



POWER ENGINEERS, INC.
6530 W. CAMPUS OVAL
SUITE 200
NEW ALBANY, OH 43054 USA

PHONE 614-502-3900

April 16, 2021

Allison R. Wheaton
American Electric Power
8600 Smith's Mill Road
New Albany, OH 43054

Subject: Muessel-Colfax 69 kV Underground Transmission Line
City of South Bend, St. Joseph County, Indiana
Tree Clearing Plan – Version 2

Dear Ms. Wheaton:

This letter presents a summary of the results of the tree inventory survey conducted by POWER Engineers, Inc. (POWER) as well as the clearing plan for areas to be disturbed by construction of AEP Indiana Michigan Transmission Company's (AEP) proposed Muessel-Colfax 69 kV Underground Transmission Project, Phase II and Phase III (Project) located in the City of South Bend, Indiana. AEP is planning to install approximately 1.22 miles of underground 69 kilovolt (kV) transmission line between West Angela Boulevard and East LaSalle Avenue during Phase II, and an additional 0.15 mile of underground 69 kV line from East LaSalle Avenue into Colfax Substation during Phase III. This Project will improve power grid reliability in the downtown area.

AEP retained POWER to identify and document tree species within the proposed construction areas required for the Project. Field reconnaissance focused on the proposed work areas defined in the original Muessel-Colfax Stormwater Pollution Prevention Plan (SWPPP). The Project SWPPP is now being revised to Version 4 to include the Horizontal Directional Drill installation of conduits under Michigan Street/Business 31 and Leeper Avenue. The Tree Clearing Plan has also been updated for these additional work areas and changes. The survey data for trees on City property within the revised construction footprint are described below.

Tree Inventory Methodology

POWER biologists identified the species and mapped the location of existing trees with a diameter at breast height (dbh) of 5.0 inches or greater within properties owned by the City. The field survey work was completed on April 1 and 2, 2019. Staff from Kokosing Industrial Inc. collected additional information about trees south of Pokagon Street on April 13, 2021. A hand-held Trimble Global Positioning System (GPS) unit capable of submeter accuracy was used to map tree locations and document tree species and dbh, with the exception of the trees south of Pokagon Street where locations were estimated. The tree and photograph locations are shown in Attachment A, and comprehensive results can be found below in Table 1. Representative photographs documenting existing vegetation and site conditions can be found in Attachment B.

Tree Inventory Results

The tree inventory resulted in the identification of 58 trees, including 53 trees of 5.0 inches dbh or greater consisting of 14 different species located on City and City Parks property in Phase II and five trees of a single species in Phase III. POWER biologists identified 27 trees with a dbh between 5 and 10 inches; 21 trees with a dbh greater than 10 inches; and five trees with dbh over 20 inches within City property in Phase II (Attachment A). Another five Norway maple trees with a dbh between 5 and 10 inches occur in the area north of East LaSalle Avenue on Phase III. A number of saplings and shrubs also occurred in areas that were not mowed or maintained along the multiuse trail, but it is expected that natural recruitment will replace the smaller woody vegetation, and they were not part of the tree canopy cover in these areas. Additionally, the tree clearing areas north of East North Shore Road were typically overgrown with shrubby species, consisting largely of invasive bush honeysuckles (*Lonicera maackii*, and *L. tatarica*). Because the larger shrubs were mostly invasive species, they were not included in the inventory, even when their dbh was 5 inches or greater. Land use in the tree clearing areas south of East North Shore Road was typically landscaped commercial or park properties, including ornamental or landscape shrub and tree species greater than 5.0-inch dbh that are included in this report. Topography in the review area varied between flat areas adjacent to residential and commercial lawns to moderate slopes adjacent to the St. Joseph River and East Race Waterway. See Table 1 below for detailed information regarding tree species and dbh observed.

TABLE 1 TREE SURVEY RESULTS ON CITY PROPERTY

TREE ID NUMBER	TREE SPECIES	5" - 10" DBH	11" – 20" DBH ²	21" – 30" DBH	31" – 45" DBH	TOTAL
PHASE II						
A	American Elm	1	-	-	-	1
B	Black Locust	3	3	-	1	7
C	Box Elder ¹	1	-	-	-	1
D	Callery Pear ¹	2	-	-	-	2
E	Eastern Cottonwood ¹	-	3	-	-	3
F	Hackberry	5	1	-	-	6
G	Hawthorn sp. (landscaping)	6	-	-	-	6
H	Norway Maple	-	-	1	-	1
I	Norway Spruce ¹	3	8	-	-	11
J	River Birch ¹	-	1	2	-	3
K	Spruce sp. ¹	2	3	-	-	5
L	White Ash	4	2	1	-	7
	Total Phase II	27	21	4	1	53
PHASE III						
H	Norway Maple	-	5	-	-	5
	Total Phase II/III	27	26	4	1	58

¹ Species listed in the City of South Bend Code of Ordinances Sec. 19-13 as prohibited within the limits of public streets.

Tree Management

AEP will work with the City to avoid tree removal where possible. The 58 trees identified on City property, 53 within Phase II and five (5) trees within Phase III, represent the maximum number of trees of 5.0-inch dbh or greater which may require removal. AEP will work with their construction contractor and the City to remove only those trees that will interfere with the long-term operation of the underground transmission line and associated infrastructure or those that must be removed to allow safe construction access to build the Project. Once the trees are flagged for removal, a bat biologist and forester will review the trees to be removed and determine if bats may be using the trees as summer roost habitat. For potential roost habitat, if no bats are present or using the trees as habitat, the trees must be removed within 24 hours, and will be cleared by AEP Forestry after the bat biologists provide approval. Other trees that don't qualify as potential roost habitat will be removed by AEP Forestry once the Project is approved. The timing of tree inspections and clearing will be in late April or early May 2021 to allow construction to proceed on Phase II.

The City will inspect the trees marked for removal and decide which stumps will be ground below grade. AEP does not as a general practice remove stumps and roots from below grade for their transmission line projects and minimizes earth disturbance wherever feasible. Grinding the stumps to just below grade where possible will reduce the hazard for construction activities and future recreational use of the multi-use trail, as well as minimize the potential for erosion and sediment release. Only the trees and woody vegetation in the 10-foot-wide strip over the centerline will be permanently cleared (these areas are mostly within the paved multiuse trail), and the rest of the areas will be temporarily cleared for construction activities. All cut trees, brush, and wood chip piles will be removed from the Project area and disposed of properly at an approved upland offsite location.

Tree clearing on the west side of the multi-use trail where it parallels the St. Joseph River should be minimized, and no stumps should be removed in this area, as the tree roots systems are important to the integrity of the riverbank. Likewise, no stumps should be removed from the areas that are adjacent to the retaining walls on both sides of the East Race Waterway, as the removal of stumps and roots may disturb or compromise the retaining walls.

AEP will adhere to the Project's Memorandum of Understanding with the City and pay the City for removal of each tree of 5-inch diameter or greater which will cover tree replacement costs. Once construction is complete and trees are replanted, the post-construction conditions will be enhanced due to planting of desirable tree species and removal of invasive or undesirable tree and shrub species.

Summary

This report summarizes the results of the tree survey and plans for tree removal for the Project areas located on property owned by the City of South Bend. POWER biologists identified and documented 63 trees on City property which meet the criteria of greater than 5.0-inch dbh for Phase II and Phase III areas. Additionally, a number of shrubs and saplings were observed in the review area that would require clearing for temporary construction access, but most of these are invasive species.

Erosion control best management practices will be implemented according to the approved SWPPP to minimize impacts to wetlands, streams, and drainage areas that may result from any required tree clearing activities. SWPPP controls should stay in place until the areas have been revegetated or otherwise stabilized and approved by the AEP TCR or Field Environmental Inspector. Restoration of

herbaceous vegetation within the temporary workspaces and other disturbed areas will be performed in accordance with the approved Project SWPPP. Questions about best practices during tree removal or SWPPP implementation should be directed to the AEP WERS Environmental Lead or TCR.

If you have any questions or concerns about the tree inventory please contact Rod Ginter at rod.ginter@powereng.com or (608) 826-7911.

Sincerely,

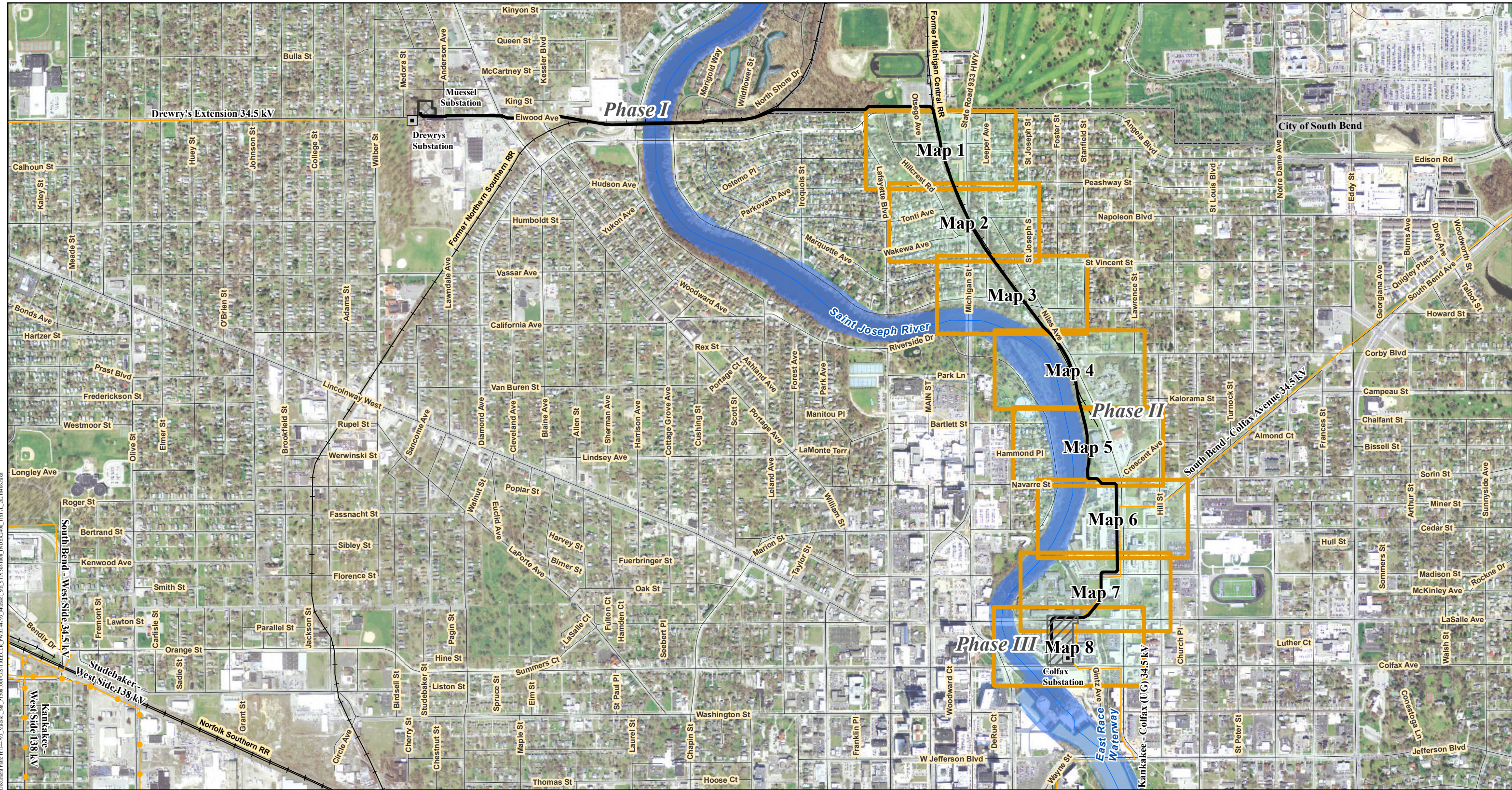


Rod Ginter
Senior Biologist

Attachments: Attachment A – Map Book of Tree Survey Results
Attachment B – Photographs
Attachment C – City of South Bend Code of Ordinance Section 19: Trees & Vegetation

AEP Muesel-Colfax Tree Clearing Plan
April 16, 2021

Attachment A – Map Book of Tree Survey Results



<ul style="list-style-type: none"> ■ Existing Substation (AEP) — Proposed Transmission Line — Existing AEP Transmission Line (69 kV or lower) — Existing AEP Transmission Line (115 - 230 kV) ⊠ Proposed Substation — Street — Railroads — Perennial Stream (NHD) — Lake/Pond (NHD) 	<ul style="list-style-type: none"> 🐾 Floodplain (DFIRM) 🌊 Floodway (DFIRM) ▨ Phase III Area ▭ City Limit 📄 Map Tile
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1" = 1,000'

0 1,000

Feet

State of Indiana
St. Joseph County
Portage Township

NAD 1983 StatePlane Indiana East FIPS 1301 Feet
Projection: Transverse Mercator
Datum: North American 1983

