

I-70B WEST

PROGRAMMATIC SECTION 4(F) EVALUATION AND *DE MINIMIS* FINDING FOR I-70B WEST PROJECT GRAND JUNCTION, CO

Introduction

The Colorado Department of Transportation (CDOT) and the Federal Highway Administration (FHWA) in coordination with the City of Grand Junction, Mesa County and the Regional Transportation Planning Office (RTPO) have identified a need for improvements to the I-70B corridor in Grand Junction, CO. The project is approximately four miles in length and extends from 24 Road on the west to 15th Street on the east as shown in **Figure 1**. This segment passes through the downtown area and provides access to regional retail uses west of downtown.



Figure 1: I-70B West Study Corridor

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The overall purpose of the project is to improve traffic flow, improve safety, improve multi-modal opportunities, and provide effective access along I-70B. I-70B is the backbone of the transportation system in Grand Junction serving multiple functions. The proposed improvements would accommodate the travel demand for the planning horizon of 2030. It would also address problems related to congestion, safety, access to adjacent properties, and pedestrian, bicycle and bus facilities.

The proposed improvements would provide 6 lanes of through travel throughout the I-70B West study corridor. The section of I-70B from 24 Road to Rimrock Avenue would be widened, additional turn lanes would be provided where warranted, and access would be controlled to improve through traffic operations and safety. The North Avenue interchange would be improved to provide additional through capacity, better traffic operations, access to businesses west of I-70B, and improved safety. The 1st Street and Grand Avenue intersection would be reconfigured and improved to include additional through capacity and turn lanes. The 1st Street/2nd Street/Ute Avenue/Pitkin Avenue area would be improved to upgrade operations to accommodate the third lane in each direction and improve safety. The 4th Street/5th Street/Ute Avenue/Pitkin Avenue area would be converted to one-way 4th and 5th Streets with additional turn lanes added to reduce vehicle conflicts and improve traffic operations. Improved and continuous bicycle and pedestrian facilities would be provided. Existing bus stops on I-70B would also be improved. The majority of the improvements would occur within existing roadway right-of-way (see **Figures 2a, 2b, 2c and 2d**).

