COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION
4975 Alliance Drive
Fairfax, VA 22030

GREGORY A. WHIRLEY
COMMISSIONER

5 May 2011

Mr. Jay Ellington
Executive Director
Prince William County Park Authority
jayellington@pwcparks.org (sent via e-mail attachment)

Re: Section 4(f) Determination of Significance & *de minimus* Impacts to the Jefferson Park Site
Proposed Interchange at Route 1 (Jefferson Davis Highway) & Route 123 (Gordon Boulevard), Prince William County
State Project # 0123-076-F29; UPC # 14693; Federal Project # STP-111-1(114)

Dear Mr. Ellington:

The Virginia Department of Transportation (VDOT), in cooperation with the Federal Highway Administration (FHWA), is proposing to construct an interchange at Route 1 and Route 123, and to improve certain associated roadways in Prince William County (see Attachment 1). As you may know, widening of Route 1 in Prince William County with an interchange at Route 123 has been discussed and planned for a number of years. The proposed actions are included in the Prince William County Comprehensive Plan, VDOT's Six Year Improvement Program, and the Metropolitan Washington Council of Governments' Constrained Long Range Plan.

In accordance with the National Environmental Policy Act (NEPA) and Federal Highway Administration (FHWA) regulation 23 CFR 771, an Environmental Assessment (EA) was prepared for the project. The EA was approved by FHWA on 6 October 1999. Based on information set forth in the EA, a Finding of No Significant Impact (FONSI) was issued by FHWA on 4 January 2000. Due to the length of time since the FONSI was issued, as well as changes to project scope and limits, environmental data and findings must be updated and documented accordingly.

One modification which affects lands owned by the Prince William County Park Authority (PWCPA) is the southern extension of Route 1 widening to the Route 1270 (Mary's Way) intersection. This project extension now requires the construction of a new bridge spanning Marumsco Creek and a portion of PWCPA's property known as the "Jefferson Park site". The new bridge over Marumsco Creek will be single-span extending from top-of-bank to top-of-bank. No structures will be placed below top-of-bank.

With respect to the lands owned by the PWCPA, several activities are proposed within a 4,062-square-foot area abutting existing Route 1 and Marumsco Creek (see Attachment 2). The affected area lies within a portion of the 6.74-acre parcel (pin number 8392-92-1869) which, in

turn, comprises a portion of the larger 9.3-acre park site (referred to as the "Jefferson Park site" on the Prince William County GIS database). Activities proposed consist of:

- Acquisition of 1,390 square feet of PWCPA land for new right-of-way associated with construction of the new bridge over Marumsco Creek.
- The use of a 2,762-square-foot permanent drainage easement to construct and maintain two stormwater outfalls to Marumsco Creek.

These activities are expected to be minor impacts that will not adversely affect the activities, features, or attributes of the Jefferson Park site.

Under Section 4(f) of the Department of Transportation Act of 1966, FHWA may approve a transportation project requiring the use of publicly owned land of a public park or land of a historic site that is listed on or eligible for listing on the National Register of Historic Places only if: (1) there is no prudent and feasible alternative to using that land; and, (2) the project includes all possible planning to minimize harm to the park or historic site resulting from the use.

The purpose of this letter is two-fold:

1. to request that the PWCPA make a determination as to whether the Jefferson Park site is a significant property within their park system, and
2. to request concurrence from the PWCPA regarding FHWA's determination under Section 4(f) of the Department of Transportation Act that the acquisition of 1,390 square feet of new right-of-way and the implementation of a 2,762-square-foot permanent drainage easement will not adversely affect activities, features, or attributes that qualify the Jefferson Park site for protection under Section 4(f) as a publicly owned park.

If the PWCPA concurs with the determination set forth above in item 2, it is FHWA's intent to make a Section 4(f) *de minimis* finding for the proposed use of a portion of the Jefferson Park site, as permitted by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, 49 USC 303).

DETERMINATION OF SIGNIFICANCE

Applicability of Section 4(f) of the Department of Transportation Act of 1966 with respect to a publicly-owned park or recreation area requires that a determination of significance be made by officials having jurisdiction over the park or recreation area. In the absence of this determination, the Section 4(f) land would be presumed to be significant and Section 4(f) would apply. If the officials having jurisdiction over the resource (in this case, the Prince William County Park Authority or PWCPA) conclude that the *entire* site is not significant, then the provisions of Section 4(f) would not apply.

