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5.0 SECTION 4(F) EVALUATION

5.1 INTRODUCTION

This chapter provides an evaluation of the project relative to Section 4(f) of the Department of Transportation Act of 1966 (49 United States Code [USC] 303) and its implementing regulations, jointly codified by Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) at 23 Code of Federal Regulations (CFR) Part 744. Section 4(f), a law applying only to agencies within the U.S. Department of Transportation (USDOT), states it is the policy of the federal government “that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites” (49 USC 303).

This chapter has been updated since the Draft Environmental Impact Statement (Draft EIS) based on traffic and design changes that occurred after the Draft EIS and changes in use under Section 4(f) as a result of those design modifications.

The proposed action, as described in Chapter 2.0 *Alternatives*, is a transportation project that may receive federal funding and/or discretionary approvals through USDOT; therefore, documentation of compliance with Section 4(f) is required. FHWA regulations (23 CFR 774) state:

“The Administration may not approve the use, as defined in Sec. 774.17, of a Section 4(f) property unless a determination is made under paragraph (a) or (b) of this section.

- (a) The Administration determines that:
- There is no feasible and prudent avoidance alternative, as defined in Sec. 774.17, to the use of land from the property; and
 - The action includes all possible planning, as defined in Sec. 774.17, to minimize harm to the property resulting from such use; or
- (b) The Administration determines that the use of the property, including any measure(s) to minimize harm (such as any avoidance, minimization, mitigation, or enhancement measures) committed to by the applicant, will have a *de minimis* impact, as defined in § 774.17, on the property.”

According to the Section 4(f) Final Rule (23 CFR 774.17) a feasible and prudent avoidance alternative is defined as:

- (1) A feasible and prudent avoidance alternative avoids using Section 4(f) property and does not cause other severe problems of a magnitude that substantially outweighs the importance of protecting the Section 4(f) property. In assessing the importance

of protecting the Section 4(f) property, it is appropriate to consider the relative value of the resource to the preservation purpose of the statute.

- (2) An alternative is not feasible if it cannot be built as a matter of sound engineering judgment.
- (3) An alternative is not prudent if:
 - (i) It compromises the project to a degree that it is unreasonable to proceed with the project in light of its stated purpose and need;
 - (ii) It results in unacceptable safety or operational problems;
 - (iii) After reasonable mitigation, it still causes:
 - (a) Severe social, economic, or environmental impacts;
 - (b) Severe disruption to established communities;
 - (c) Severe disproportionate impacts to minority or low income populations;
 - or
 - (d) Severe impacts to environmental resources protected under other Federal statutes;
 - (iv) It results in additional construction, maintenance, or operational costs of an extraordinary magnitude;
 - (v) It causes other unique problems or unusual factors; or
 - (vi) It involves multiple factors in paragraphs (3)(i) through (3)(v) of this definition, that while individually minor, cumulatively cause unique problems or impacts of an extraordinary magnitude.

This Section 4(f) evaluation has been prepared in accordance with 23 CFR Part 774. Additional guidance has been obtained from the FHWA Technical Advisory T 6640.8A (1987) and the revised FHWA Section 4(f) Policy Paper (2012). Consultation with officials with jurisdiction has occurred throughout the National Environmental Policy Act (NEPA) process.

5.2 SECTION 4(f) "USE"

As defined in 23 CFR 774.17 and 774.15, where applicable and not excepted, the "use" of a protected Section 4(f) property can be classified as a direct use, a temporary occupancy, or a constructive use. In addition, a finding of *de minimis* use can be made if the use of a Section 4(f) resource is determined to be minimal. These uses, including *de minimis* finding, are defined below.

Direct Use. A direct use of a Section 4(f) resource takes place when the land is permanently incorporated into a transportation facility.

Temporary Occupancy. A temporary occupancy results in a use of a Section 4(f) property when there is a temporary impact to the Section 4(f) property that is considered adverse in terms of the preservationist purposes of the Section 4(f) statute.



Constructive Use. Constructive use occurs when the transportation project does not incorporate land from a Section 4(f) property, but the project's proximity impacts are so severe that the protected activities, features, or attributes that qualify a resource for protection under Section 4(f) are substantially impaired. Substantial impairment occurs only when the protected activities, features, or attributes of the resource are substantially diminished. This determination is made through:

- Identification of the current activities, features, or attributes of the resource that may be sensitive to proximity impacts
- Analysis of the proximity impacts on the resource
- Consultation with the appropriate officials having jurisdiction over the resource

De minimis. Section 4(f) requirements allow the USDOT to determine that certain uses of Section 4(f) land would have no adverse effect on the protected resource. When this is the case, the use is considered *de minimis*, and compliance with Section 4(f) is greatly simplified. The *de minimis* subsection authorizes FHWA to approve a project that results in a *de minimis* impact to a Section 4(f) resource without the evaluation of avoidance alternatives typically required in a Section 4(f) evaluation.

A finding of *de minimis* use may be made for historic sites when no historic property is affected by the project or the project will have "no adverse effect" on the historic property in question. For parks, recreation areas, and wildlife and waterfowl refuges, a finding of *de minimis* use may be made when impacts will not adversely affect the activities, features, and attributes that qualify the resource for protection under Section 4(f). A *de minimis* finding may be made without the evaluation of avoidance alternatives typically required in a Section 4(f) evaluation.

5.3 PURPOSE AND NEED

The Lead Agencies for this Study have worked with project stakeholders to identify multiple statements of purpose, each directly tied to a recognized need within the Pyramid Highway corridor. Following is a summary of the purpose and need statements for this Study (see Chapter 1.0 *Purpose and Need* for more details).

- **Provide improvements to serve existing and future growth.** The Cities of Reno and Sparks and unincorporated Washoe County experienced considerable growth in the past two decades. The projected increase in population and employment in the region will result in a commensurate increase in vehicle miles traveled. This will continue to strain the transportation network in the region. Improvements are needed to respond to this recent and forecasted growth.
- **Alleviate existing congestion problems on Pyramid Highway.** The inadequate transportation network serving the Study Area results in congestion at intersections

and on roadways. This is evident in the traffic volumes on Pyramid Highway that regularly exceed the existing capacity during the peak travel periods. With the projected growth in population and employment, these congestion levels will continue to worsen without capacity improvements.

- Provide direct and efficient travel routes to address existing travel inefficiencies.** The existing roadway network that provides access to and from the City of Sparks and the Spanish Springs area is limited. Currently, most southbound traffic funnels to Pyramid Highway and then to the Pyramid Highway/McCarran Boulevard intersection. The lack of travel corridors has created inefficient and indirect travel routes, which results in out-of-direction travel and traffic overloading on roadways with insufficient capacity. As the primary north-south corridor through Sparks and Spanish Springs, Pyramid Highway carries most of the local and regional traffic. The Spanish Springs and Sparks Sphere Planning Areas represent most of the traffic that uses Pyramid Highway regularly. Population and job numbers are predicted to increase considerably in these planning areas. A single four-lane arterial cannot sufficiently accept the traffic that would be generated by this growth. Traffic studies show that current volumes on McCarran Boulevard already strain its capacity. Without additional east-west capacity, McCarran Boulevard would operate at a Level of Service E or worse for the entire length from Pyramid Highway to US 395. There are a limited number of points of access into and out of the Spanish Springs and northern Sparks area for traffic destined for the regional freeway system and to the Reno greater metropolitan area. This has resulted in an indirect and inefficient roadway network. Additional connections to improve mobility are needed to effectively serve these areas.
- Respond to regional and local plans.** Numerous local plans cite a need for transportation improvements to help meet land use and transportation goals. The Washoe County Regional Transportation Commission's (RTC's) 2040 Regional Transportation Plan (RTP) identifies the need for improvements to Pyramid Highway and a new connection to US 395 as part of a larger plan to meet the region's transportation demands. Planning documents for local jurisdictions, such as Washoe County and the Cities of Reno and Sparks, recognize the effect that growth areas in the Study Area would have on transportation needs. Local plans contain goals to make transportation systems seamless and efficient and to reduce dependence on the automobile and cite a need for improvements to Pyramid Highway to accommodate increased development in the area. Local planning documents cite the need for increased multimodal options including developing a regional network of bikeways connected to other transportation modes and to provide pedestrian access to existing and planned land uses as part of all transportation projects. Currently, a relatively small number of the commutes use alternative transportation in the Study Area. This is due to a lack of transit service, poor bicycle and pedestrian facilities, and a land use pattern less conducive to alternative transportation.



5.3.1 Bureau of Land Management Purpose and Need

As the lead federal agency for this study, FHWA has the authority for and responsibility to define the purpose and need of the project for purposes of NEPA analysis (Council on Environmental Quality [CEQ] 2003 <http://ceq.hss.doe.gov/nepa/regs/CEQPurpose2.pdf>).

The BLM's NEPA responsibilities are addressed under this EIS.

The Draft EIS noted that the Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM) have jurisdiction over land within the Study Area, and therefore, FHWA is not the sole federal agency with responsibility for making decisions with respect to the proposed action. The Draft EIS also noted that the BIA and BLM are serving as cooperating agencies for this NEPA study. However, based on changes made to the design of the build alternatives following distribution of the Draft EIS (see Chapter 2.0), no direct impacts would occur to tribal lands as a result of the proposed action. Therefore, the BIA was no longer required to serve as a cooperating agency on this NEPA study.

FHWA and BLM have an independent responsibility to prepare a NEPA document for the proposed action, including a purpose and need statement. To streamline the environmental study process, BLM's responsibilities under NEPA are addressed under this EIS and the Record of Decision that FHWA will prepare for the proposed action; BLM will not issue a Decision Document for this project.