Date: 4/15/2021
Author: DHB
Prj: Muessel Station, 144793, P15081001, Colfax, IN

INDEX of
8 Map Tiles

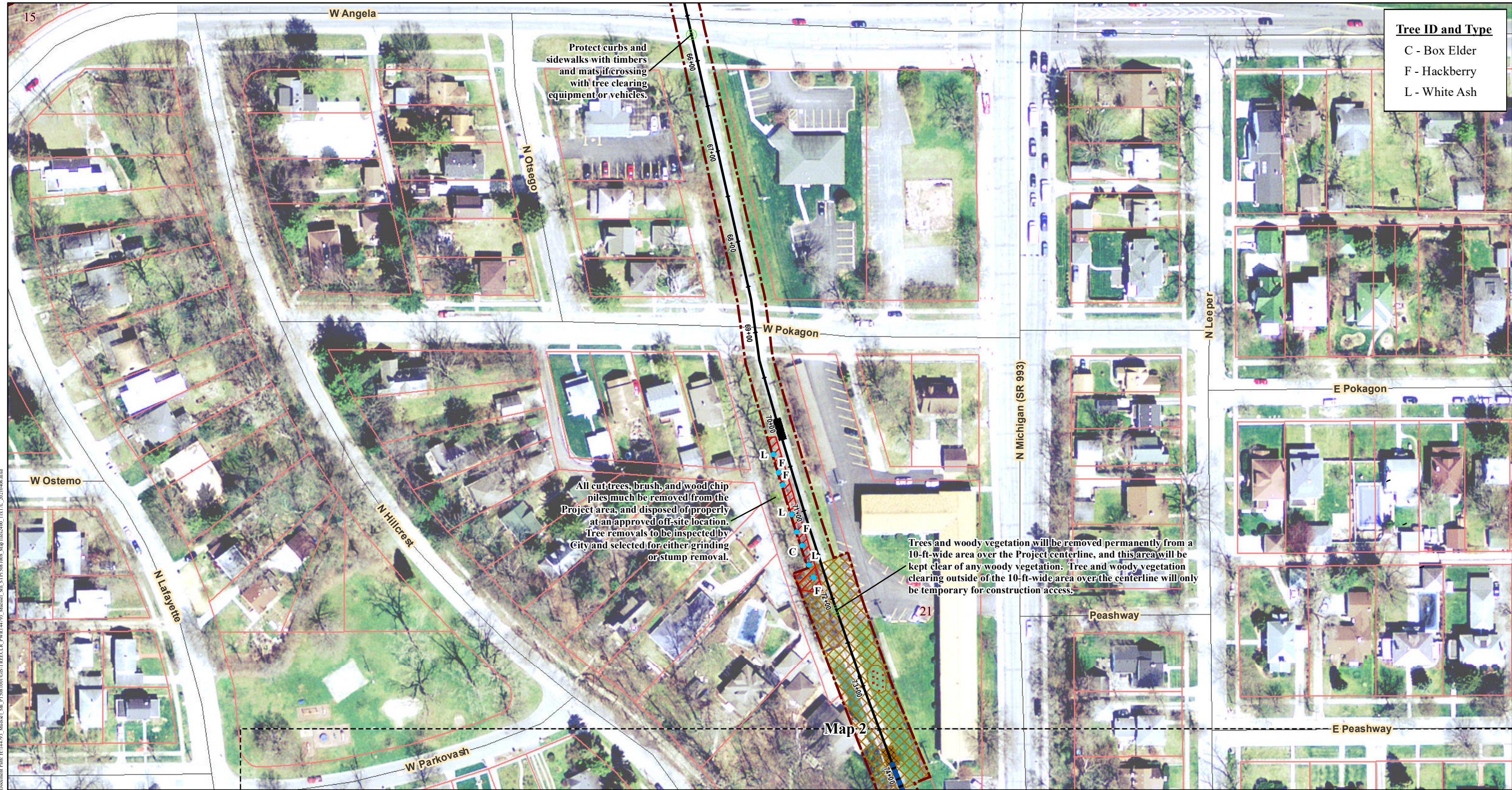
Muessel-Colfax 69kV U/G Project
Phase II
Exhibit D - City Tree Clearing

INDIANA MICHIGAN POWER

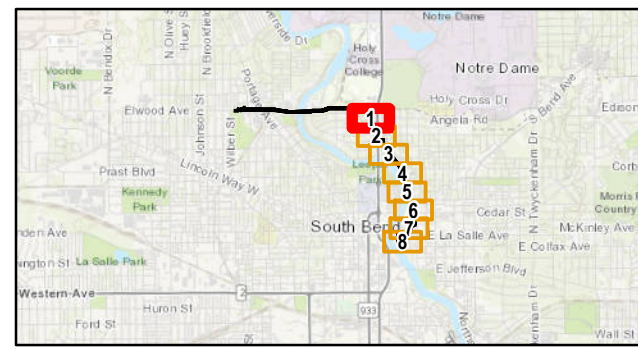
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Tree ID and Type
 C - Box Elder
 F - Hackberry
 L - White Ash



Proposed Transmission Line	Vault
Horizontal Directional Drill Area	Parcel Boundary
Project Work Area	Additional Tree - Not Mapped in Original Survey (DBH >=5)
Street	Tree Survey Area for License Area (City Owned)
Tree Clearing Note	
Bore Slurry Pit	
HDD Work Area - Construction Matting	
Spoils	

1" = 100'

0 50 100
Feet

N
W E
S

State of Indiana
 St. Joseph County
 Portage Township

NAD 1983 StatePlane Indiana East FIPS 1301 Feet
 Projection: Transverse Mercator
 Datum: North American 1983

Date: 4/15/2021
 Author: DHB
 Proj: Muessel Station, 144793, P15081001, Colfax, IN

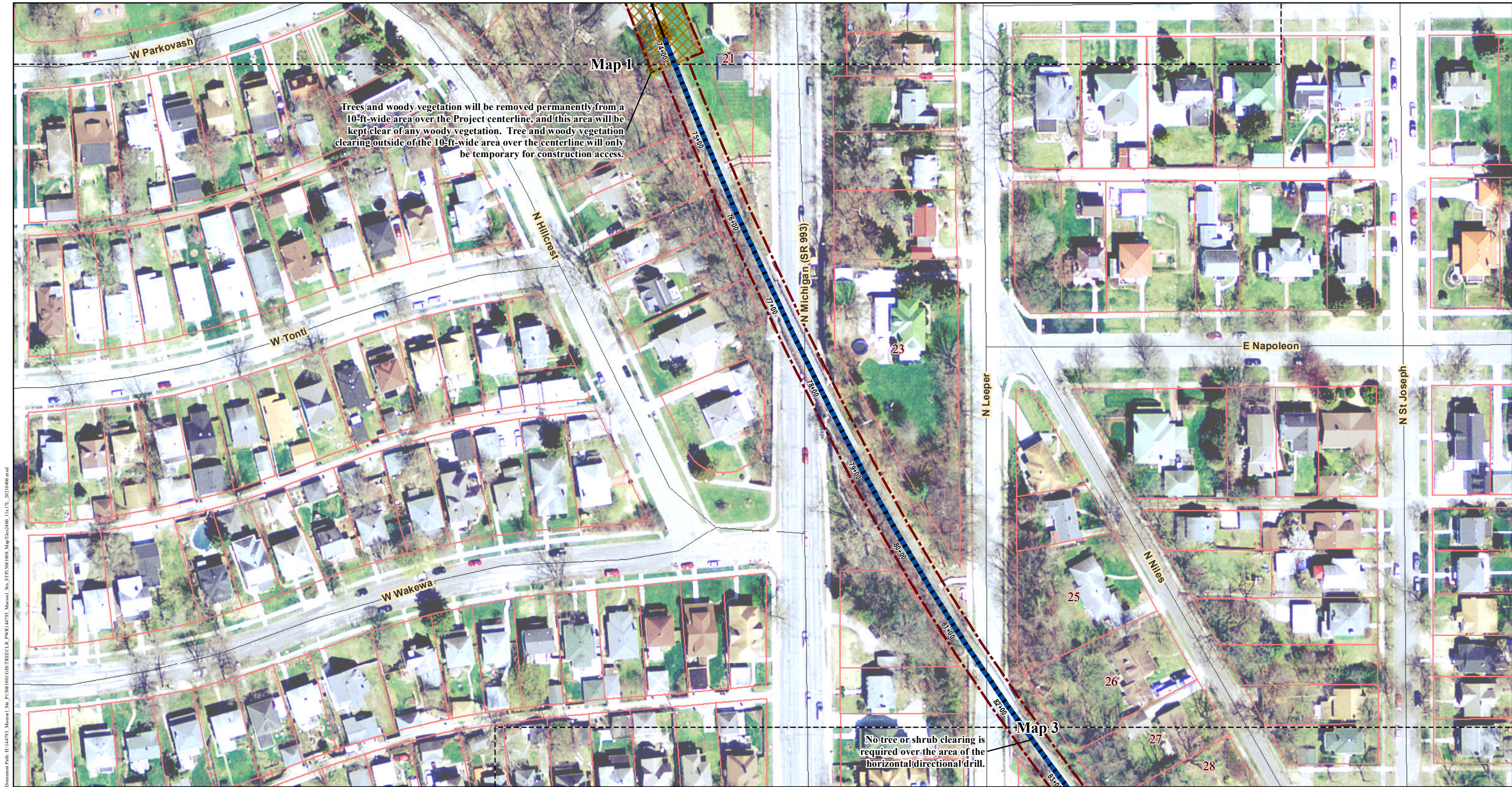
Map 1 of 8

Muessel-Colfax 69kV U/G Project
 Phase II
 Exhibit D - City Tree Clearing

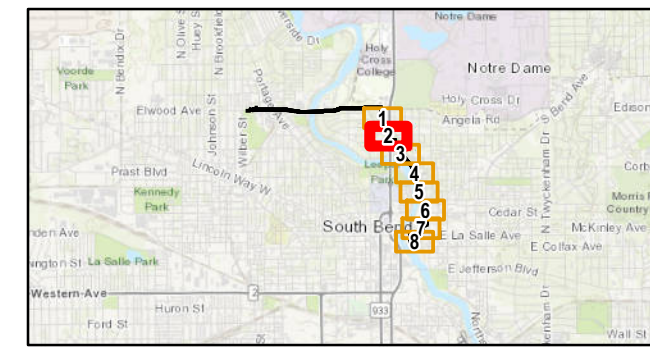
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- Proposed Transmission Line
- Horizontal Directional Drill Area
- Project Work Area
- Street
- Tree Clearing Note
- Bore Slurry Pit
- HDD Work Area - Construction Matting
- Parcel Boundary

1" = 100'

0 50 100
Feet

State of Indiana
St. Joseph County
Portage Township

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Projection: Transverse Mercator
Datum: North American 1983

Date: 4/15/2021 Map 2 of 8

Author: DHB

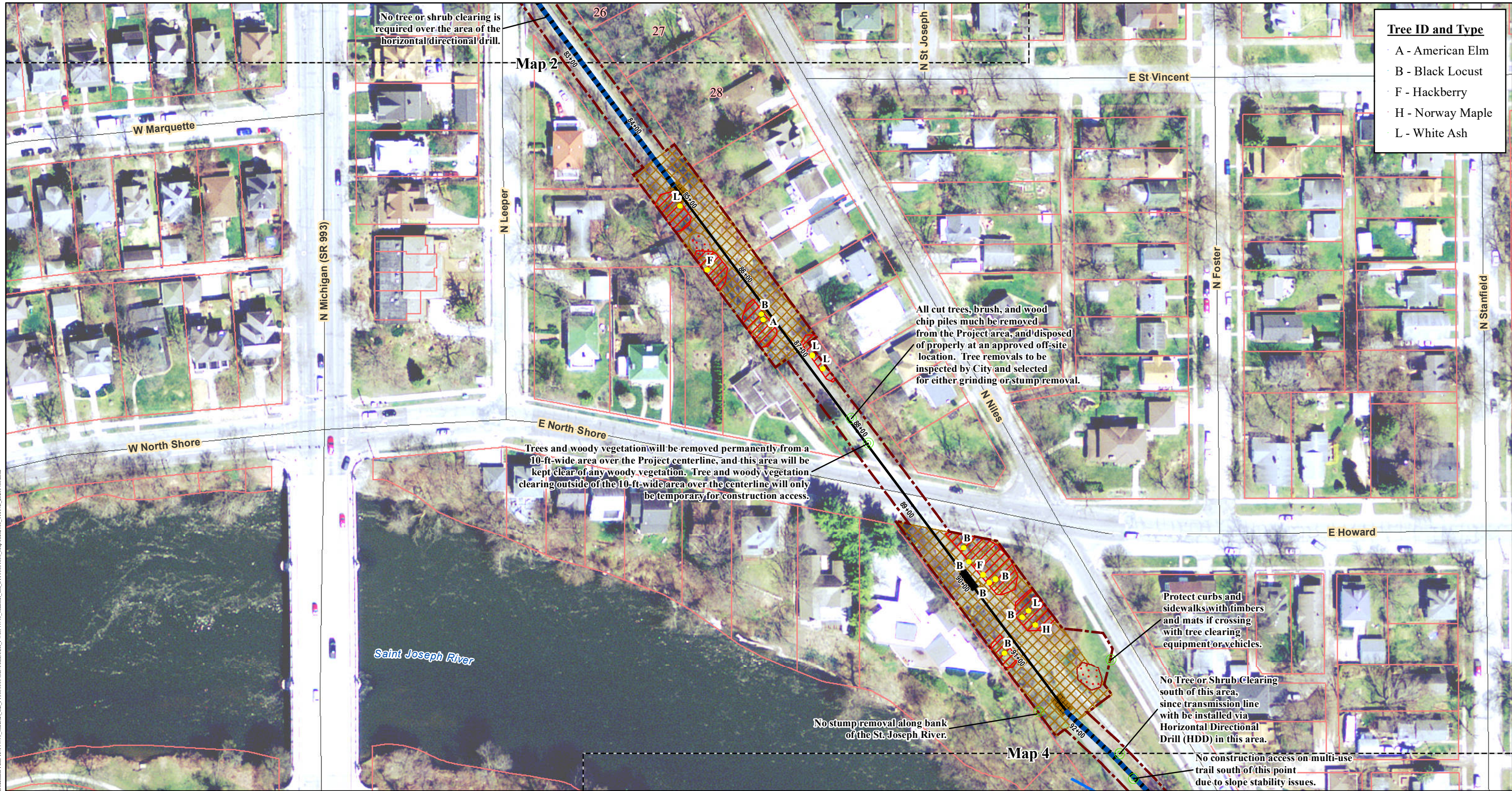
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Muessel-Colfax 69kV U/G Project
Phase II
Exhibit D - City Tree Clearing

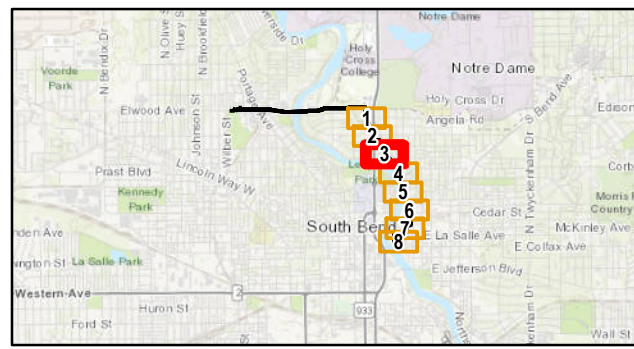
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Tree ID and Type	
A	American Elm
B	Black Locust
F	Hackberry
H	Norway Maple
L	White Ash



<ul style="list-style-type: none"> Proposed Transmission Line Horizontal Directional Drill Area Project Work Area Street Tree Clearing Note Bore Slurry Pit HDD Work Area - Construction Matting Spoils 	<ul style="list-style-type: none"> Vault Delineated Perennial Stream/Bank Parcel Boundary Surveyed Tree (DBH >=5) Tree Survey Area for License Area (City Owned) 	<p>1" = 100'</p> <p>0 50 100</p> <p>Feet</p> <p>N W E S</p>
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State of Indiana
St. Joseph County
Portage Township

