

RESOLUTION NO. 2023 - 37

A RESOLUTION AUTHORIZING THE ADMINISTRATION TO ENTER INTO A COMMUNITY COST-SHARE AGREEMENT BY AND BETWEEN THE NORTHEAST OHIO REGIONAL SEWER DISTRICT (NEORS) AND THE CITY OF PARMA HEIGHTS, AND DECLARING AN EMERGENCY

WHEREAS, the City of Parma Heights entered into a regional Stormwater Management Program Service Agreement (SMP Service Agreement); and

WHEREAS, as a component of implementing a regional stormwater management program a "Community Cost-Share Account" has been created; and

WHEREAS, the Community Cost-Share Account is to provide funding to assist the City of Parma Heights with District-approved projects; and

WHEREAS, the District supports the Community Cost-Share Nathan Hale Storm Basin Project (the "Project") as a Community Cost-Share project proposed by the City; and

WHEREAS, the City desires to enter into a Cost-Share Agreement with NEORS.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Parma Heights, County of Cuyahoga and State of Ohio:

Section 1: The Administration is authorized and directed to execute on behalf of the Municipality a Community Cost-Share Agreement for the Nathan Hale Storm Basin Project by and between the Northeast Ohio Regional Sewer District and the City of Parma Heights, as described in Exhibit "A", attached hereto and incorporated by reference, and is authorized and directed to expend up to one million dollars (\$1,000,000.00) allocated from the City's Community Cost-Share Account.

Section 2: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of the Council and of any of its Committees comprised of a majority of the members of the Council that resulted in those formal actions were in meetings open to the public, in compliance with the law.

Section 3: This Council declares this Resolution to be an emergency measure for the immediate preservation of the public health, peace, and safety of this Municipality, and for the further reason that it is immediately necessary to further the Nathan Hale Storm Basin Project; wherefore, this Resolution shall be in full force and effect immediately after its passage by council and approval by the Mayor.

PASSED: June 26, 2023 
PRESIDENT OF COUNCIL PRO TEM

ATTEST: Barbara Allen June 26, 2023
APPROVED

FILED WITH THE MAYOR: June 26, 2023 
MAYOR MARIE GALLO

EXHIBIT A

COMMUNITY COST-SHARE AGREEMENT BY AND BETWEEN THE NORTHEAST OHIO REGIONAL SEWER DISTRICT AND CITY OF PARMA HEIGHTS

This Agreement is made and entered into this _____, 2023, by and between the Northeast Ohio Regional Sewer District (District) acting pursuant to Resolution No. 114-13, adopted by the Board of Trustees of the District on May 16, 2013 (Exhibit "A"), and the City of Parma Heights (City) acting pursuant to Ordinance/Resolution No. _____, adopted on _____, 202__ (Exhibit "B").

Recitals

WHEREAS, the District, as a component of implementing a regional stormwater management program, manages a financial account termed the "*Community Cost-Share Account*" that is for the aggregation and dissemination of funds derived from revenues collected from the Stormwater Fee; and

WHEREAS, the purpose of the Community Cost-Share Account is to provide funding to assist the City with District-approved projects through the Community Cost Share Program; and

WHEREAS, the Community Cost-Share Program funds are used for construction, operation, and maintenance of the Local Stormwater System or Regional Stormwater System, including administrative costs directly associated with such projects as well as costs related to repair or upgrade; and

WHEREAS, the District supports the Community Cost-Share Nathan Hale Storm Basin project (the "Project") as a Community Cost-Share project proposed by the City; and

NOW THEREFORE, in consideration of the foregoing, the payment and the mutual promises contained in this Agreement, the parties agree as follows:

Article 1.0 City Obligations

- 1.1 The City agrees to perform as follows:
 - 1.1.1 Complete work as detailed in the District approved Community Cost-Share application. (Exhibit "C")
 - 1.1.2 Complete and submit Progress Reports when submitting Request for Payment as needed, or within 30 days of close of the Project, per Section 5.0 of the *Community Cost-Share Program Policy*.
 - 1.1.3 Notify the City's Watershed Team Leader at least seven (7) business days prior to the start of the Project.

- 1.1.4 Meet with District staff when requested to review the Project status.
- 1.1.5 Obtain all necessary legal agreements with affected property owners to perform the Project and to bind any successor in title to maintain compliance as specified in this Agreement between the District and the City for the Project.
- 1.1.6 Comply with all applicable local, state and federal requirements. This may include, but is not limited to, U.S. Army Corp of Engineers Section 404, Ohio EPA Section 401 water quality certification, and Ohio Department of Natural Resources Dam Safety Laws.
- 1.1.7 If the City fails to maintain the Project in accordance with this Agreement, the City shall be liable for the full amount of any Community Cost-Share Program funds paid for the Project. Such amount shall be offset against the City's Community Cost-Share Account.
- 1.1.8 Submit requests for approval to modify the budget, deadline, deliverables, or other components of the Project to the City's Watershed Team Leader at least 30 business days prior to the desired date of execution of the modification.
- 1.1.9 Acknowledge the District on any public advertisement or outreach efforts including all publications and signage related to the Project which shall include the following disclaimer:

This project was funded in part or totally through the Northeast Ohio Regional Sewer District (NEORS D) Community Cost-Share Program in coordination with City, under the provisions of the NEORS D Regional Stormwater Management Program. The contents and views, including any opinions, findings, or conclusions or recommendations, contained in this publication are those of the authors and have not been subject to NEORS D review and may not necessarily reflect the views of NEORS D, and no official endorsement should be inferred.
- 1.1.10 Provide the District the opportunity to have design approval for any signage or public education and outreach efforts related to the Project.
- 1.1.11 Permit the District to photograph the Project and to incorporate the Project into the District's overall public education and outreach efforts for stormwater management.
- 1.2 Failure to meet any of the requirements listed in Article 1.1 may result in termination of this Agreement and reimbursement of disbursed funds to the District.

Article 2.0 **District's Obligations**

- 2.1 The District agrees to perform as follows:
 - 2.1.1. Allocate \$1,000,000.00 to the City for the Project from the City's Community Cost-Share Account.
 - 2.1.2. Provide reimbursement of funds up to \$1,000,000.00 to the City within 60 days of receipt of a complete Request for Payment from the City, detailing costs related to the Project.
 - 2.1.3. The District shall reimburse the City for Project costs paid by the City related to the stormwater equipment that is part of the Project, utilizing only such funds that are available in the City's Community Cost-Share Account for the City's applications(s), and pursuant to Article 1 of this Agreement and the obligations of this Agreement.
 - 2.1.4. Timely review and approval or disapproval of requests to modify the budget, deadline, deliverables, or other components of the Project.
 - 2.1.5. Acknowledge the City in presentations or publications related to the Project.
 - 2.1.6. The District is not liable for any and all claims, damages, losses, liens, causes of action, suits, judgments and expenses of any nature, kind or description, that result from and to the extent caused by the acts or omissions of the City, the design professional, and the contractor, including all of their officers, owners, principals, subcontractors, employees, and agents. The District is not responsible for the accuracy, correctness and reliability of the plans as it is not reviewing or approving any plans as to suitability of the design/fitness for a particular purpose.

Article 3.0 **Dispute Resolution**

- 3.01 The Parties shall continue the performance of their obligations under this Agreement notwithstanding the existence of a dispute.
- 3.02 The Parties shall first try to resolve the dispute at the level of the designated representatives as follows:

District Representative	City Representative
Watershed Team Leader	Director of Finance and HR

If the Parties are unable to resolve the dispute at that level within ten (10) working days, the Parties shall escalate the dispute to the following level to resolve the dispute:

District Representative	City Representative
Director of Watershed Programs	Mayor

- 3.03 If the Parties remain unable to resolve the dispute within an additional ten (10) working days, the Parties shall proceed to mediation upon request by either party. The mediator shall review all documents and written statements, in order to accurately and effectively resolve the dispute. The mediator shall call a meeting between the Parties within ten (10) working days after mediator appointment, which meeting shall be attended by at least the respective representatives listed in paragraph 3.02 above. The Parties shall attempt in good faith to resolve the dispute. The Parties agree to follow the Uniform Mediation Act, Chapter 2710 of the Ohio Revised Code. The Parties shall share the cost of the mediator equally.
- 3.04 Such mediation shall be non-binding between the Parties and, to the extent permitted by law, shall be kept confidential. If the dispute is resolved and settled through the mediation process, the decision will be implemented by a written agreement signed by both Parties. If the dispute is unable to be resolved through mediation, the Parties agree to submit the dispute to the appropriate jurisdiction as per Article 4, Remedies, below.

Article 4 Remedies

- 4.01 The Parties agree that, after exhausting the dispute resolution process outlined above, all claims, counter-claims, disputes and other matters in question between the Parties arising out of or relating to this Agreement, or the breach thereof, will be decided at law. This Agreement shall be governed by and interpreted according to the laws of the State of Ohio.

Article 5 Counterpart Signatures

- 5.01 This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but which counterparts when taken together shall constitute one Agreement.

Article 6 Governing Law

- 6.01 The terms and provisions of this Agreement shall be construed under and governed by the laws of Ohio (to which all Parties hereto consent to venue and jurisdiction).

Article 7 Disclaimer of Joint Venture

- 7.01 This Agreement is not intended to create a joint venture, partnership or agency relationship between the Parties, and such joint venture, partnership, or agency relationship is specifically hereby disclaimed.

Article 8 **Authority to Execute**

8.01 Each person executing this Agreement represents and warrants that it is duly authorized to execute this Agreement by the party on whose behalf it is so executing.

Article 9 **Exhibits**

The following exhibits are attached hereto and incorporated herein:

Exhibit "A" – District Resolution

Exhibit "B" – City Ordinance/Resolution

Exhibit "C" – District Approved Community Cost Share Application

[signatures on the following page]

The parties have executed this Agreement on the day and year first above written.