BLM, FHWA, and the Nevada Department of Transportation (NDOT) entered into a Memorandum of Understanding concerning operating procedures for processing federal-aid highway rights-of-way from BLM (2007). The agreement states that BLM will participate as a cooperating agency in the NEPA process on public lands. As a cooperating agency, BLM will use this EIS as a basis for future actions.

Because BLM's decision is different than FHWA's decision, the following describes BLM's purpose and need for the project. The BLM's purpose for the project is to determine if certain public lands should be devoted to federal highway uses. BLM, FHWA, and NDOT will follow the Memorandum of Understanding & Operating Manual, or any approved revisions, for this project (2007). At the conclusion of the NEPA process, FHWA will submit a request to BLM for right-of-way appropriation of public lands determined to be necessary for the project. BLM would then issue a Letter of Consent to FHWA for highway use of the public lands and to identify special stipulations associated with that use.

5.4 ALTERNATIVES

This section provides summary descriptions of the Arterial Alternatives. Please refer to Section 2.7 for more detail.

The Arterial Alternatives are shown on Figure 5-1. Each of the Arterial Alternatives would have similar improvements along the 7.7-mile segment of Pyramid Highway in the Study Area, from Queen Way north to Calle de la Plata through the communities of Sparks and Spanish Springs. Each Arterial Alternative would include a new arterial facility (US 395 Connector) and ancillary improvements from Pyramid Highway to US 395, through the Sun Valley area. Arterial improvements are designed to carry traffic directly to US 395 via the US 395 Connector rather than along the existing Pyramid Highway to McCarran Boulevard or I-80. Both the US 395 Connector and Pyramid Highway segments north to Calle de la Plata Drive would be constructed as high speed, access-controlled primary arterial highways with a combination of interchanges and at-grade intersections at certain intersecting roadways. The term “high speed” refers to a design speed over 45 mph per Sections 3.3.4 and 3.3.6 of the 2011 American Association of State Highway and Transportation Officials (AASHTO) *A Policy on Geometric Design of Highways and Streets* (commonly referred to as the “Green Book”).

Arterial design elements along Pyramid Highway include installing a raised median to separate directions of travel and limit left-turn access. Along the US 395 Connector, the design includes an unpaved median and barrier rail only at select locations where required to meet clear zone distances. Approaching US 395, all the Arterial Alternatives would be constructed as limited-access facilities with increased use of barrier rail on both the outside shoulders and in the median, mostly due to topographic constraints.

The US 395 interchange at Parr Boulevard would be reconstructed and reconfigured to accommodate the new directional system interchange for the US 395 Connector. Raggio Parkway, Dandini Boulevard, and Spectrum Drive would be realigned in this area to accommodate the interchange improvements and provide improved access to the Desert Research Institute (DRI) and Truckee Meadows Community College (TMCC) campuses.

Arterial Alternative 1 would consist of an alignment just west of the existing Pyramid Highway between the US 395 Connector and Highland Ranch Parkway. This alignment would be located just below the mountain ridgeline west of Pyramid Highway. Of the two alignment choices through Sun Valley, Arterial Alternative 1 would follow the northern crossing and would include an interchange at Sun Valley Boulevard.

Arterial Alternative 2 would consist of an alignment along the existing Pyramid Highway between the US 395 Connector and Sparks Boulevard/Highland Ranch Parkway. The US 395 alignment would follow the southern crossing of Sun Valley and would include an interchange at Sun Valley Boulevard.

Arterial Alternative 3 would consist of an alignment along the mountain ridgeline between the US 395 Connector and Sparks Boulevard/Highland Ranch Parkway. This alignment would not include any interchanges between Disc Drive and Highland Ranch

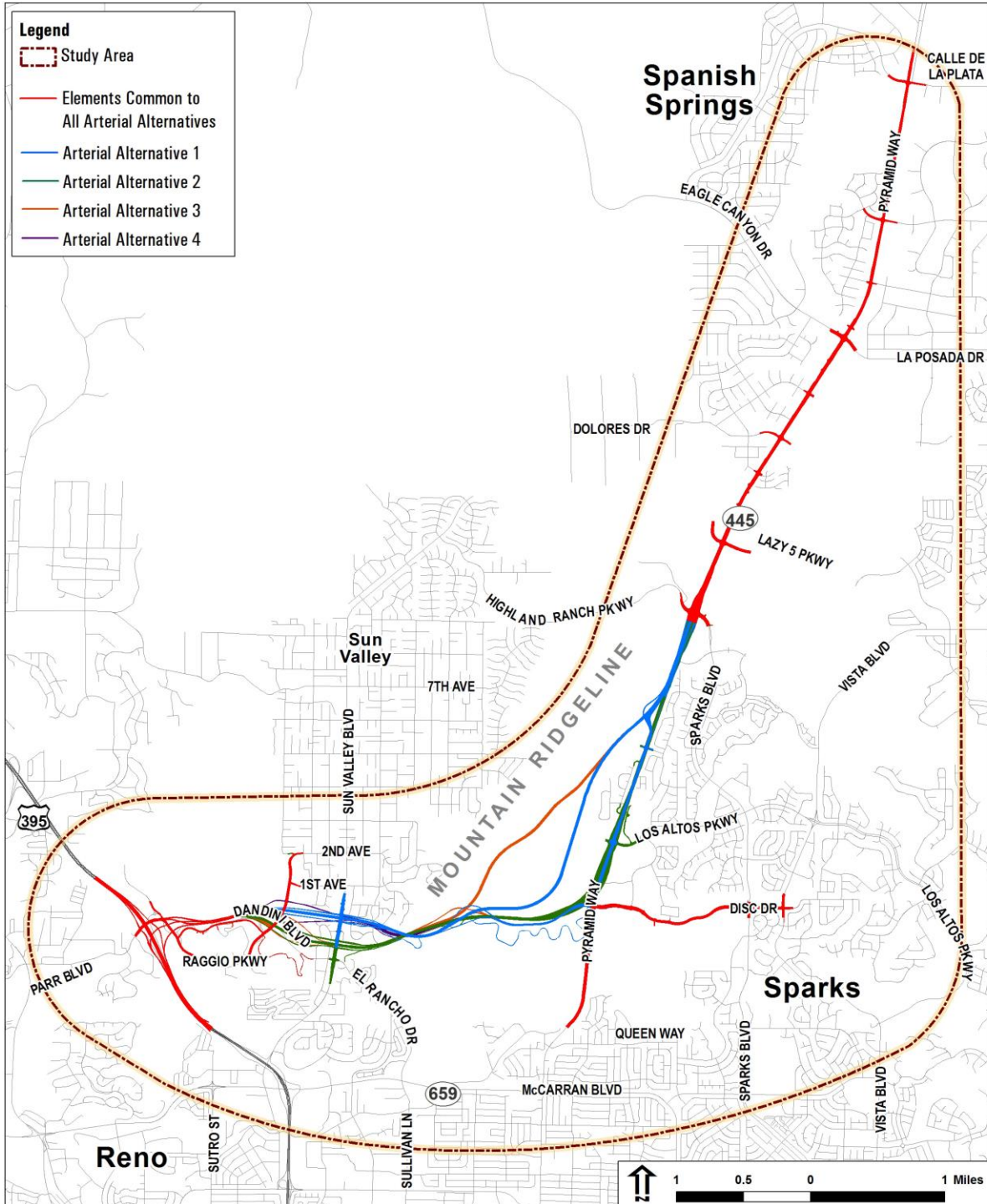


Figure 5-1. Arterial Alternatives – Overview Map

Parkway. The US 395 alignment would follow the southern crossing of Sun Valley and would include an interchange immediately west of Sun Valley Boulevard.

Arterial Alternative 4 would consist of the Arterial Alternative 2 alignment with a northern crossing of Sun Valley and an interchange immediately west of Sun Valley Boulevard.

5.5 IDENTIFICATION OF SECTION 4(f) PROPERTIES

The resources evaluated for potential Section 4(f) eligibility in the Study Area included publicly owned parks and recreation areas, including recreation trails, wildlife and waterfowl refuges, and significant historic sites.

5.5.1 Public Parks and Recreation Areas

Existing and planned parks and recreation areas, recreation trails, and wildlife and waterfowl refuges were identified in the Study Area. The Study team evaluated data collected from the municipalities on the recreational uses of the public parks and recreation areas to determine if they are considered to be properties protected under Section 4(f). No existing or proposed recreation trails were identified in any areas where improvements are expected to occur under the Arterial Alternatives that are not part of the recreation areas discussed below. A Geographic Information Systems (GIS) database was created using this information and verified with the use of relevant comprehensive plans, parks and recreation master plans, open space management plans, and calls to the relevant jurisdictions. Management plans and agencies were consulted to determine if any areas were actively managed as refuges. No properties were identified as eligible for protection as wildlife and waterfowl refuges.

The initial evaluation of parks and recreation areas, public trails, and wildlife and waterfowl refuges identified all resources in the Study Area. The alternatives development and evaluation process identified these properties as protected resources to be avoided, which resulted in many resources being avoided by the Arterial Alternatives.

Section 3.19 *Parks and Recreation* provides a complete list of all public parks and recreation areas identified in the Study Area. For purposes of this Section 4(f) evaluation, only Section 4(f) resources having a potential Section 4(f) use by any of the Arterial Alternatives are discussed.

