

St. Joseph County provides the following responses to the Ecological Advocacy Committee's (EAC) concerns and recommendations, dated July 16, 2020, regarding impacts to Ponader Park by the proposed Douglas Road Reconstruction Project, Des 1400639. The County is committed to working with the EAC and City of South Bend Venues Parks and Arts (VPA) to reach reasonable resolutions within the parameters permitted by INDOT, permit regulatory agencies, and the project schedule.

1. Loss of parkland without remuneration

The City will receive compensation for the right of way being acquired. Because federal funds are being used for construction and right of way acquisition, the appraisal was completed by an independent INDOT prequalified appraiser and according to INDOT's appraising guidelines and the FHWA Uniform Act. As required, a second appraiser also reviewed the appraisal prior to the County's approval. The offer presented to the City totaled \$4,975 and includes \$3,850 for permanent right of way acquisition (0.399 ac.) and \$1,125 for temporary right of way (0.944 ac) for purposes of constructing the City's sanitary lift station and tree plantings in Ponader Park. The County is also not opposed to considering providing additional compensation due to the ecological impact on Ponader Park as is more specifically described in the proposed Memorandum of Understanding.

2. Lift Station Location

- a. The existing City owned lift station is 180 feet east of Juday Creek, on the south side of Douglas Road.
- b. The proposed lift station relocation is to be shifted to the east and south of the existing location in order to be outside of the new Douglas Road reconstruction limits and avoid direct impact to Juday Creek. This proposed location was determined based on the following:
 - i. It is as close to the existing location and minimizes additional relocation of existing sanitary infrastructure,
 - ii. Maintains a direct exit route for the force main under Juday Creek,
 - iii. The lift station must be placed on the east side of Juday Creek for the gravity sewer to function properly,
 - iv. City of South Bend already has ownership of the proposed site,
 - v. Relocating to the north side of Douglas Road would have required a "total take" of one of the residential properties, as well as relocation of the residents.

3. Damage from Ecological Disturbances...

a. Invasive Vegetation

The County will add a specification in the construction documents to require washing of construction equipment before and after entering specific zones. Specifications can also be added to restrict heavy equipment within the area defined by the construction limits of the project thereby limiting the potential spread of invasive species.

b. Swale

The contractor will be required to minimize impacts to Ponader Park and only disturb areas as necessary for construction of the proposed improvements and restoration. Any disturbed area of the existing swale will be reconstructed to maintain the general purpose and drainage pattern. The area of the swale that flows into Juday Creek will be directly impacted by the

roadway widening and bridge replacement, therefore a reconstructed swale connection to Juday Creek is required and proposed.

c. Topsoil

The County will add special provisions to the construction documents that require the contractor to preserve and re-use topsoil in the area of the existing and reconstructed swale. The contractor may also be required to remove and save the plants within the swale, however setting aside an additional area to preserve the plants during construction would essentially result in additional impacted area in Ponader Park. In lieu of preserving the existing vegetation and attempting to transplant it into the new swale, please provide specific seed mixtures or plantings that the County will incorporate into the final planting plan and construction documents to replace the vegetation.

4. Tree Mitigation: Selection and Placement...

The IDNR has specific guidelines regarding location, spacing, amounts, and types of trees and shrubs required to satisfy permit requirements. The planting plan was developed with those guidelines in mind. Currently, coordination of the planting plan can be done to accommodate desired plantings requested by the EAC, however any such coordination will need to be handled timely and within the IDNR's planting guidelines.

The contractor will be required to maintain the tree plantings in accordance with INDOT's standard specifications. This includes plantings to be done during the planting season (Oct 1 – Apr 15) and maintenance through the fall inspection. Additionally, IDNR permits require a 3- year monitoring period and at least 75% of trees and shrubs must be surviving at the end of the monitoring period.

Upon further review of the project impacts and required tree plantings, DLZ and the County were able to reduce the overall number of plantings required and increase plantings at other locations in the project not located in Ponader Park such that the previously proposed plantings of concern, in the swale on the west side of Juday Creek, can be eliminated. An amended planting plan reflecting this, as well as the preferred plant species, in coordination with the EAC and City Forrester, will be submitted to the IDNR for permit approval.

5. Wetland Mitigation Credits

The US Army Corps of Engineers prefers wetland mitigation to be performed by purchasing credits from the IDNR through the "In Lieu Fee" program. Additionally, the IDNR has indicated they do not make commitments to satisfy the mitigation credits at any specific location, only that it will be done within the St. Joseph River Service Area. Furthermore, due to federal funds contributing toward this project (80% funding), any additional area of impact, such as a mitigation site, would require an updated environmental document. The remaining timeline for this project, without the risk of losing necessary funding, does not allow for the environmental document to be amended.