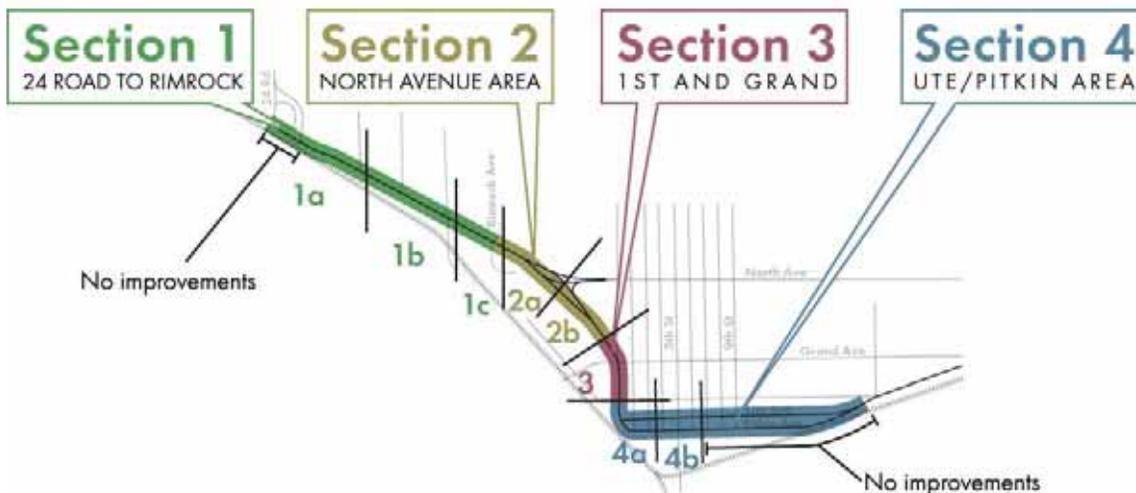


Figure 2a: Preferred Alternative Sections

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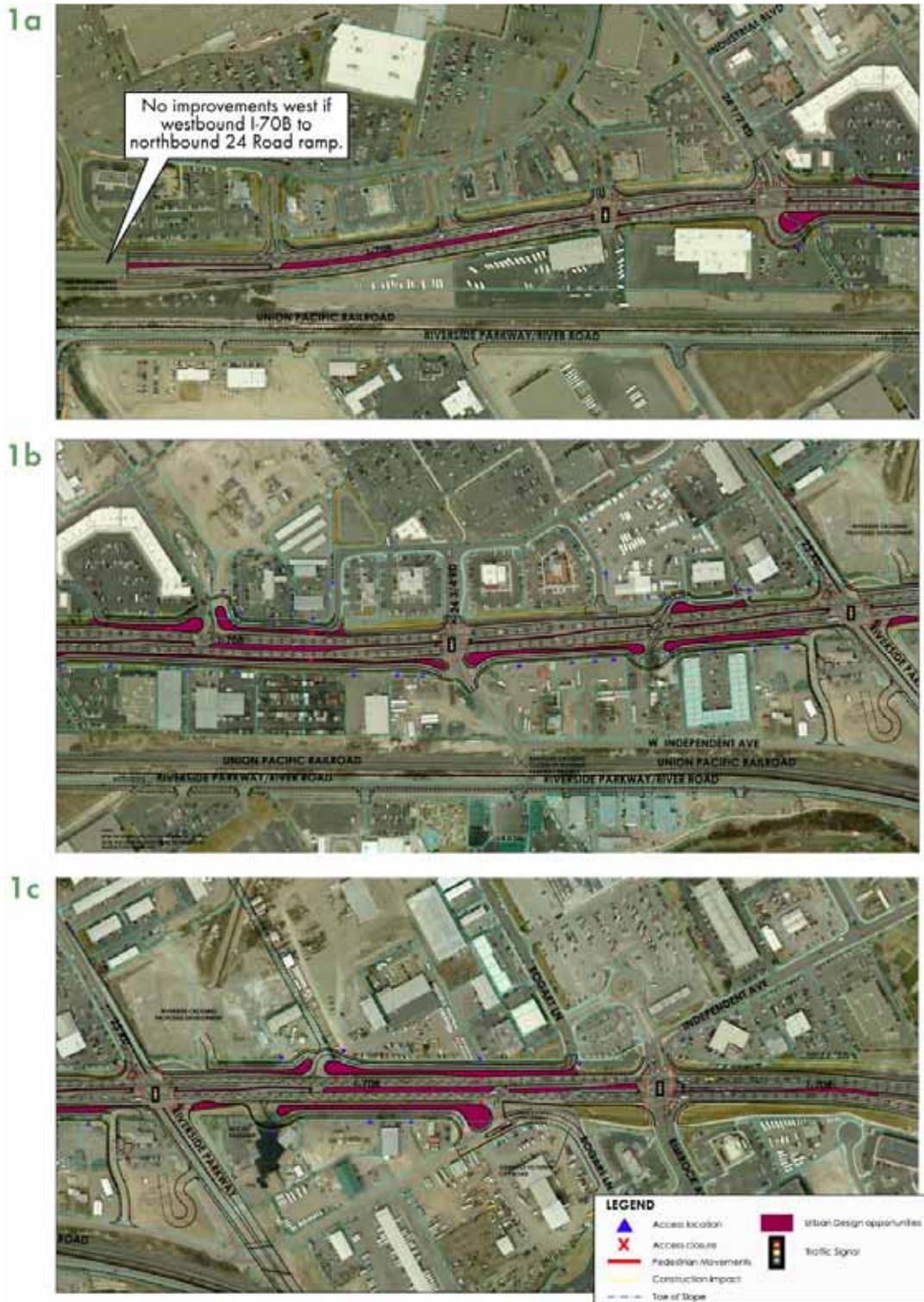


Figure 2b: Preferred Alternative – Section 1: 24 Road to Rimrock Avenue

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Figure 2c: Preferred Alternative – Section 2 & 3: North Avenue Area and 1st Street and Grand Avenue

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Figure 2d: Preferred Alternative – Section 4: Ute/Pitkin Area

Section 4(f) Resources

Whitman Park is a 2.48 acre park located in downtown Grand Junction between 4th and 5th Streets and Ute and Pitkin Avenues. In addition to being a parkland, Whitman Park is also a historic property. For this reason both a Programmatic 4(f) Evaluation (for parkland) and a de minimis finding (for historic property) is prepared for the park.