Three park and recreation properties were identified that would potentially be used by all the Arterial Alternatives. These properties are described below and shown on Figure 5-2. **Wedekind Park.** Wedekind Regional Park is a 250-acre site located east of Pyramid Highway and south of Disc Drive on land owned by the BLM. In December 2007, the BLM completed an Environmental Assessment (EA) for the proposed land lease and

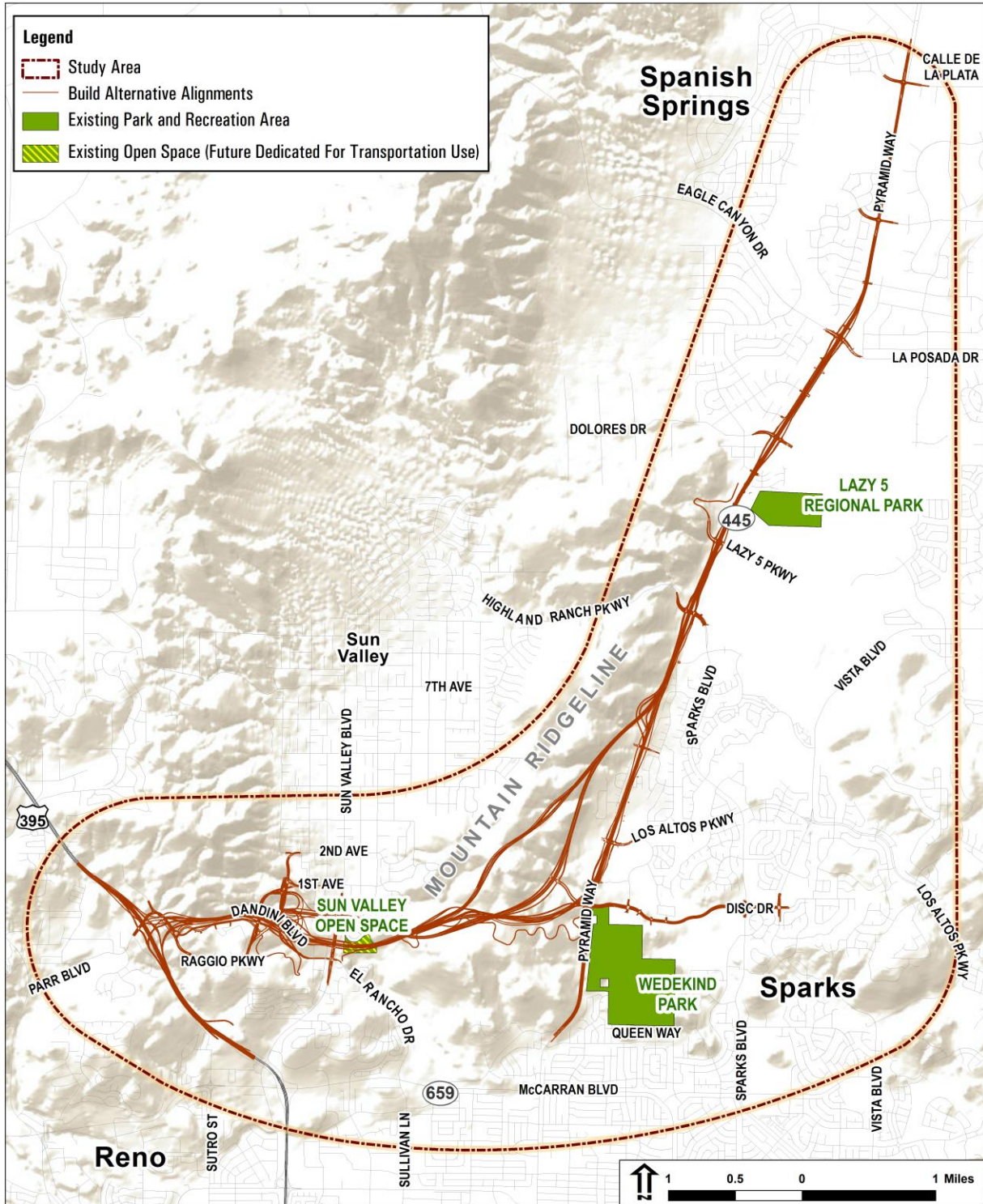


Figure 5-2. Park and Recreational Properties Potentially Used by Arterial Alternatives

eventual conveyance of this property to the City of Sparks under the Recreation and Public Purposes Act. Under this lease, the City of Sparks Recreation Department will improve and manage the area in accordance with the submitted plan of development and management. This plan of development includes trails, interpretive activities, and a neighborhood park to be located off of 4th Street in Sparks (see Figure 5-3).

Sun Valley Open Space. This 15-acre open space is owned and managed by Washoe County. Currently, there are no developed recreation amenities on the parcel; however, the County has envisioned using portions of the site for the proposed Rim Trail that would circle the community of Sun Valley. Funding has not been identified for trail improvements in this area, nor has a specific alignment for the future trail been determined.

Lazy 5 Regional Park. This 85-acre regional park designed around a grove of existing trees is managed by Washoe County. Five acres have been developed to include a community center, athletic fields, basketball courts, horseshoe pits, multipurpose fields, picnic areas, playgrounds, skateboard park, volleyball courts, and a water-play park. The public can reserve many of these facilities. The remainder of the park is undeveloped open space; however, future development, including additional athletic fields, is planned.

Potential uses of these park and recreation properties are described below under Section 5.6 *Use of Section 4(f) Properties*.

5.5.2 Historic Resources

In accordance with FHWA/FTA regulations, Section 4(f) requirements are applicable only to significant historic resources (i.e., those sites listed on or eligible for listing on the National Register of Historic Places [NRHP]), or sites otherwise determined significant by the FHWA Administrator (23 CFR 774.17) and the FHWA Section 4(f) Policy Paper (Section 2. Historic Sites) that are subject to use by the transportation project. Archaeological sites on or eligible for the NRHP are considered an exception from Section 4(f) approval if they are determined to have minimal value for preservation in place (23 CFR 774.13[b]).

The Study team identified historic properties through an intensive level survey of historic architectural resources, which were evaluated for significance in terms of eligibility for inclusion in the NRHP. The historic architectural inventory conducted for this Study inventory is documented in the *Architectural Inventory: Pyramid Highway/ US 395 Connection Project, Sparks, Washoe County, Nevada* (WCRM, January 2012, Revised December 2012).

A preliminary walkover archaeological survey was conducted for all the Freeway Alternatives evaluated in the Draft EIS to identify potential archaeological resources

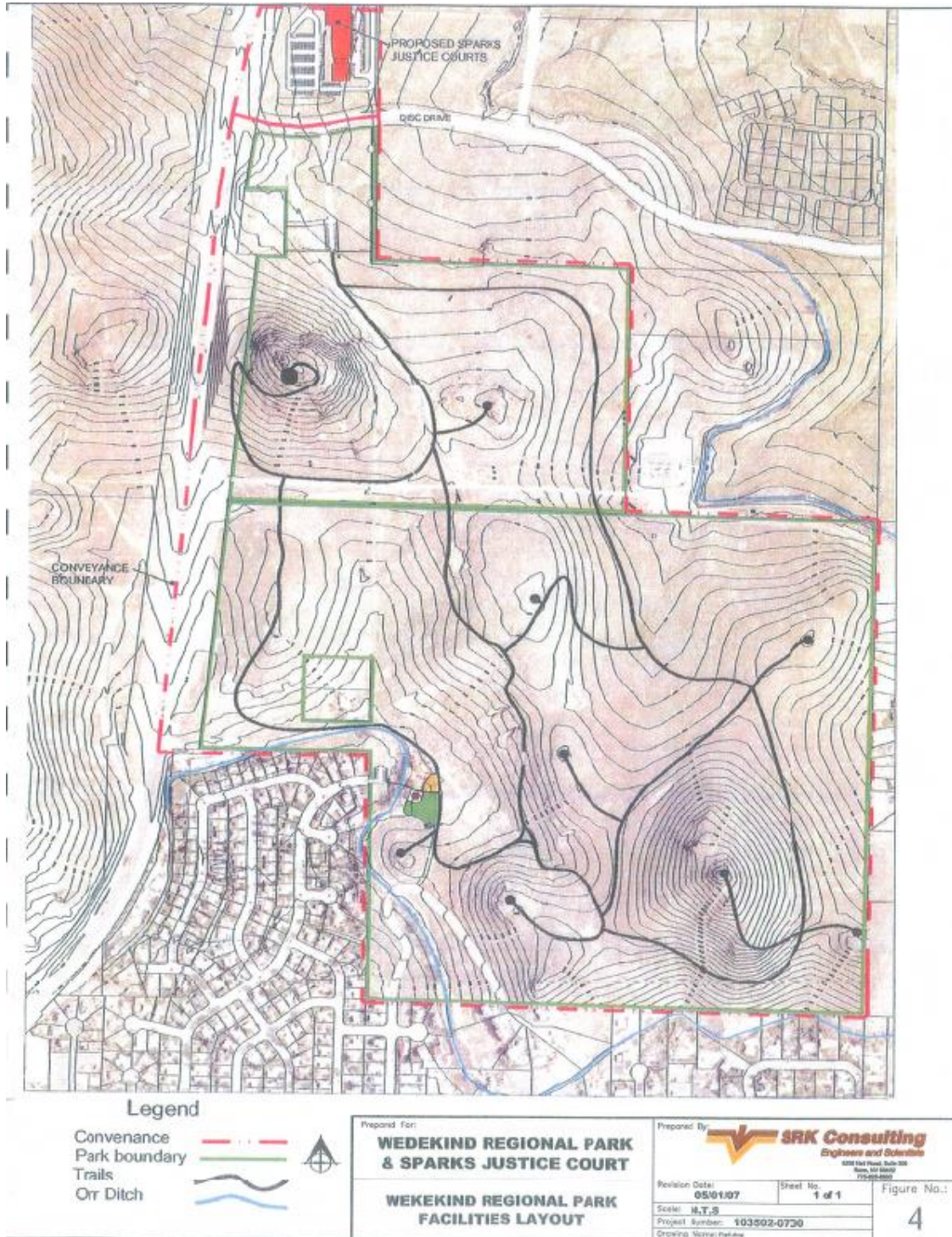


Figure 5-3. Wekekind Park Development Plan

early in the planning process. The Freeway Alternatives follow the same alignment as, but have a slightly larger footprint than, the Arterial Alternatives evaluated in this Final EIS. Therefore, the surveys conducted for the Freeway Alternatives serve to identify potential archaeological resources for the Arterial Alternatives.