NAD 1983 StatePlane Indiana East FIPS 1301 Feet
Projection: Transverse Mercator
Datum: North American 1983

Date: 4/15/2021
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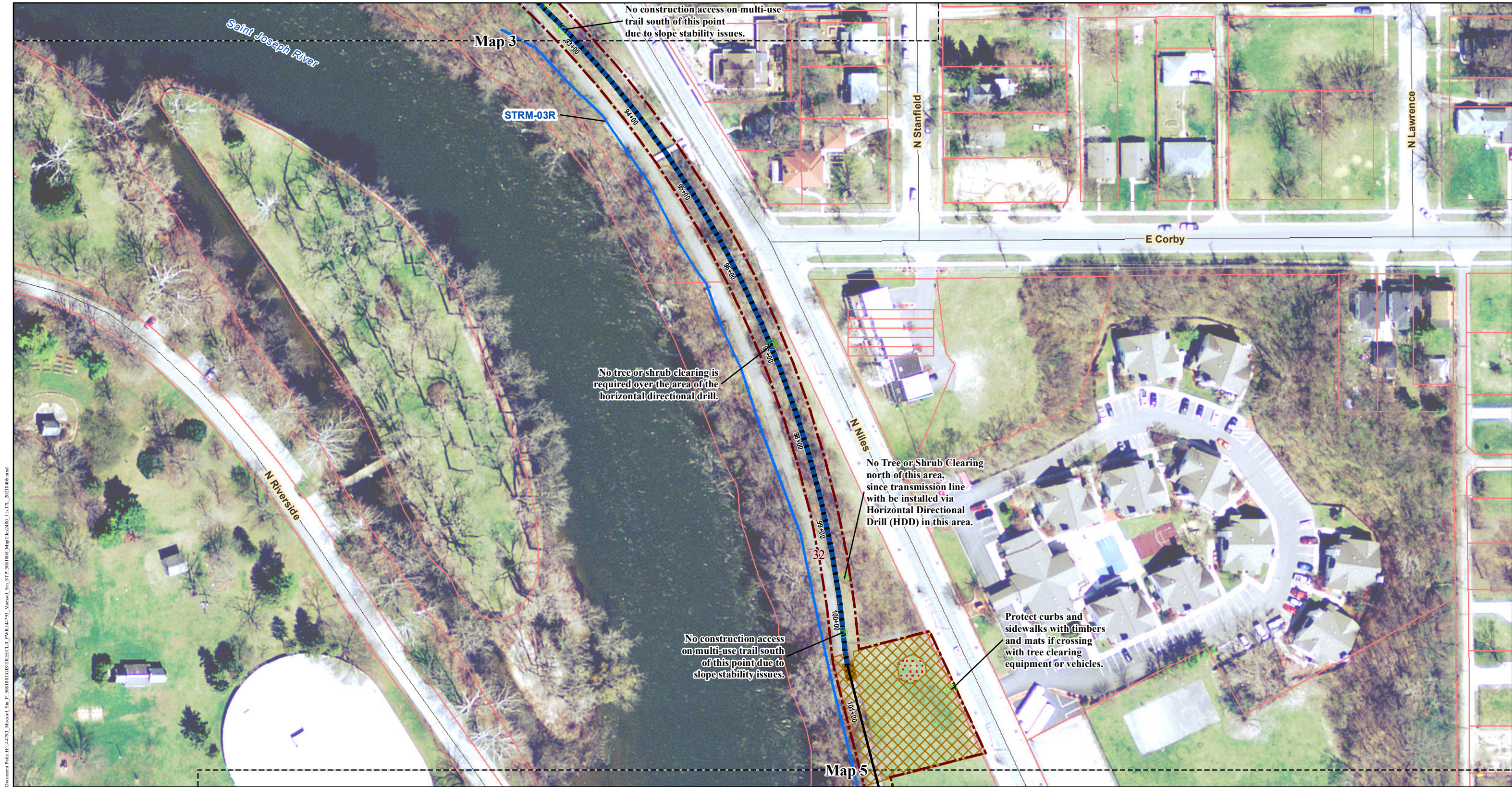
Map 3 of 8

Muessel-Colfax 69kV U/G Project
Phase II
Exhibit D - City Tree Clearing

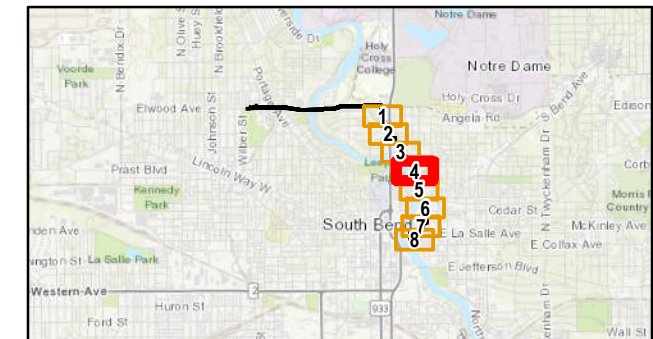
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Proposed Transmission Line	Delineated Perennial Stream/Bank
Horizontal Directional Drill Area	Parcel Boundary
Project Work Area	Street
Tree Clearing Note	Bore Slurry Pit
HDD Work Area - Construction Matting	Spoils

1" = 100'

0 50 100
Feet

State of Indiana
St. Joseph County
Portage Township

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Projection: Transverse Mercator
Datum: North American 1983

Date: 4/15/2021 Map 4 of 8

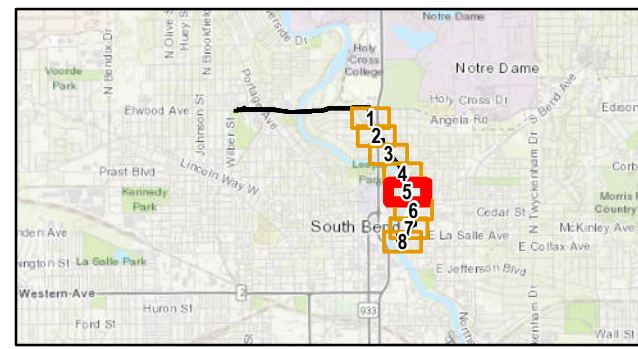
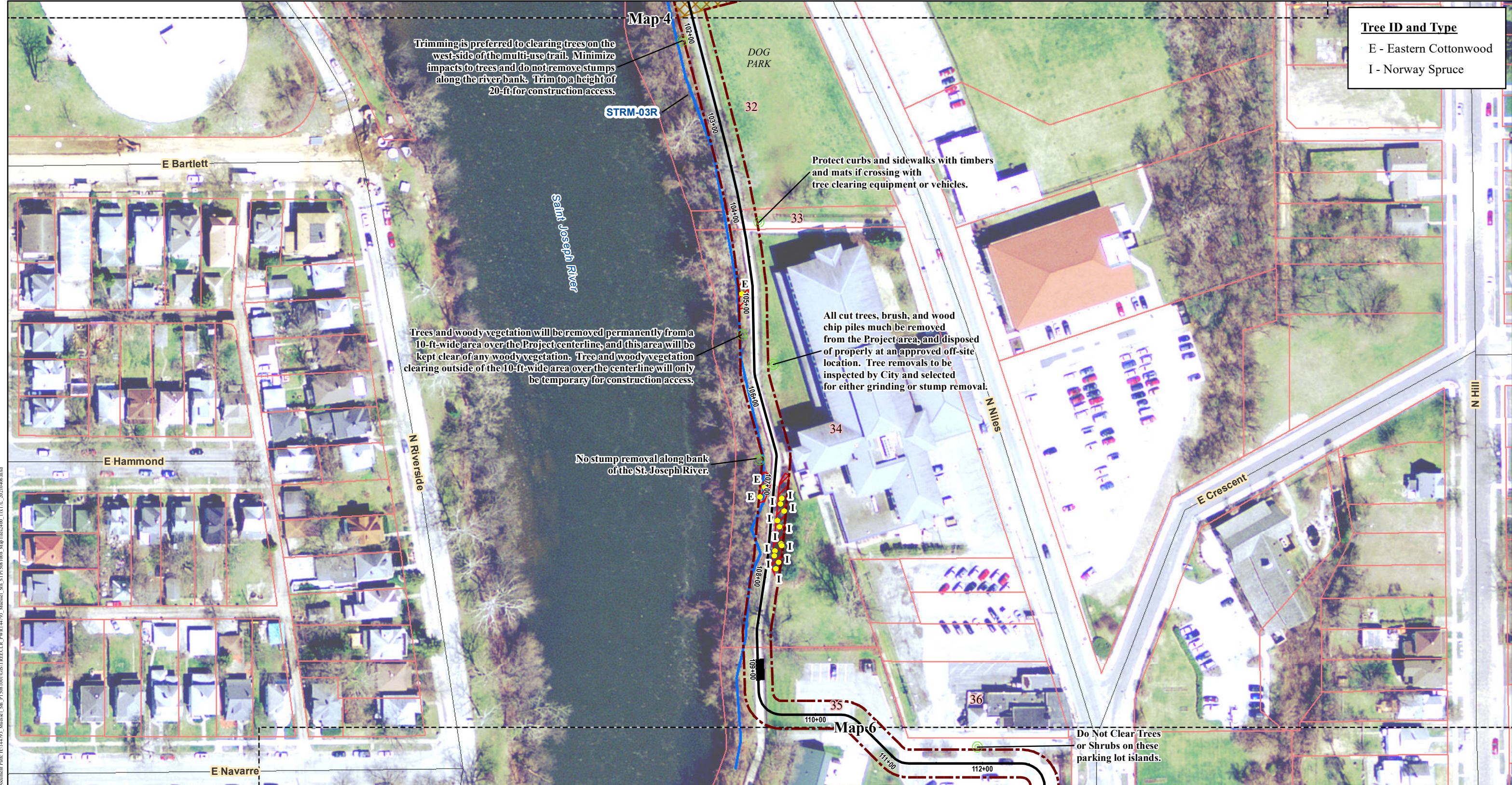
Author: DHB

Prj: Mussel Station, 144793, P15081001, Colfax, IN

Muessel-Colfax 69kV U/G Project
Phase II
Exhibit D - City Tree Clearing

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	Proposed Transmission Line		Surveyed Tree (DBH >=5)
	Project Work Area		Tree Survey Area for License Area (City Owned)
	Street		Tree Clearing Note
	HDD Work Area - Construction Matting		Vault
	Delineated Perennial Stream/Bank		Parcel Boundary

State of Indiana
St. Joseph County
Portage Township

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Projection: Transverse Mercator
Datum: North American 1983

Date: 4/15/2021
Author: DHB
Prj: Muessel Station, 144793, P15081001, Colfax, IN

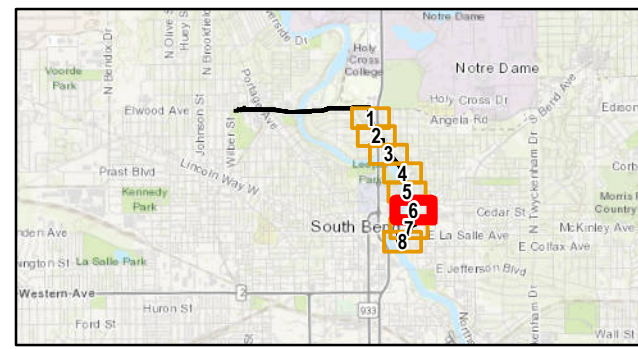
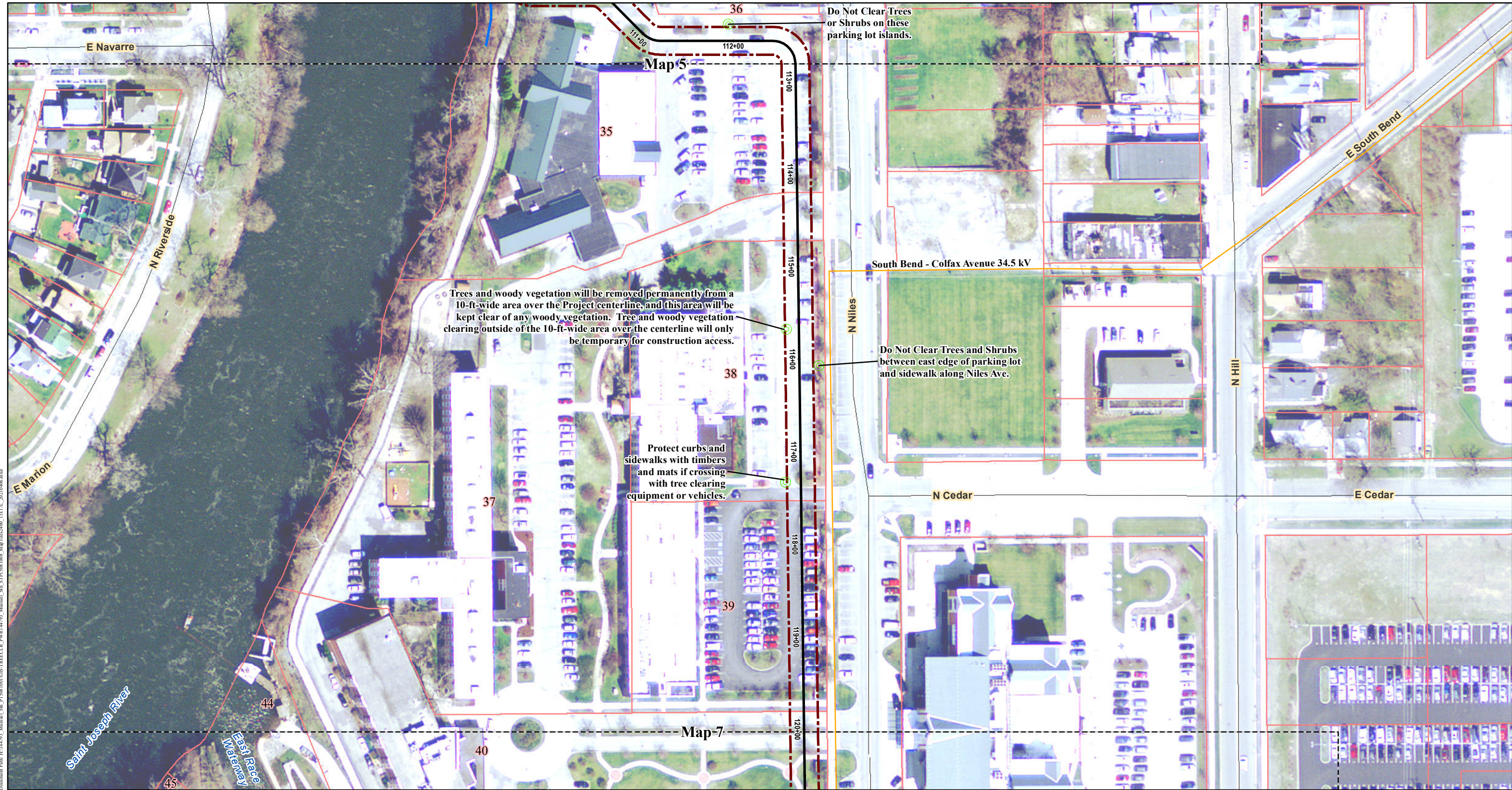
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Muessel-Colfax 69kV U/G Project
Phase II
Exhibit D - City Tree Clearing

