

U.S. Army Corps of
Engineers
Huntington District

PUBLIC NOTICE

REQUEST FOR PERMISSION TO ALTER A U.S. ARMY CORPS OF ENGINEERS PROJECT UNDER SECTION SECTION 14 OF THE RIVERS AND HARBORS ACT OF 1899, 33 U.S.C. 408 (SECTION 408)

SECTION 408 NUMBER: 408-LRH-2019-0003- City of Portsmouth Skate Park

PUBLIC NOTICE COMMENT PERIOD:

Begins: March 2, 2021

Ends: April 1, 2021

REQUESTER:

City of Portsmouth
728 Second Street
Portsmouth, Ohio 45662

LOCATION OF PROPOSED ACTION: The proposed alteration would be located at Weghorst Park, adjacent to the Portsmouth Local Protection Project (LPP), north of 4th Street, in the City of Portsmouth, Scioto County, Ohio (38.733482°N, 83.006987°W). Refer to the enclosed map (Sheet 1 of 3).

REQUESTER'S PROPOSED ACTION: The City of Portsmouth has requested authorization under Section 14 of the Rivers and Harbors Act of 1899, 33 U.S.C. 408 (Section 408) for the proposed alteration to the Portsmouth LPP. The Portsmouth LPP is operated and maintained by the City of Portsmouth, the local sponsor. The proposed project would include the construction of an approximate 7,000 square foot concrete skatepark at the Weghorst Park, in the City of Portsmouth, Ohio. The skatepark would be constructed with 4,000 pound per square inch (psi) reinforced concrete and would feature various skatepark obstacles such as benches, railings, embankments, and elevation changes ranging from 4-feet above grade to a maximum depth of 2-feet below grade. Refer to Sheet 2 of 3 and Sheet 3 of 3 for details. The purpose of the proposed project is to provide a recreational skate park for non-motorized wheel sports such as skateboarding, BMX bike, riding, and roller skating.

ENVIRONMENTAL IMPACTS OF THE PROPOSED ACTION:

THREATENED AND ENDANGERED SPECIES: Based on a review of the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) tool, the proposed project is located within the range of the federally listed Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), fanshell mussel (*Cyprogenia stegaria*), northern riffleshell mussel (*Epioblasma torulosa rangiana*), pink

mucket pearlymussel (*Lampsilis abrupta*), rayed bean mussel (*Villosa fabalis*), sheepsnose mussel (*Plethobasus cyphus*), snuffbox mussel (*Epioblasma triquetra*), running buffalo clover (*Trifolium stoloniferum*), small whorled pogonia (*Isotria medeoloides*), and the Virginia spiraea (*Spiraea virginiana*).

The project area has been previously disturbed by construction of the existing park and the levee. The site is located in a maintained area that is adjacent to the Portsmouth levee. The proposed project would occur on the landside of the levee. The USACE determined that the proposed project would have *no effect* to the fanshell mussel, northern riffleshell mussel, pink mucket pearlymussel, rayed bean mussel, sheepsnose mussel, snuffbox mussel, running buffalo clover, small whorled pogonia, and the Virginia spiraea, as the project area contains no suitable habitat for these species and would not involve any activities in streams or rivers.

The proposed project would involve the minimal tree clearing activities (two (2) trees would be removed); however, all tree removal would occur between October 1 and March 31. No caves or portals are located within the project area. Based on this information, the USACE determined the project *may affect, but is not likely to adversely affect* the Indiana bat and the northern long-eared bat. The USACE will consult with the USFWS for the aforementioned effects determination. In addition, this Public Notice serves as a request to USFWS for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended; (ESA)). No Section 408 permission will be issued until the USACE has verified that all obligations under Section 7 of the ESA have been fulfilled.

HISTORIC AND CULTURAL RESOURCES: According to the National Register of Historic Places (NRHP), the proposed site is located approximately 350 feet north of the Boneyfiddle Commercial District (National Register Number: 79001938) and approximately 430 feet northwest from the Portsmouth Foundry and Machine Works (National Register Number: 79001938). The Ohio State Historic Preservation Office (OSHPO) has been consulted and it has been determined there are no properties currently listed on the NRHP that would be affected by the proposed work. Furthermore, the USACE, the OSHPO, and the requester concur that the work has a very low probability to encounter any intact cultural deposits during construction. Based on an initial review of the documentation provided by the City of Portsmouth, the USACE does not anticipate that the propose alteration would have any adverse effect on historic or cultural resources. Any inadvertent discovery of intact cultural deposits will be managed in accordance with 36 CFR 800.13. The USACE will complete all necessary coordination under Section 106 of the National Historic Preservation Act (NHPA) and a National Environmental Policy Act (NEPA) document evaluating the impacts associated with the request. No Section 408 permission will be issued until all obligations under Section 106 of the NHPA of 1966 have been fulfilled.