NORTHEAST OHIO REGIONAL SEWER DISTRICT

BY: _____
Kyle Dreyfuss-Wells
Chief Executive Officer

AND

BY: _____
Darnell Brown, President
Board of Trustees

CITY OF PARMA HEIGHTS

By: _____
Title: _____

The Legal Form and Correctness of this Instrument is hereby Approved:

CITY OF PARMA HEIGHTS

Assistant/Director of Law

This Instrument Prepared By:

Anka M. Davis
Assistant General Counsel
Northeast Ohio Regional Sewer District

Each party agrees that this Agreement may be executed and distributed for signatures via email, and that the emailed signatures affixed by both parties to this Agreement shall have the same legal effect as if such signatures were in their originally written format.

[FOR NEORS D USE]

AGREEMENT NO.

NORTHEAST OHIO REGIONAL SEWER
DISTRICT

WITH

CITY OF PARMA HEIGHTS

FOR

COMMUNITY COST-SHARE PROJECT:

NATHAN HALE STORM BASIN

Total Approximate Cost: \$1,000,000.00

”

The legal form and correctness of the within
instrument are hereby approved.

ERIC J. LUCKAGE
CHIEF LEGAL OFFICER

Date

CERTIFICATION

It is hereby certified that the amount required to
meet the contract, agreement, obligation, payment
or expenditure, for the above, has been lawfully
appropriated or authorized or directed for such
purpose and is in the Treasury or in process of
collection to the credit of the fund free from any
obligation or certification now outstanding.

KENNETH J. DUPLAY
CHIEF FINANCIAL OFFICER

Date

Budget Center 8100

EXHIBIT A

NORTHEAST OHIO REGIONAL SEWER DISTRICT
RESOLUTION NO. 114-13

Authorizing the Executive Director to enter into Regional Stormwater
Management Program Community Cost-Share Program Agreements
with Member Communities.

WHEREAS, the Code of Regulations of the Northeast Ohio Regional Sewer District, Title V – Stormwater Management Code Chapter 9 outlines the Community Cost-Share Program developed to provide funds to District Member Communities for construction, operation and maintenance activities of community-specific stormwater management projects; and

WHEREAS, under the Community Cost-Share Program, 25% of the annual collected stormwater revenue from each Member Community will be held by the District in a Community Cost-Share account, whereby Communities, with review and approval by the District, through specific applications outlining the community-specific stormwater work to be performed can access reimbursement of their funds; and

WHEREAS, the District is seeking authority to enter into Regional Stormwater Management Program Community Cost-Share Program Agreements with Member Communities for the purpose of detailing and memorializing responsibilities of the District and Member Communities under specific applications to the Community Cost-Share Program;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE NORTHEAST OHIO REGIONAL SEWER DISTRICT:

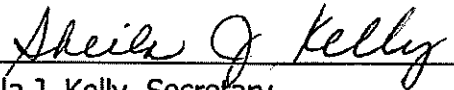
Section 1. That this Board finds that for the reasons stated in the preamble hereof it is in the best interests of the District to enter into Regional Stormwater Management Program Cost-Share Program Agreements with Member Communities to memorialize responsibilities of the District and Member Communities under specific applications to the Community Cost-Share Program.

Section 2. That this Board hereby authorizes the Executive Director to enter into Regional Stormwater Management Program Cost-Share Agreements with Member Communities to memorialize responsibilities of the District and Member Communities under specific applications to the Community Cost-Share Program under such terms and conditions that are satisfactory to the Director of Law and in the best interests of the District.

Section 3. That this Board authorizes the Executive Director to execute all documents and do all things necessary to effect the terms and conditions of the Stormwater Management Program Direct Billing Agreements with Member Communities.

Section 4. That this Board declares that all formal actions of the Board concerning and relating to the adoption of this resolution and that all deliberations of the Board and any of its committees that resulted in said formal action were conducted in meetings open to the public and in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On motion of Mayor Starr seconded by Mr. O'Malley, the foregoing resolution was unanimously adopted on May 16, 2013.



Sheila J. Kelly, Secretary
Board of Trustees
Northeast Ohio Regional Sewer District

EXHIBIT B

(Insert Member Community
Ordinance/Resolution)

EXHIBIT C



Community Cost-Share Program APPLICATION

Member Community Information

Community: City of Parma Heights

Primary Project Contact: Katie Iaconis
(Name & Title) Director of Finance and HR

Mailing Address: 6281 Pearl Road
Parma Heights, OH 44130

Phone Number: 440.340.4821

Email: kiaconis@parmaheights.us

Project Information

Project Title: Nathan Hale Storm Basin

Address or Location of Project: Nathan Hale Park
Parma Heights, OH 44130

Project Start Date: 04/01/2023

Project End Date: 11/01/2023

Community Cost-Share Fund Request: \$1,000,000.00

Submission Date: 5/1/2023



Project Narrative

1) Project Summary (1,000 word maximum)

Describe the Project and include the following information, as applicable:

- Describe the Project and deliverables; provide a map if applicable
- Submit a deliverable worksheet listing tasks and deliverables with start dates and end dates for the significant benchmarks.
- List permitting requirements necessary to initiate and complete project and how the requirements will be met.

See attached assessment.



2) Ability to Provide Long Term Maintenance (500 word maximum)

Describe the plans for long-term maintenance, addressing the following question:

- Who is responsible to provide on-going maintenance for the project and how will maintenance be ensured?
- Provide documentation of scheduled maintenance and operation for completed stormwater project(s).

The ongoing maintenance will be completed by the City of Parma Heights.



*Community Cost-Share Program
Application*

3) Visibility and Public Outreach: (500 word maximum)

Public outreach is required if appropriate for your project.

- What audiences will be exposed to this Project (neighbors, students, community groups, general public)?

This is a public park that may be utilized by anyone.



*Community Cost-Share Program
Application*

4) Budget Summary (500 words maximum)

The Budget Summary and Project Budget (*see page 3*) represent the Community Cost-Share Project components exclusively. Include details on the provider of all services such as design, engineering, construction management and materials including specific material cost, equipment, and hourly rate.

If an engineer's estimate is included with the application, indicate which line items are included in the Community Cost-Share Project application.

Construction cost is \$4,200,000.00



Vendor Registration

Prior to submission, ensure that the Member Community is a registered vendor with the District. Vendor Registration can be done by accessing http://www.neorsd.org/isupplier_homepage.php and completing the New Vendor Registration. If unsure of the Member Community vendor status, by initiating the New Vendor Registration a message of active registration will appear if currently registered as a vendor.

Project Budget

Project Expenses	Community Cost-Share Expense	Line Item Description
Professional Services		
Personnel <i>(Member Community staff only)</i>		
Subcontract	\$1,000,000.00	Construction costs payable to Independence Excavat
Equipment		
Materials		
Other		
TOTAL	\$ 1,000,000.00	

National Park Service
U.S. Department of the Interior

Nathan Hale Park
Parma Heights, Ohio



Federal Lands to Parks Program Change of Use at Nathan Hale Park Environmental Assessment



Draft July 2021

Executive Summary

The National Park Service (NPS) proposes to amend the Program of Utilization (POU) agreement between the NPS and the City of Parma (City) for Nathan Hale Park. The agreement with the deed forms the contract by which the property was conveyed and with which the grantee must comply. A Grantee may propose an amendment to the POU for a public recreation use that is different than the recreation use in the original application for the property. Any amendments for different recreational use must be approved by the NPS. The City requested to change its use of six to nine acres of the 25-acre Nathan Hale Park for a multi-use project combining a naturalized stormwater retention basin with new and rehabilitated recreational resources for the community.

This Environmental Assessment (EA) evaluates one no-action alternative and one action alternative and analyzes the environmental consequences of implementing each alternative. Under Alternative A, the no-action alternative, the current POU would remain in place and the city would restore the baseball field to its original state. Alternative B, the action alternative, would update the POU to allow construction of a stormwater pond, surrounding path, and other amenities to support the park and reduce neighborhood flooding. The alternatives are described in detail in Chapter 2.

This EA has been prepared in compliance with the National Environmental Policy Act (NEPA) to provide a decision-making framework as follows: 1) Assess a reasonable range of alternatives to meet the underlying purpose of the proposed action; 2) Evaluate potential issues and impacts to the natural and cultural resources of the park; and 3) Identify required mitigation measures designed to lessen the degree or extent of any potential adverse environmental impacts.

Impact topics are Resources identified by agency staff and the public that may potentially be affected by the actions described within the alternatives. The resources include: soils, visitor use and experience, and water resources. For a list of other resource topics reviewed and dismissed by the interdisciplinary team see Table 1. After reviewing the potential impacts to resources and conferring with technical consultants working on the project, the Northeast Region of the Federal Lands to Parks program determined implementing the Proposed Action would result in only minor effects and identified no significant impacts.

Public Comment

This EA will be on public review for 30 days. The NPS Planning, Environment and Public Comment (PEPC) site provides access to current plans and related documents on public review. Users of the site can submit comments for documents available for public review. If you wish to comment on the EA, you may post comments online at <http://parkplanning.nps.gov/xxxx> or mail comments by Xxx XX, 2021 to:

Northeast Regional Program Manager
Federal Lands to Parks
15 State St
Boston, MA 02109

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

ON THE COVER: View of a ball field at Nathan Hale Park. Photograph by NPS, 2019

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1.0 Introduction

Nathan Hale Park is a 25-acre property located in Parma Heights, Ohio. The City of Parma Heights (City) acquired the property at no cost via a 1971 quitclaim deed through what is now called the Federal Lands to Parks Program¹ (formerly the Surplus Property Program for Parks and Recreation administered by the Bureau of Outdoor Recreation and subsequently by the NPS) pursuant to the Federal Property and Administrative Services Act, as amended (40 U.S.C. 550 (b) and (e)).

The property deed requires that the property must be used and maintained for the public purposes for which it was conveyed in perpetuity, i.e. public parks and recreation, as set forth in the Program of Utilization (POU) and plan contained in the application, submitted by the City on December 31, 1970. The deed reserved the right of reversion to the United States if the land was no longer used or needed for public parks and recreation, or for other noncompliance with the terms of the deed. The POU limits the use of the land to public parks and recreation. Since the time of transfer, the park has been used as a city park providing for a variety of recreation, including baseball, soccer, playground areas, and other active and passive recreational activities.