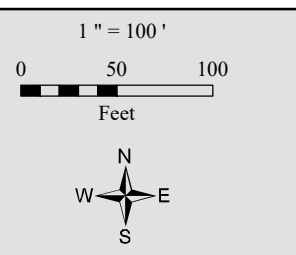
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- Proposed Transmission Line
- Existing AEP Transmission Line (69 kV or lower)
- Project Work Area
- Street
- Tree Clearing Note
- Delineated Perennial Stream/Bank
- Parcel Boundary



State of Indiana
St. Joseph County
Portage Township

NAD 1983 StatePlane Indiana East FIPS 1301 Feet
Projection: Transverse Mercator
Datum: North American 1983

Date: 4/15/2021 Map 6 of 8
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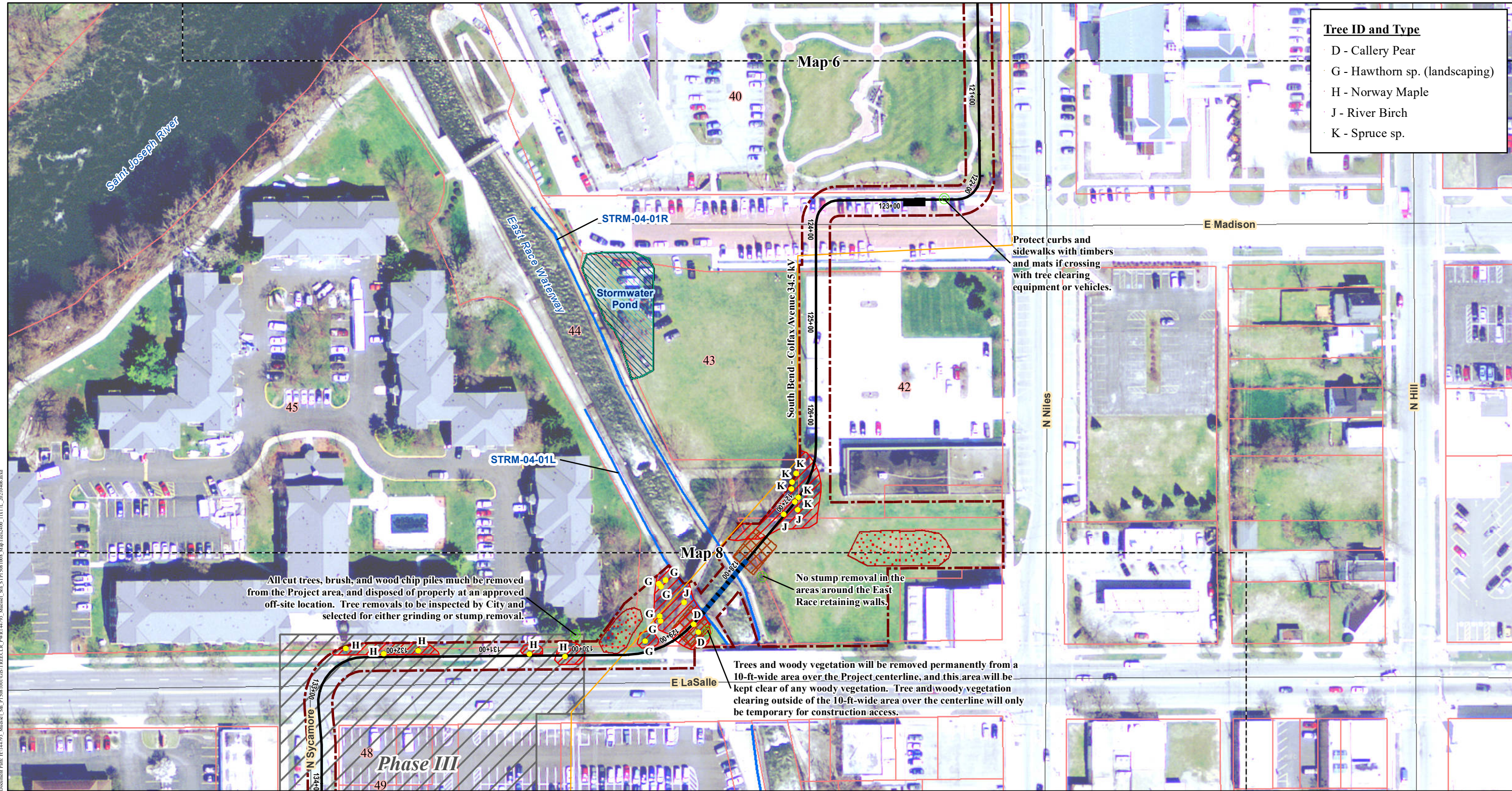
Muessel-Colfax 69kV U/G Project
Phase II
Exhibit D - City Tree Clearing

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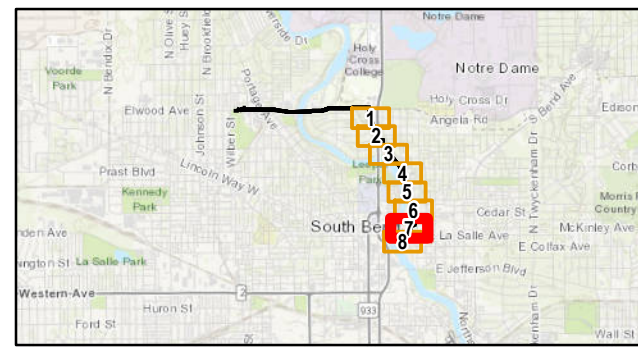
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Tree ID and Type

- D - Callery Pear
- G - Hawthorn sp. (landscaping)
- H - Norway Maple
- J - River Birch
- K - Spruce sp.



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<ul style="list-style-type: none"> Proposed Transmission Line Horizontal Directional Drill Area Existing AEP Transmission Line (69 kV or lower) Project Work Area Street Tree Clearing Note J&B Sending/Receiving Pit Spoils 	<ul style="list-style-type: none"> Vault Delineated Perennial Stream/Bank Delineated Waterbody Parcel Boundary Surveyed Tree (DBH >=5) Tree Survey Area for License Area (City Owned) Phase III Area 	<p>1" = 100'</p> <p>0 50 100 Feet</p>
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State of Indiana
St. Joseph County
Portage Township

NAD 1983 StatePlane Indiana East FIPS 1301 Feet
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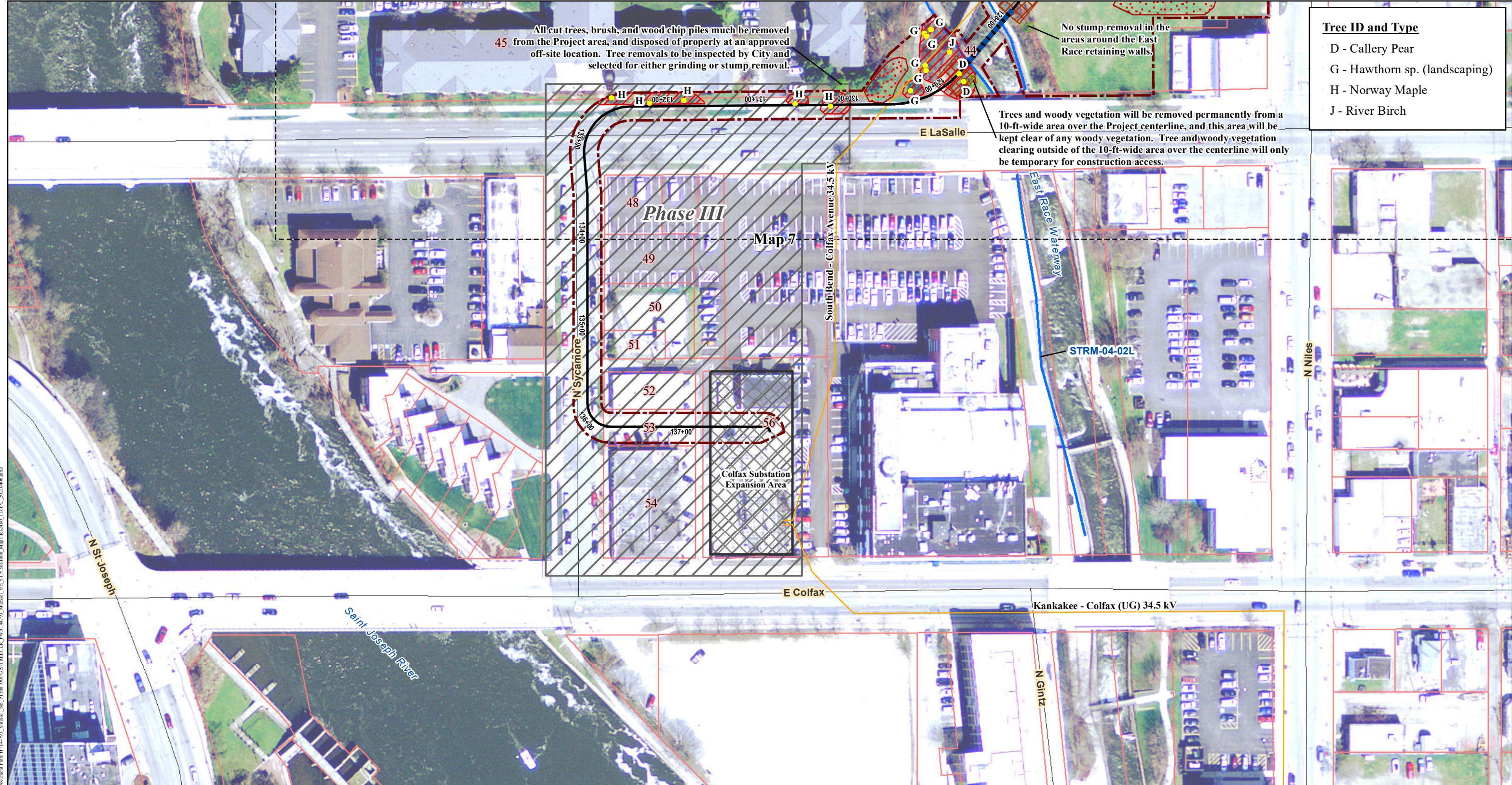
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Map 7 of 8

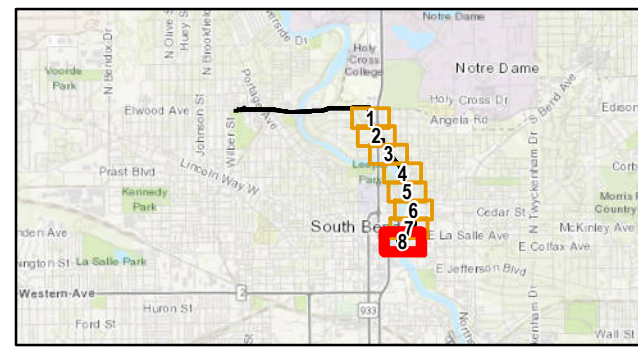
Muessel-Colfax 69kV U/G Project
Phase II
Exhibit D - City Tree Clearing

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Proposed Transmission Line	Spoils
Horizontal Directional Drill Area	Delineated Perennial Stream/Bank
Existing AEP Transmission Line (69 kV or lower)	Parcel Boundary
Project Work Area	Surveyed Tree (DBH >=5)
Proposed Substation Work Area	Tree Survey Area for License Area (City Owned)
Street	Phase III Area
Tree Clearing Note	
J&B Sending/Receiving Pit	

1" = 100'

0 50 100
Feet

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State of Indiana
St. Joseph County
Portage Township

NAD 1983 StatePlane Indiana East FIPS 1301 Feet
Projection: Transverse Mercator
Datum: North American 1983

Date: 4/15/2021 Map 8 of 8

Author: DHB

Prj: Muessel Station, 144793, P15081001, Colfax, IN

Muessel-Colfax 69kV U/G Project
Phase II
Exhibit D - City Tree Clearing

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Attachment B – Photographs

Photograph 1:

City property south of West Pokagon Street

Direction of view:

East

Date:

April 14, 2021



Photograph 2:

City property south of West Pokagon Street

Direction of view:

East

Date:

April 14, 2021



Photograph 3:

City property south of West Pokagon Street

Direction of view:

Northeast

Date:

April 14, 2021



Photograph 4:
City property south of West
Pokagon Street

Direction of view:
Northeast

Date:
April 14, 2021



Photograph 5:
Temporary Workspace, HDD Area -
south of E. North Shore Street

Direction of view:
South

Date:
April 1, 2019



Photograph 6:
Silver Maple, adjacent to
recreation trail, to be avoided
during clearing and construction
activity

Direction of view:
East

Date:
April 2, 2019



Photograph 7:

Temporary Workspace, HDD Area - north of E. LaSalle Street near the East Race waterway.

Direction of view:
Southwest

Date:
April 2, 2019



Photograph 8:

Workspace north of E. LaSalle Street

Direction of view:
West

Date:
April 2, 2019



**Attachment C – City of South Bend Code of Ordinance Section 19:
Trees & Vegetation**

CHAPTER 19 - TREES AND VEGETATION^[1]

Footnotes:

--- (1) ---

State Law reference— Tree planting, IC 8-23-24-1 et seq.; planting seedlings, IC 14-23-9-1 et seq.; shade trees and lawns in certain cities, IC 36-10-4-11.

Cross reference— Mutilating, removing, cutting, etc., trees and shrubs in parks prohibited, § 4-45.

ARTICLE 1. - TREES AND SHRUBS

DIVISION 1. - GENERALLY

Sec. 19-1. - Definitions.

As used in this article:

- (1) *Board* means the Board of Park Commissioners of the City.
- (2) *Maintaining* means the trimming, use, care, cutting, pruning, spraying and preservation of trees, shrubs, vines, hedges and plants.
- (3) *Street center* means all the untraveled portion of any street, boulevard, avenue, parkway, thoroughfare, alley or other public highway lying between the curblines of such street, boulevard, avenue, parkway, thoroughfare, alley or other public highway.
- (4) *Tree and lawn area* means the land lying between the property line and the curbline on each side of a public street, boulevard, avenue, parkway, thoroughfare, alley or other public highway located within the City, except such portion as may be covered by sidewalks or used as a walkway.
- (5) *Trees and shrubs* mean trees, shrubs, vines, hedges and plants.

