Trail, which you have become familiar with through the Project Pegasus meetings. We anticipate the future use of this park to be primarily a trail head with possible parking, water fountain, picnic facilities, benches, and perhaps a public art element. A master plan is recommended for this park to determine the exact use and placement of proposed improvements. Funding is programmed for the study and design of the first phase of the Trinity Meanders Trail and could include a concept design for Stemmons Park.

Chapter 26 of the Texas Parks and Wildlife Code restricts the use of municipal park land to park use only. In the event that municipal park land is needed for a non park use, certain standards and reviews must be met. In this case, the City Council must advertise and hold a public hearing to consider the change of use and taking of park land. The public hearing must document that there is no "prudent and feasible" alternative to the use and taking of the park land, and that all sufficient planning has occurred such that the use and taking of the property minimizes and mitigates the impact to the remaining park land. Additionally, compensation for the taking of park property shall be based on fair market value based on an independent fee appraisal.

It has been my impression, from the information that I have received from the Project Pegasus meetings, that the possible required right-of-way taking at Stemmons Park will have minimal impact on the future use of the park as long as the intersection design at Oak Lawn Avenue and Stemmons Freeway appropriately addresses the proposed trail

May 30, 2003

Mr. Paul Dyer
Department Director
Park and Recreation Department
Dallas City Hall
1500 Marilla Street, Room 6FN
Dallas, Texas 75201

ATTN: Michael Hellman

Reference: IH 30/IH 35E Reconstruction (Project Pegasus)
Control: 0009-11-181, 0196-03-199, 0196-03-205
Dallas County

Dear Mr. Dyer:

Carter & Burgess, Inc. has been hired by the Texas Department of Transportation (TxDOT) to prepare a schematic and Environmental Assessment for the reconstruction of IH 30 and IH 35E (Project Pegasus). This project is intended to totally re-design and restore mobility to the two major Interstate Highways directly serving downtown Dallas. The study covers IH 30 from Sylvan Avenue to IH 45 and IH 35E from Eighth Street to Empire Central Drive (north of SH 183).

The improvements and reconstruction of IH 35E would require a small amount of right-of-way from a public park owned by the City of Dallas: Stemmons Park, located immediately east of the interchange at Oak Lawn Avenue and the Stemmons Freeway. The park is approximately 4.3 acres and the project would require approximately 0.66 acres to widen the freeway, provide access to Oak Lawn, and provide a continuous frontage road along IH 35E.

Because of the potential taking of right-of-way from a public park, this alternative triggers the application of Section 4(f) of the Department of Transportation Act of 1966 [Title 49, U.S.C., Section 1653(f) as amended and codified in 49 U.S.C., Section 303 in 1983]. In January of 1983, as part of an overall recodification of the DOT Act, Section 4(f) was amended and codified in 49 U.S.C., Section 303 [Section 4(f) Policy Paper-FHWA, 1987; 1989], which states:

"The Secretary may approve a transportation program or project requiring use of publicly owned land of a public park, recreation area, or wildlife/waterfowl refuge, or land of a historic site of National, State, or local significance (as determined by the officials having jurisdiction over the park, recreation area, refuge, or site) only if 1) there is no prudent alternative to such use, and 2) the project includes all possible planning to minimize harm..."

In addition, Texas Parks and Wildlife Code, Section 26, applies which requires a public hearing for the change of use of park land. It is also our understanding that the Dallas City Council will have to hold a public hearing for determination that the use and taking is the "most prudent and feasible alternative." Per state law, the acquisition of park land must be mitigated with fair market compensation.

Our assumptions associated with the park in question are:

- Land Ownership - The City of Dallas owns the land located immediately southeast of the interchange at Oak Lawn Avenue and the Stemmons Freeway.
- Zoning and Land Use – The land is zoned as Park and Open Space.
- Official Designation – The land is officially designated as a park by the City of Dallas.
- Existing Trails – There are no existing recreational trails in the area of the park.
- Proposed Trails – The City of Dallas is proposing a trail through Stemmons Park connecting from the Katy Trail to the Proposed Trinity Trail. This trail would be within the old river channel and under the IH 35E frontage roads, IH 35E mainlanes, and Oak Lawn.

Please advise if the above assumptions are correct and feel free to correct or expand upon any of the information.

The City would also be of tremendous assistance to us in establishing and documenting the primary use of the park, potential project impacts, avoidance alternatives and possible mitigation measures. Specifically, we would appreciate any assistance you can provide in developing the following information:

- Function of or available activities on the property;
- Description and location of any existing and planned park or recreational facilities in the vicinity;
- Access and usage;
- Relationship to other similarly used lands in the vicinity;
- Applicable clauses affecting the ownership, such as leases, easements, covenants, restrictions, or conditions, including forfeiture; and
- Unusual characteristics that either reduce or enhance the value of all or part of the property.

Because Stemmons Park is officially designated park, the official(s) having jurisdiction should determine whether or not the land in question is of local significance for its intended purpose (park, recreation, or wildlife and waterfowl refuge) "Significance," as defined by the Federal Highway Administration, means that in comparing the availability and function of the park, recreation, or wildlife and waterfowl refuge with the objectives of the community, the land in question plays an important role in meeting those objectives.

Please check below where the City of Dallas has determined the existing or planned use of Stemmons Park is SIGNIFICANT for the following reason(s):

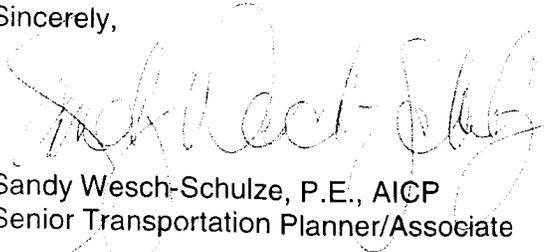
- _____ Park
- _____ Recreation Area
- _____ Wildlife Refuge
- _____ Waterfowl Refuge

Mr. Dyer
May 30, 2003
Page 3

We would like to arrange a meeting with you and your staff to obtain more detailed information, discuss potential project impacts, and possible ways to avoid or minimize them.

Thank you for your assistance. Your timely response will assist us in advancing the completion of the EA for Project Pegasus. Please feel free to contact me at 214-638-0145 with any questions or comments about this process.

Sincerely,



Sandy Wesch-Schulze, P.E., AICP
Senior Transportation Planner/Associate

CC: Tim Nesbitt (TxDOT)
Mike Hellman (City of Dallas)
Jim Robertson (Hicks)