In May of 2019, NPS was notified that the city had closed and partially dismantled the baseball field; intending to construct a stormwater detention basin to detain and slowly release stormwater to curb area flooding. The City had obtained a \$1 million grant from the Northeast Ohio Regional Sewer District for construction. The NPS issued a stop work letter in order to initiate compliance with deed requirements. All or portions of properties no longer needed or used for the public park and recreation purposes may be reverted back to federal ownership, in which case, the General Services Administration (GSA) would redispense of the property, usually through public sale.

1.1 *Scope of the Project*

A Grantee may propose an amendment to the Program of Utilization (POU) for a public recreation use that is different than the original application for the property. Any amendments for different recreational use must be approved by the NPS. The City requested to change its use of 6-9 acres of Nathan Hale Park for a multi-use project combining a naturalized stormwater detention basin with new and replacement recreational resources for the community. The City of Parma Heights has experienced significant storm sewer and overland flow flooding over the past several years, which has caused and is continuing to cause extensive damage to private property.

After consulting with the NPS, the City submitted a design proposal with a stormwater basin and new recreational amenities compatible with the parks and recreation requirement for the land in order to request an amendment to the POU for the park. The project design is intended to help address flooding issues in the area while maintaining recreational uses of the park.

This Environmental Assessment (EA) has been prepared in compliance with the National Environmental Policy Act (NEPA) to provide the decision-making framework that: (1) analyzes a reasonable range of alternatives to meet the objectives of the proposal, (2) evaluates potential issues and impacts on resources and values, and (3) identifies mitigation measures to lessen the degree or extent of these impacts.

¹ The Federal Lands to Parks Program helps communities to acquire, reuse and protect surplus federal properties for local parks and recreation. States, counties, and communities may acquire federal land and buildings no longer needed by the federal government at no cost on condition they are protected for public parks and recreation.

1.2 *Purpose and Need for Action*

1.2.1 **Purpose**

The purpose of the proposed action is to ensure that the property continues to provide public park and recreational use and maintains eligibility under the property deed, while also meeting the City's need for stormwater mitigation.

1.2.2 **Need**

The NPS's need for the proposed action is to respond to a request from the City of Parma Heights, which has requested an amendment to its original POU to allow construction of a stormwater pond, surrounding path, and other amenities to support the park and reduce neighborhood flooding, while complying with appropriate laws and regulations.

1.3 *Project Objectives*

Objectives are more specific statements of purpose that provide an additional basis for comparing the effectiveness of alternatives in achieving the desired outcomes of the action (NPS 2015). All alternatives carried forward for detailed analysis must meet all objectives in no small degree and must resolve the purpose of and need for action. The planning team identified the following objectives:

1. Property continues to provide opportunity for public park and recreational use.
2. Property continues to maintain eligibility for the Federal Lands to Parks Program.
3. The Federal Lands to Parks program fulfills the obligation to consider any proposed change to the Program of Utilization submitted by the City of Parma Heights as set forth in the Application dated December 31, 1970.

Nearmap Image
Provided by Neff
& Associates
Subscription
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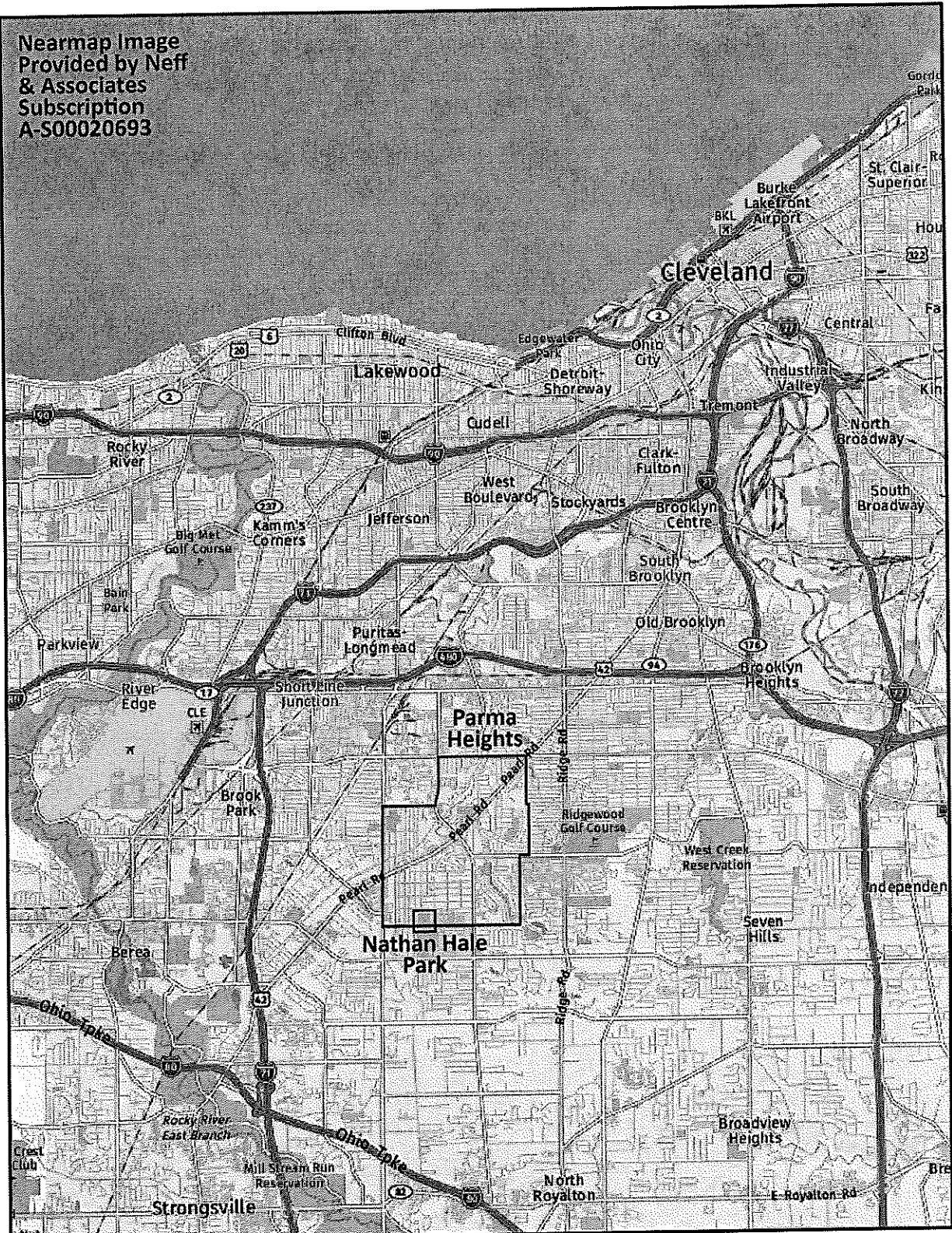


Figure 1: Map showing the location of Parma Heights and Nathan Hale Park in Ohio.

1.4 **Impact Topics**

Issues related to soils, visitor use and experience, and water resources are analyzed in detail in this EA. Resources were retained for detailed analysis either because (a) they are central to the proposal or of critical importance, (b) analyzing them will inform the decision making process, or (c) because the environmental impacts associated with the issue are a significant point of contention.

Issues related to cultural and historic resources, human health and safety, socioeconomics and environmental justice, vegetation, and special status species have been dismissed from detailed analysis because they are not central to the proposal, do not assist with making a reasoned choice between alternatives, or are not a point of contention.

Table 1 below summarizes which topics were retained or dismissed and includes the rationale for dismissal.

Table 1. Impact Topics Retained or Dismissed

Impact Topic	Retain	Dismiss	Rationale for Dismissal
Cultural and Historic Resources		x	There are no historic or archaeological resources within the project area. Refer to Appendix E. (Ohio State Historic Preservation Office Letter, 2021)
Human Health and Safety		x	The City's design for the basin will include "design elements to increase safety: providing mild (5:1) slopes and a safety shelf around the perimeter of the detention pond which reduces the risk of someone falling into the permanent pool; and placing wetland plants on the safety shelf combined with shrubs on the slopes and an unmowed buffer around the pond to discourage wading and swimming."
Socioeconomics and Environmental Justice		x	Although this project would change the recreational activities provided at the park it would not change public access to the park.
Soils	x		
Special Status Species		x	The U.S. Fish and Wildlife Service (USFWS) identified the following Federally Threatened and Endangered Species that may occur in the project area: the endangered Indiana bat (<i>Myotis sodalis</i>) and threatened northern long-eared bat (<i>Myotis septentrionalis</i>) occur throughout the State of Ohio. No maternity roosts or hibernaculum have been identified within the project area. No trees > 3 in diameter at breast height (dbh) would be removed from April 1-September 31 without further consultation. The project is within the range of the following state listed special status species: lake sturgeon (<i>Acipenser fulvescens</i>), the channel darter (<i>Percina copelandi</i>), the bigmouth shiner (<i>Notropis dorsalis</i>), the smooth greensnake (<i>Opheodrys vernalis</i>), the spotted turtle (<i>Clemmys guttata</i>), and the Blanding's turtle (<i>Emydoidea blandingii</i>). Seven species of state listed birds are also listed in the project area. Additional state listed special status species may occur within the range of the project, however, they are unlikely to be impacted by this project due to a lack of habitat within the area of potential effect. See Appendix C for the Ohio Department of Natural Resources (ODNR) consultation letter and full species list. The ODNR recommends no in-water work in perennial streams from April 15 through June 30 to reduce impacts to indigenous aquatic species and their habitat.
Vegetation		x	This site contains successional woods, lawn, emergent wetlands, and forested wetlands (Davey Resource Group, Inc., 2019). The project would include reseeding the site with native or appropriate flora, once the basin is constructed.
Visitor Use and Experience	x		Based on the unanticipated changes in the population, changes in recreation programming needs, and a growing awareness of the importance of well-designed open space the construction of the proposed stormwater basin project at the expense of one baseball diamond and two soccer fields is a prudent investment in the City's future. The loss of the ball fields will not have a negative effect on the city's recreation facilities or recreation programs and will provide a greater range of recreational options.
Water Resources	x		

2.0 Alternatives

This EA analyzes a no-action alternative and one action alternative. This chapter describes the alternatives in detail, while impacts associated with the actions proposed under each alternative are outlined in Chapter 3: Affected Environment and Environmental Consequences.