The 2012 survey identified an estimated 103 distinct archaeological “sites” consisting of refuse scatters/dumps, two-track road systems, prospect pits/trenches, mining complexes, and ditches. The preliminary review indicated that the nature of these sites likely makes them important chiefly for what can be learned from data recovery. These sites were determined to have minimal value for preservation in place because they do not embody other values besides data and are not considered sites of transcendent importance to archaeology and, therefore, would not require a Section 4(f) evaluation.

The Study team then conducted an intensive comprehensive pedestrian archaeological survey in late 2014/early 2015 of the Preferred Alternative – the Arterial Alternative 3 footprint. The survey area included the Preferred Alternative footprint plus a 100-foot buffer on each side. In addition to the Prosser Valley Ditch, which is evaluated as both an historic architecture and archaeological resource, three archaeological sites were identified within the survey area for the Preferred Alternative and were recommended as eligible for the NRHP under Criterion D. Of those three sites, it was determined through the Section 106 process that Arterial Alternative 3 (Preferred Alternative) would result in an *Adverse Effect* to one site, *No Adverse Effect* to the second site, and *No Historic Properties Affected* to the third site because it can be avoided through minor design changes such as steeping slopes. Under 23 CFR 774.13(b), a Section 4(f) evaluation is not required for archeological sites that are on or eligible for the NRHP when FHWA concludes that the archeological resource is important chiefly because of what can be learned by data recovery and has minimal value for preservation in place, and when the official with jurisdiction over the Section 4(f) resource has been consulted and has not objected to that finding. In consultation with the State Historic Preservation Officer (SHPO) it was determined that these three sites do not warrant preservation in place (see Section 3.17 *Historic Preservation* for more information). Therefore, a Section 4(f) evaluation of those sites was not required.

The historic resources considered in this evaluation include all resources that were listed on the NRHP or determined officially eligible for listing on the NRHP. All of the significant historic resources that have been identified within the Area of Potential Effect (APE), whether impacted or not, are described in Section 3.17 *Historic Preservation*. For purposes of this Section 4(f) evaluation, only the five historic architecture properties subject to use by the project are detailed and documented.

FHWA identified the following five NRHP-eligible historic architecture resources within the project’s APE that may potentially be used by the project (see Figure 5-4):

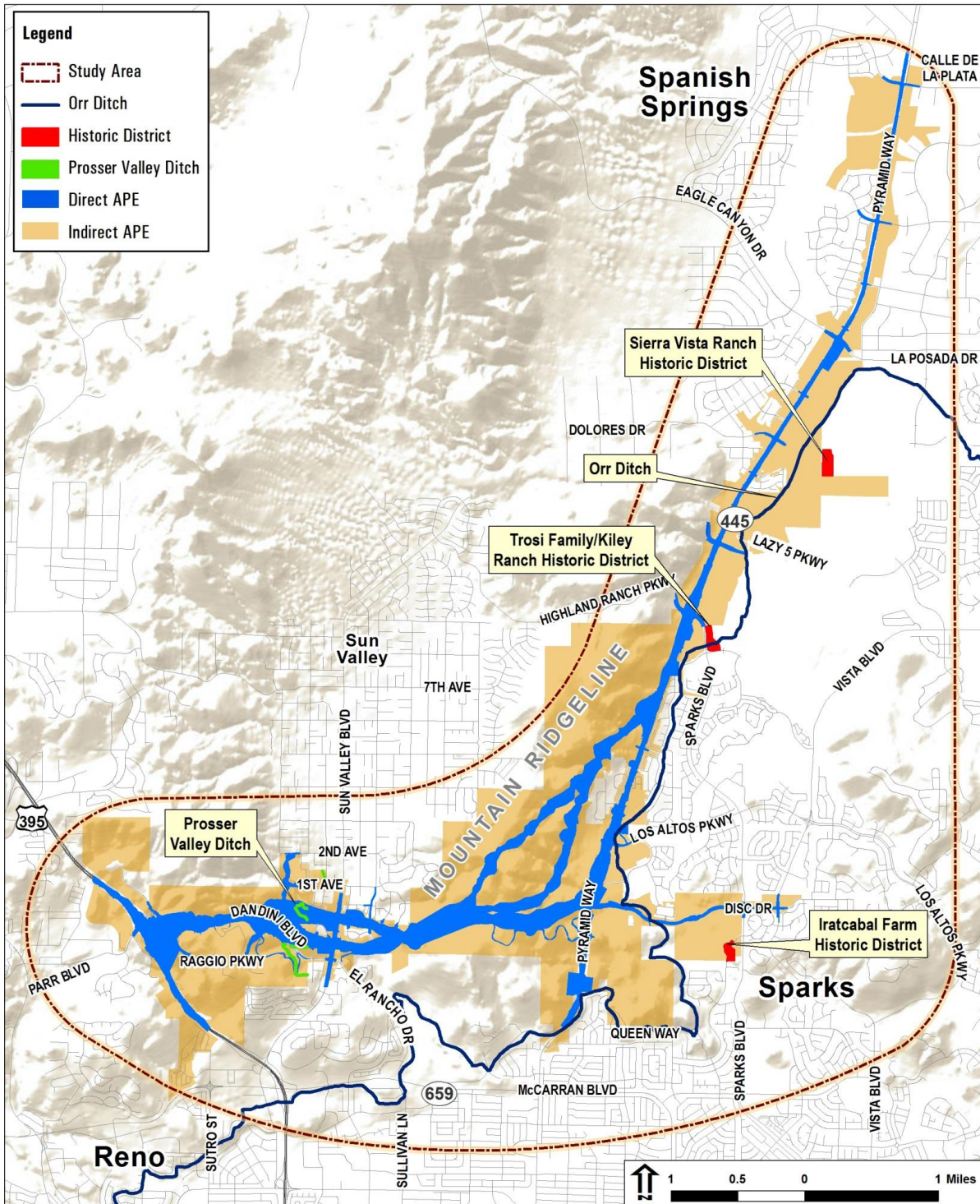


Figure 5-4. NRHP-Eligible Historic Properties

Sierra Vista Ranch Historic District.

The ranch is considered significant for containing important examples of typical mid-20th century ranch house and ranch outbuilding construction under Criterion C. The buildings and ranch appear to have the necessary associations with mid-20th century Spanish Springs Valley farming and ranching to be considered eligible under Criterion A. The buildings appear to retain sufficient integrity (setting, location, design, feeling, association, and workmanship) to merit eligibility.



Overview of Sierra Vista Ranch Historic District

Trosi Family/Kiley Ranch Historic District.

The building complex is associated with the theme of small farms and ranches that made a significant contribution to the evolution of local farming and ranching. The ranch is representative of a once vastly larger population of the property type (that of small farms and ranches in the Spanish Springs Valley and Reno/Sparks area), which has substantially declined and is rapidly disappearing. In addition, the physical characteristics of the farm/ranch



Trosi Family/Kiley Ranch Historic District

are present both in terms of standing architecture and archaeologically, and the resource maintains enough of its historic fabric and the function is readily apparent. The district retains historic integrity in terms of location, design, setting, materials, workmanship, and feeling. The property is, therefore, recommended eligible under Criterion A. The house, outbuildings, and other standing structures on the property are of the vernacular style. The buildings are in their original location, and there are no additions or modifications that impair the quality of design, materials, and workmanship. Thus, the site is recommended eligible under Criterion C. Finally, another portion of this ranch has been previously recommended eligible under Criterion D because of its ability to offer significant information pertinent to the research topics detailed in other reports (Peterson and Stoner, 2003). This portion of the ranch is outside the current parcel boundary due to subdivision of the ranch and ownership changes during the 2000s.

Iratcabal Farm Historic District. This farm complex is recommended eligible under Criterion A for its associations with mid-20th century Spanish Springs Valley farming and ranching and under Criterion C as representative of the construction methods and



materials common on western Nevada ranches of the early to mid-20th century. The building complex is strongly associated with the theme of small farms and ranches that made a significant contribution to the evolution of local farming and ranching. The farm is representative of a once larger population of the property type (that of small farms and ranches in the Spanish Springs Valley and Reno/Sparks area) that has substantially declined.



Iratcabal Farm Historic District

Prosser Valley Ditch. The Prosser Valley Ditch was determined NRHP eligible in 1995 and was reevaluated in October 2012 as part of this Study. The ditch is considered NRHP-eligible under Criterion A as representative of the irrigation mania that occurred from the 1890s into the early 1900s, and as representative of the dozens of speculative irrigation and land development projects attempted across Nevada and the West during that time. Current research has uncovered evidence that supports the ditch's eligibility under Criterion B for its association with the careers of Reno business leaders and local politicians, such as Francis G. Newlands, P. L. Flannigan, and Walter H. Harris, and their attempts to use irrigation as a vehicle for land speculation. Three segments of the remaining ditch are located within the project footprint (see Figure 5-5). The reevaluation found that the two northern ditch segments (Segments A and B) have lost their integrity due to natural forces and recreation activities. The southern segment (Segment C) has a discernible contour and ditch rider's path. It was found that Segment C contributes to the historic significance of the ditch, while Segments A and B do not because of their lack of integrity. Segments A, B, and C of the Prosser Valley Ditch total approximately 0.93 mile.