The park is owned and maintained by the City of Grand Junction. According to the *City of Grand Junction Parks Master Plan*, February 2001, the park is classified as a neighborhood park and includes restrooms. The park is currently used for open space activities only (such as picnics and gatherings), and is accessed by city sidewalks and street crossings. The city plans to provide additional



amenities in the future. No Land and Water Conservation Funds nor Federal encumbrances have been invested in the park.

In addition, Whitman Park (5ME.1186) is eligible for inclusion on the National Register of Historic Places under Criterion A (associated with events that have made a significant contribution to the broad patterns of our history). The park was shown on the original town plat in 1887. It has served as a park in this location for nearly 125 years.

Description of Use

Construction of the improvements to I-70B at Whitman Park would require approximately 85 square feet (.0023 acre) of permanent right-of-way (see **Figure 3**). This amounts to less than 0.1% of the total park area. Right-of-way would be acquired from the northwest and southwest corners of the park. There are 2 trees, one at the northwest corner and one at the southwest corner, adjacent to the park that would also be removed due to proposed radii improvements. Both of these trees are located outside of the park boundary within CDOT right-of-way. The existing sidewalk would require reconstruction at all four corners of the park.

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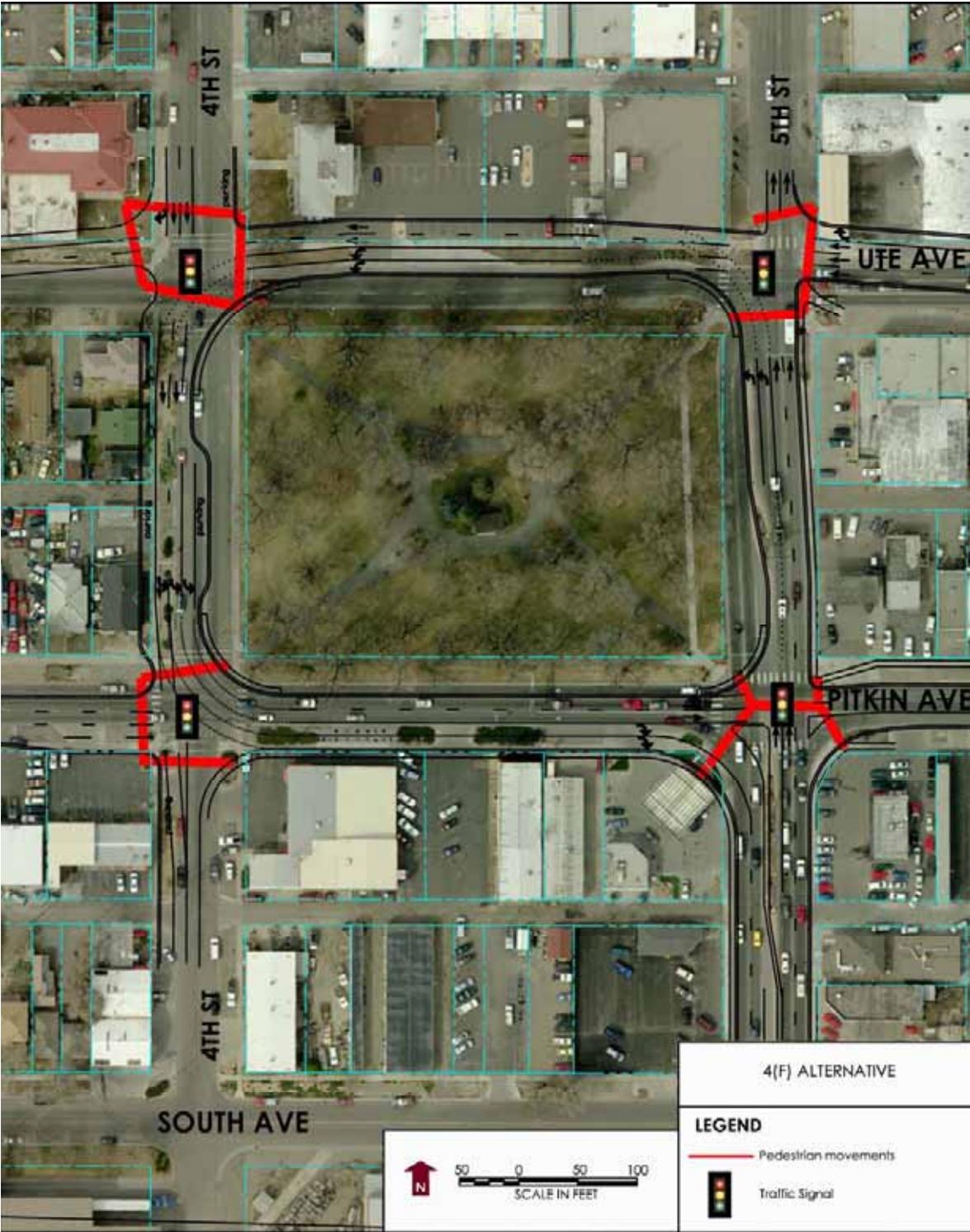