2.1 *Alternative A: No-Action*

If the proposed change of use was not approved the original/current POU would remain in effect. The baseball field would need to be restored to its original state and the flooding of the surrounding residential area and park would not be addressed.

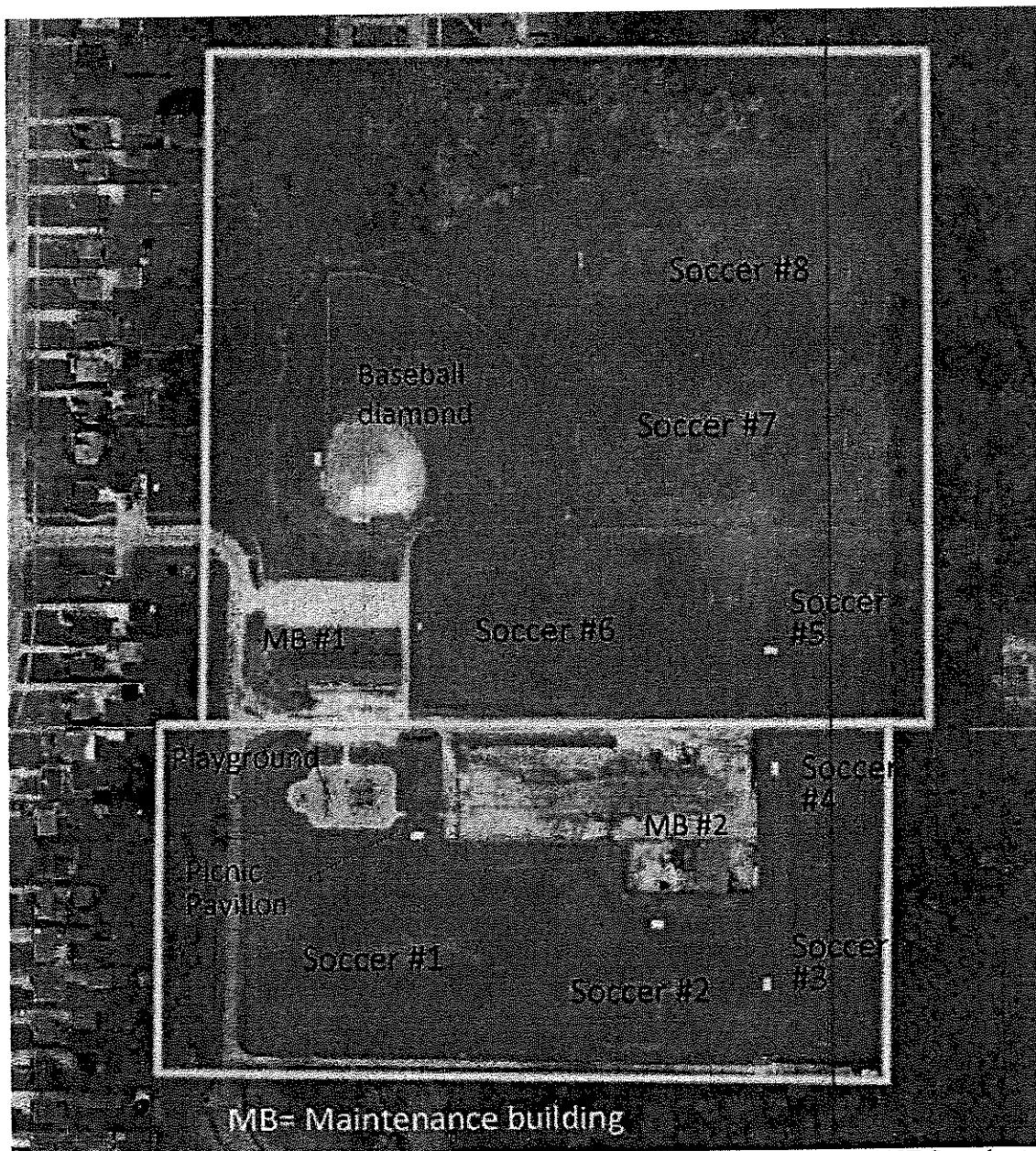


Figure 2: Map of Nathan Hale Park with recreational features as required in the original POU (CT Consultants, Nathan Hale Park Proposed Stormwater Basin Assessment of Impacts, 2020).

2.2 *Alternative B:*

This alternative would involve the construction of a stormwater pond, surrounding path, and other amenities to support the park and reduce neighborhood flooding, while complying with appropriate laws and regulations and without invoking the deed revert to return the property to Federal ownership.

A storm sewer hydraulic modeling study was conducted of the southwest sewer system in the City of Parma Heights to analyze the existing sewer system's performance under wet weather conditions and identify alternatives for improvement. Modeling indicated that the proposed storage basin in the park would allow the storm system in the southwest corner of the city to operate normally. The intent is to divert flow from the drainage channel located parallel to the rear lot lines along Meadowbrook Drive and from an existing storm sewer pipe on Oakdale Drive to the proposed stormwater basin. In combination, this will divert the majority of the upstream watershed area and allow it to be detained and slowly released over time.

The stormwater basin would be constructed in the northern portion of the park. Three areas of the site will be disturbed: the area for the basin is roughly 720 feet by 480 feet, the area for the stormwater diversion channel located in the northeast corner of the site is 40 feet by 105 feet, and the channel located along the northern boundary line that connects to a new stormwater pipe is approximately 30 feet by 620 feet. In addition, approximately 300 feet of new storm sewer will be installed west of the proposed basin. The depth of disturbance is approximately 24 feet from the highest existing elevation (874 feet) to the lowest elevation (850 feet) for the basin, approximately nine (9) feet from the highest existing elevation (869 feet) to the lowest elevation (860 feet) for the stormwater diversion channel, and approximately seven (7) feet from the highest elevation (870 feet) to the lowest (863 feet) for the channel along the northern property line.

The area of disturbance will occur primarily on cleared land currently used for ballfields. The project includes excavating an area of approximately 8 acres to create a stormwater management facility designed to function as a constructed wetland. Once the basin is constructed, the site will be planted with native trees and wildflowers, and educational panels will be installed. A walking path will be installed along the perimeter of the "storage" area of the basin, as well as benches and a gazebo. The old concession stand, a 5,709 sq ft concrete block building located near the entrance to the park, will be demolished and replaced with a smaller building with restrooms and an attached pavilion. The old buildings located on the current site are dilapidated and no longer used by the city. The City has indicated that these buildings left over from the mid-20th century Nike Base will be demolished as a part of their request for a change in the POU. The Ohio State Preservation Office (OSHP) has concurred that these buildings are not considered historic structures. Additionally, the City has committed to resurfacing both parking areas as part of the proposed change in the POU.

On March 2, 2021 the NPS requested a review by the GSA of the City's request for an amendment to the POU and the proposed construction that will alter the property to determine the effect on the federal real estate value. On March 25, 2021 the NPS received a response of no objection from the GSA to the proposed amendment to the POU (See Appendix D). Consultation letters from state and federal agencies including the Army Corps of Engineers, the U.S. Fish and Wildlife Service, the ODNR and the OSHP's office concur that the project would not have adverse effects and outline responsibilities for the City to avoid or mitigate impacts on the resources.

Stipulations:

- Construction will be carried out to comply with local ordinances to minimize dust and

noise, including daily time restrictions, noise level limits and equipment requirements. The City has committed to minimizing the impacts on recreational access during construction.

- As compensatory mitigation for the permanent and unavoidable loss of 0.49 acre of Federal jurisdictional wetlands and for the permanent and unavoidable loss of 80 linear feet of Federal jurisdictional stream, the City must purchase 1.3 wetland credits and 120 stream credits from The Nature Conservancy In-lieu Fee Program, Cuyahoga Watershed.
- To reduce any potential adverse effects on the Federally endangered Indiana bat (*Myotis sodalis*) or the Federally threatened Northern long-eared bat (*Myotis septentrionalis*), trees (woody stems greater than 3 inches dbh) must not be cut between April 1 and September 30, of any year.
- The City is required to install, prior to any grading or filling operations and installation of proposed structures or utilities, all erosion and sediment control practices. They must remain in place and be maintained until construction is completed and the area is stabilized.
- The City must completely remove and properly dispose of all erosion control devices immediately after the site has stabilized ("Stabilized" is defined as 90% areal coverage of vegetative growth in the disturbed site).
- The City is responsible for ensuring that the contractor and/or workers executing the activity(s) authorized by the permits or letters associated with this project have knowledge of the terms and conditions of the authorization and that a copy of the permit document and stipulations is at the project site throughout the period the work is underway.
- That the City is required to install, prior to any grading or filling operations and installation of proposed structures or utilities, all erosion and sediment control practices. They must remain in place and be maintained until construction is completed and the area is stabilized.