Prosser Valley Ditch Segment in Study Area

Orr Ditch: The Orr Ditch is a 19th century irrigation ditch that traverses the study area in a north-south direction (see Figure 5-4). The ditch extends beyond the Study Area; approximately 12.5 miles of the ditch fall within the Study Area. Because the ditch is a linear site, the condition and integrity of the site varies widely along its length. The ditch

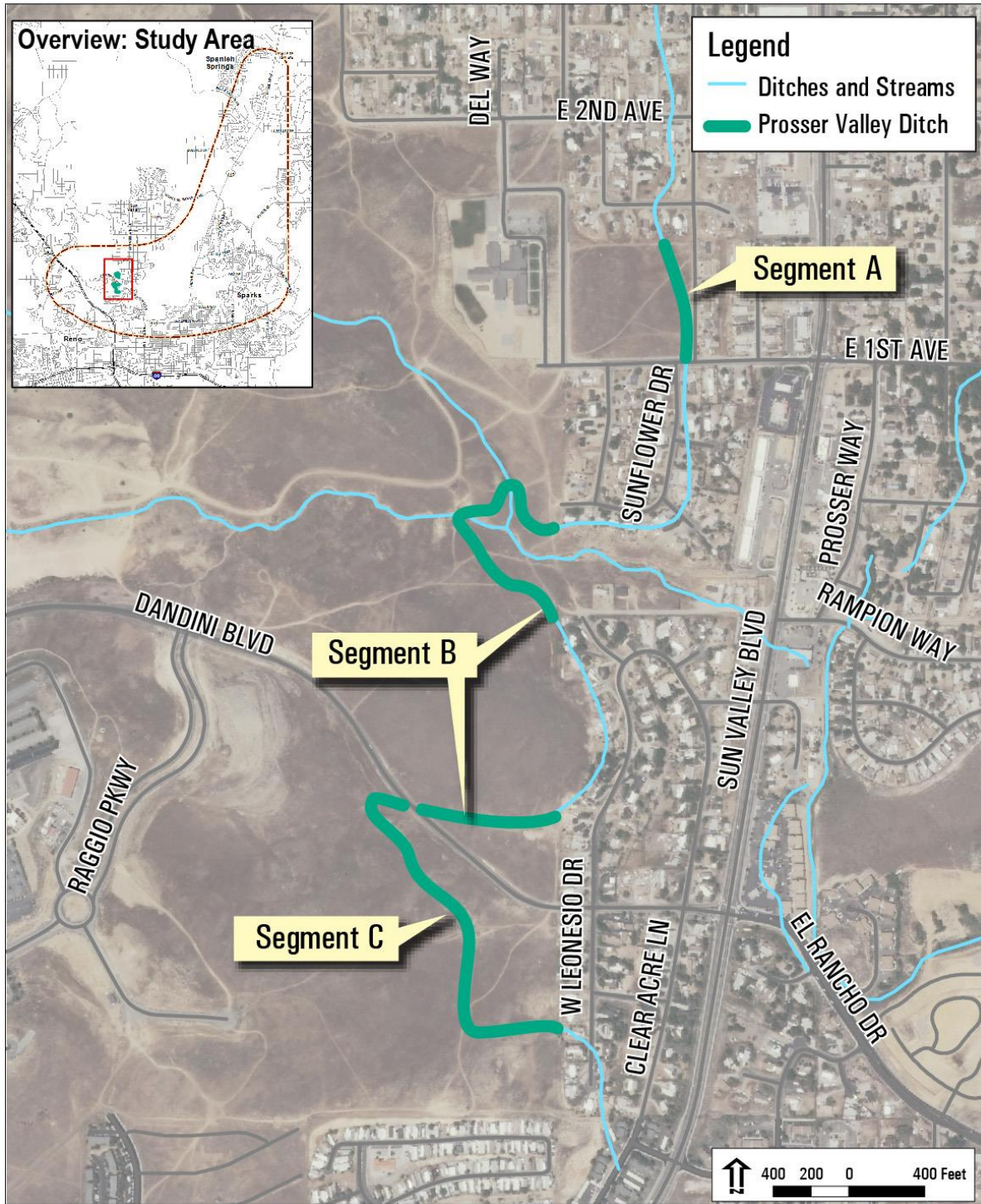


Figure 5-5. Prosser Valley Ditch



has been previously evaluated in multiple reports (conducted outside of this undertaking) since 1993 and is considered eligible with contributing and non-contributing segments. In October 2011, the Study team identified locations where the project footprint potentially intersected ditch segments and conducted a field survey of those locations. The Arterial Alternatives are located along the same alignments as the original Freeway Alternatives evaluated in the Draft EIS. The survey found that the potential intersection points have no integrity due to modern maintenance and improvements made to the ditch; in some locations the ditch is located under a shopping mall parking lot.

The eligibility related findings for the historic properties described above were included in the historic architecture report that was submitted to SHPO; the SHPO concurred with FHWA's eligibility recommendations for the resources described above (see Appendix A *Agency Coordination*). Potential uses of these historic properties are described below under Section 5.6 *Use of Section 4(f) Properties*.

5.6 USE OF SECTION 4(f) PROPERTIES

The following discussion provides an analysis of potential Section 4(f) uses from the Arterial Alternatives of the Section 4(f) properties described above. All of the Arterial Alternatives would result in a use of Section 4(f) properties. For each of the properties, an analysis and determination of a Section 4(f) use is provided, followed by a description of avoidance alternatives, measures to minimize harm, and mitigation measures that have been considered. In the case of a *de minimis* impact, the process does not require the identification of avoidance alternatives.

5.6.1 Park and Recreation Resources

The following is an evaluation of the potential use of the identified parks and recreation resources that qualify for Section 4(f) protection.

Sun Valley Open Space. The Study team determined during the EIS process that some of the US 395 Connector alignment alternatives could result in use of a large portion of a property in Sun Valley identified for open space. Currently, this property contains no recreation amenities and Washoe County does not plan on future recreational development on this property. To determine whether Section 4(f) would apply to the Sun Valley open space parcel, the Study team coordinated with Washoe County park planners to discuss the County's plans for the property and to communicate details about the alternatives that would potentially cross the property. In support of this continuing coordination, the Washoe County Board of Commissioners adopted a Resolution of Support in August 2011, which is contained in Appendix A *Agency Coordination*. The resolution acknowledges that both Washoe County and RTC are committed to working together to accommodate future joint uses for the parcel. Further, should the project affect the parcel, RTC will participate with Washoe County by

providing reasonable funding and supporting possible construction to maintain compatibility between the project’s roadway improvements and the limited park improvements planned by the County.

Cooperative planning is proposed to minimize the project’s potential impacts to the Sun Valley community. Arterial Alternative 3 (Preferred Alternative) would result in the full acquisition of this open space. As a result of the Resolution, no Section 4(f) use would occur from the Preferred Alternative, and, as such, this would be considered joint planning under 23 CFR 774.11(i).

Lazy 5 Regional Park. The Spanish Springs Library and parking area are located between Pyramid Highway and the park. The four Freeway Alternatives evaluated in the Draft EIS would have resulted in no direct use of any park areas, but would have impacted portions of the library parking area during construction and changed access to the library and park. Under all Arterial Alternatives evaluated in this Final EIS, no park areas would be directly used. All Arterial Alternatives would reduce impacts to the library and park compared to the Freeway Alternatives because they would not impact the parking area and would maintain the existing access driveway and right-in/right-out access. Minor changes would be made to the existing access road to tie into the improved Pyramid Highway. These changes would not be located on the part of this parcel that is used for recreational purposes. Access to the park during its operating hours would be maintained during construction. It has been determined that the minor changes to the park access road would not substantially impair the protected activities, features, or attributes that qualify the park for protection under Section 4(f). Therefore, effects to Lazy 5 Regional Park would not result in a Section 4(f) use or a constructive use under Section 4(f).

5.6.2 Wedekind Park – *De Minimis* Use Evaluation

All of the Arterial Alternatives would use portions of Wedekind Park property for road widening and stormwater management. Additionally, the existing access to the trailhead parking at the northern portion of Wedekind Park, which is currently accessed via a driveway on the south side of Disc Drive just east of Pyramid, would be preserved and slightly improved. These improvements were determined to result in a *de minimis* use of Wedekind Park under all of the Arterial Alternatives, as described below and shown on Figure 5-6 and Figure 5-7.

