

**APPENDIX K: MATERIALS SUPPORTING A SECTION 4(F) *DE MINIMIS*
FINDING**



Florida Department of Transportation

**RICK SCOTT
GOVERNOR**

3400 W. Commercial Boulevard, Ft. Lauderdale, FL 33309-3421

**ANANTH PRASAD, P.E.
SECRETARY**

June 17, 2014

Rob Robbins
Director
Department of Environmental Resources Management
2300 North Jog Road – Fourth Floor
West Palm Beach, FL 33411-2743

**SUBJECT: Request for Concurrence on Section 4(f) *de minimis* Determination
SR 7 Extension Project Development & Environment (PD&E) Study
From SR-704 (Okeechobee Blvd) to Northlake Blvd
Palm Beach County, Florida
Federal Aid Project ID: 4752-030-P
Financial Project ID: 229664-2-22-01
Efficient Transportation Decision Making (ETDM) No: 8127**

Dear Mr. Robbins:

The Florida Department of Transportation (FDOT) is conducting a Project Development and Environment (PD&E) Study for extending State Road (SR) 7 from SR 704 (Okeechobee Boulevard) to Northlake Boulevard in Palm Beach County. The project alignment passes through the northeast corner of the Pond Cypress Natural Area and requires 1.23 acres from the 1,736 acre property.

Because the construction project involves federal funding, the Federal Highway Administration (FHWA) requires an evaluation of potential recreational impacts for resources protected under Section 4(f) of the U.S. Department of Transportation Act. As the Official with Jurisdiction, on October 16, 2012, the Palm Beach County Board of County Commissioners approved a resolution stating that the County has no objections to the proposed encroachment of the Pond Cypress Natural Area provided that the Conservation Lands Protection Ordinance is satisfied. A copy of the resolution is attached.

The purpose of this letter is to inform you that, based on your previous input and our subsequent Section 4(f) evaluation, including a public comment period from March 21, 2012 to April 2, 2012 in which no public comment was received, FHWA anticipates issuance of a *de minimis* Section 4(f) determination consistent with 23 CFR 774.3(a), and 774.5(b)(2)(ii) regarding the Pond Cypress Natural Area.

If you agree that the project would not adversely affect the activities, features or attributes of the Pond Cypress Natural Area that make it eligible for Section 4(f) protection, we need your written statement of concurrence, either by separate letter or by using the concurrence block below.

We thank you again for your continued input and participation. Consistent with 23 CFR 774.5(a), we ask for your reply within 45 days of your receipt of this letter. If your reply is not received within 60 days of this letter, we will assume lack of objection. If you have any questions, please contact me at (954) 777-4336 or via email at beatriz.caicedo@dot.state.fl.us.

Sincerely,



Beatriz Caicedo-Maddison, PE
FDOT Project Manager

The Palm Beach County Department of Environmental Resources Management ___ objects /
 does not object with the findings and recommendation contained in this letter.

Comments:

*These findings are consistent with the Palm Beach
County Board of County Commissioners
Resolution B 2012-1474, dated October
16, 2012.*



Rob Robbins
Director, Environmental Resources Management

6/26/14
Date

R-2012-1474

Document Type



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RESOLUTION NO. R-2012-1474

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF
PALM BEACH COUNTY, FLORIDA, SUPPORTING THE EXTENSION
OF SR7 FROM 60TH STREET TO NORTHLAKE BOULEVARD BY THE
FLORIDA DEPARTMENT OF TRANSPORTATION.**

Whereas, Palm Beach County constructed the State Road 7 (SR7) extension from Okeechobee Boulevard to Persimmon Boulevard; and

Whereas, Palm Beach County (County) will shortly be constructing the SR7 extension from Persimmon Boulevard to 60th Street; and

Whereas, The Florida Department of Transportation (FDOT) now plans to extend SR7 from 60th Street to Northlake Boulevard once the County's work is done; and

Whereas, this proposed roadway will encroach on the Pond Cypress Natural Area by 1.25 acres, and

Whereas, the Environmental Resources Management Department has no objection to this encroachment provided that the Conservation Lands Protection Ordinance is satisfied.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY
COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, THAT:**

1. The County supports the extension of State Road 7 up to Northlake Boulevard.
2. The County understands that 1.25 acres of encroachment into the Pond Cypress Natural Area is necessary to meet all safety and applicable criteria for the extension of State Road 7 up to Northlake Boulevard.
3. The County concurs that the adverse effect on the activities, features, or attributes of the Pond Cypress Natural Area can be offset through an agreement between the County and FDOT that meets the requirements of the Conservation Lands Protection Ordinance.

