



**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

MARJORY STONEMAN DOUGLAS BUILDING
3900 COMMONWEALTH BOULEVARD
TALLAHASSEE, FLORIDA 32399-3000

RICK SCOTT
GOVERNOR
HERSCHEL T. VINYARD JR.
SECRETARY

October 3, 2013

Bertha W. Henry, County Administrator
Broward County
115 South Andrews Avenue, Room 409
Fort Lauderdale, Florida 33301

Subject: Pedestrian Use Easement
Florence Hardy Park Addition
FCT # 02-018-FF2

Dear Ms. Henry:

Thank you for your September 27, 2013, letter relating to the "Pedestrian-Use Easement" over the sidewalk area adjacent to Andrews Avenue on the east side of Florence Hardy Park.

Florida Communities Trust (FCT or the Trust) agrees that that the proposed Pedestrian-Use Easement will be an enhancement over the existing sidewalk. However, the proposed easement is governed by Rule 62-818.015, F.A.C., Consideration of Recipient's Request for Linear Facilities.

For your information and convenience, the rule states:

62-818.015 Consideration of Recipient's Request for Linear Facilities.

The Declaration of Restrictive Covenants for Trust Project Sites limits the use of the property to conservation, outdoor recreation, and other related activities. However, the Trust periodically receives requests for Management Plan modifications to allow linear facilities and related appurtenances on the Trust Project Site. When evaluating these requests, the following process must be followed.

- (1) First, there has to be a determination:
 - (a) That there is no reasonable alternative to the proposed modification land use on the Trust Project Site; and
 - (b) That the land use is designed to have a minimal impact to the site; and
 - (c) A copy of an alternative analysis assessment of other off-site alternatives or options considered by the Recipient.
- (2) If the Trust determines that no practical off-site alternatives exist, then the following information is required:
 - (a) A written statement that the Local Government has reviewed and approved the proposed use;
 - (b) A description and dimensions of the linear facility, and of the area that will be affected during construction;
 - (c) Information on the natural communities and cultural features found on, and immediately surrounding the site of the proposed facility;
 - (d) A statement explaining how the proposed facility will be compatible with planned recreational uses of the Trust Project Site, as committed to in the approved Management Plan;

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- (e) Discussion of the proposed mitigation for impacts to the Trust Project Site; and,
- (f) A modified master site plan drawing identifying the locations of existing vegetation and all proposed structures, facilities and restoration areas that will be affected by the facility.

After receiving all of the above information, staff will evaluate and review the request for consistency according to the above listed requirements. If the proposal meets the above requirements and has minimum impact to the Project Site, staff may approve the request. If public objections are received, if it is a large project, or if the project could be viewed as controversial the proposal will be presented to the Trust Governing Board for consideration.

- (3) If the request is approved, the Recipient must:
 - (a) Provide an appraisal of the land use area or other valuation method as approved by Trust staff;
 - (b) Provide a legal description from a licensed surveyor;
 - (c) Sign an amendment to the Declaration of Restrictive Covenants that provides for the changed use of the Project Site; and
 - (d) Record the amended Declaration of Restrictive Covenants in the Public Records of the County where the property is located.

The Recipient will be required to pay for the land use area. The payment shall be allocated to the Recipient and the Trust based on the percentage of the original grant (i.e., 50% Recipient participation and 50% Trust participation.)

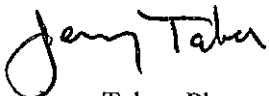
Rulemaking Authority 380.507(11) FS. Law Implemented 259.105, 380.510 FS. History—New 2-8-10, Formerly 9K-7.015.

It appears criterion 1 and 2 have been met, once the information for criterion 3 has been provided and payment for the easement has been made, the process can move forward. The appraisal of the land use area must be done by an appraiser who is on DEP's approved appraiser list.

Once the easement agreement is drafted, FCT requires certain language along with an FCT signature block for approval to be included in the agreement. Contact FCT to obtain the required language.

If you have any questions, please contact me at (850) 245-2683 or email at jerry.taber@dep.state.fl.us.

Sincerely,



Jerry Taber, Planner IV
Florida Communities Trust

cc: Lori Dimeolo, Grants Administrator
City of Fort Lauderdale