- **Arterial Alternatives 1 and 3.** A total of approximately 0.97 acre of temporary impacts and 2.57 acres of permanent impacts to the 250-acre Wedekind Park. The permanent impacts represent 1.0 percent of the park that would be subject to direct permanent use, as illustrated on Figure 5-6. Use would occur in two distinct areas of the property. Approximately 0.06 acre of permanent use would occur in the northwest corner directly adjacent to Pyramid Highway and Disc Drive where intersection improvements would occur. These uses would consist of sliver uses

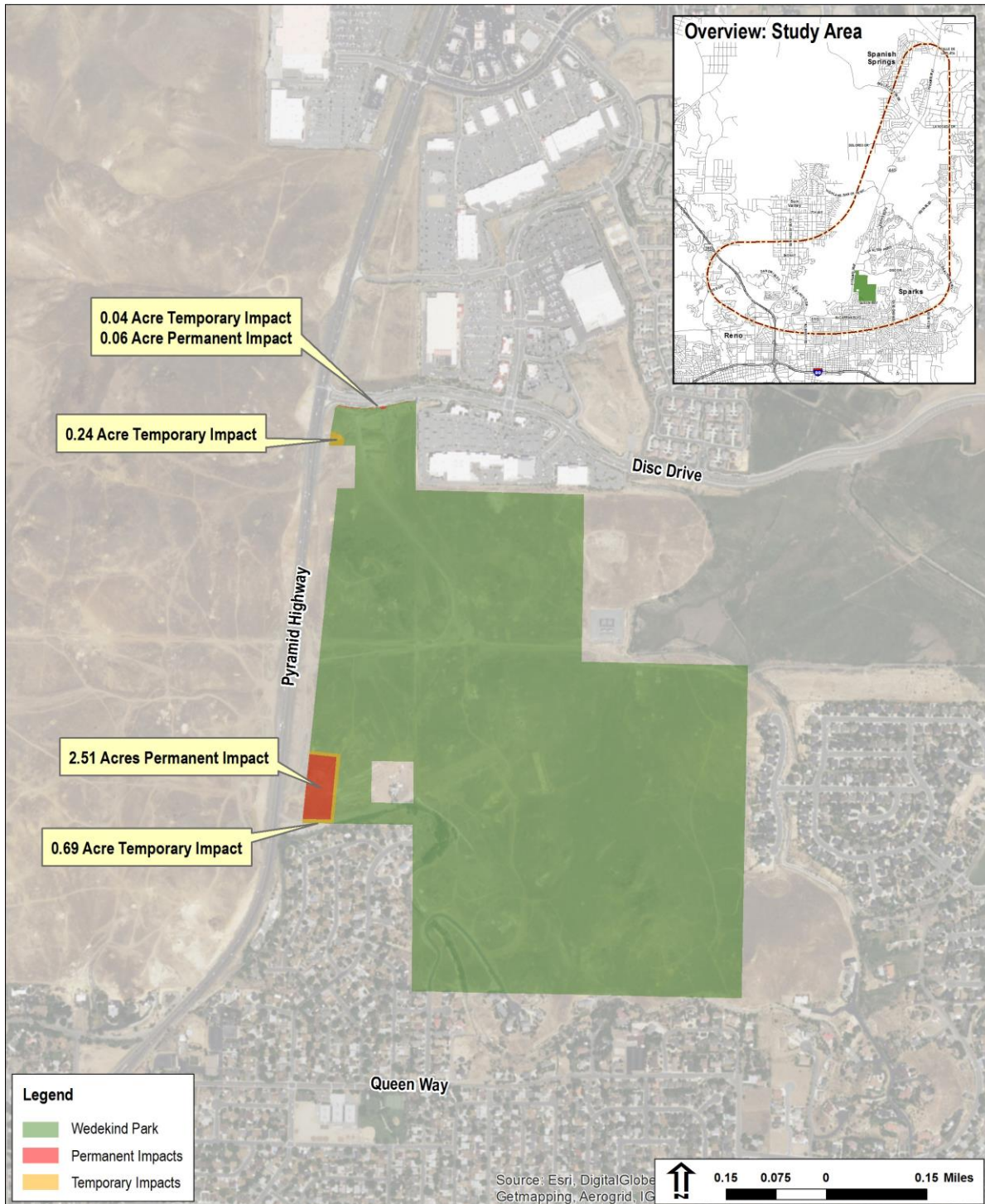


Figure 5-6. Wedekind Park Use: Arterial Alternatives 1 and 3

directly adjacent to existing roadways and include placement of fill slopes within the park property. Proposed development of the park includes access from Disc Drive in this area, which would be accommodated in the proposed design. Approximately 2.51 acres of permanent use are associated with construction of a water quantity/quality basin in the southwest portion of the park adjacent to Pyramid Highway and existing residential uses. The proposed water quantity/quality basin would be an unfenced, shallow, natural-appearing depression. Both areas of use are located on the periphery of the park adjacent to existing transportation features. Neither of these areas contains proposed recreation features associated with the park. Proposed uses of the park under Arterial Alternatives 1 and 3 would not adversely affect the features, attributes, or activities that qualify the property for protection under Section 4(f). Therefore, FHWA has recommended that Arterial Alternatives 1 and 3 would result in a *de minimis* use of Wedekind Park.

- Arterial Alternatives 2 and 4.** A total of approximately 1.03 acres of temporary impacts and 2.57 acres of permanent impacts to the 250-acre Wedekind Park. The permanent impacts represent 1.0 percent of the park that would be subject to direct permanent use, as illustrated on Figure 5-7. Use would occur in two distinct areas of the property. Approximately 0.06 acre of permanent use would occur in the northwest corner directly adjacent to Pyramid Highway and Disc Drive where intersection improvements would occur. These uses would consist of sliver uses directly adjacent to existing roadways and include placement of fill slopes within the park property. Proposed development of the park includes access from Disc Drive in this area, which would be accommodated in the proposed design. Impacts associated with construction of the water quantity/quality basin in the southwest portion of the park are the same as described for Arterial Alternatives 1 and 3. Although the areas of use are slightly more under Arterial Alternatives 2 and 3 than those described under Arterial Alternatives 1 and 3, the locations and types of use are similar. Similar to Arterial Alternatives 1 and 3, proposed uses of the park under Arterial Alternatives 2 and 4 would not adversely affect the features, attributes, or activities that qualify the property for protection under Section 4(f). Therefore, FHWA has recommended that Arterial Alternatives 2 and 4 would result in a *de minimis* use of Wedekind Park.

All Arterial Alternatives would result in slightly lower impacts to Wedekind Park than the Freeway Alternatives evaluated in the Draft EIS.

5.6.2.1 Measures to Minimize Harm to Wedekind Park

The Study team minimized use of Wedekind Park throughout the preliminary design performed for this Study. Design for the water quantity/quality basin initially included a deeper basin with steeper slopes; however, this would be less natural appearing and

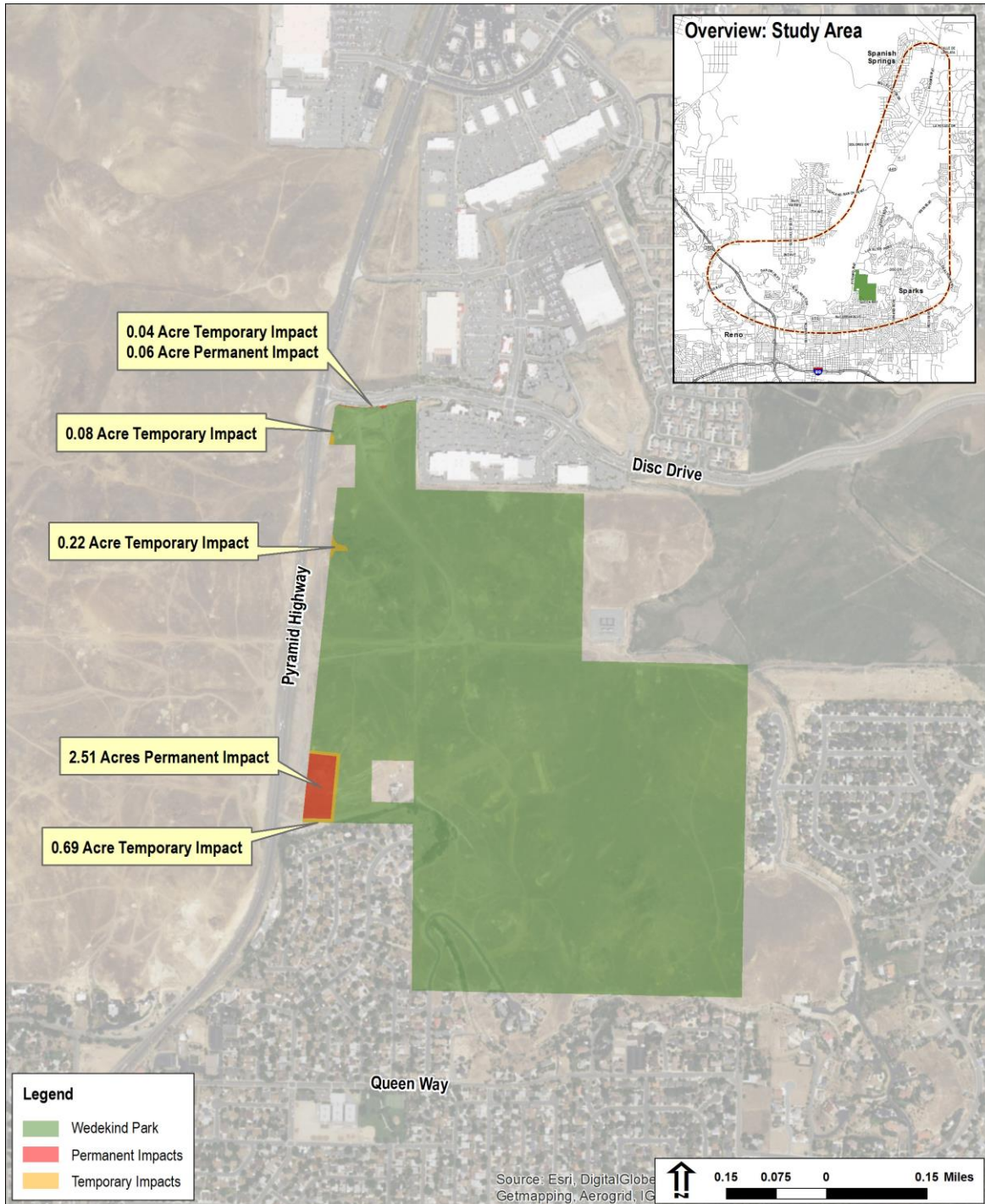


Figure 5-7. Wedekind Park Use: Arterial Alternatives 2 and 4

require fencing, which would detract from the park setting. Additionally, an attempt to include a storm drain that would pipe stormwater from this area directly to the proposed receiving stream was examined. This would require construction of a new drain system and a 1.9-mile easement through the neighborhood, which was deemed imprudent. A secondary outlet was examined to be located directly west of Wedekind Park; however, this would require construction of a water quantity/quality basin on the Iratcabal Farm property, another Section 4(f) resource. The design team minimized the footprint of all of the Arterial Alternatives to the greatest extent possible through the use of retaining walls and will continue to examine potential ways to further reduce impacts during final design.