DE MINIMIS IMPACTS

The SAFETEA-LU legislation passed by Congress in 2005 allows FHWA to meet the requirements of Section 4(f) by making a determination that certain uses of Section 4(f) land will have no adverse effect on the protected resource in question. In order for FHWA to make such a determination for publicly owned parks and recreational areas:

1. <u>The project will not adversely affect activities, features, and attributes of the park.</u>

   In this case, the proposed activities will be *de minimus* in that they are of such limited extent as to have no permanent adverse effects on activities, features, or attributes

associated with the Jefferson Park site. Although new right-of-way will be acquired and although the stormwater outfalls would be permanent features within the drainage easement, the impact would be minor with respect to total size of the 9.3-acre park site, and would occur at the outer extreme of the park site property in an area which does not appear to be part of a specific park program.

2. There must be public notice and opportunity for public review and comment.

   VDOT and FHWA will offer the public an opportunity to review and comment on the effects of the proposed *de minimis* activities. This will be accomplished through a published public notice and review period consistent with federal guidelines. If any public comments are received, such comments (along with VDOT and FHWA responses) will also be available for review.

3. Officials with jurisdiction over the park must concur that the impacts of the project will not adversely affect the activities, features, and attributes of the park.

   Should PWCPA concur that proposed activities are *de minimus* in effect, the Authority's signing and return of the attached concurrence statement (Attachment 2) will satisfy this criterion.

In summary, based on the above criteria, FHWA has determined that the acquisition of 1,390 square feet of new right-of-way and the use of a 2,762-square-foot permanent drainage easement to construct and maintain two stormwater outfalls to Marumsco Creek (see Attachment 2) are expected to be minor direct impacts that will not adversely affect the activities, features, or attributes associated with the Jefferson Park site.

If the PWCPA concurs with the aforementioned determination regarding *de minimus* impacts, please sign and return the concurrence statement (Attachment 3) to me by fax (703) 815-3138 at your earliest convenience, but no later than 20 May 2011.

Should you have any questions or need additional information, please call me at (703) 259-1929 or e-mail me at martin.mitchell@vdot.virginia.gov . I appreciate your assistance and prompt attention to this matter.

Sincerely,

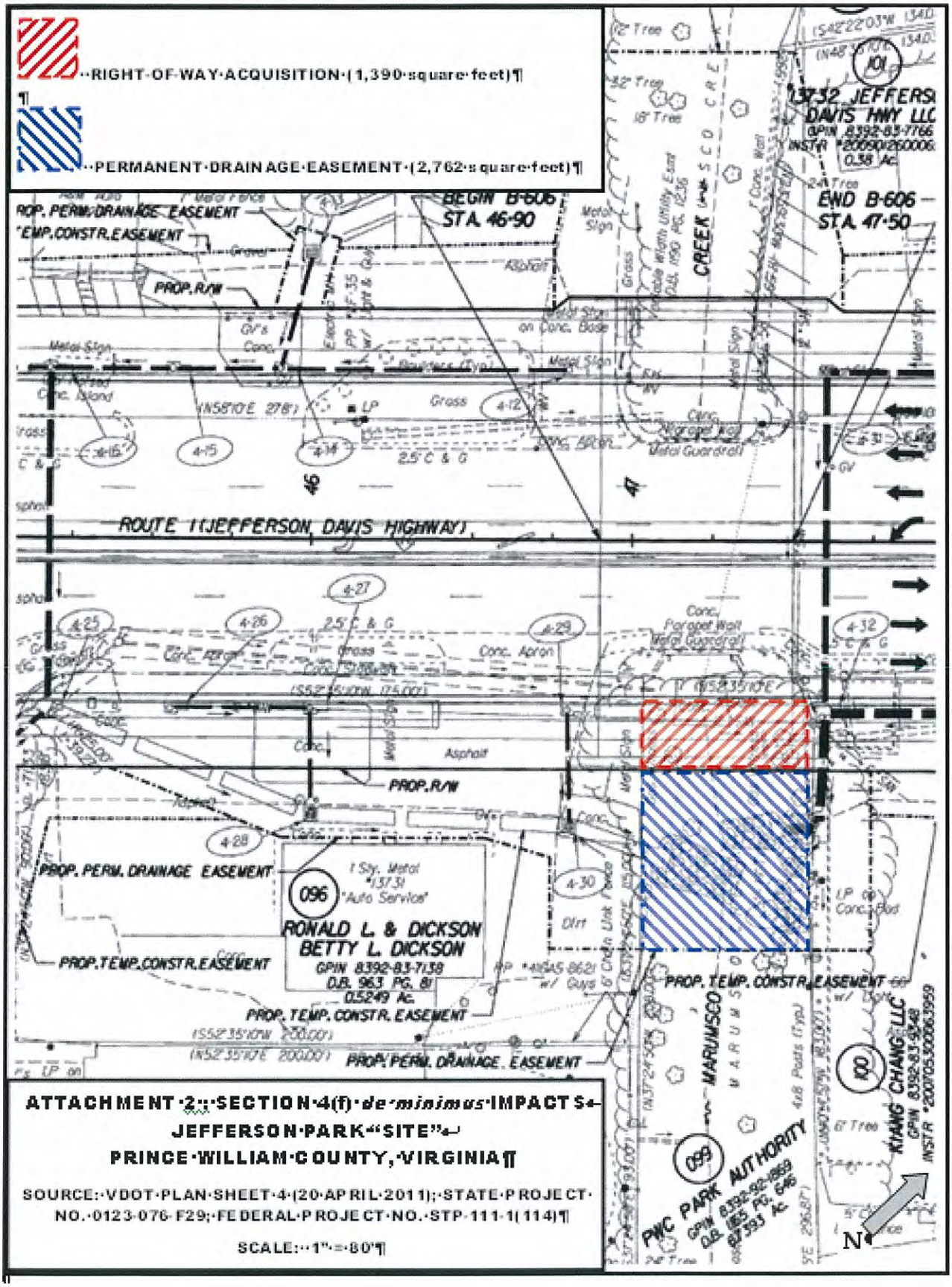
Martin Lane Mitchell
National Environmental Policy Act Specialist