(Code 1962, § 38-1)

Sec. 19-2. - Applicability of article limited.

The provisions of this article, except as otherwise provided, shall not apply to the sodding, seeding and maintenance of lawns or the maintaining, planting and removal of trees and shrubs within the boundary or property lines of the lots abutting upon the public streets.

(Code 1962, § 38-2)

Sec. 19-3. - Posting or affixing materials to trees prohibited; exceptions.

- (a) No person shall in any manner affix any poster or advertising material of any kind to any tree or shrub in the tree and lawn area or within the limits of the public streets.
- (b) This section shall not prohibit the posting of local, state or federal government notices or orders of any court or any legal notices required or authorized by law.

(Code 1962, § 38-3)

Sec. 19-4. - Anchoring objects to trees or shrubs prohibited.

No person shall fasten any wire, rope, chain or cable to any tree or shrub in the tree and lawn area or within the limits of the public streets for the purpose of anchoring any other structure or object in, on or adjacent to a tree and lawn area or public or state highway within the City.

(Code 1962, § 38-4)

Sec. 19-5. - Placement of guards during excavation or construction.

In the event of any excavation or construction the owner or contractor shall place or cause to be placed around all trees and shrubs in the tree and lawn areas or within the limits of any public street guards of a size and type approved by the Superintendent of Parks, as will effectively prevent injury to the trees or shrubs.

(Code 1962, § 38-5)

Sec. 19-6. - Stones, cement, building debris adjacent to trees.

- (a) No person shall place or keep any stone, cement or other substance around any tree in a tree and lawn area or within the limits of any public street which in any manner impedes the free entrance of water or air to the roots of such tree or stunts the free growth of such tree.
- (b) All building materials or debris shall be kept at least three (3) feet from all trees and shrubs.

(Code 1962, § 38-5)

Sec. 19-7. - Electrical wires in contact with trees.

Any person owning, installing or maintaining any wires charged with electrical current shall, whenever practicable, securely fasten the wires so that they will not come in contact with any tree in any tree and lawn area or upon, along or within the limits of any public highway, park or other public grounds within the City.

(Code 1962, § 38-6)

Sec. 19-8. - Permit required for use of chemicals in vicinity of trees; fee.

- (a) No person shall use or permit to be used any chemical for the control of insects or diseases or for any other reason upon, or in the vicinity of, any tree or shrub that is growing or planted upon, along or within the limits of the public streets or the tree and lawn areas of the City without first obtaining written permission from the Superintendent of Parks or his designee.
- (b) No fee or charge shall be made by the Board for the permit.

(Code 1962, § 38-7)

DIVISION 2. - PLANTING, TRIMMING AND REMOVAL

Sec. 19-9. - Jurisdiction of Board of Park Commissioners.^[2]

The Board of Park Commissioners shall have the exclusive jurisdiction and authority to do the following:

- (1) order, control and regulate the sodding, seeding and maintenance of lawns and the maintaining, planting and removal of trees and shrubs upon, along or within the limits of the public streets, tree and lawn areas, parks and other public places of the City;
- (2) order, control and regulate the removal of dead and diseased trees or portions thereof, which constitute a menace to public safety and health wherever located within the City;
- (3) adopt and enforce rules, regulations and specifications relative to paragraph (1) of this section; and
- (4) regulate and prescribe the terms and conditions upon which permits for the maintaining, planting and removal of trees and shrubs shall be issued.

(Code 1962, § 38-12)

Footnotes:

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State Law reference— Powers of Board of Park Commissioners in certain cities, IC 36-10-4-9.

Sec. 19-10. - Interference with Board employees.

No person shall in any manner obstruct or interfere with the agents or employees of the Board of Park Commissioners while engaged in carrying out the provisions of this article or the orders issued by the Board.

(Code 1962, § 38-22)

Sec. 19-11. - Unlawful to remove, destroy, spray, etc., City trees and shrubs without Board permission.

No person shall remove, transfer, destroy, spray or do surgery work upon any tree or shrub located in any area over which the Board of Park Commissioners has jurisdiction, without permission from the Board or its designee.

(Code 1962, § 38-23)

Sec. 19-12. - Approval and permit required prior to planting any tree or shrub; fee.

- (a) No tree or shrub shall be planted upon or along any public street or in a tree or lawn area of the City until the tree or shrub and the place where it is to be planted has been approved and a permit granted by the Superintendent of Parks or his designee.
- (b) No fee or charge shall be made for the permit.

(Code 1962, § 38-10)

Sec. 19-13. - Prohibited species of trees.

No catalpa, soft maple, box elder, cottonwood, poplar, ailanthus, mountain ash, horse chestnut, birch, mulberry, willow, Carolina poplar, basswood, Chinese elm, nut-bearing trees or conifers, or any tree having weeping or pendulous branches, shall be planted in any tree and lawn area or upon, along or within the limits of any public street.

(Code 1962, § 38-8)

Sec. 19-14. - Prohibited species of shrubs.

No person shall sell or plant within the City the "berberis vulgaris," commonly known as the tall barberry, or the "berberis purpurea," commonly known as the purple barberry.

(Code 1962, § 38-9)

Sec. 19-15. - Authority of the Board to require maintenance of tree and lawn area by abutting property owners.

The Board of Park Commissioners shall have the right, power and authority to:

- (1) require the owners of parcels of land bordering on any public street of the City to grade, sod, plant and maintain in proper condition the tree and lawn area and the street centers in front of the parcels of land; and
- (2) require such owners to plant and maintain shade or ornamental trees in such areas.

(Code 1962, § 38-14)

Sec. 19-16. - Adoption of resolution showing necessity; procedure.

Upon the adoption of a resolution showing the public necessity of the planting and maintaining of trees and sod, as set forth in section 19-15, and the making and placing on file of an estimate of the cost thereof, the Board of Park Commissioners may order such planting and maintenance, subject to the following procedure:

- (1) Upon the adoption of the resolution, the Board shall give notice and hold hearings, with the right of remonstrance and appeal in the same manner provided for by the law of the State in case of street and sidewalk improvements by the boards of public works of first-class cities.
- (2) If the Board shall confirm such resolution after the hearings required, the owners of such parcels of land shall be granted a period of sixty (60) days after such confirmation to perform the required work at their own expense. In the event of an appeal, the sixty-day period shall commence to run as of the date the confirmed resolution is sustained upon appeal.

(Code 1962, § 38-15)

Sec. 19-17. - Tree and lawn area regulations.

- (a) *Use.* No tree or lawn area within the City shall be used for any purpose or in any manner other than the purposes and manner provided in this article.
- (b) *Grade.* The surface of tree and lawn areas shall be as nearly level as practicable. Its grade shall be the top lines of the sidewalk and curb.
- (c) *Standards for planting trees and shrubs.* No tree or shrub shall be planted in a tree and lawn area having a width of less than five (5) feet. No hedge or shrubbery planted in the tree and lawn areas shall be permitted to grow more than three (3) feet in height. All trees planted in such areas shall be of healthy stock, not less than two (2) inches in caliper, and the lowest limbs of such trees shall not be less than ten (10) feet above the curb and sidewalk. No tree shall be planted less than thirty-five (35) feet from another tree. No tree or shrub in such areas of street intersections shall be planted less than fifteen (15) feet from the intersection of the curbs. No person shall plant trees within six (6)

feet of a fire hydrant or in such manner as to obstruct the view of any streetlight, traffic sign, signal device or street intersection.

(Code 1962, §§ 38-17—38-19)

Sec. 19-18. - Trimming trees overhanging streets; notice; manner.

- (a) All trees and shrubs which overhang a street within the City, whether located on tree and lawn areas or on the abutting lots, shall be trimmed either by the Board of Park Commissioners or by the owners of the abutting lots upon the order of the Board.
- (b) The trimming shall be done within the period specified in the notice given by the Board to the owners, as provided in section 19-21; provided, however, such period shall not be less than ten (10) days.
- (c) Overhanging trees shall be trimmed so that there is a clear space of ten (10) feet above the surface of the curb and in such a manner as not to obstruct the view of any streetlight, traffic sign, signal device or street intersection.

(Code 1962, § 38-11)

Sec. 19-19. - Removal of hazardous trees by property owner; order, notice; emergency removal.

- (a) Every owner of real estate within the City shall remove or trim any tree or shrub or any part thereof located on such real estate or in the tree and lawn area in front of such real estate which may be dead, diseased, unsightly, in a condition which is injurious or detrimental to the public health and safety or the growth of adjacent trees or which may project over the public street on which such real estate abuts in such manner as to obstruct the free passage of pedestrians and vehicular traffic on such public streets.
- (b) The Board of Park Commissioners shall have the power and the authority to order and require such owner to remove any such tree or shrub by first causing notice to be served on such owner in the manner provided in section 19-21 not less than ten (10) days prior to the time designated in such notice for the removal or trimming of such tree or shrub.
- (c) In case of an immediate necessity for any such removal or trimming by reason of storm or other emergency, such removal or trimming may be done by the Board of Park Commissioners or its Superintendent of Parks, and no notice whatever need be given thereof.

(Code 1962, § 38-13)

Sec. 19-20. - Work performed by City upon noncompliance with order; assessment of costs; lien; foreclosure.

- (a) In the event abutting owners fail to comply with orders of the Board within the period granted, the Board may perform such work with its own forces and employees. The actual cost of such work, which shall not exceed the above-mentioned estimate, shall be assessed against the abutting lots of such owners. The Board shall notify such owners of the cost and assessment of such work.
- (b) The cost and assessment shall constitute a lien on the abutting lots and shall be payable, without notice, at the Office of the City Treasurer at the next regular taxpaying time after notice has been given of such costs and assessments. If such amount is not paid when due, it shall be enforceable by foreclosure in the same manner as the assessments made for street and sidewalk improvements in cities of the first class. The amount of such costs and assessments shall become a part of the funds of the Board when collected.

(Code 1962, § 38-16)

Sec. 19-21. - Service of notice; commencement of specified time period.

- (a) All notices provided for in this article, except notices provided for in section 19-16 for hearing on resolutions, shall be served upon any real estate owner who is a resident of the City by reading such notice to him or leaving a correct copy thereof at such owner's last known place of residence. If such owner is not a resident of the City, then notice may be served by sending a correct copy thereof by registered mail, addressed to such owner at his last known mailing address for personal delivery on such owner, with a return receipt. If the residence or address of such owner is unknown or cannot be ascertained, then notice may be served by publishing such notice once each week for two (2) consecutive weeks in a daily newspaper of general circulation printed and published in the English language in the City.
- (b) The period specified in the notice shall be deemed to commence with the day following the date of the service of such notice, as shown by return of service which shall be made on such notice or by such registered mail return receipt or with the day following the seventh day after the last publication.

(Code 1962, § 38-20)

Sec. 19-22. - Recovery of costs for work performed by City.

- (a) If any owner of real estate fails to comply with the orders issued either by the Board or the Superintendent of Parks under the provisions of this article, within the period of time specified in such orders, except such resolutions, orders and notices as may be issued under section 19-16, the work required by such orders may be done by the Board with its own employees.
- (b) The Board shall keep an accurate account of the costs and expenses of doing such work. The costs and expenses shall be recovered and collected by a suit in the name of the City or by such other action or procedure as provided by law, including, but not limited to, the filing of a mechanic's lien.

(Code 1962, § 38-21)

Sec. 19-23. - Penalty.

In addition to the liability for cost as provided in section 19-22, upon default of any owner to comply with any orders issued either by the Board or the Superintendent of Parks pursuant to the provisions of this article, such failure shall constitute a violation of the provisions of this article, and the owner shall be subject to the penalty as provided in section 1-23.

(Code 1962, § 38-24)

Secs. 19-24, 19-25. - Reserved.

DIVISION 3. - RESERVED^[3]

Footnotes:

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Editor's note— Former Div. 3, §§ 19-26—19-31, which pertained to an arborist's license, was repealed by § 9 of Ord. No. 6998-81, enacted Nov. 9, 1981. The repealed provisions derived from §§ 38-26—38-29 of the 1962 Code and § 19 of Ord. No. 6721-79.

Secs. 19-26—19-31. - Reserved.

ARTICLE 2. - ABATEMENT REGULATIONS ADDRESSING TALL GRASS, WEEDS, NOXIOUS WEEDS, AND RANK OR OVERGROWN VEGETATION⁴

Footnotes:

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Editor's note— Ord. No. 10363-15, § I, adopted June 22, 2015, repealed the former Art. 2, §§ 19-32—19-35, and enacted a new Art. 2 as set out herein. The former Art. 2 pertained to weeds and noxious growths and derived from Code 1962, § 16-35; Ord. No. 6236-77, § 11.

Sec. 19-32. - Definitions.

For purposes of this article, the following definitions shall apply:

- (a) *City* shall mean the City of South Bend, Indiana.
- (b) *Enforcement Authority* shall mean the Department of Code Enforcement.
- (c) *Hydrophytic vegetation* are plants living in wetlands governed by the federal Clean Water Act. ¹
□
- (d) *Natural landscaping vegetation* shall mean native or beneficial landscaping vegetation which helps balance the needs and sense of beauty with those of nature by protecting existing natural areas, reduces the use of pesticides, practices soil and water conservation, reduces the use of power landscape equipment, and helps reduce heating/cooling needs. Natural landscaping vegetation requires the property owner to have a current wildlife habitat certification which must be shown and presented to the City's Enforcement Authority, in the event that the property becomes subject to a complaint or inspection. ²
□
- (e) *Noxious weeds* shall have the definition set forth in *Indiana Code* § 15-16-7-2. ³
□
- (f) *Owner* shall mean the owner of record listed in the records of the St. Joseph County Recorder's Office.
- (g) *Rain garden* shall mean a type of natural landscaping vegetation which are shallow, vegetated basins which collect and absorb runoff from rooftops, sidewalks, and streets. ⁴
□
- (h) *Rank vegetation* shall mean vegetation and plant growth not exempted under *Indiana Code* § 36-7-10.1-3. ⁵
□
- (i) *Sustainable landscaping* includes vegetation which is carefully selected to avoid the use of invasive species which are in balance with the local climate and requires minimal use of fertilizers, pesticides, and water which are functional, visually pleasing and environmentally friendly.
- (j) *Vegetation* shall mean all plants, trees, shrubs and weeds.
- (k) *Vegetation management tools* include but not are limited to mowing, trimming, and using herbicides. ⁶
□
- (l) *Weeds* shall have the definition set forth in *Indiana Code* § 15-16-4-40. ⁷
□

(Ord. No. 10363-15, § I, 6-22-15)

Footnotes:

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The website of the Indiana Department of Environmental Management (IDEM) www.wetlands.IN.gov sets forth the governing regulations consistent with the federal Clean Water Act.