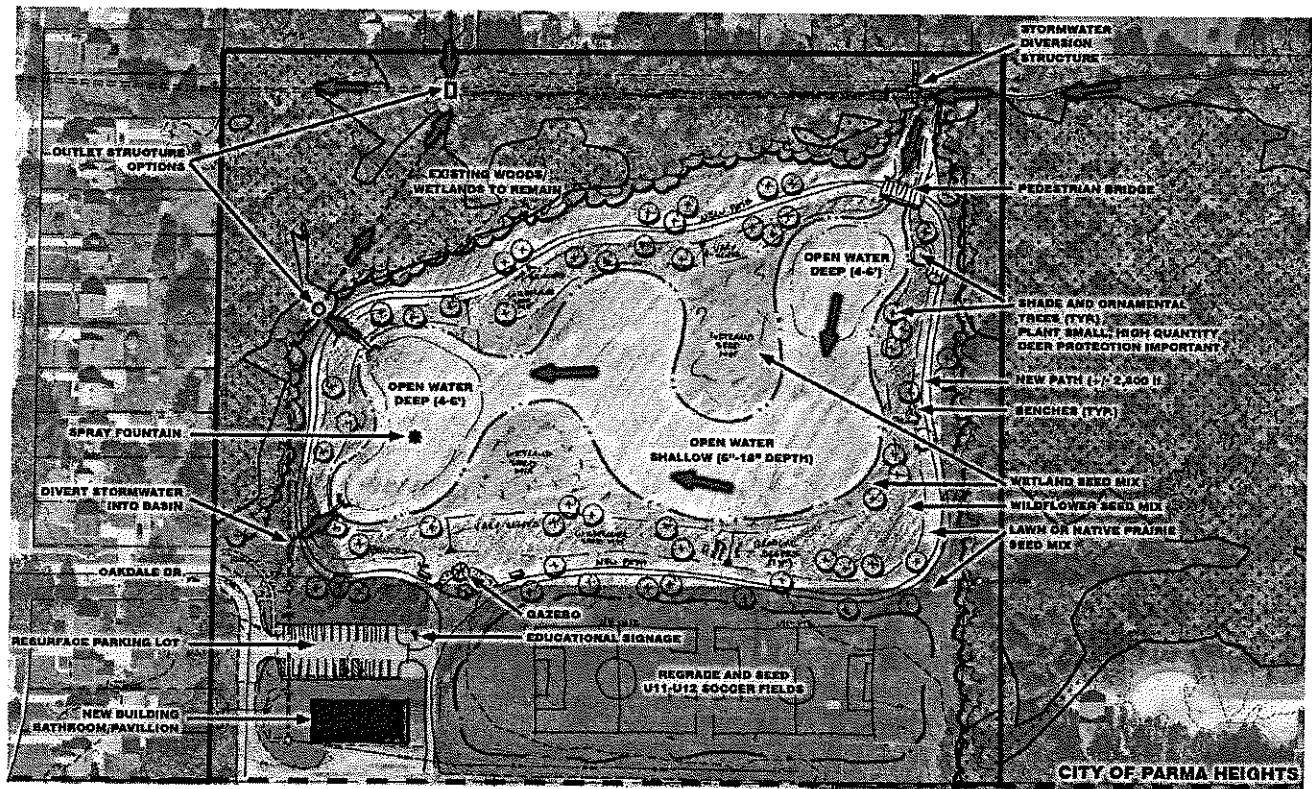


Figure 3: Map of park showing proposed project features.

2.3 Alternatives Considered but Dismissed

Table 2 summarizes the actions initially considered as potential alternatives but were later dismissed from further analysis.

Table 2: Alternatives Considered but Dismissed from Further Review

Alternatives Considered	Reason for Dismissal
County Purchase of the Land	This alternative would allow the City of Parma Heights to purchase the property at fair market value to remove deed restrictions. The City has indicated a lack of available funding or desire to purchase the property at this time. Therefore, this was dismissed as a suitable alternative.
Land Exchange	This alternative would allow replacing all or a portion of the land with alternative land of equal or greater fair market value and public park and recreation utility. When the City and the NPS reviewed this alternative, no suitable land exchange options were available. Therefore, this was dismissed as a suitable alternative.

3.0 Affected Environment and Environmental Consequences

3.1 *Introduction*

This chapter describes the affected environment and documents the existing conditions of the park. These descriptions serve as a baseline for understanding the resources potentially impacted were the alternatives described enacted. This chapter analyses the environmental consequences or “impacts” of the no-action alternative and action alternative for each resource. The resource topics presented in this section correspond to the environmental issues and concerns identified during internal scoping.

In accordance with the Council on Environmental Quality (CEQ) regulations, the environmental consequences analysis includes trends and reasonably foreseeable future actions (40 CFR 1502.16). The intensity of the impacts is assessed in the context of the park’s purpose and significance and any resource-specific context that may be applicable (40 CFR 1508.27). The methods used to assess impacts vary depending on the resource being considered, but generally are based on a review of pertinent literature and park studies, information provided by on-site experts and other agencies, professional judgment, and park staff knowledge and insight.

3.2 *Soils*

3.2.1 *Affected Environment*

Nathan Hale Park was built on an environmentally disturbed site that was part of the former 187-acre Nike missile site; officially activated by the U.S. Army in 1956 and deactivated in 1961. After the NPS conveyed 25-acres of the missile site to the City of Parma Heights in 1971, the park was developed with eight (8) soccer fields and a baseball diamond (dismantled in 2019 as part of the stormwater retention project). The existing buildings were renovated for storage space and a pavilion.

In 2000, the U.S. Army Corps of Engineers (USACE) Louisville District and its agent, AmTech Engineering, Inc. planned work to remove two underground tanks from the park. One was a 5,000-gallon tank used for gasoline storage and was located under a parking lot. The other tank was a 6,000-gallon tank that had held diesel fuel and was located under a soccer field. The tanks were removed and closed in accordance with the State of Ohio Bureau of Underground Storage Tank Regulations (BUSTR). Samples of the soil at both tank locations did not show evidence of contamination. In February 2001, the Bureau of Underground Storage Tanks formally stated in a letter that the Control Area site had been deemed as being in no further action status.

The Hydric Soils of the United States (1991) was reviewed to determine potential hydric soils identified within the study area. No hydric soils were identified but Mahoning silt loam with 0-2 percent slopes has been identified as having hydric inclusions when occurring within depressions.

3.2.2 *Environmental Consequences*

3.2.2.1 *Alternative A- Impacts*

The former ball diamond would be reestablished in its original location. There would be no additional impacts to soils in the park from this alternative.

3.2.2.2 *Alternative B- Impacts*

Under this alternative three areas of the site would be disturbed: the area for the basin is

roughly 720 feet by 480 feet, the area for the stormwater diversion channel located in the northeast corner of the site is 40 feet by 105 feet, and the channel located along the northern boundary line that connects to a new stormwater pipe is approximately 30 feet by 620 feet. In addition, approximately 300 feet of new storm sewer would be installed west of the proposed basin. The depth of disturbance is approximately 24 feet from the highest existing elevation (874 feet) to the lowest elevation (850 feet) for the basin, approximately nine (9) feet from the highest existing elevation (869 feet) to the lowest elevation (860 feet) for the stormwater diversion channel, and approximately seven (7) feet from the highest elevation (870 feet) to the lowest (863 feet) for the channel along the northern property (Ohio State Historic Preservation Office Application for Nathan Hale Park, 2020). The excavated material would be removed from the site. The Engineer would follow the recommendations from the GeoSci Geotechnical Report for stabilization including bringing in fill and use of a clay liner for the stormwater basin. Due to the history of heavy disturbance at this site, impacts to soils would be minor and permanent.

3.3 *Visitor Use and Experience*

3.3.1 **Affected Environment**

The park is under the care and control of the city's Recreation Department and the department maintains the 8 soccer fields and recreational facilities (playground, pavilion). The baseball diamond was dismantled in 2019 as part of the stormwater retention project prior to receiving the NPS' stop work letter.

Consistent with the original plan the park is used primarily for passive recreation and the city's recreational soccer program. The public utilizes the park's paved roads and parking lot for walking, jogging, bicycling and other outdoor activities. The public also utilizes the playground equipment and shelter for picnicking activities. The old buildings located on the current site are dilapidated and no longer used by the city. During public meetings in 2019, residents indicated that they frequently walked their dogs in the park although there is currently no formal walking paths.

The passage of 50 years has altered the objectives of the original application.

- a) The population in the city never reached the estimated population of 35,000.
- b) The number of children participating in baseball programs has decreased from 1,700 in 1970 to 336 in 2020.
- c) There is an increased need for a range of recreational uses that provide activities for residents of all ages and abilities.
- d) The COVID-19 pandemic demonstrated a need for more recreational opportunities close to where people live, including passive recreation features.
- e) There has been increasing flooding in the surrounding neighborhoods as well as within the park due to the existing sewer lines being undersized.

3.3.2 **Environmental Consequences**

3.3.2.1 Alternative A- Impacts

The former ball diamond would be reestablished in its original location. The proposed alternate recreational features would not be provided to visitors and the parking lot would not be rehabilitated. Impacts would be long-term and minor.

3.3.2.2 Alternative B- Impacts

Under the proposed project facilities would be constructed to address seasonal flooding and add new recreational features associated with a water detention basin. The basin is designed to reflect a natural pond setting with native plantings and a walking path with educational panels around the water feature. The project would also include a new picnic pavilion and gazebo. These additional features will create additional passive recreation amenities not currently offered within the park and neighborhood area. With two parking lots, the northern one to accommodate users for the walking path and the southern parking lot to accommodate the six remaining soccer fields, the active recreation facilities would remain grouped in the southern portion of the site. The formal walking path would allow continued and improved access to residents who utilized the park for walking purposes.

The proposed changes continue to preserve open space and provide for environmentally- friendly, green infrastructure. The basin would include design elements to increase safety: providing mild (5:1) slopes and a safety shelf around the perimeter of the detention pond which reduces the risk of someone falling into the permanent pool; and placing wetland plants on the safety shelf combined with shrubs on the slopes and an unmowed buffer around the pond to discourage wading and swimming. This approach would also create wildlife habitat and an attractive natural shoreline.

This project would increase the range of recreational uses for neighborhood residents of all ages and abilities which may increase the number of residents using the park. The remaining facilities at Nathan Hale Park would not be negatively impacted by the proposed change and, in fact would be complemented by the changes. Based on the changes in the population, changes in recreation programming needs, and a growing awareness of the importance of well-designed open space and need for more recreational opportunities, the construction of the proposed stormwater basin project at the expense of one baseball diamond (dismantled in 2019) and two soccer fields (six soccer fields will remain) would have a net benefit to the park and visitor use. Two soccer fields (#5 and #6 in Figure 2) would be closed during construction of the basin, after which the fields would be regraded and seeded (CT Consultants, Nathan Hale Park Proposed Stormwater Basin Assessment of Impacts, 2020). The baseball diamond has not been used as part of the city's recreational baseball program for many years because the number of participants in the city baseball program has diminished to the point that this field is no longer necessary for the program. Due to the availability of baseball fields at nearby public parks, including at the adjacent Nike Site Park, and the remaining six soccer fields, the loss of the ball fields will not have a negative effect on the city's recreation facilities or recreation programs.