cc: John Simkins, FHWA
Robert Iosco, VDOT
John Muse, VDOT
James Cromwell. VDOT
Calvin Britt, P.E., VDOT

Attachments: Attachment 1: Project Location Map
Attachment 2: Map Showing Section 4(f) *de minimus* Impacts
Attachment 3: Prince William County Park Authority Significance Determination and Concurrence with FHWA Section 4(f) Findings

ATTACHMENT 1
PROJECT LOCATION MAP

ATTACHMENT 2
MAP SHOWING SECTION 4(F) *de minimus* IMPACTS



ATTACHMENT 2 – SECTION 4(f) *de minimus* IMPACTS
JEFFERSON PARK "SITE"
PRINCE WILLIAM COUNTY, VIRGINIA

SOURCE: VDOT PLAN SHEET 4 (20 APRIL 2011); STATE PROJECT NO. 0123-076-F29; FEDERAL PROJECT NO. STP-111-1(114)

SCALE: 1" = 80'

ATTACHMENT 3
PRINCE WILLIAM COUNTY PARK AUTHORITY
SIGNIFICANCE DETERMINATION AND CONCURRENCE WITH FHWA SECTION 4(f) FINDINGS ON *DE MINIMIS* IMPACTS ON THE JEFFERSON PARK SITE

For the proposed construction of a grade-separated interchange at U.S. Route 1 (Jefferson Davis Highway) and Route 123 (Gordon Boulevard) along with associated roadway improvements between Mary's Way and the Occoquan River (Project No. 0123-076-F29, P101, R201, C501 - UPC # 14693), the Prince William County Park Authority (PWCPA) has determined that the parcel identified as the "Jefferson Park site" is a significant property within their system.

Based upon current design information and the commitment on the part of VDOT to minimize disturbance within the park site, the PWCPA further concurs that (1) the acquisition of new right-of-way to accommodate construction of a new bridge over Marumsco Creek and (2) the implementation of a permanent drainage easement to construct and maintain two stormwater outfalls are *de minimus* in affect and will not permanently adversely affect activities, features, or attributes associated with the Jefferson Park site.

The PWCPA hereby acknowledges that VDOT will provide notice and opportunity for public review and comment, consistent with federal guidelines. This concurrence does not constitute an endorsement of the project or conveyance of any temporary or permanent interests in or access to parklands. This concurrence is provided with the understanding that further design information is to be provided to PWCPA by VDOT during project development and that further consultation with PWCPA will be undertaken by VDOT to ensure prior to granting of any temporary or permanent property interests that harm to park site property by the proposed project will be minimized and the conditions upon which this concurrence is based have not changed.

Representing the Prince William County Park Authority:

_____

Printed Name and Title

_____ _____

Signature Date