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The U.S. Environmental Protection Agency, Region 5 which includes Indiana, Illinois, Michigan, Minnesota, Ohio and Wisconsin has published a "Natural Landscaping Resource List", and has published articles on "Beneficial Landscaping" copies of which are on file in the Office of the City Clerk. Some examples of natural landscaping include native plants and vegetation, prairie wildflowers, ornamental grasses, and native woodlands. Wildlife Habitat Certification which is required by the ordinance from which this article derives has information available at <http://www.indianawildlife.org/habitat-programs/wildlife-friendly-certification-program/>. The City shall maintain a link to such information on their website.

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Indiana Code § 15-16-7-2 lists Canada thistle, Johnson grass, Columbus grass, Bur cucumber, and Shattercane as noxious weeds. Indiana Code § 15-16-7-14 states that the Purdue University cooperative extension service is to provide technical assistance to any weed control board in order to control and contain the growth and spread of noxious weeds.

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The Environmental Protection Agency (EPA) also refers to rain gardens as "bioretention or bioinfiltration cells [which] mimic natural hydrology by infiltrating and evapotranspiring runoff. Rain gardens are versatile features that can be installed in almost any unpaved space", EPA publication "What is Green Infrastructure?", June 13, 2014.

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Indiana Code § 36-7-10.1-3 provides that "weeds and other rank vegetation does not include agricultural crops, such as hay and pasture".

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The Indiana Department of Transportation (INDOT) has categorized "vegetation Management tools" as mechanical, manual, chemical, biological or cultural with mowing being the most common form and best for weed control, Joint Transportation Research Program—Indiana Department of Transportation and Purdue University Integrated Vegetation management (IVM) for INDOT Roadsides, March 2014, p.1.

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Indiana Code § 15-16-4-40 defines "weed" as "any plant that grows where the plant is not wanted.

Sec. 19-33. - Maintenance and landscape regulations; excessive growth prohibited.

- (a) The owners of real estate located in the City shall use vegetation management and sustainable landscaping tools on the real estate's vegetation so that they are in compliance with this article, and do not become a public nuisance.
- (b) It is unlawful for the owner of real estate in the City to allow his or her real estate to become overgrown with weeds, grass, noxious weeds, rank vegetation or other vegetation in excess of the height of nine (9) inches or to such extent that the growth is detrimental to the public health and constitutes a public nuisance. It is unlawful for the owner of real estate in the City to allow any sidewalk or alley abutting such real estate to become overgrown with vegetation.
- (c) In light of the self-sustaining nature of natural landscaping vegetation, hydrophytic vegetation and their ecological benefits, they are exempt from the nine (9) inch height requirement upon the property owner having a current wildlife habitat certification which must be shown and presented to the City's Enforcement Authority. However, if such natural landscaping vegetation and/or hydrophytic vegetation negatively impacts the visibility requirements needed for sight distance related to pedestrian and/or vehicular traffic, they must be corrected in order to address such public safety concerns as directed by the Enforcement Authority. In those circumstances, public safety requires appropriate maintenance and vegetation management. Natural landscaping vegetation and/or hydrophytic vegetation may be located no closer than one-half (1/2) of the setback distance requirements of a front yard.

(Ord. No. 10363-15, § I, 6-22-15)

Sec. 19-34. - Consequences of failure to comply and continuous enforcement.

- (a) Any owner of real estate located in the City who fails to comply with the provisions of this article shall be subject to the enforcement procedures set forth in Section 16-59 of the South Bend Municipal Code.
- (b) A continuous abatement notice will serve as notice to the owner that each subsequent violation during the same calendar year in which the initial notice of violation was provided may be abated by the City without further notice. Such notice shall comply with Indiana Code § 36-7-10.1-3.

(Ord. No. 10363-15, § I, 6-22-15)

Sec. 19-35 - Penalties.

- (a) Any person found in violation of a provision of this article shall be fined the sum of two hundred fifty dollars (\$250.00) per violation. Each day after the expiration date of any time limit ordered by the Board of Public Works or its designee for abating a nuisance condition shall constitute a distinct and separate offense. Any person found in violation of a provision of this article whose property becomes listed as a continuous enforcement property shall be fined the sum of five hundred dollars (\$500.00) per violation in that first calendar year of being listed.

Thereafter, each violation shall be fined and assessed administrative fees related to costs incurred by the City for inspections, abatement and administration and a penalty which shall be as follows:

	Fine Per Violation	Continuous Enforcement Fee for Administrative Expenses

2 nd year	\$750.00	\$400.00
3 rd year	1,000.00	450.00
4 th year and thereafter	1,500.00	500.00

(b) This section supplements and does not limit any other remedy or action available in law or in equity being pursued by the Department of Law.

(Ord. No. 10363-15, § I, 6-22-15)

ARTICLE 3. - PUBLIC PARKS^[12]

Footnotes:

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Editor's note— Section 2 of Ord. No. 6998-81, enacted Nov. 9, 1981, renumbered former Ch. 4, Art. 8, §§ 4-42—4-84 as Art. 3 of Ch. 19, §§ 19-36—19-78.

Cross reference— Adoption of State law relative to public parks, § 2-137.

Sec. 19-36. - Definitions.

Unless otherwise expressly stated, whenever used in this article, the following terms shall respectively mean and include each of the meanings set forth:

- (a) *Bathing area*: "Bathing area" shall mean and include any area maintained for the use of bathers, including, but not limited to, water areas and land under water adjacent to the bathing beaches on Pinhook Park Lane, St. Joseph River, swimming pools, or any other area maintained or used for bathing areas, under the jurisdiction of the Board.
- (b) *Bicycle path*: "Bicycle path" shall mean and include any path, road or trail maintained for persons riding bicycles.
- (c) *Board*: The word "Board" shall mean the Board of Park Commissioners of the City of South Bend, Indiana, or the Public Recreation Commission of the City of South Bend, Indiana.
- (d) *Bridle path*: "Bridle path" shall mean and include any path or road maintained for persons riding on horseback.
- (e) *City*: The word "City" shall mean the City of South Bend, Indiana.
- (f) *Controlled substance*: "Controlled substance" shall have the same meaning as set forth in IC 16-6-8-2, as amended from time to time.
- (g) *Department of Public Parks or Park Department*: "Department of Public Parks" or "Park Department" shall mean and include the Department of Public Parks of the City of South Bend, Indiana, or such department of said City as may now or hereafter be under the jurisdiction of said Board.

- (h) *Footpath or trail*: "Footpath" or "trail" shall mean and include any path or trail maintained for pedestrians.
- (i) *Owner*: "Owner" shall mean and include any person owning, operating or having the use and control of a vehicle, animal, thing or other property under a lease or otherwise.
- (j) *Park*: The term "park," unless specifically limited, shall be deemed to include all parks, parkways, playgrounds, athletic fields, tennis courts, golf courses, swimming pools, beaches, parking areas and other recreation areas, museums, zoological and botanical gardens, places, squares, circles, spurs, open places, boulevards, tree lawn areas, roads, waters and lands under water, and also entrances and approaches thereto, docks and piers, channels and bridges in, leading to or connecting such park or parks or parts thereof, which are under the jurisdiction of the Board and such other rights and appurtenances as the Board shall utilize whether the same be now or hereafter owned or acquired by the City in fee or otherwise, including all land under and space above the ground.
- (k) *Park-street*: The term "park-street" shall mean and include all street property in the park for the full width thereof.
- (l) *Parkway*: The word "parkway" as used herein shall include only such area as may lie within or between two (2) public streets.
- (m) *Permit*: "Permit" shall mean and include any written authorization issued by or under the authority of the Board for a specified park privilege, activity or event, or permitting the performance of a specified act or acts in any park or park-street.
- (n) *Person*: "Person" shall mean and include any natural person, corporation, society, organization of persons, company, association, joint stock association, firm or copartnership.
- (o) *Playground area*: "Playground area" shall mean and include any area maintained or designated as a playground area, including all territory under the jurisdiction of the Board.
- (p) *Police officer*: "Police officer" shall mean and include any member of the Police Department of the City of South Bend, or police officer assigned to the Board, or appointed by the Board, as a park policeman, or any other City employee sworn in as a peace officer by said City or said Board, pursuant to law.
- (q) *Safety zone*: "Safety zone" shall mean and include any space within any park or park-street so designated by the appropriate signs as a safety zone.
- (r) *Unnecessary stopping*: "Unnecessary stopping" shall mean bringing a vehicle to a complete stop on a road in a park other than at a parking place, or other than in conformity with traffic regulations or other than because of an emergency.
- (s) *Vehicle*: "Vehicle" means and includes any device, conveyance, or combination of conveyances, wheeled or without wheels, propelled, towed or unpropelled, that in, around, or on which a person or thing is or may be carried; any moving support or container for the conveyance of persons, animals, or bulky objects on land or water or in the air.

(Ord. No. 5544-73, § 1; Ord. No. 8112-90, § I)

Sec. 19-37. - Construction and scope of article.

- (a) *Construction*. In the interpretation of this article affecting parks, its provisions shall be construed as follows:
 - (1) Any term in the singular shall include the plural;
 - (2) Any term in the masculine shall include the feminine and neuter;
 - (3) Any requirement or provision of this article relating to any act shall respectively extend to and include the causing, procuring, aiding or abetting, directly or indirectly, of such act; or the

permitting or the allowing of any minor in the custody of any persons doing any act prohibited by any provision hereof;

- (4) No provision hereof shall make unlawful any act necessarily performed by any officer or employee of the Department of Public Parks in line of duty or work as such, or by any person, his agents or employees, in the proper and necessary execution of the terms of any agreement with the Board;
 - (5) Any act otherwise prohibited by this article, provided it is not otherwise prohibited by law or local ordinance, shall be lawful if performed under, by virtue of, and strictly in compliance with, the provisions of a permit and to the extent authorized thereby;
 - (6) This article is in addition to and supplemental to all municipal, state and federal laws and ordinances.
- (b) *Territorial scope.* This article shall be effective within and upon all areas under the jurisdiction of the Board, and shall regulate the use thereof by all persons.

(Ord. No. 5544-73, § 1)

Sec. 19-38. - Property, drives, bridges and equipment.

No person shall injure, deface, displace, remove, fill in, raise, destroy or tamper with any drive, path, walk, bridge or approach thereto; take up, remove or carry away and asphalt, curb, flagstone, rock, stone, gravel, sand, clay or earth; or make any excavation of any kind, name or nature; or cut, injure, mutilate, deface, displace, remove or destroy any wall, fence, shelter, seat, statue, monument or other structure, building, post, railing, bench, seat-platform, stand, tree guard, telephone, pipe or main for conducting gas, water or wires, fuses, fuse box or switch boxes, or any hydrant, sewer, drain, pipe, main, receiving basis, covering, manhole or vent forming a part thereof, or any appurtenance or appendage conforming therewith; or injure, or deface, or destroy, or mutilate, or remove, or carry away, or displace, or tamper with any property or equipment, real or personal, owned by the City or under the jurisdiction, control or supervision of the Board, or appertaining to the creation, control government, use or maintenance of any park or park-street; or injure, deface, displace, remove or destroy any sign, notice, inscription, post or monument, erected or marked for any purpose, or any milestone, danger sign or signal, guide sign or post, or any signaling device, sanctioned, installed or placed by the said Board or by the Police Department of the City of South Bend within any park or upon any park-street for the purpose of directing, restricting or regulating traffic, establishing zones or giving information or directions to the public, or interfere with any lamp, lamppost, gas or electric light apparatus, or light or extinguish the light therein, or attach, string, adjust or suspend any wires or similar object in, on or over any part of any park or park-street.

(Ord. No. 5544-73, § 1)

Sec. 19-39. - Trees, shrubs and grass.

No person shall, in any park or park-street, destroy, cut, break, deface, mutilate, injure, disturb, sever from the ground or remove any growing thing including but not limited to any plant, flower, flower bed, shrub, tree, growth or any branch, stem, fruit or leaf thereof; or bring into or have in his possession in any park or park-street any garden or agricultural implements or tools which could be used for the removal thereof; or pile or maintain any material or debris of any kind against or upon the same; or attach any rope, cable or other contrivance thereto; or set fire to any timber, tree, shrub, plant, flower, grass or plant growth, or suffer any fire upon other land to extend into park land; or hitch any horse or other animal to, or leave the same standing near enough to injure any tree, shrub, lawn or grassplot; or go upon any lawn, grassplot or planted area, except at such times when permission to do so shall have been given by the Board to the public. No person shall bring into or have in his possession in any park or park-street any tree, shrub or other plant, or any branch, stem, flower or leaf thereof, without permission from the Board.

(Ord. No. 5544-73, § 1)

Sec. 19-40. - Prohibited acts.

- (a) *Littering rubbish, refuse.* No person shall take into, carry through, leave in or throw, cast, lay, drop or discharge into or on, or suffer or permit any servant, agent, employee, person or animal in his or her charge to take into, carry through leave in, throw, cast, lay, drop or discharge into or on any park or park-street any rubbish of any sort including but not limited to ashes, dross, cinders, shells, fruit skins, pasteboard, dirt, sand, oil, grease, clay, loam, stone or building rubbish, hay, straw, oats, sawdust, shavings or manufacturing, trade or household waste, vehicles or parts thereof as junk, old iron or other metal or objects made therefrom, or sick, diseased or dead animals, organic refuse, or other offensive matter, including swill or brine. The leaving, except in receptacles provided for refuse, or the leaving or littering of newspapers or other papers in a park is prohibited. No person shall throw, cast, lay or deposit any bottle or piece of crockery or any glass or glassware or any part thereof, or metallic or other substance with sharp edges or projections in any park.
- (b) *Spitting.* No person shall, in any park or park-street, spit upon any walk, crossing, safety zone, structure, bridge, platform, stairway or floor of any building.
- (c) *Pollution of waters.* No person shall throw, cast, lay, drop or discharge into or leave in the waters used for bathing or waters in any park or in any storm sewer or drain flowing into said waters, any substance, matter or thing, liquid or solid, which may or shall result in the pollution of said waters.
- (d) *Discharging certain substances into drains and sewers.* No person shall discharge, directly or indirectly, into any opening, or into any gutter leading into any sewer, receiving basin or drain, in or leading into any park or park-street, any gas or vapor, or any substance which may form a deposit tending to choke same, or any volatile liquid which will emit an inflammable vapor, or any steam or hot water above one hundred (100) degrees Fahrenheit.