The foregoing Resolution was offered by Commissioner Abrams who moved its adoption. The motion was seconded by Commissioner Taylor and upon being put to a vote, the vote was as follows:

District 1:	Karen T. Marcus	<u>Aye</u>
District 2:	Paulette Burdick	<u>Absent</u>
District 3:	Shelley Vana, Chair	<u>Aye</u>
District 4:	Steven Abrams, Vice Chair	<u>Aye</u>
District 5:	Burt Aaronson	<u>Aye</u>
District 6:	Jess R. Santamaria	<u>Aye</u>
District 7:	Priscilla A. Taylor	<u>Aye</u>

The Chairman thereupon declared the Resolution duly passed and adopted this 16th day of October 2012.

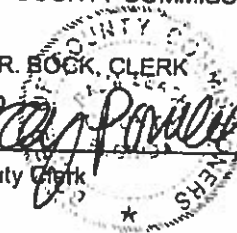
APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA BY ITS
BOARD OF COUNTY COMMISSIONERS

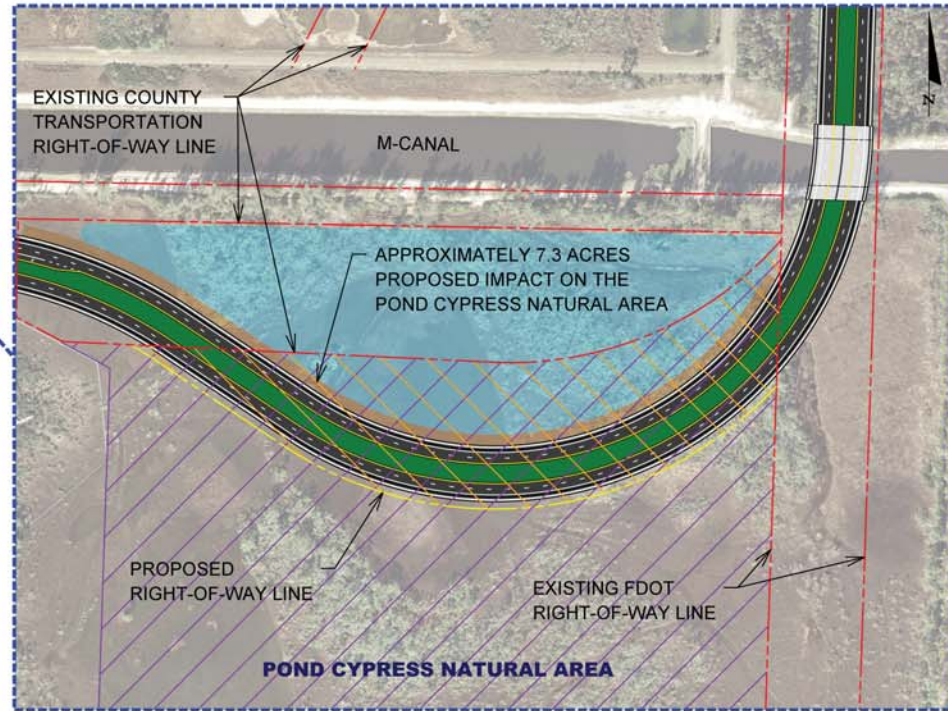
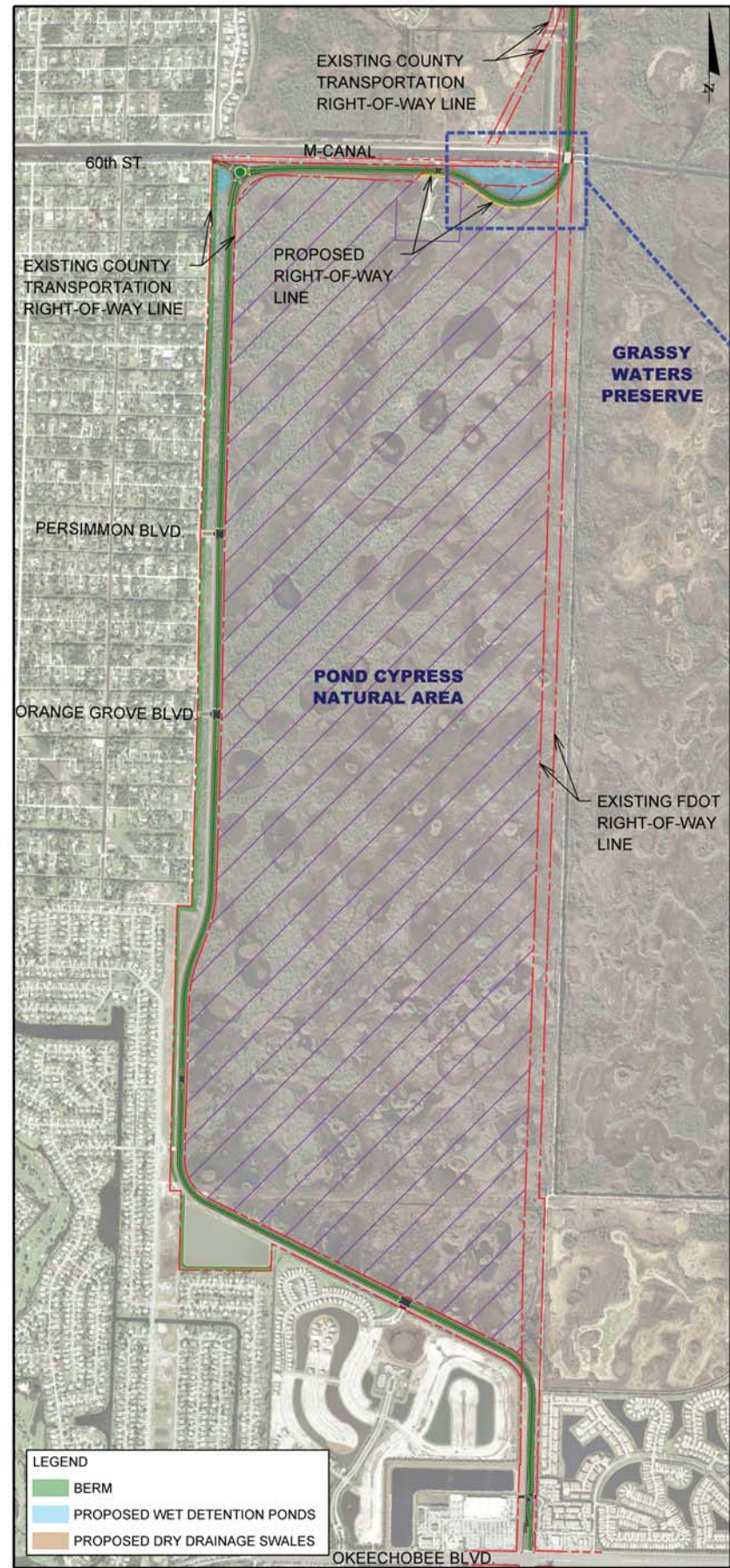
BY: [Signature]
County Attorney