5.6.2.2 Mitigation for Wedekind Park Impacts

Design of fill slopes at the Disc Drive/Pyramid Highway intersection will be constructed to mimic the natural landscape, and all disturbed areas will be revegetated. Revegetation will include reseeding with native grasses and use of native shrubs as appropriate. Similarly, design of the proposed water quantity/quality basin will also mimic natural landscape to the extent possible, and will be revegetated. The existing access to the trailhead parking at the northern portion of Wedekind Park, which is currently accessed via a driveway on the south side of Disc Drive just east of Pyramid, would be preserved and slightly improved. During construction, best management practices will be used for erosion control. Property acquisition will be completed under the Uniform Relocation Act.

RTC and/or NDOT will continue to coordinate with the City of Sparks Parks and Recreation Department on the design of the water quantity/quality basin proposed in the southwest portion of the park to facilitate consistency with the park’s planned uses and amenities. Coordination with the City of Sparks, as well as Washoe County Parks staff, will continue throughout the final design process to mitigate use of Wedekind Park.

5.6.2.3 De Minimis Finding for Wedekind Park

In order for the FHWA to make a final *de minimis* use determination, the FHWA must inform the Official with Jurisdiction (OWJ) of the intent to make a *de minimis* finding and the OWJ must concur in writing with that determination. Additionally, public notice and an opportunity to review and comment on the intent for a *de minimis* finding must be provided.

FHWA and NDOT have coordinated with the City of Sparks, the OWJ for Wedekind Park regarding Section 4(f) uses. RTC sent a draft letter to the City of Sparks on October 1, 2012 and a final signed letter on April 3, 2013 that described potential impacts to Wedekind Park and requested concurrence that the Freeway Alternatives evaluated in the Draft EIS would result in a *de minimis* use of the park. On May 13, 2013, the City’s Parks Director concurred with the *de minimis* finding. Additionally, uses at Wedekind



Park associated with the Freeway Alternatives evaluated in the Draft EIS and FHWA's intent for a *de minimis* finding for the park were presented for public review and comment at the June 13, 2012 Spanish Springs public meeting. Also, public input on the possible findings of *de minimis* was specifically requested during the public comment period for the Draft EIS; no public comments on the *de minimis* finding were received. As noted previously, all Arterial Alternatives would have lower impacts to Wedekind Park than the Freeway Alternatives evaluated in the Draft EIS, with Arterial Alternative 1 and Arterial Alternative 3 (Preferred Alternative) resulting in the lowest impacts to Wedekind Park amongst the Arterial Alternatives. Therefore, all Arterial Alternatives would result in a *de minimis* impact to Wedekind Park.

Taking into consideration the harm minimization and mitigation measures that have been proposed, and considering the lack of public comment regarding the *de minimis* recommendation received during the Draft EIS comment period and public hearing, it is the conclusion of the FHWA that the Arterial Alternatives would have *de minimis* impacts to Wedekind Park and that an analysis of feasible and prudent avoidance alternatives under Section 4(f) is not required.

5.6.3 Historic Resources

This section provides the evaluation of Section 4(f) uses, including constructive use, for significant historic resources.

5.6.3.1 *Sierra Vista Ranch Historic District, Troisi Family/Kiley Ranch Historic District, and Iratcabal Farm Historic District*

Each of the Arterial Alternatives would have the same effects to the Sierra Vista Ranch, Troisi Family/Kiley Ranch, and Iratcabal Farm historic districts. The Arterial Alternatives would not alter, remove, or destroy any of the NRHP-eligible buildings at these sites or take lands from these historic districts, nor would they change the character of use or physical features within the sites' setting that contribute to the historic significance of the sites' buildings. The Arterial Alternatives would not modify existing access to these properties. Further, the impact assessment conducted under this Final EIS indicated that the historic districts and their contributing features would not experience visual, traffic noise, air quality, or cumulative impacts as a result of the Arterial Alternatives. As such, the Arterial Alternatives would not result in direct or indirect effects to these resources. Under the Section 106 process, FHWA determined, and the SHPO concurred, that the Arterial Alternatives would not alter the characteristics of these historic properties that qualify them for inclusion in the NRHP and that the project would result in *No Historic Properties Affected* for these properties. Based on the foregoing, the Arterial Alternatives would not result in a Section 4(f) use, including constructive use, for these resources.

5.6.3.2 Orr Ditch

All Arterial Alternatives would intersect certain segments of the ditch within the APE. However, those intersected segments have been determined to lack integrity and are non-contributing elements to the resource. The project would impact non-contributing elements of the ditch. Under the Section 106 process, FHWA determined, and the SHPO concurred, that the Arterial Alternatives would not alter the characteristics of the historic linear resource that qualify it for inclusion in the NRHP, and that the project would result in *No Historic Properties Affected* for this resource. Based on the foregoing, the Arterial Alternatives would not result in a Section 4(f) use, including a constructive use, for this resource.

5.6.4 Prosser Valley Ditch – *De Minimis* Use Evaluation

All Arterial Alternatives would directly impact Segment C of this resource located south of Dandini Boulevard (see Figure 5-5) at one location by constructing a 10-foot-wide shared-use path across the ditch. Through the Section 106 process, FHWA has determined, and the SHPO has concurred, that the impacts to Segment C of the Prosser Valley Ditch would not alter the association characteristics of the entire historic linear resource that qualify it for inclusion in the NRHP, and that the project would result in *No Adverse Effect* for this resource.

5.6.4.1 Measures to Minimize Harm to Prosser Valley Ditch

Initial Path Alignment Across Ditch

The initial path design under all Arterial Alternatives proposed that the path cross the ditch at a currently undisturbed area (see Figure 5-8). Assuming a bridge crossing for the path, this would result in approximately 32 linear feet of temporary impacts, and approximately 25 linear feet of permanent impacts to the ditch. Further, Dandini Boulevard would be removed where it currently crosses the ditch.

Realigned Path to Minimize Ditch Impacts

At a March 28, 2017 meeting with SHPO staff, the Study team mentioned that opportunities may exist to shift the pathway alignment to an area where the ditch has been obliterated. SHPO recommended further evaluating this possibility. Therefore, the Study team reevaluated the path design and assessed the feasibility of moving the ditch crossing approximately 100 feet to the west in an area of the ditch that has been obliterated by recreational vehicle use (see Figure 5-9). It was found that it is feasible to move the path to that location and still maintain the required five percent grade for the path through the rolling topography in this area.

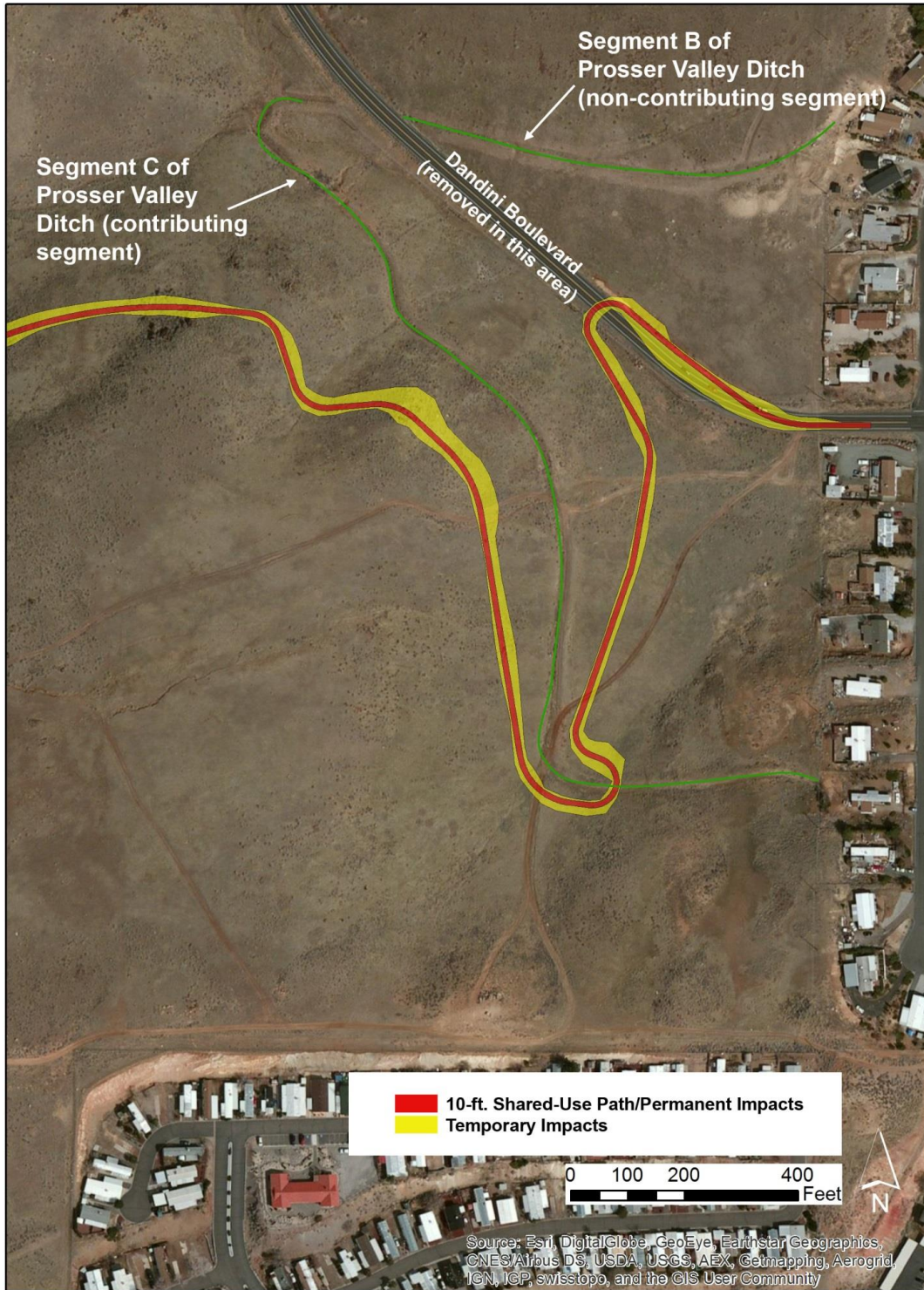


Figure 5-8. Arterial Alternative Impacts at Prosser Valley Ditch: Initial Path Alignment