3.4 Water Resources

3.4.1 Affected Environment

The City of Parma Heights has experienced significant storm sewer and overland flow flooding over the past several years, including flooding within the park (NPS Correspondence from Daniel Neff, P.E., Neff & Associates). The site contains successional woods, lawn, emergent wetlands, and forested wetlands. Three wetlands totaling 2.258 acres are found within the study area. Wetland hydrology indicators observed in the wetlands include blackened leaves, sediment deposits, drainage patterns, and soil saturation. Surface water runoff is the source of hydrology for the wetlands. All

of the wetlands are adjacent to and show evidence of surface water flow from the wetlands to the stream which flows from east to west across the site. This stream flows into storm sewers, eventually flowing into Big Creek approximately 0.5 mile north of the site. As the stream flows into Big Creek (tributary to the Cuyahoga River, traditional navigable water (TNW), the wetlands are considered non-isolated and under the jurisdiction of USACE (Davey Resource Group Inc., 2019).

3.4.2 Environmental Consequences

3.4.2.1 Alternative A- Impacts

The surrounding residential area and park would continue to experience flooding from sewer backups. Currently large storm events cause flooding in the park that requires the fields to be closed until the storm water recedes, typically a few days. As water from the park drains into the sewer system, the frequent back ups the system experiences results in the fields retaining water for extended periods. Additionally, water would continue to consistently pond along the west side of the park and this area can be under water for weeks at a time (NPS Correspondence from Daniel Neff, P.E., Neff & Associates). The chronic sewer backups also have a negative impact on water quality by increasing the runoff of contaminants such as bacteria, nutrients, and trash. Impacts would be moderate and long-term, but not irreversible.

3.4.2.2 Alternative B- Impacts

A storm sewer hydraulic modeling study indicated that the proposed storage basin in the park would allow the storm system in the southwest corner of the city to operate normally. This project would divert approximately 250 acres of upstream drainage area to the proposed basin. The basin would provide storage for approximately 11 million gallons of stormwater and allow it to be detained and slowly released over time. The proposed stormwater basin would reduce stormwater flow in the local sewers and decrease basement backups during storm events, resulting in a benefit to the residents in the area. Subject matter experts including the Northeast Ohio Regional Sewer District Watershed Team Leader Donna Friedman said the proposed Nathan Hale stormwater basin would have a significant role in reducing the occurrence of flooding within the southwestern portion of Parma Heights. This project would also allow stormwater management in the area to be more resilient.

The proposed stormwater basin would reduce stormwater flow in the local sewers and decrease flooding of the park during storm events, resulting in a benefit to the residents in the area. Green infrastructure, such as this stormwater basin, can filter as much as 95 percent of major pollutants out of stormwater runoff, resulting in improved water quality (Schottland, 2019). Although this project would result in the loss of some Federal jurisdictional wetlands and Federal jurisdictional stream this would be offset by the purchase of mitigation credits and the overall impacts from this project would be beneficial to water resources and long-term.

4.0 Consultation and Coordination

4.1 *Lead and Cooperating Agencies*

Federal Lands to Parks
General Services Administration

4.2 *Federal Agencies*

U.S. Fish and Wildlife Service
U.S. Army Corps of Engineers

4.3 *State Agencies*

Ohio State Historic Preservation Office
Ohio Department of Natural Resources

4.4 *American Indian Tribes*

4.5 *Local Agencies*

4.6 *Other Environmental and Regulatory Requirements*

Endangered Species Act: Section 7 consultation with U.S. Fish and Wildlife Service

Executive Orders 11988 and 11990: Floodplain management

National Historic Preservation Act (Section 106): Provide for review by the Advisory Council on Historic Preservation

A Notice of Availability of the XXXXX and Environmental Assessment will be published in the local newspaper, allowing 30 days for public comment.

5.0 List of Preparers and Contributors

The persons responsible for the review of the proposed action, the supporting information and analyses, and the preparation of this EA are listed below:

US DEPARTMENT OF THE INTERIOR NATIONAL PARK SERVICE

Federal Lands to Parks
Diane Keith, Program Manager

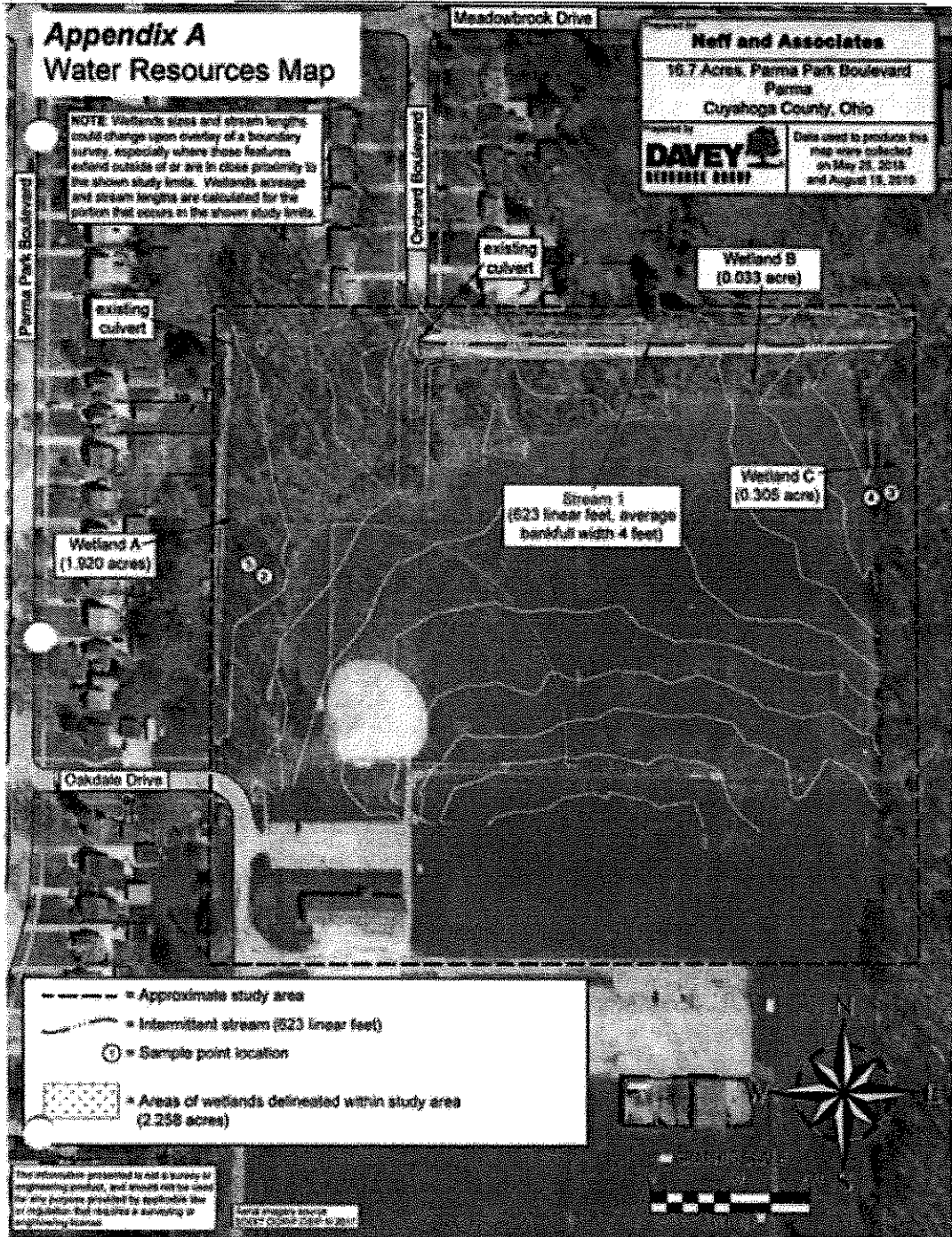
Department of Interior Unified Regions 3, 4, and 5 Regional Office
James Lange, Planning and Compliance Division Manager
Christine Gabriel, Regional Environmental Coordinator
Amber Rhodes, Environmental Protection Specialist