SHARON R. BOCK, CLERK

[Signature]
Deputy Clerk



SECTION 4(f) INVOLVEMENT IMPACT TO THE POND CYPRESS NATURAL AREA RELATED TO THE STRAIGHT BRIDGE CROSSING OPTION OVER THE M-CANAL



The Pond Cypress Natural Area

General Description
 The Pond Cypress Natural Area, 1,737 acres in size, is located in Central Palm Beach County on the east side of the State Road 7 extension, approximately one-half mile north of Okeechobee Boulevard. The western and northern boundaries of the Pond Cypress Natural Area are immediately adjacent to the existing transportation corridor owned by Palm Beach County. This transportation corridor was originally created as part of a land swap between Palm Beach County and Minto Communities, a real estate developer. Prior to 2004, Minto owned the northern section of what is now the Pond Cypress Natural Area and the County owned land to the south adjacent to Okeechobee Boulevard. In 2004, Palm Beach County and Minto entered into an agreement to exchange these two parcels. Minto would acquire developable land adjacent to Okeechobee Boulevard and the County would obtain land with higher quality environmental features. Once the County came into ownership of this parcel, a portion was reserved for transportation purposes and the remainder became part of the Pond Cypress Natural Area.

Environmental Significance
 The 1,736 acre Pond Cypress Natural Area contains a western bulge of the historic Loxahatchee Slough, while the rest of the site contains buffer lands and tributary drainage ways that are historically connected by sheet flow eastwards to the slough. It contains a high quality mosaic of mesic flatwoods, wet prairie, strand swamp, depression marsh, prairie hammock, and dome swamp plant communities and provides foraging and potential breeding habitat for the snail kite which is listed as endangered by the US Fish and Wildlife Service and the Florida Fish and Wildlife Conservation Commission. Other endangered and threatened animal species documented on the site include Audubon's crested caracara, Florida sand hill crane, wood stork, and least tern.