AUTHORITY: This request will be reviewed in accordance with the provisions of

Section 14 of the Rivers and Harbors Act of 1899.

LIMITS OF SECTION 408 AUTHORITY: A requester has the responsibility to acquire all other permissions or authorizations required by federal, state, and local laws or regulations. In addition, an approval under Section 408 does not grant any property rights or exclusive privileges nor does it authorize any injury to the property or rights of others.

EVALUATION FACTORS: The decision whether to grant the requested permission for project modification under Section 408 will be based on several factors. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. Review of the requests for modification will be reviewed by a USACE technical review team (review team) considering the following factors:

1) Impair the Usefulness of the Project Determination. The review team will determine if the proposed alteration would limit the ability of the project to function as authorized, or would compromise or change any authorized project conditions, purposes, or outputs. In order for an alteration to be approved, the requester must demonstrate that the alteration does not impair the usefulness of the federally authorized project.

2) Injurious to the Public Interest Determination. Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public interest. Factors that may be relevant to the public interest depend on the type of federal project being altered and the nature of the proposed alteration and may include, but are not limited to, such things as: conservation, economic development, historic properties, cultural resources, environmental impacts, water supply, water quality, flood hazards, floodplains, residual risk, induced damages, navigation, shore erosion or accretion, and recreation. This evaluation will consider information received from the interested parties, including tribes, agencies, and the public. The benefits that reasonably may be expected to accrue from the proposal must be compared against its reasonably foreseeable detriments. The decision whether to approve an alteration will be determined by the consideration of whether benefits are commensurate with risks and by the net impact of the alteration on the public interest using the public interest factors

3) Environmental Compliance. A decision on a Section 408 request is a federal action, and therefore, subject to the NEPA and other environmental compliance requirements. While USACE is responsible for ensuring environmental compliance, the requester is responsible for providing all information that the USACE district identifies as necessary to satisfy all applicable federal laws, executive orders, regulations, policies, and procedures. The NEPA and other analysis completed to comply with other environmental statutes (e.g., Section 7 of the ESA, Section 106 of the NHPA, etc.) should be commensurate with the scale and potential effects of the activity that would alter the USACE project. The

Huntington District will work with the requester to determine the requirements, which will be scaled to the likely impacts of the proposed alteration and should convey the relevant considerations and impacts in a concise and effective manner.

PUBLIC INVOLVEMENT: The purpose of this notice is to solicit comments from the public; federal, state, and local agencies and officials; tribes; and other interested parties regarding the Portsmouth Skate Park project, a proposed alteration to an existing federally authorized project. Comments received within 30 days of publication of this notice will be used in the evaluation of potential impacts of the proposed action on important resources and in the evaluation of whether the proposed alteration would be injurious to the public interest and/or would impair the usefulness of the authorized project. Only the specific activities that have the potential to occupy, use or alter the Portsmouth LPP will be evaluated. Please limit comments to the area of the alteration and those adjacent areas that would be directly or indirectly affected by the alteration to the Portsmouth LPP. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act (FOIA).

SUBMITTING COMMENTS: Comments and requests for additional information should be submitted electronically to Audrey Richter by email at Audrey.M.Richter@usace.army.mil.

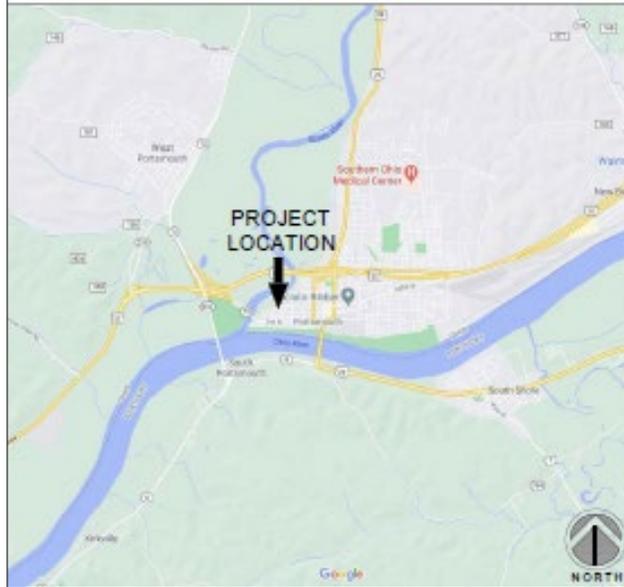
If you do not have internet access, comments may be submitted through the U.S. Postal Service (USPS) to the following address:

