



V. SECTION 4(f) EVALUATION

Section 4(f) of the U.S. Department of Transportation (USDOT) Act of 1966 (49 USC 303(c)) requires that “special effort...be made to preserve the natural beauty of the countryside and public parks and recreational lands, wildlife and waterfowl refuges and historic sites.” Section 4(f) applies to historic sites and designated publicly owned parks, recreational areas, and wildlife and waterfowl refuges that are determined by the Federal Highway Administration (FHWA) to have national, state, or local significance. Under the Act, the Secretary of Transportation cannot approve a project requiring the “use” of a Section 4(f) property unless “(1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use.”

Section 4(f) applies to projects that require approval by the FHWA, or another USDOT agency. It requires that such a project avoid the use of any Section 4(f) resource, as defined above, unless there is no prudent and feasible alternative to that use. If a use must occur, all possible planning and measures to minimize harm to that resource must be demonstrated and documented.

A Section 4(f) “use” is defined as 1) when property from a Section 4(f) site is permanently acquired (fee simple or permanent easement) and incorporated into a transportation project; 2) when there is an occupancy of land (i.e., construction access areas, detours, temporary bridges, replacement of an historic bridge, etc.) that is adverse in terms of the statute’s preservationist purposes of preserving the integrity of the resource; or 3) when the proximity impacts from a project are so great that the characteristics which qualify the resource as a Section 4(f) site are substantially impaired.

Section 4(f) coordination was conducted with municipal/state officials for the public parks and recreational areas identified throughout the study area. Although there are a number of public parks and recreational areas located along and immediately adjacent to the proposed alternates for this project, it was determined that neither of the Build Alternates would require the acquisition of park property, and the use and enjoyment of the parks would not be impaired. (See Chapter III Section A-4 and Chapter IV Section A4.) In addition, there are no wildlife or waterfowl refuges within the study area. Therefore, neither of the Build Alternates would result in the use of any Section 4(f)-protected parks or recreational areas, or refuges.



It was also determined that the Build Alternates would not result in a Section 4(f) use of historic sites. As a result of the Section 100 study area investigations, one property, located at 11204 Lilac Lane (BA-3141), was determined eligible for listing in the National Register of Historic Places (NRHP) under Criterion C (see *Chapter III – D.1*). The property, including the house and grounds, would be unchanged by either of the proposed Build Alternates, and no property would be acquired in the area surrounding the eligible property (see *Chapter IV - D.1, and Appendix A, Plate 24 and Appendix B, Plate 50*). In all cases, the proposed roadway improvements would have No Effect on the character or use of the residence at 11204 Lilac Lane, as determined in the *Section 100: I-95, I-895(N) Split to North of MD 43 Historic Context and Determination of Eligibility and Effects Report* and concurred upon by the State Historic Preservation Officer (SHPO) in a letter dated << >>(Appendix C). Based on this assessment, the Build Alternates would not result in the use of this property.

One of the Build Alternates would use land from an archaeological site – known as the Smith Site (18BA516) – which requires further investigation. However, based on existing information, it appears that the Smith Site would not require preservation in place, and therefore would not be protected under Section 4(f). See 23 CFR §771.135(g)(2).

In conclusion, neither of the proposed Build Alternates would use any Section 4(f) resources, and, therefore, a Section 4(f) approval is not required for this project.