Figure 3: Whitman Park Impacts



De Minimis Impact Finding for Section 4(f) Uses of Historic Properties

Under SAFETEA-LU (the most recent Transportation Act), Congress simplified parts of Section 4(f) by creating a provision for *de minimis* findings. If impacts to a resource are minor or temporary, and there is no adverse effect to that resource, it can be cleared as *de minimis* impact and study of avoidance alternatives is not necessary. Below is more detail about the legislation.

The SAFETEA-LU was enacted August 10, 2005. Section 6009(a) (1) of SAFETEA-LU added a new subsection to Section 4(f) which authorizes the FHWA to approve a project that uses Section 4(f) lands that are part of a historic property, without preparation of an Avoidance Analysis, if it makes a finding that such uses would have *de minimis* impacts upon the Section 4(f) resource.

More specifically, with regard to Section 4(f) resources that are historic resources, Section 6009 of SAFETEA-LU adds the following language to Section 4(f)¹:

(b) *De Minimis* Impacts. --

(1) REQUIREMENTS.--

(A) REQUIREMENTS FOR HISTORIC SITES.--The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a *de minimis* impact on the area.

(C) CRITERIA.--In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

(2) HISTORIC SITES.--With respect to historic sites, the Secretary may make a finding of *de minimis* impact only if--

(A) The Secretary has determined, in accordance with the consultation process required under Section 106 of the National Historic Preservation Act (16 U.S.C.470f), that--

(i) the transportation program or project will have no adverse effect on the historic site; or

(ii) there will be no historic properties affected by the transportation program or project;

¹ This provision will be codified as 23 U.S.C. § 138(b). Section 6009(a)(2) of SAFETEA-LU adds identical language at 49 U.S.C. § 303(d).



(B) The finding of the Secretary has received written concurrence from the applicable State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (and from the Advisory Council on Historic Preservation if the Council is participating in the consultation process); and

(C) The finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

FHWA's December 13, 2005 *de minimis* guidance that clarifies the SHPO role in *de minimis*, states that the SHPO must concur in writing on the Section 106 determination of no adverse effect or no historic properties affected and that CDOT must notify the SHPO of the FHWA intention to make a *de minimis* finding based on concurrence with the Section 106 finding.

FHWA has made a determination, and the Colorado SHPO has concurred, that the proposed action would result in no adverse effect to Whitman Park (5ME.1186) for purposes of Section 106 of the National Historic Preservation Act (NHPA). This determination is documented in Section 3.15 of the I-70B West Environmental Assessment (EA), and appropriate correspondence can be found in Appendix C of the EA.

This finding of no adverse effect reflects a conclusion that these impacts will not “alter, directly or indirectly, any of the characteristics of the historic properties that qualify the properties for inclusion in the National Register in a manner that would diminish the integrity of the properties’ location, design, setting, materials, workmanship, feeling, or association” as described in 36 CFR § 800.5(a)(1). Based on this finding, and taking into consideration the harm minimization measures that have been incorporated into the proposed action as documented in this Section 4(f) Evaluation, it is the conclusion of the FHWA that the proposed action would have *de minimis* impacts and that an analysis of feasible and prudent avoidance alternatives under Section 4(f) is not required. FHWA notified the SHPO of the *de minimis* determination on August 10, 2007 (see Appendix C).

The SHPO concurred with the no adverse effect finding for Whitman Park (5ME.1186) in correspondence dated August 22, 2007. The Grand Junction Historic Preservation Board concurred with the Section 106 findings with no additional comments in a letter dated September 19, 2007. Concurrence by FHWA with the *de minimis* finding by CDOT was achieved on February 29, 2008. See Appendix C of the EA for copies of these letters.