U.S. Army Corps of Engineers
ATTN: Audrey Richter, CELRH-RD-E
Public Notice: 408-LRH-2019-0003
502 Eighth Street
Huntington, WV 25701-2070

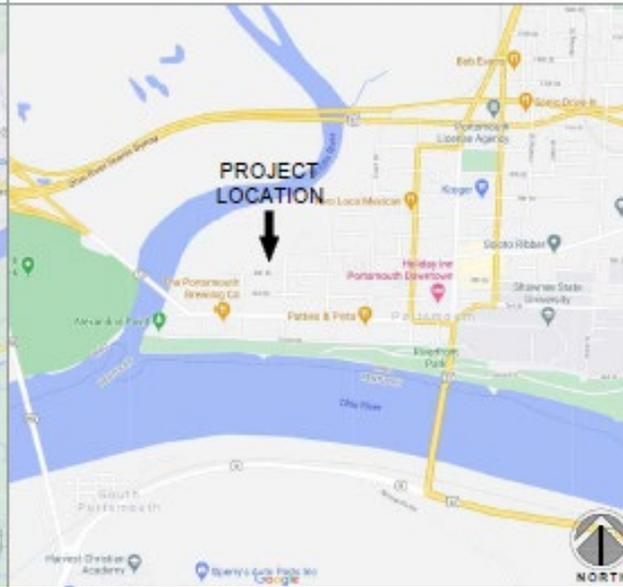
Comments should only be provided through the USPS when electronic transmission is not possible. Precautionary internal mail handling procedures may be instituted to protect our workforce, which may result in longer than normal times to process and receive hard copy submissions. To be considered in our evaluation, comments submitted through the USPS should have a postmark dated on, or prior to, the close of the comment period listed on page one (1) of this Public Notice.

As noted above, the names and addresses of those who submit comments in response to this Public Notice become part of our administrative record, and, as such, may be available to the public under provisions of the FOIA.