6. Impact on Juday Creek

The creek bed for Juday Creek, at the Douglas Road crossing, will not be impacted by the bridge replacement and the banks will be widened under the bridge to match the existing banks outside the structure. For animal crossing, the final condition of the proposed structure will be the same or

better than the existing conditions. DLZ has coordinated extensively with the IDNR regarding stream impacts and impacts within the floodway. The IDNR has provided permit approval. The County has also coordinated with the Juday Creek Task Force regarding the Project and after multiple discussions, no objections have been raised by the same.

7. After Construction Impacts

Per the IDNR Construction in a Floodway permit, a 3-year monitoring period for the trees and shrubs and 75% survival rate is required. This will be incorporated into the contractor requirements.

Response to EAC's Specific Conclusions and Recommendations:

1. Insist that the County's project engineers and consultants, with input from the VPA, thoroughly and carefully evaluate the location of the lift station.

Response: Reasons for the proposed location of the lift station are explained above. At this stage of project development, alternative locations cannot be considered without substantial delay of the project and potential loss of significant and necessary funding, as well as prolong the replacement of two structurally deficient bridges.

2. Require the county and their consultant to establish strict contractor guidelines to mitigate ecological damage within the rights of way including,
 - a. Protection of existing swales and topsoils.

Response: Construction documents require the contractor to minimize impacts to wetlands and stay within the construction limits, as identified on the plans. This provision can be expanded to include the swale areas in Ponader Park. Any impacts to the existing swale in Ponader Park will be reconstructed to maintain the filtration purpose and flow pattern of the existing swale.

Topsoil can be required to be stockpiled and re-used in the reconstructed swale areas.

- b. Consider using a "save and replace" method, especially in areas near the swales.

Response: A save and replace method can be used for vegetation, but as previously mentioned, this would require an additional area of Ponader Park to be impacted in order to preserve the vegetation during construction. Alternatively, specific seed mixtures or plantings may be included to re-establish desired vegetation in the reconstructed swale. The County can coordinate the seed mixture with the VPA and its representatives.

- c. Minimizing the spread of invasive vegetation by requiring thorough washing of construction equipment before and after entering the rights of way zones.

Response: Washing of equipment can be required of the contractor for certain specified zones. The VPA/EAC will need to provide clear areas where this is necessary such that they can be described in the construction documents.

3. Require that the City Forrester and the EAC approve species selection and placement of mitigated trees and shrubs within the temporary easement.

Response: Coordination of the planting plan, including species selection and placement, can be done with the City Forrester and EAC, however the final plan must be in accordance with the IDNR's requirements to fulfill the Construction in a Floodway Permit as part of this project. Any coordination must be done in a timely manner, so as to not delay project development and risk missing the December 9, 2020 letting date or loss of funding. Planting plan recommendations must be provided by August 7, 2020 for DLZ to update construction documents and coordinate with IDNR.

4. VPA should stay in close contact with the Indiana Department of Natural Resources for opportunities to use Ponader's wetland mitigation credits for other VPA projects.

Response: The City can coordinate with Brad Baldwin (IDNR) to offer potential sites for wetland mitigation credits to be fulfilled. The IDNR has offered no commitment that credits required for the Douglas Road Reconstruction project will be fulfilled at a site within the City of South Bend.

5. Before implementation, the EAC would like to review and advise on construction design that has the potential of impacting Ponader Park or Juday Creek.

Response: Additional comments and concerns from the VPA/EAC beyond what is already expressed in these recommendations can be given consideration, if provided in a timely manner. These comments will need to be provided by August 7, 2020 in order to allow the County and DLZ to review and determine feasibility to include in the construction documents. Considerations must be consistent with INDOT and regulatory agency (IDNR, IDEM, USACOE) requirements. Requests for substantial design revisions or considerations that would require additional right of way or revisions to permits may jeopardize the ability to meet the December 9, 2020 letting date and risk loss of funding. Therefore, the project schedule must be considered when evaluating requested design revisions.

6. Require St. Joseph County to warranty the tree and shrub plantings and provide ongoing support with mitigating invasive species brought about by the construction process.

Response: Per IDNR permit requirements, plantings have a 3-year monitoring/replacement period.

7. As soon as possible, VPA and EAC should create a comprehensive, long-term natural resource management plan for Ponader Park.

Response: Recommendation for the VPA, no direct response needed regarding the Douglas Rd project.