References

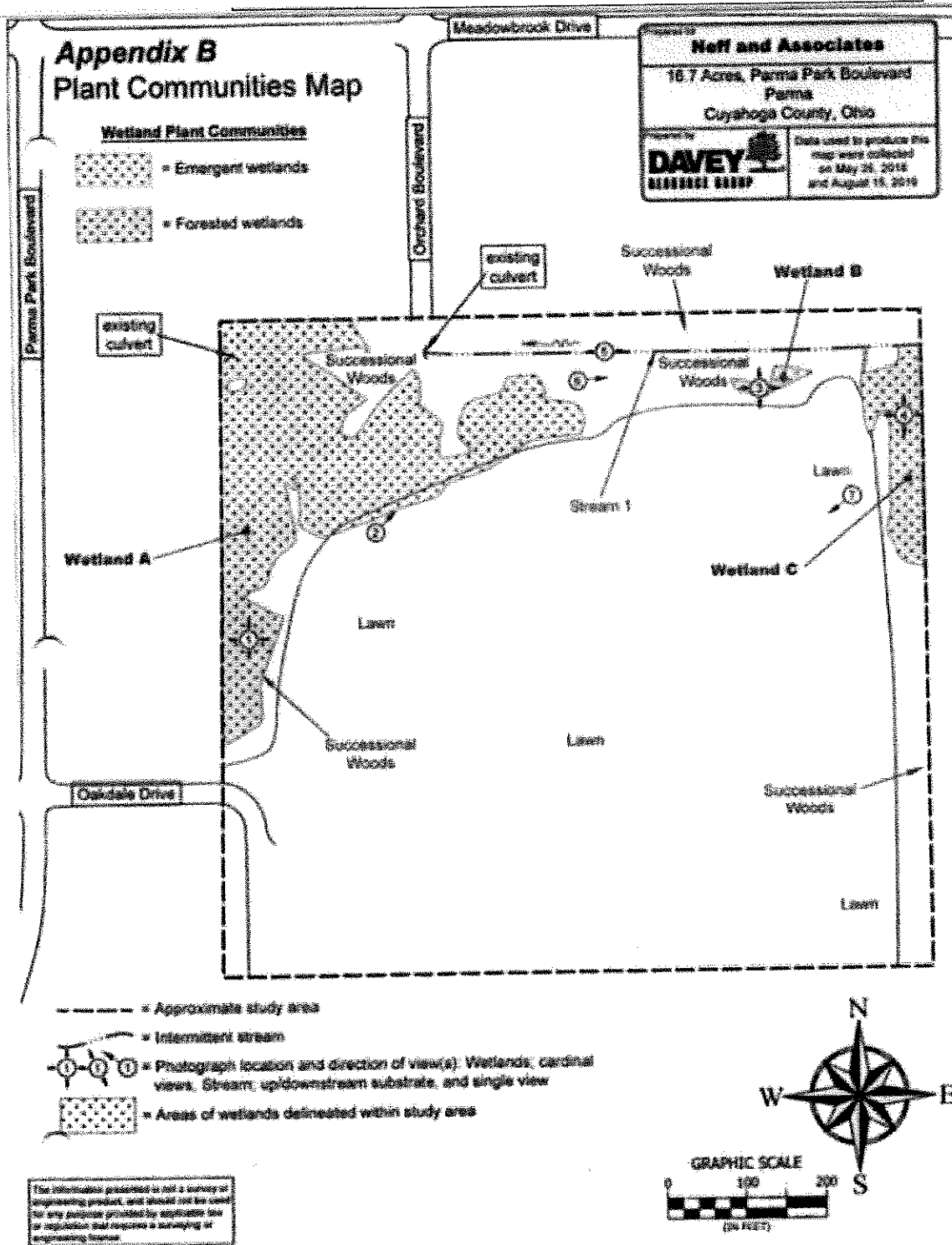
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- (2019). *Water Resources Delineation for Nathan Hale Park in Parma, Ohio*. Davey Resource Group

Inc.

Appendix A: Water Resources Map



Appendix B: Plant Communities Map



Appendix C: ODNR Consultation Letter



Ohio Department of Natural Resources

MIKE DEWINE, GOVERNOR

MARY MERTZ, DIRECTOR

Office of Real Estate
John Kessler, Chief
2045 Morse Road - Bldg. E-2
Columbus, OH 43229
Phone: (614) 265-6621
Fax: (614) 267-4764

November 6, 2020

Adam Zaryk
CT Consultants, Inc.
8150 Sterling Ct.
Mentor, Ohio 44060

Re: 20-922; 16.7 Acres - Parma Park Boulevard

Project: The proposed project involves the future development of the site.

Location: The proposed project is located in the City of Parma, Cuyahoga County, Ohio.

The Ohio Department of Natural Resources (ODNR) has completed a review of the above referenced project. These comments were generated by an inter-disciplinary review within the Department. These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), the National Environmental Policy Act, the Coastal Zone Management Act, Ohio Revised Code and other applicable laws and regulations. These comments are also based on ODNR's experience as the state natural resource management agency and do not supersede or replace the regulatory authority of any local, state or federal agency nor relieve the applicant of the obligation to comply with any local, state or federal laws or regulations.

Natural Heritage Database: The Natural Heritage Database has the following records at or within a one-mile radius of the project area:

Great Lakes Crayfish (*Orconectes propinquus*), State species of concern
Big Creek Reservation - Cleveland Metroparks

The review was performed on the project area you specified in your request as well as an additional one-mile radius. Records searched date from 1980. This information is provided to inform you of features present within your project area and vicinity.

Please note that Ohio has not been completely surveyed and we rely on receiving information from many sources. Therefore, a lack of records for any particular area is not a statement that rare species or unique features are absent from that area. Although all types of plant communities have been surveyed, we only maintain records on the highest quality areas.

Fish and Wildlife: The Division of Wildlife (DOW) has the following comments.

The DOW recommends that impacts to streams, wetlands and other water resources be avoided and minimized to the fullest extent possible, and that best management practices be utilized to minimize erosion and sedimentation.

2045 Morse Rd • Columbus, OH 43229 • ohiodnr.gov

The project is within the vicinity of records for the Indiana bat (*Myotis sodalis*), a state endangered and federally endangered species. Because presence of state endangered bat species has been established in the area, summer tree cutting is not recommended, and additional summer surveys would not constitute presence/absence in the area. However, limited summer tree cutting inside this buffer may be acceptable after further consultation with DOW (contact Sarah Stankavich, sarah.stankavich@dnr.state.oh.us).

In addition, the entire state of Ohio is within the range of the Indiana bat (*Myotis sodalis*), a state endangered and federally endangered species, the northern long-eared bat (*Myotis septentrionalis*), a state endangered and federally threatened species, the little brown bat (*Myotis lucifugus*), a state endangered species, and the tricolored bat (*Perimyotis subflavus*), a state endangered species. During the spring and summer (April 1 through September 30), these bat species predominately roost in trees behind loose, exfoliating bark, in crevices and cavities, or in the leaves. However, these species are also dependent on the forest structure surrounding roost trees. The DOW recommends tree cutting only occur from October 1 through March 31, conserving trees with loose, shaggy bark and/or crevices, holes, or cavities, as well as trees with DBH \geq 20 if possible.

The DOW also recommends that a desktop habitat assessment, followed by a field assessment if needed, is conducted to determine if there are potential hibernaculum(a) present within the project area. Information about how to conduct habitat assessments can be found in the current USFWS "Range-wide Indiana Bat Survey Guidelines." If a habitat assessment finds that potential hibernacula are present within 0.25 miles of the project area, please send this information to Sarah Stankavich, sarah.stankavich@dnr.state.oh.us for project recommendations. If a potential or known hibernaculum is found, the DOW recommends a 0.25-mile tree cutting and subsurface disturbance buffer around the hibernaculum entrance, however, limited summer or winter tree cutting may be acceptable after consultation with DOW. If no tree cutting or subsurface impacts to a hibernaculum are proposed, this project is not likely to impact these species.

The project is within the range of the lake sturgeon (*Acipenser fulvescens*), a state endangered fish and a federal species of concern, the channel darter (*Percina copelandi*), a state threatened fish, and the bigmouth shiner (*Notropis dorsalis*), a state threatened fish. The DOW recommends no in-water work in perennial streams from April 15 through June 30 to reduce impacts to indigenous aquatic species and their habitat. If no in-water work is proposed in a perennial stream, this project is not likely to impact these or other aquatic species.

The project is within the range of the smooth greensnake (*Opheodrys vernalis*), a state endangered species. This species is primarily a prairie inhabitant, but also found in marshy meadows and roadside ditches. Due to the location, the type of habitat within the project area, and the type of work proposed, this project is not likely to impact this species.

The project is within the range of the spotted turtle (*Clemmys guttata*), a state threatened species. This species prefers fens, bogs and marshes, but also is known to inhabit wet prairies, meadows, pond edges, wet woods, and the shallow sluggish waters of small streams and ditches. Due to the location, the type of habitat within the project area, and the type of work proposed, this project is not likely to impact this species.

The project is within the range of the Blanding's turtle (*Emydoidea blandingii*), a state threatened species. This species inhabits marshes, ponds, lakes, streams, wet meadows, and swampy forests. Although essentially aquatic, the Blanding's turtle will travel over land as it moves from one wetland to the next. Due to the location, the type of habitat within the project area, and the type of work proposed, this project is not likely to impact this species.

The project is within the range of the American bittern (*Botaurus lentiginosus*), a state endangered bird. Nesting bitterns prefer large undisturbed wetlands that have scattered small pools amongst dense vegetation. They occasionally occupy bogs, large wet meadows, and dense shrubby swamps. If this type of habitat will be impacted, construction should be avoided in this habitat during the species' nesting period of May 1 to July 31. If this type of habitat will not be impacted, the project is not likely to impact this species.

The project is within the range of the black-crowned night-heron (*Nycticorax nycticorax*), a state-threatened bird. Night-herons are so named because they are nocturnal, conducting most of their foraging in the evening hours or at night, and roost in trees near wetlands and waterbodies during the day. Night herons are migratory and are typically found in Ohio from April 1 through December 1 but can be found in more urbanized areas with reliable food sources year-round. Black-crowned night-herons primarily forage in wetlands and other shallow aquatic habitats, and roost in trees nearby. These night-herons nest in small trees, saplings, shrubs, or sometimes on the ground, near bodies of water and wetlands. If this type of habitat will be impacted, construction should be avoided in this habitat during the species' nesting period of May 1 to July 31. If this type of habitat will not be impacted, this project is not likely to impact this species.

The project is within the range of the king rail (*Rallus elegans*), a state endangered bird. Nests for this species are deep bowls constructed out of grass and usually hidden very well in marsh vegetation. Due to the location, the habitat at the project site, and the type of work proposed, this project is not likely to impact this species.

The project is within the range of the least bittern (*Ixobrychus exilis*), a state threatened bird. This secretive marsh species prefers dense emergent wetlands with thick stands of cattails, sedges, sawgrass or other semiaquatic vegetation interspersed with woody vegetation and open water. If this type of habitat will be impacted, construction should be avoided in this habitat during the species' nesting period of May 1 to July 31. If this type of habitat will not be impacted, this project is not likely to impact this species.

The project is within the range of the sandhill crane (*Grus canadensis*), a state threatened species. Sandhill cranes are primarily a wetland-dependent species. On their wintering grounds, they will utilize agricultural fields; however, they roost in shallow, standing water or moist bottomlands. On breeding grounds they require a rather large tract of wet meadow, shallow marsh, or bog for nesting. If grassland, prairie, or wetland habitat will be impacted, construction should be avoided in this habitat during the species' nesting period of April 1 to September 1. If this habitat will not be impacted, this project is not likely to have an impact on this species.