Programmatic Applicability for uses of Park Resources

This project meets the applicability requirements established in FHWA's "Final Nationwide Section 4(f) Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges." The use of the nationwide evaluation is based upon the project meeting seven criteria:

1. The proposed project is designed to improve the operational characteristics, safety, and/or physical condition of existing highway facilities on essentially the same alignment.
2. The Section 4(f) lands are publicly owned public parks, recreation lands, or wildlife and waterfowl refuges located adjacent to the existing highway.
3. The amount and location of the land to be used shall not impair the use of the remaining Section 4(f) land, in whole or in part, for its intended purpose.
4. The proximity impacts of the project on the remaining Section 4(f) land shall not impair the use of such land for its intended purpose.
5. The officials having jurisdiction over the Section 4(f) lands must agree, in writing, with the assessment of the impacts of the proposed project on, and the proposed mitigation for, the Section 4(f) lands.
6. For projects using land from a site purchased or improved with funds under the Land and Water Conservation Fund Act, the Federal Aid in Fish Restoration Act (Dingell-Johnson Act), the Federal Aid in Wildlife Act (Pittman-Robertson Act), or similar laws, or the lands are otherwise encumbered with a Federal interest (e.g., former Federal surplus property), coordination with the appropriate Federal agency is required to ascertain the agency's position on the land conversion or transfer.
7. The project does not require preparation of an environmental impact statement.

Based on the criteria above, the project's involvement with Whitman Park is being processed using the Section 4(f) nationwide evaluation. The project involves the use of approximately 85 square feet of land from the northwest and southwest corners of Whitman Park as described below.



Alternatives and Findings

In addition to the Preferred Alternative, the following alternatives were fully considered in avoiding impact to Whitman Park.

- 1. Do Nothing (No Action) Alternative.** The Do Nothing or No Action Alternative is not feasible and prudent because it would not correct existing or projected capacity deficiencies nor would it correct existing safety hazards in I-70B West study corridor. In addition, it does not meet the project's Purpose and Need, it is not compatible with area plans, it does not address the lack of pedestrian and bicycle facilities, and it does not address safe and effective access for adjacent properties. Unacceptable traffic operations and safety issues would continue under the No-Action Alternative. Therefore, it is not considered an acceptable alternative.
- 2. Improvements without the use of Section 4(f) lands.** It is not feasible and prudent to avoid Whitman Park because by completely avoiding the park, four historic properties would be adversely impacted (**see Figure 4**). Shifting the roadway improvements to the north on Ute Avenue would result in acquisition of historic properties eligible for listing on the NRHP. These properties include the Rio Grande Motorway Terminal (5ME.8654), the Museum of Western Colorado (5ME.15698) a local landmark, Whitman School (5ME.4151) a local landmark, and the Grand Junction Elks Home (5ME.4162) a local landmark. In addition, several homes along 4th Street would be impacted. There would be impacts to businesses along Pitkin Avenue. Impacts to these historic, residential and commercial properties would be of extraordinary magnitude when compared to the proposed use of 85 square feet of land required from Whitman Park. Therefore, it is not considered an acceptable alternative.
- 3. Alternative on a new location.** The alternative of constructing on new alignment is not feasible and prudent because a new location would not solve existing transportation, safety or access needs on I-70B. A new alignment of I-70B is not possible because the area is fully developed. There is no other existing facility to which I-70B could be relocated that could accommodate capacity requirements. Relocating I-70B to another facility such as Main Street would result in significant historic, social, economic, and environmental justice impacts due to substantial displacement of families and businesses, commercial and residential property acquisition, and extraordinary cost associated with property

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acquisition and business/residential relocations. Alternatives on a new location are not considered to be feasible and prudent because impacts associated with construction would be orders of magnitude greater than the minor amount of Section 4(f) property needed for the proposed improvements and they do not meet the project's Purpose and Need. Therefore, it is not considered an acceptable alternative.