Figure 5-9. Arterial Alternative Impacts at Prosser Valley Ditch: Realigned Path



The realigned path would cross the Prosser Valley Ditch at an area that has been obliterated by a dirt road created by informal recreational vehicle use. An off-road vehicle track runs up the hillside and crosses the ditch, obliterating the depressed features of the ditch and eroding the embankment on the downhill side, making the ditch indistinguishable at this location (see Figure 5-10). The path would be 10 feet wide as it meanders uphill from Dandini Boulevard to the portion of Raggio Parkway that would be reconstructed under all Arterial Alternatives. The path surface would likely be paved with asphalt to control erosion as a result of the five percent grade, but additional analysis during final design may determine that a compacted aggregate base surface would be appropriate. The path would be cut into the hillside and a railing would be installed on the downhill side to protect users from the steep slope. The path would be constructed in this area slightly above the existing ground level to a maximum height of approximately four feet in order to maintain the required five percent grade as the path traverses the hilly terrain. Gentle earthen slopes would provide a transition from the elevation of the path to the existing ditch ground level. The earthen slopes would spread out a maximum of 8 feet from each side of the path where it crosses the ditch.

Because the ditch has been obliterated in this area, no bridge or culvert would be needed for the path crossing to maintain the original ditch contours. Therefore, the pathway would be constructed with minor grading, which would reduce visual effects compared to structural crossings.

The 10-foot wide path, 8-foot slopes and 1-foot shoulder on each side of the path would result in approximately 30 feet of permanent impacts to the ditch resource. An additional 5 linear feet on each side of the path would be temporarily impacted during path construction. The slopes and all temporarily disturbed areas along the new shared-use path would be revegetated to match the surrounding vegetation. Areas of the ditch temporarily impacted by construction of the path would be returned to preconstruction conditions, including regrading and reseeding.

Path Alternatives Evaluated to Avoid Ditch

Alternate path alignments for the east-west trending shared-use path to avoid the ditch were evaluated; however, because the Prosser Valley Ditch trends north-south, no path alternative could avoid crossing the ditch. Also, alternate path alignments would cross the ditch in areas where it has not been obliterated.

Measures to Minimize Construction Impacts to Prosser Valley Ditch

Although the undertaking has been determined to result in *No Adverse Effect* to the historic Prosser Valley Ditch, RTC and/or NDOT and their construction contractor will work to minimize impacts to the ditch during construction by undertaking measures such as those listed below:



Source: Jacobs, 2017

Views from existing Prosser Valley Ditch looking south along ditch toward area of proposed pathway crossing (see Figure 5-9 for photo location). Path crossing would be located where dirt road currently crosses ditch, visible in middle/background of these views. Notice off-road vehicle damage along the length of the ditch in foreground and middleground and at dirt road. In these views, Prosser Valley Ditch veers to the left past the stuck vehicle visible in the middle/background.

Figure 5-10. Photographs of Prosser Valley Ditch at Proposed Path Crossing



- Minimize area of disturbance to the extent practicable.
- Control construction access.
- Limit work within construction area.
- Revegetate disturbed areas as soon as practicable consistent with adjacent landscape features and with desirable native plant species.

5.6.4.2 De Minimis Finding for Prosser Valley Ditch

A finding of *de minimis* impact on a historic site may be made when:

- FHWA has considered the views of any consulting parties participating in the consultation required by Section 106 of the NHPA;
- The SHPO/THPO, and Advisory Council on Historic Preservation (ACHP) if participating in the Section 106 consultation, are informed of FHWA's intent to make a *de minimis* impact finding based on their written concurrence in the Section 106 determination of “no adverse effect;” and
- The Section 106 process results in a determination of “no adverse effect” with the written concurrence of the SHPO/THPO, and ACHP if participating in the Section 106 consultation.

FHWA and NDOT consulted with, and considered the views of, the SHPO and other historic consulting parties regarding effects to historic resources throughout the Section 106 process conducted for this Study. NDOT sent letters to the SHPO and other consulting parties on October 19, 2017 and December 11, 2017 that recommended *No Adverse Effect* to the Prosser Valley Ditch as a result of this undertaking, and notified the SHPO of FHWA's intent to make a *de minimis* finding for the ditch based on SHPO's concurrence on the *No Adverse Effect* recommendation. On December 20, 2017, the SHPO acknowledged receipt of the Section 4(f) documentation, and in a January 31, 2018 email, the SHPO indicated their agreement that the undertaking would not pose an adverse effect to the Prosser Valley Ditch. No comments regarding the Prosser Valley Ditch were received from other consulting parties. NDOT notified the ACHP of the *Adverse Effect* determination made for one archaeological site under Arterial Alternative 3 (Preferred Alternative) on February 7, 2018, and on February 22, 2018, the ACHP declined to participate in Section 106 consultation for this undertaking.

Considering the harm minimization and mitigation measures that have been proposed, the views of consulting parties during the Section 106 process conducted for this undertaking, FHWA's notification to the SHPO of their intent to make a *de minimis* finding for Prosser Valley Ditch based on the SHPO's concurrence with the *No Adverse Effect* recommendation made for the ditch, and SHPO's agreement with the *No Adverse Effect* determination, FHWA has concluded that the Arterial Alternatives would have *de minimis* impacts to the Prosser Valley Ditch and that an analysis of feasible and prudent avoidance alternatives under Section 4(f) is not required.

5.7 CONSULTATION AND COORDINATION

Consultation for purposes of this Section 4(f) evaluation has been initiated and will continue through the final design phase. The consultation and coordination efforts that have occurred thus far are described below. Public involvement and community outreach for the project as a whole is documented in Chapter 4.0 *Comments and Coordination*.

The Lead Agencies have coordinated with jurisdictions in which public parks and recreation areas are considered significant resources by Section 4(f) criteria. Site mapping, amenities, and activities of the resource associated with affected properties were verified. Meetings were held to describe the project, the alternatives analysis, and the nature and severity of impacts to affected resources. Coordination consisted of numerous meetings and correspondence. The officials with jurisdiction over Section 4(f) resources for this project include:

- Washoe County
- City of Reno
- City of Sparks
- BLM
- SHPO

After impacts associated with each of the alternatives were determined, consultation continued with the jurisdictions for which Section 4(f) properties could be potentially affected by the build alternatives. The potential *de minimis* findings, possible measures to minimize harm, and general mitigation strategies were discussed with a commitment to explore these strategies in more detail after identification of the Preferred Alternative. Appendix A *Agency Coordination* contains the letter from City of Sparks concurring with the proposed *de minimis* findings.

Uses at Wedekind Park associated with the four build alternatives evaluated in the Draft EIS and FHWA's intent for a *de minimis* finding for the park were presented for public review and comment at the June 13, 2012, Spanish Springs public meeting. Further, public input on the possible findings of *de minimis* was specifically requested during the public comment period for the Draft EIS; no public comments on the *de minimis* findings were received.

FHWA consulted with the historic consulting parties for this undertaking, including the SHPO, BLM, and tribal governments, throughout the EIS process and Section 106 consultation. NDOT and FHWA consulted with all historic consulting parties on determinations of NRHP eligibility and effects, FHWA's intent to make a *de minimis* finding for the Prosser Valley Ditch, and FHWA's intent to apply the Section 4(f)



exception for historic properties eligible under Criterion D that will have minimal value for preservation in place. Beyond concerns voiced by the RSIC to avoid archaeological sites potentially affected by the undertaking, no objections from other consulting parties were received. The SHPO concurred with FHWA's NRHP eligibility recommendations and effect determinations, acknowledged receipt of the *de minimis* notification, and did not object to the application of the Section 4(f) exception. On February 7, 2018, NDOT notified the ACHP of the *Adverse Effect* to one archaeological site, and on February 22, 2018, the ACHP declined to participate in Section 106 consultation for this undertaking. Please refer to Appendix A *Agency Coordination* for pertinent correspondence.

The Draft EIS noted that FHWA was preparing a project-specific Programmatic Agreement (PA) amongst the SHPO, NDOT, and RTC that outlined Section 106 consultation requirements for this project. However, after the Draft EIS was issued in August 2013, Section 106 consultation continued for the project and the *Programmatic Agreement among the Federal Highway Administration, the Nevada Department of Transportation, the Nevada State Historic Preservation Officer, and the Advisory Council on Historic Preservation regarding implementation of Federal-Aid Transportation Projects in the State of Nevada (2014)* (2014 Transportation PA) was signed in 2014. The 2014 Transportation PA addressed the Section 106 consultation needs for this project, captured all parties that are pertinent to the project (including BLM and U.S. Army Corps of Engineers [USACE]), and followed the Section 106 regulations. Based on this, and the fact that the project-specific PA had not yet been finalized and executed and many of the deliverables and efficiencies outlined in the draft project-specific PA had already been completed, FHWA decided in mid-2017 that the draft project-specific PA would be abandoned and the undertaking would proceed under the 2014 Transportation PA.