Recreational Opportunities
 None at present, hiking, photography, wildlife viewing, and other passive recreation activities are allowed on the site. There are no restroom facilities or drinking water on the natural area.



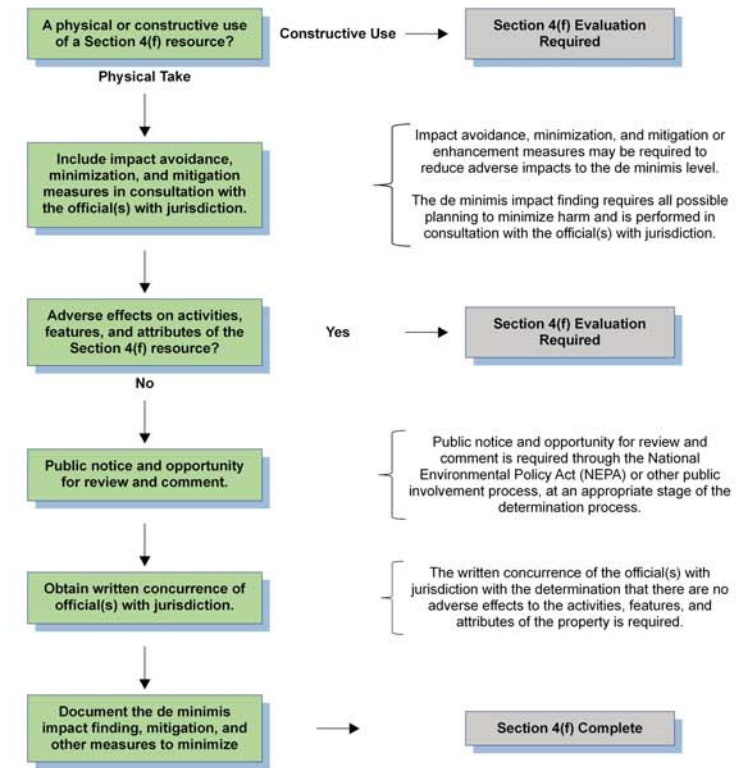
What is Section 4(f)?
 Section 4(f) refers to the original section within the U.S. Department of Transportation Act of 1966 which established the requirement for consideration of park and recreational lands, wildlife and waterfowl refuges, and historic sites in transportation project development. The law is implemented by the Federal Highway Administration (FHWA) through the regulation 23 Code of Federal Regulations (CFR) 774. Section 4(f) properties include publicly-owned public parks, recreation areas, and wildlife and waterfowl refuges, and certain historic sites. Section 4(f) applies to projects that receive funding from or require approval by an agency of the U.S. Department of Transportation, such as the FHWA. The FHWA is ultimately responsible for making all decisions related to Section 4(f) compliance.

What Does Section 4(f) Require?
 Before approving a project that uses Section 4(f) property, FHWA must either (1) determine that the impacts are de minimis (see discussion below), or (2) undertake a Section 4(f) Evaluation. For this proposed project, the Florida Department of Transportation (FDOT) is seeking a de minimis finding from the FHWA for the proposed extension of SR 7 from 60th Street to Northlake Boulevard. The new SR 7 alignment could affect the Pond Cypress Natural Area.

What is a Use?
 Use of a Section 4(f) property occurs: (1) when land is permanently incorporated into a transportation facility; or (2) when there is a temporary occupancy of land that is adverse in terms of the statute's preservation purpose; or (3) when there is a constructive use (a project's proximity impacts are so severe that the protected activities, features, or attributes of a property are substantially impaired).

What is a de minimis impact?
 For publicly-owned public parks, recreation areas, and wildlife and waterfowl refuges, a de minimis impact is one that will not adversely affect the activities, features, or attributes of the property. A de minimis impact determination does not require analysis to determine if avoidance alternatives are feasible and prudent, but consideration of avoidance, minimization, mitigation or enhancement measures should occur. There are certain minimum coordination steps that are also necessary (see flowchart).

Suggested Process for Determination of Section 4(f) De Minimis Impacts



How Can I Provide Input?
 Project alternatives are on display at today's public hearing. Please review the exhibits and fill out a comment form (or make a statement to the court reporter) to give us your views on the alternative options and their potential affect on the Pond Cypress Natural Area.