(Ord. No. 5544-73, § 1)

Sec. 19-41. - Advertising.

No person, without written permission from the Board, shall distribute or display any flag, banner, sign or other matter for advertising purposes within any park or park-street. No person shall display by means of aircraft, kite, balloon, aerial bomb or any other device, any flag, banner, sign or any other matter for advertising purposes above the surface of any park or park-street. No person shall operate any musical instrument, or drum, or loudspeaker, amplifier or siren, or cause any noise to be made within any park or upon any park-street for advertising purposes or for the purpose of attracting to any exhibition, performance, show or other spectacle.

(Ord. No. 5544-73, § 1)

Sec. 19-42. - Disorderly conduct.

- (a) No person shall, in any park or park-street:
 - (1) Disobey an order of a police officer or any park employee designated by the Board to give orders, or disobey or disregard the notices, prohibitions, instructions or directions on any sign, including the rules and regulations of golf courses, swimming pools, playground areas, recreation centers, shelter houses, museums or zoological or botanical gardens posted on the grounds or buildings or structures connected with or used for any purpose under the jurisdiction, control, operation or supervision of said Board.
 - (2) Use threatening, insulting or abusive language.

- (3) Do, engage in, or aid or abet any obscene or indecent act.
 - (4) Throw, cast or propel stones or other missiles.
 - (5) Solicit alms, subscriptions or contributions for any purpose.
 - (6) Molest or annoy any persons.
 - (7) Interfere with, encumber, obstruct or render dangerous any part of a park or park-street.
 - (8) Climb or lie upon any wall, fence, shelter, seat or other structure.
 - (9) Do any act tending to or amounting to a breach of the peace.
 - (10) Use any sound amplification device audible more than twenty (20) feet from the device without specific written permission from the Board.
 - (11) Enter or leave any park except at established entrance ways or exits, at established times; use, or gain admittance to, or attempt to use, or gain admittance to, any facilities or event in any park for the use of which, or admittance to which, a charge is made, without paying the charge of price fixed by the Board or its duly authorized agent or officer.
 - (12) Engage in, instigate or encourage a contention or fight.
 - (13) Do, aid, abet or assist in doing any act injurious to any person, animal or property within any park or park-street.
 - (14) Dress or undress behind shrubs or other structures, or in any place not designated by the Board for such purposes.
 - (15) Act as a crier, or advertiser, through the media of voice, public address system, amplifier, loudspeaker or other mechanical device, in parks, park-streets or beaches.
 - (16) Appear in or upon any park or park-street while intoxicated or under the influence of intoxicating liquor.
 - (17) Use mineral or metal detectors except by permit from the Board of Park Commissioners.
- (b) No person shall engage in conduct or activities dangerous to himself or others, or use the facilities and structures of the park for purposes other than those for which they were intended. Such prohibited activities include, but are not limited to: hang gliding, rappelling from towers, and any other use of trees, towers, or other structures for technical climbing activities.

(Ord. No. 5544-73, § 1; Ord. No. 5642-74, § 1; Ord. No. 8112-90, § II)

Sec. 19-43. - Gambling.

No person shall play games of chance, sell fortunes or futures, participate in the conduct of a lottery or use any slot machine, gaming table or instrument, or bring into any park or have in his possession while there any implements or devices commonly used, or intended to be used, for gambling purposes.

(Ord. No. 5544-73, § 1)

Sec. 19-44. - Explosives, firearms, weapons and missiles.^{[131](#)}

- (a) No person shall bring into or have in his possession in any park or park-street any switchblade, hunting knife, dagger, metal knuckles, chain, slingshot, bow and arrow, firecrackers, fireworks or other missile-propelling devices, blowgun, any dangerous lethal instrument, harmful solid, liquid, aqueous, effervescent, gaseous substance or other dangerous weapon or substance while on or within a City park or park-street, except by specific permission of the board.

- (b) Shooting or propulsion of any missile, pellet, shot, arrow, dart or other thing by means of any compressed air or gas propulsion device, bow, slingshot or propelling device of any kind, nature or description, into, upon, across, through or against, any lands, the air above same or the waters of the lands below same, or any ways, walks, buildings, structures, swimming pools, or the interior of any structures, shelters, buildings or facilities, owned or under the control, operation, supervision or management of said Board is prohibited, unless done under a permit granted by said Board or within a regularly conducted event authorized by, or conducted by said Board or the Superintendent of Parks and/or Recreations of the Department of Public Parks of the City of South Bend, Indiana.
- (c) Nothing in this section shall be construed to contravene I.C. 35-47-11.1-3.

(Ord. No. 5544-73, § 1; Ord. No. 8112-90, § III; Ord. No. 10098-11, § X, 6-27-11)

Footnotes:

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Cross reference— Discharging firearms prohibited; exception, § 13-58; fireworks prohibited; exception for licensees, § 13-59.

Sec. 19-45. - Aviation.

No person, without permission of the Board, shall voluntarily bring, land or cause to descend or alight within or upon any park, any airplane, flying machine, balloon, parachute or other apparatus for aviation. Voluntarily, in this connection, shall mean anything other than a forced landing. Any landing other than one caused by mechanical or structural failure of the aircraft or any of its parts shall be deemed to have been made voluntarily, and this shall include landings by error or oversight, negligence or failure to comply with any Civil Aeronautics Authority regulations or rulings.

(Ord. No. 5544-73, § 1)

Sec. 19-46. - Camping.

- (a) No person shall establish or maintain any camp or other temporary lodging place, including a tent, vehicle, boat, or other artificial shelter, within the park, without a permit from the Board or its duly authorized officer and payment of a fee which, if any, may be set by the Board. Such permit must be conspicuously posted at the campsite.
- (b) All campers and/or visitors shall abide by the camping rules authorized and restrictions set forth by the Board as required conditions of the area use.

(Ord. No. 5544-73, § 1; Ord. No. 8112-90, § IV)

Sec. 19-47. - Park entrance fees; permits.

- (a) Entrance, vehicle registration, rental and activity fees for the City parks shall be as established by the Board, and shall be levied at those times and for those activities and events as designated by the Board.
- (b) All persons who take part in any specialized activities for which there is a fee, rental or admission and all persons using any park facilities or engaging in any activity in any City park or park-street must abide by the posted regulations adopted by the Board governing those activities and/or facilities. No person shall be allowed within the confines of those specialized activities or facilities without having first paid the fee, rental or admission charge.

- (c) A permit to do any act shall authorize the same only insofar as it may be performed in strict accordance with the written terms and conditions thereof. Any violation of any law, ordinance, or rule or regulation of the Board of any other City department by the holder of any permit of any term or condition thereof shall constitute grounds for revocation by the Board or its authorized representative, whose action therein shall be final.
- (d) In the case of revocation of any permit, all moneys paid for or on account thereof shall, at the option of the Board, be forfeited to and be retained by the City; and the holder of such permit, together with his agents and employees who violated such terms and conditions, shall be jointly and severally liable to the City of South Bend for all damages and loss suffered by it in excess of money forfeited and retained; but neither such forfeiture and retention by the City of the whole or any part of such moneys nor the recovery or collection of such damages, or both, shall in any manner relieve such person or persons from liability to punishment for any violation of any law, ordinance or rule or regulation of the Board or of any other City department.

(Ord. No. 5544-73, § 1; Ord. No. 8112-90, § V)

Sec. 19-48. - Meetings, exhibitions, parades, racing, etc.

- (a) No person shall erect any structure, stand or platform, or exhibit any dramatic performance, or the performance in whole or in part of any interlude, tragedy, comedy, opera, ballet, play, farce, minstrelsy, dancing, rock festival, musical concert, entertainment, motion picture, public fair, circus, juggling, ropewalking or any other acrobatics, or show of any kind or nature, or parade, drill or maneuver of any kind, or run or race any horse or other animal, being in or on or [attached] to a vehicle, or race with another vehicle or horse whether such race is founded on any stake, bet or otherwise, or hold any athletic contest, in any park or upon any park-street except by permit.
- (b) The Board shall issue such permit, upon application, when it is consistent with the proper use and protection of the park property as set forth below; and refuse same when inconsistent with the proper use and protection of the park property.
- (c) No person shall erect any structure, stand or platform, hold any meeting, perform any ceremony, make a speech, address or oration, or exhibit or distribute any sign, placard, notice, declaration or appeal of any kind or description, in any park or upon any park-street except by permit of said Board.
- (d) Upon application such permit shall be issued unless:
 - (1) The use for which the permit is sought is of a commercial nature; or
 - (2) The location selected is not suitable because it is inconsistent with one of the specialized park use areas such as skating rinks, ball diamonds, camping areas, athletic fields, landscaped areas, or limited use areas, swimming pools or recreational areas, or will unreasonably cause safety, crowd congestion, noise, or traffic flow problems; or
 - (3) The date and time requested has previously been allocated by permit, or would obstruct and interfere substantially with park use and enjoyment by the public; provided, however, that no permit shall be issued for any unlawful purpose.
- (e) Whenever a permit is denied because of a reason set forth in subsections (d)(2) or (3) of this Section, alternative suitable locations or dates shall be offered to the applicant.

(Ord. No. 5544-73, § 1; Ord. No. 8999-99, § I)

Sec. 19-49. - Picnics and outings.

All persons conducting organized picnics or outings shall obtain permits for the use of said park facilities in the parks designated for such purposes.

(Ord. No. 5544-73, § 1)

Sec. 19-50. - Peddling, sales, photographs, etc.; concession contracts.

No person shall in any park or park-street or to any person in any park, exhibit, sell or offer for sale, hire, lease or let out any object or merchandise, or any thing whatsoever, whether corporeal or incorporeal, tickets for entertainments or other affairs of any description included, except under a permit, or for advertising or commercial purposes take moving pictures or photographs within the limits of any park, or buy or sell or publish the negatives thereof or the prints therefrom or exhibit such negative or prints in public, or use pictures or photographs of any park, park-street or park structure, perform any personal service for hire in any park or park-street except under a permit, or otherwise than in accordance with the terms of such permit. Possession of objects or merchandise in quantities, packages or containers customarily associated with peddling shall be deemed to be prima facie evidence of exhibiting or offering for sale. Nothing contained herein shall forbid or prevent said Board in its discretion, granting concession contracts and privileges to any concessionaire or permittee on such terms and conditions as the Board may determine.

(Ord. No. 5544-73, § 1)

Sec. 19-51. - Protection of animals.

No person shall within any park molest, kill, wound, trap, hunt, take, chase, shoot or throw missiles at, remove or have in his possession any feral animal, reptile, bird, bird's nest or squirrel's nest, or remove the young of any such animal or the eggs or young of any such reptile or bird, or knowingly buy, receive, have in his possession, sell or give away any such animal, reptile, bird or egg so killed or taken.

(Ord. No. 5544-73, § 1)

Sec. 19-52. - Fires; discarding lighted cigars, etc.

No person shall kindle, build, maintain or use a fire except in fireplaces provided for the purpose or under special permit. Any fire shall be continuously under the care and direction of a competent person over twenty-one (21) years of age from the time it is kindled until it is extinguished, and no fire shall be built within ten (10) feet of any tree or building, or beneath the branches of any trees or in any underbrush. No person shall throw away or discard any lighted match, cigar or cigarette in any park or park-street.

(Ord. No. 5544-73, § 1)

Sec. 19-53. - Boating.

- (a) No boat or vessel shall be laid up, stored, repaired or placed for any other purpose on park land except by permit.
- (b) The parking of any boat or trailer is prohibited except in areas designated and marked for that use.
- (c) All boat launching and landing is prohibited except where posted for that specific activity.
- (d) No person shall launch or operate a boat on bodies of water under the jurisdiction, operation or supervision of the Board except by permit.
- (e) No person shall operate a boat propelled by sail or steam, naphtha, gasoline, oil, alcohol, electricity, motor or engine, or row or paddle a rowboat, canoe or raft in or upon any waters under the jurisdiction, operation or supervision of the Board unless able to control or handle the same with safety to himself and other occupants thereof, or otherwise than in a careful and prudent manner and

at a rate of speed so as not to molest, annoy, disturb or endanger the life, limb, property or reasonable comfort or safety of another, or occupants of other boats; except the use of motorboats on Pinhook Lake is prohibited.

- (f) Boating of any kind in a bathing area is prohibited.

(Ord. No. 5544-73, § 1; Ord. No. 8112-90, § VI)

Sec. 19-54. - Fishing; protection of fish.

- (a) Fishing is prohibited in any waters under the jurisdiction of the Board, except in those areas and during those times designated as fishing areas by the Board.
- (b) No person shall have in his possession or take or attempt to take any fish in any such waters, except in such designated areas.
- (c) All anglers shall possess a current State of Indiana fishing license in accordance with the laws, rules and regulations of the Indiana Department of Natural Resources.
- (d) No person shall at any time throw missiles at fish or place in any such waters any piscivorous fish, poison or other substance injurious to fish.
- (e) All fish cleaning and disposal of remains is prohibited except in those facilities designed and designated for such use. The selling, bartering or donating of any fish or any parts thereof is prohibited on City park property.

(Ord. No. 5544-73, § 1; Ord. No. 8112-90, § VII)

Sec. 19-55. - Bathing.

- (a) No person shall bathe, wade or swim in any waters under the jurisdiction, control, operation or supervision of the Board except at such times and in such places as designated by the Board as bathing areas.
- (b) No person shall bathe, wade or swim, or appear in such bathing area unless covered with a bathing suit.
- (c) No person shall dress or undress in any park except in such places as may be designated or maintained for such purpose.
- (d) The use of rafts, innertubes, air inflated plastic and other objects intended to support persons, not approved by the United States Coast Guard or United States Red Cross Water Safety Council, is prohibited.
- (e) No food or beverage containers, wooden or metal objects or other dangerous substances or things are permitted on the beaches adjacent to or in swimming areas, except for approved containers distributed through the designated concessionaire of the Board.

(Ord. No. 5544-73, § 1; Ord. No. 8112-90, § VIII)

Sec. 19-56. - Subsurface aquatic activities.

No person shall participate in any subsurface aquatic activity requiring the use of masks, artificial breathing apparatus, etc., (as in skin diving and scuba diving), in any water under the jurisdiction, control, operation or supervision of the Board, except by permit.

(Ord. No. 5544-73, § 1)

Sec. 19-57. - Toy aviation; kite flying; model boating, automobiling or airplane flying.