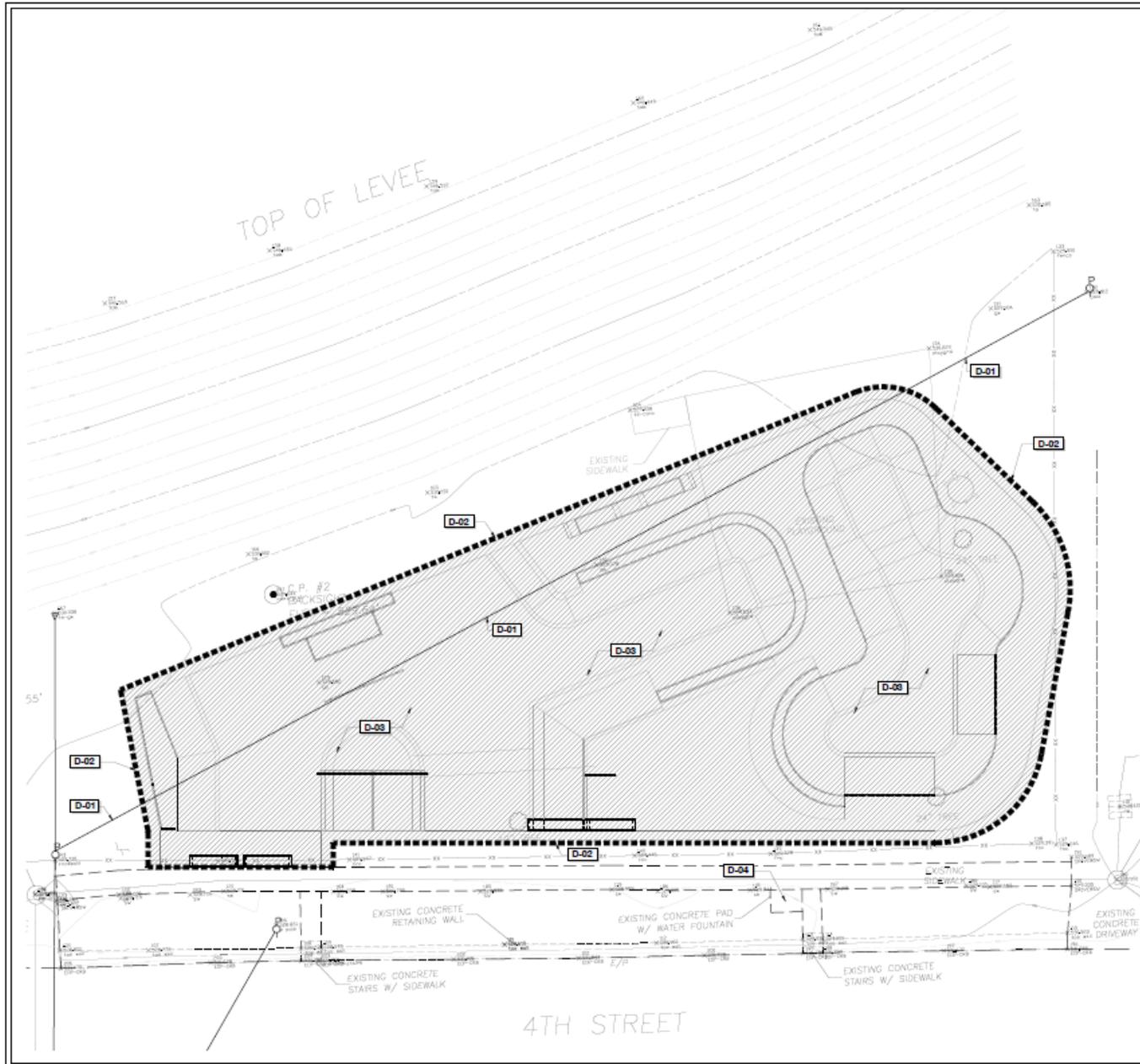
VICINITY MAP



LOCATION MAP



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Sheet 1 of 3



DEMOLITION PLAN GENERAL NOTES:

1. DEMOLITION SHOWN ON THIS PLAN IS A MINIMUM REQUIREMENT. CONTRACTOR SHALL DEMOLISH, RELOCATE, AND/OR REMOVE ALL PORTIONS OF THE EXISTING UTILITIES AND SITE ELEMENTS NECESSARY TO ACHIEVE THE WORK SHOWN AS SPECIFIED.
2. CONTRACTOR TO PHASE DEMOLITION TO ACCOMMODATE AND FACILITATE CONTINUAL OCCUPANCY OF ADJACENT PROPERTIES AND SITE FACILITIES AND SAFETY OF CITY EMPLOYEES AND THE PUBLIC IN AND AROUND THOSE FACILITIES.
3. MEANS AND METHODS TO LOCATE EXISTING ELEMENTS ARE THE CONTRACTOR'S RESPONSIBILITY.
4. ALL PAVEMENT TO BE PER PLAN.
5. ALL VOIDS/HOLES/DEPRESSIONS LEFT FROM DEMOLITION MUST BE FILLED AND COMPACTED PER SOILS REPORT.
6. CONTRACTOR SHALL BE RESPONSIBLE FOR THE REPAIR AND/OR REPLACEMENT OF ANY EXISTING SITE ELEMENTS SPECIFIED TO REMAIN THAT ARE DAMAGED DURING CONSTRUCTION OPERATIONS UNLESS PREVIOUSLY DISCUSSED WITH AND APPROVED BY THE OWNER.
7. CONCRETE AND OTHER MATERIALS TO BE DEMOLISHED WITHIN THE SCOPE OF THIS PROJECT SHALL BE RECYCLED PER STATE GUIDELINES. CONTRACTOR SHALL PROVIDE EFFORT IN RECYCLING CONSTRUCTION DEBRIS GENERATED FROM THIS PROJECT.

NOTES:
 CONTRACTOR TO COORDINATE STAGING AREA AND CONSTRUCTION ENTRANCE WITH OWNER BEFORE COMMENCING WORK. OWNER TO RESTORE CONSTRUCTION ENTRANCE LOCATION AFTER CONSTRUCTION IS COMPLETE.

DEMOLITION LEGEND

SYMBOL	DEMOLITION DESCRIPTION
—	PROTECT OVERHEAD ELECTRICAL LINES
—	LIMIT OF DISTURBANCE
SYMBOL	DEMOLITION DESCRIPTION
▨	CLEAR AND GRUB SITE PER SKA 2 + SKA 1
○	REMOVE EXISTING WATER FOUNTAIN FOR PROPOSED WATER FOUNTAIN

EXISTING SITE LEGEND

E/P	EDGE OF PAVEMENT
—	OVERHEAD TELEPHONE LINES
—	OVERHEAD ELECTRIC LINES
—	COMBINED SANITARY & STORM SEWER
—	EXISTING CHAINLINK FENCE
—	EXISTING CONTOUR LINE
○	UTILITY POLE
○	TIE
○	SANITARY SEWER MANHOLE
○	5/8" DIA. REBAR SET
○	GUY WIRE ANCHOR
○	ALUMINUM PARK BENCH
○	C.P.
○	T.O.G.
—	FLOODLINE