The project is within the range of the trumpeter swan (*Cygnus buccinator*), a state threatened bird. Trumpeter swans prefer large marshes and lakes ranging in size from 40 to 150 acres. They like shallow wetlands one to three feet deep with a diverse mix of plenty of emergent and submergent vegetation and open water. If this type of habitat will be impacted, construction should be avoided in this habitat during the species' nesting period of April 15 to June 15. If this habitat will not be impacted, this project is not likely to have an impact on this species.

The project is within the range of the upland sandpiper (*Bartramia longicauda*), a state endangered bird. Nesting upland sandpipers utilize dry grasslands including native grasslands, seeded grasslands, grazed and ungrazed pasture, hayfields, and grasslands established through the Conservation Reserve Program (CRP). Due to the location, the habitat at the project site, and the type of work proposed, this project is not likely to impact this species.

Due to the potential of impacts to federally listed species, as well as to state listed species, we recommend that this project be coordinated with the U.S. Fish & Wildlife Service.

Water Resources: The Division of Water Resources has the following comment.

The local floodplain administrator should be contacted concerning the possible need for any floodplain permits or approvals for this project. Your local floodplain administrator contact information can be found at the website below.

[http://water.ohiodnr.gov/portals/soilwater/pdf/floodplain/Floodplain%20Manager%20Community%20Contact%20List 8 16.pdf](http://water.ohiodnr.gov/portals/soilwater/pdf/floodplain/Floodplain%20Manager%20Community%20Contact%20List%208%2016.pdf)

ODNR appreciates the opportunity to provide these comments. Please contact Sarah Tebbe, Environmental Specialist, at Sarah.Tebbe@dnr.state.oh.us if you have questions about these comments or need additional information.

Mike Pettegrew
Environmental Services Administrator (Acting)

Appendix D: GSA Letter



United States Department of the Interior



NATIONAL PARK SERVICE
Interior Region 1
North Atlantic-Appalachian
15 State Street
Boston, MA 02109

IN REPLY REFER TO:

March 2, 2021

Mr. John Kelly
Property Disposal Division
General Services Administration
10 Causeway Street
Boston, Massachusetts 02222

Reference: Change in Program of Utilization
Nathan Hale Park, Parma Heights, OH
GSA No. D-OH-550A

Dear Mr. Kelly:

Pursuant to 40 U.S.C. § 550e, we are writing to request the General Service Administration's concurrence, on a substantial change in the Program of Utilization for 7-9 acres of a 25-acre property which was formerly part of a Nike Missile Site (CL-59). In 1971, the National Park Service (NPS) conveyed the 25 acres to the City of Parma Heights, Ohio (City) currently known as Nathan Hale Park (NHP). The land was conveyed at 100% discount of the fair market value (no cost) solely for public parks and recreation in perpetuity under provisions of the NPS Federal Lands to Parks Program (FLPP) (40 USC 550 (b and e)

On May 1, 2019 FLPP staff were made aware that the City was planning to construct a stormwater detention basin on six to nine acres of NHP to reduce the flooding of homes in the area and provide storage for approximately 11 million gallons of stormwater to be released into the city's storm sewer system that would displace a baseball field and two of eight soccer fields. NPS FLPP staff have been working with the City over the past year to determine how the stormwater basin, with design changes and the addition of recreational facilities for the public, could potentially fulfill the FLPP requirements for recreational use on the property.

The City is seeking an Amendment to the Program of Utilization (POU) to allow for the stormwater basin to provide a water-featured park area in NHP with additional recreational facilities that could comply with FLPP restrictions agreed to when it was deeded to the City.

Other options for proceeding with the stormwater basin have been suggested to the City including a land exchange or purchasing the 6-9 acres with payment to the General Services Administration (GSA) to release the City from the deed restrictions but were declined due to fiscal restraints.

In late July, the City sent approximately 1600 pages of materials for FLPP staff to review. Since then, the City has fulfilled requests for environmental, wetlands and historic compliance. The City has had their plans reviewed and approved by both State and Federal agencies. The City has prepared several technical reports and completed socio-economic studies to support their proposal and has secured funding for the recreational improvements that will be part of construction. Finally, the City has also held public informational meetings and posted all information about the project on the City website fulfilling the NPS request by the NPS for public engagement.

Conditions have changed significantly since 1970 when the City submitted its Program of Utilization. In addition, the City's goals as stated in the original need statement were to (1) purchase property for "open space and recreational purposes" and, as noted in the Program of Utilization, to provide "facilities for persons of all ages". The city initially set out to solve the area's flooding problem, but, after listening to the feedback from neighborhood residents, it responded with an innovative solution that redesigned the facilities to be both an engineering answer to a public works problem and an attractive recreation feature that will increase the range of facilities at Nathan Hale Park.

Furthermore, providing a walking path, educational panels, a new picnic pavilion, gazebo, etc. to create a passive recreation amenity is consistent with the city's original goals. Based on the unanticipated changes in the population, changes in recreation programming needs and a growing awareness of the importance of well-designed open space, the construction of the proposed stormwater basin project at the expense of one baseball diamond and two soccer fields is a prudent investment in the city's future. The loss of the ball fields will not have a negative effect on the city's recreation facilities or recreation programs.

After reviewing all of the documentation and receiving information that has provided technical support for the proposal, the National Park Service proposes to amend and update the Program of Utilization to allow the City to incorporate these new recreational features into Nathan Hale Park because the changes in the Program of Utilization will be approved by the Service when consistent with the purposes for which the property was conveyed.

NPS is seeking GSA concurrence for these proposed changes in the Program of Utilization. The decision to approve the changes is based on current conditions and we are asking GSA's consideration of the new Program of Utilization if the property were currently being reviewed for discount conveyance. Due to the physical changes that will be made to the property, NPS needs to confirm that GSA does not have any concerns about the potential change in property value after these new facilities have been built.

I have enclosed a copy of the original POU and the proposed Amendment along with some supporting documentation for your review.

As always, we appreciate GSA's assistance with this matter and if you have any questions or would like to see more of the technical reports about the project please contact me at (617) 981-2154.

Sincerely,

/s/

Diane Keith
Program Manager, Northeast Region
Federal Lands to Parks Program

Enclosures:
Program of Utilization
Proposed Amendment to Program of Utilization
Plan Rendering
Proposed Changes to Nathan Hale Park

Pursuant to 40 U.S.C. § 550e the General Services Administration does not interpose an objection to the Amended Program of Utilization dated March 2021 for the Nathan Hale Park in Parma Heights, OH for a 16.71-acre portion of the 24.89-acre deed, recorded May 20, 1971, Book 12796, Page 699, Cuyahoga County Registry of Deeds encumbered by Federal Lands to Parks Program. The changes in the Program of Utilization will continue to provide an equal or greater fair market value and public recreational benefit with the equivalent terms, conditions, reservations, and restrictions as contained in the Quitclaim Deed referenced above.

DocuSigned by:

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Signature of Approving Official

Director Real Property Utilization & Disposal

Title

3/25/2021

Date

Appendix E: Ohio SHPO Letter



In reply, refer to
2020-CUY-48358

July 9, 2021

Diane Keith
Federal Lands to Parks
15 State St.
Boston, MA 02109
Diane_Keith@nps.gov

RE: Nathan Hale Park Stormwater Basin, City of Parma Heights, Cuyahoga County, Ohio

Dear Ms. Keith:

This is in response to the correspondence received July 7, 2021 regarding the proposed Nathan Hale Park Stormwater Basin, City of Parma Heights, Cuyahoga County, Ohio. We appreciate the opportunity to comment on this project. The comments of the Ohio State Historic Preservation Office (SHPO) are submitted in accordance with the provisions of Section 106 of the National Historic Preservation Act of 1966, as amended (54 U.S.C.306108 [36 CFR 800]).

The proposed undertaking involves the construction of an approximately 8-acre retention basin within the Nathan Hale Park in the City of Parma Heights. Our office has previously coordinated this undertaking with CT Consultants, Inc. and issued a coordination letter on June 5, 2020 to the consultant. It was determined the Nathan Hale Park did not meet the minimum criteria for inclusion in the National Register of Historic Place (NRHP).

Based on the information submitted, our office agrees the proposed project will have no effect on historic properties. No further coordination with this office is necessary, unless the project changes or unless new or additional historic properties are discovered during implementation of this project. In such a situation, this office should be contacted. Please be advised that this is a Section 106 decision. This review decision may not extend to other SHPO programs. If you have any questions, please contact me at (614) 298-2022, or by e-mail at khorrocks@ohiohistory.org. Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Krista Horrocks".

Krista Horrocks, Project Reviews Manager
Resource Protection and Review

Appendix F: USFWS Section 7 Consultation Letter



UNITED STATES DEPARTMENT OF THE INTERIOR
U.S. Fish and Wildlife Service
Ecological Services Office
4625 Morse Road, Suite 104
Columbus, Ohio 43230
(614) 416-8993 / Fax (614) 416-8994



TAILS# 03E15000-2021-I-0214

Dear Ms. Keith,

The U.S. Fish and Wildlife Service (Service) has received your recent correspondence requesting information about the subject proposal. We offer the following comments and recommendations to assist you in minimizing and avoiding adverse effects to threatened and endangered species pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq), as amended (ESA).

The Service has reviewed your project description and concurs with your determination that the project, as proposed, is not likely to adversely affect the federally endangered Indiana bat (*Myotis sodalis*) or threatened northern long-eared bat (*Myotis septentrionalis*). This is based on the commitment to cut all trees ≥ 3 inches diameter at breast height only between October 1 and March 31 in order to avoid adverse effects to the Indiana bat and northern long-eared bat.

This concludes consultation on this action as required by section 7(a)(2) of the ESA. Should, during the term of this action, additional information on listed or proposed species or their critical habitat become available, or if new information reveals effects of the action that were not previously considered, consultation with the Service should be reinitiated to assess whether the determinations are still valid.

If you have questions, or if we can be of further assistance in this matter, please contact our office at (614) 416-8993 or ohio@fws.gov.

Sincerely,

Patrice M. Ashfield
Field Office Supervisor

cc: Nathan Reardon, ODNR-DOW
Kate Parsons, ODNR-DOW