No person shall, in any park, engage in toy aviation [kite flying,] model boating or model automobiling or model airplane flying, except at places designated or maintained therefor.

(Ord. No. 5544-73, § 1)

Sec. 19-58. - Games.

No person shall, in any park or park-street, throw, cast, catch, kick or strike any baseball, swing or make use of any golf club, play golf, hit or putt golf balls, tennis balls, footballs, basketballs, croquet balls or other objects, or engage in any sport, game or competition, except in places designated or maintained therefor.

(Ord. No. 5544-73, § 1)

Sec. 19-59. - Animals at large.^[14]

- (a) No person owning or being custodian or having control of any animal shall cause or permit such animal to go at large in any park or park-street. A dog or other pet may be brought into a park or park street, provided that, such animal is continuously restrained by a leash, not exceeding six (6) feet in length. No pets, except seeing-eye dogs and hearing-guide dogs, are allowed in, upon or on buildings, golf courses, playgrounds or bathing areas, swimming pools, stands, concert areas, seats, seating areas, sun decks adjacent to swimming pools, areas where food is purveyed, kept or prepared, on the nordic ski trails during the winter sports season, or other areas designated by signs as prohibited areas.
- (b) No person having the care of any dog or other animal shall permit such animal to enter or drink the water of any drinking fountain or swimming pool in any park except at places designated or maintained therefor.
- (c) Any animal found at large may be seized and impounded or disposed of pursuant to the laws and ordinances of the State or City of South Bend concerning the disposal of stray animals on the highways or other public places.

(Ord. No. 5544-73, § 1; Ord. No. 8112-90, § IX)

Footnotes:

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Cross reference— Impoundment of dogs running at large, biting persons, § 5-16.

Sec. 19-60. - Horses.

No person shall use, ride or drive a horse in any park unless authorized to do so by the Board.

(Ord. No. 5544-73, § 1)

Sec. 19-61. - Alcoholic beverages and controlled substances.

- (a) It shall be unlawful for any person, while within any City park, to:

- (1) Consume or possess any alcoholic beverage other than beer or wine except that beer, wine and liquor may be purchased for consumption in areas designated by the Board at the Elbel and Erskine golf courses:
 - (2) Consume, or possess an open container of beer or wine at any locations other than:
Areas designated by the Board as picnic, dining or concession areas, and then only with the written permission of the Board:

With respect to beer, wine and liquor, such areas at Elbel and Erskine golf courses as designated by the Board, and with conspicuous posting of alcoholic beverage regulations at both such golf courses.
 - (3) Sell, barter, trade or exchange an alcoholic beverage; except for those authorized agents and employees of the board at those concession areas designated by the Board for such purposes;
 - (4) Possess a controlled substance;
 - (5) Be under the influence of alcohol or a controlled substance.
- (b) It shall be unlawful for any person to possess, or to be under the influence of, an alcoholic beverage or controlled substance while operating, or a passenger in, a canoe, boat, watercraft, motor vehicle, or snowmobile.
- (c) Employees and agents of the Board shall, while in the performance of their duties, be authorized and empowered to deny entrance to any City park; or refuse to rent to or to allow the use of any park property by, and physically remove from, any City park any person whom such employee, agent or official believes to be under the influence of alcoholic beverages or controlled substances.
- (d) These provisions shall be supplemental and subordinate to any and all provisions of the State of Indiana relative to possession, consumption and sale or exchange of alcoholic beverages and controlled substances, and shall not serve to authorize or allow any actions relative thereto which are not otherwise prohibited by the laws of the State of Indiana. In the event of a conflict between these provisions and those laws of the State of Indiana, the latter shall, in all instances and particulars, prevail and control.

(Ord. No. 5544-73, § 1; Ord. No. 8112-90, § X; Ord. No. 8581-95, § 1; Ord. No. 10236-13, § I, 6-24-13)

Sec. 19-62. - Construction work.

No person or agency shall perform construction work of any kind or work incidental thereto in any park without a permit or under a contract with the Board.

(Ord. No. 5544-73, § 1)

Sec. 19-63. - Traffic control and speed limitations.

- (a) It shall be unlawful for any person to operate a vehicle in excess of the posted speed limit. In those areas where no speed limit is posted, it shall be unlawful to operate a vehicle in excess of twenty (20) miles per hour.
- (b) When using parks or park-streets, all persons and vehicles shall heed and comply with directions of any police officer and, unless otherwise directed by a police officer, shall further comply with directions on traffic signs along all routes and trails.
- (c) (1) Upon the Board's designation of a space for handicapped parking, a sign shall be installed bearing the words:

"HANDICAPPED PARKING ONLY DISABLED LICENSE OR PERMIT REQUIRED"

or similar language consistent with the State manual and specifications for uniform system of traffic-control devices, and the official international wheelchair symbol or a reasonable facsimile thereof.

- (2) Any motor vehicle found parking in areas designated for the exclusive use of mobility disabled persons which does not bear a disabled veteran registration plate or a special registration plate, or display a disabled parking permit issued by any State or municipality shall be fined one hundred dollars (\$100.00). Continuing violations under this section shall constitute a separate offense and be punishable by a separate penalty for each infraction.
- (d) With respect to areas designated by the Board as parking areas, all persons and vehicles shall comply with all directions and/or regulations posted within such areas, including, but not limited to, those concerning time limitations, use by mobility handicapped persons, etc., and with the directions of any park employee.

(Ord. No. 5544-73, § 1; Ord. No. 8112-90, § XI; Ord. No. 10246-13, § III, 8-12-13)

Sec. 19-64. - Vehicle use restrictions.

- (a) The laws of the State of Indiana regulating equipment on vehicles and vehicle operation shall apply to vehicles within any City park.
- (b) No vehicle shall be operated within any park under the jurisdiction, control or supervision of the Board except on roadways or off-road areas expressly designated by the Board for vehicular traffic.
- (c) Motorcycles, motorbikes, minibikes, snowmobiles or any other mechanically driven vehicles are prohibited in any area under the control of the Board, except those areas that have been designated by the Board for such usage.
- (d) Vehicles constructed for or engaged in the carrying of merchandise and trucks and trailers are prohibited from using any park, except under permit where necessary to make deliveries in such park. Wherever service roads adjoin the main roadway to a park, such vehicles are required to use the service roads set apart for such use. In all cases such vehicles must enter such park from the nearest street intersection or entrance, in the direction of traffic, and leave by the nearest intersecting street or exit in the direction of traffic.
- (e) No vehicle shall enter or leave any park except at established entranceways or exits, and except at established times.
- (f) No vehicle shall be left within park boundaries after the park has closed. Any vehicle so left on park premises may be towed from the park without further notice to the owner or operator. The registered owner shall be responsible for any towing fee incurred.

(Ord. No. 8112-90, § XII)

Sec. 19-65. - Careful driving.

No person shall, in any park, operate, drive or propel, or cause or permit to be operated, driven or propelled, any vehicle recklessly or negligently or at a speed or in such a manner as to endanger the life, limb, safety, comfort or property of any person or persons.

(Ord. No. 5544-73, § 1)

Sec. 19-66. - Restricted areas.

- (a) *Parking or operating certain vehicles.* No person shall, in any park, drive or operate a vehicle within or upon a safety zone, walk or any part of any park designated or customarily used for such purposes. No person shall ride a bicycle or motor-powered cycle in any park, except in places designated for such riding; but persons may push such machines in single file to and from such places. No person may park any vehicle on the south side of Wall Street where it is extended through Potawatomi Park or on the north side of said Wall Street from the shelter house entrance east to the first alley west of Ironwood Drive; or on the north side of Riverside Drive west from Michigan Street to Lafayette Boulevard through Leeper Park; or on either the east or west side of the north-south drive through Kennedy Park, which is an extension of Bendix Drive or Eclipse Place, from Westmore Street south to the park drive extension of Longley Avenue; or on the north side of the park drive in Kennedy Park which is an extension of Longley Avenue. The boat ramp parking area at Veterans Memorial Park shall have one-way traffic from west to east and no person may park along the south side of the lot and the entire boat ramp parking lot is restricted to automobiles with boat trailers attached.
- (b) *Sledding, skiing and skating.* No person shall sled ride, ski or ice skate within the park except in areas designated for such purpose.
- (c) *Parking vehicles.* The parking of vehicles in any park area not designated for parking is prohibited.

(Ord. No. 5544-73, § 1)

Sec. 19-67. - Driving instructions.

Instruction in operating automobiles or motorcycles is prohibited in parks and park streets at all times except by permit of the Board. No person who may not lawfully operate a vehicle within the State or City of South Bend shall drive or operate a vehicle within any park or park street.

(Ord. No. 5544-73, § 1)

Sec. 19-68. - Obstructing traffic.

No person shall cause or permit any vehicle to obstruct traffic in any park or park street, or to stop such vehicle except at those places specifically designated or maintained for the purpose of stopping or parking, except in cases of emergency.

(Ord. No. 5544-73, § 1)

Sec. 19-69. - Parking at night.

No person shall, between 2:00 a.m. and 6:00 a.m., park a vehicle in or along any park or park street, except at places designated or maintained therefor.

(Ord. No. 5544-73, § 1)

Sec. 19-70. - Towing; projecting articles.

- (a) No person shall cause or permit a vehicle to be towed by another vehicle in any park, except that in case of breakdown a disabled vehicle may be towed to the nearest exit.
- (b) No person shall operate or drive in any park a vehicle containing any person or object projecting or hanging outside or on the top thereof; except that outdoor sports and recreation equipment such as fishing rods, skis and boats, beach chairs, beach umbrellas, tent poles and sleds may be carried on the rear of such vehicles or on a rack designed for the purpose and attached to the top thereof;

provided, that in all cases fastenings shall be secure and substantial, and, provided that such equipment so carried shall in no case project more than twelve (12) inches above the top, or on either side, or to the front of such vehicle, and if same projects to the rear of such vehicle, same shall not obscure the tail or stop lights or directional signals thereon, and a plainly visible red cloth shall be securely fastened to the rear extremity of such projecting objects.

(Ord. No. 5544-73, § 1)

Sec. 19-71. - Driving off pavement.

No vehicle shall be operated or driven off the improved or paved roadways of any park. Disabled vehicles may be driven off the roadway so as to prevent obstruction of traffic, but no disabled vehicle shall be permitted to remain in a park for a longer period than two (2) hours.

(Ord. No. 5544-73, § 1)

Sec. 19-72. - Working on vehicles.

No person shall, in any park, clean, polish, grease, lubricate or make repairs to any vehicle except those of a minor nature and then only in cases of emergency.

(Ord. No. 5544-73, § 1)

Sec. 19-73. - Equipment on vehicles.

No person shall drive or operate a vehicle in any park not equipped as provided by law or which may not lawfully be operated within the State. Use of any cutout, fitting, apparatus or device which allows its exhaust gases to escape therefrom without first passing through a muffler or silencer, or driving a vehicle emitting offensive quantities of smoke, oil, gas or disagreeable odors, or use of any gong, siren or whistle on any vehicle not operated by a public authority, is prohibited.

(Ord. No. 5544-73, § 1)

Sec. 19-74. - Parkways.

- (a) *Peddlers, vendors, hawkers, etc.* No peddler, vendor, hawker or huckster shall stop or remain on any part of the right-of-way or service roads or entrances.
- (b) *Turning.* U-turns are prohibited except when specifically allowed by an officer or by a traffic direction sign.
- (c) *Rate of speed.* No person operating, driving or propelling any vehicle shall proceed at a greater than maximum speed indicated by signs; but in no case shall such maximum speed exceed twenty (20) miles per hour.

(Ord. No. 5544-73, § 1)

Sec. 19-75. - Curfew.

It shall be unlawful for any person to remain in any park, golf course, playground, picnic [area], swimming area, pavilion, or any property under the jurisdiction of the Board of Park Commissioners, either on foot or in vehicles of any type, later than 11:00 p.m. local time, except by written permit. Any person violating the curfew will be charged with trespassing.

(Ord. No. 5544-73, § 1; Ord. No. 6331-78, § 1)

Sec. 19-76. - Penalties.

Any violation of any of the following sections shall be punishable by a fine of fifty dollars (\$50.00): 19-40, 19-42, 19-43, 19-46, 19-50, 19-52, and 19-61. Any violation of any of the following sections shall be punishable by a fine of twenty-five dollars (\$25.00): 19-45, 19-54, 19-55, 19-59, 19-60, 19-64, 19-68, 19-69, 19-71, and 19-75. Any violation of section 19-41 shall be punishable by a fine of twenty dollars (\$20.00). Any violation of section 19-72 shall be punishable by a fine of ten dollars (\$10.00). Unless otherwise provided in this article, any violation of any provision of this article shall be punishable by a minimum fine of twenty-five dollars (\$25.00) and a maximum fine of two thousand five hundred dollars (\$2,500.00).

(Ord. No. 5544-73, § 1; Ord. No. 6236-77, § 4; Ord. No. 7992-89, § 5; Ord. No. 8112-90, § XIII)

Sec. 19-77. - Repeal of conflicting ordinances.

All ordinances, or parts thereof, heretofore adopted affecting the parks, park streets and public places of the City of South Bend, under the jurisdiction of the Board of Park Commissioners, inconsistent with or in conflict with the provisions of this article, insofar as same are inconsistent with or in conflict with this article, are repealed, but insofar as practicable and possible, the provisions hereof shall be deemed supplemental to existing ordinances not in conflict herewith.

(Ord. No. 5544-73, § 1)

Sec. 19-78. - Severability and savings clause.

Each section, clause and part of this article shall be deemed severable from all others and if any provision of this article is held invalid, such invalidity shall not affect the validity of any other provision, part or portion of this article, but the remaining portions shall remain in full force and effect.

(Ord. No. 5544-73, § 1)

Sec. 19-79. - Park and park program rule enforcement.

- (a) The Board of Park Commissioners of the City of South Bend is authorized to adopt rules and regulations for the conduct of patrons, park program participants, spectators, and volunteers in the South Bend Parks and Park programs, to the extent they do not conflict with this article or other ordinances or statutes.
- (b) If the Park Superintendent determines that the safety of patrons and of park employees and volunteers and park property require the removal of an individual from a park(s) and/or park program(s), he/she may do so by following the procedures set forth in IC 35-43-2-2. The ban imposed by the Park Superintendent shall be for a maximum period of up to one (1) year for a first offense and three (3) years for any subsequent offense.
- (c) Any appeal of a ban by the Park Superintendent must be filed in writing with the Board of Park Commissioners within five (5) days after service of the ban.
- (d) The Board of Park Commissioners shall set rules governing the hearing of the appeal.

(Ord. No. 9685-06, § I, 7-24-06)