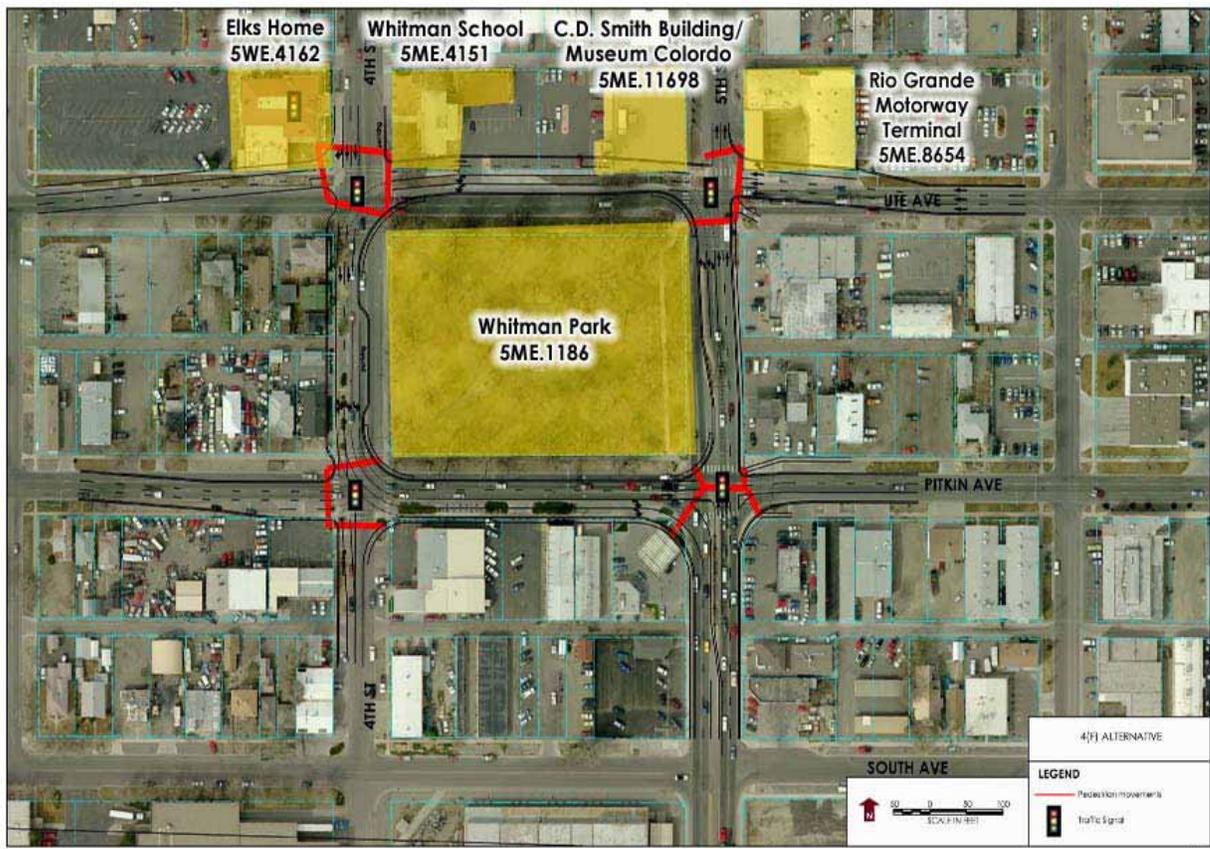


Figure 4: Avoidance Alternative

Measures to Minimize Harm

During the design process every effort was made to avoid impacts to Whitman Park. The Preferred Alternative almost completely avoids the park, resulting in impacts to less than 0.1% of the property. Additionally, the Preferred Alternative avoids impacts to four historic properties adjacent to Whitman Park, on the north side of Ute Avenue (see Section 3.15 of the EA). Sidewalks will be reconstructed at all four corners of the park. Parking is provided adjacent to the park along 4th Street. Disturbed areas adjacent to the park will be revegetated on a 1:1 basis



with similar species. All areas disturbed by construction activities will be replaced.

Coordination

The City of Grand Junction has jurisdiction over Whitman Park. Coordination with the City of Grand Junction has been on-going throughout the project. Regularly schedule Project Working Group meetings were held to develop the Preferred Alternative and review the design. The City of Grand Junction has concurred with the assessment of impacts and the proposed mitigation, in a letter signed March 5, 2008.

Conclusion

The impacts imposed upon the Section 4(f) resource by the proposed improvements to I-70B West at 4th Street/5th Street/Ute Avenue/Pitkin Avenue are minor (0.1%). The amount and location of land required from the park will not impair the activities, features, attributes, or intended use of the property, nor result in proximity impacts. Improvements will provide parking adjacent to the park.

Based on the above considerations, there are no feasible and prudent alternatives to the use of land from Whitman Park. The proposed action includes all planning to minimize harm.

The CDOT and FHWA have determined that this project meets the criteria and conditions for use of the Nationwide Programmatic Involvements (approved by FHWA on December 23, 1986) with public parks, recreation lands, and wildlife and waterfowl refuges in a letter dated February 29, 2008.