

V. SECTION 4(F) EVALUATION APPENDIX A

**POST-AUGUST 2001 DEIS SHA CORRESPONDENCE WITH FHWA AND MHT
FOR BROOKEVILLE HISTORIC DISTRICT**

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V-A.1 December 15, 2003 FHWA Letter to Advisory Council on Historic Preservation with FHWA, SHPO and SHA-Signed Memorandum of Agreement (MOA)



U.S. Department
of Transportation
**Federal Highway
Administration**

Maryland Division
The Rotunda
711 West 40th Street, Suite 220
Baltimore, Maryland 21211

December 15, 2003

Mr. Donald Klima
Director, Eastern Division of Project Review
Advisory Council on Historic Preservation
1100 Pennsylvania Avenue, N.W.
Washington D.C. 20004

Dear Mr. Klima:

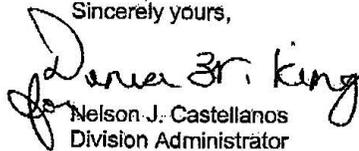
Re: Project No. MO7-6B11: MD 97 Brookeville Project from South of Gold Mine Road
To North of Holiday Drive, Montgomery County, MD

On April 24 Federal Highway Administration (FHWA) forwarded the required information to your office notifying you of adverse effects on the Brookeville Historic District (M 23-65) and archeological site 18MO368 (Newlin/Downs Mill Complex), which are eligible for or listed on the National Register of Historic Places (NRHP) and inviting you to participate in the consultation. On June 3, FHWA received a letter from your agency declining participation.

Pursuant to 36 CFR 810(b)(iv), FHWA would like to file the final Memorandum of Agreement (MOA) developed in consultation with the Maryland State Historic Preservation Officer (SHPO) with your office. The filing of this MOA will complete FHWA's compliance responsibilities under Section 106 of the National Historic Preservation Act.

If you have any questions or concerns, please contact Denise W. King at (410) 962-4342 ext. 116.

Sincerely yours,


Nelson J. Castellanos
Division Administrator

Attachment

cc:
Mr. Nicholas Blendy, SHA
Ms. Joseph Kresslein, SHA
Ms. Cynthia Simpson, SHA
Ms. Donald Sparklin, SHA

DEC 19 '03 11:54 AM

December 15, 2003 FHWA Letter to Advisory Council on Historic Preservation with FHWA, SHPO and SHA-Signed Memorandum of Agreement (MOA)

**MEMORANDUM OF AGREEMENT AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
MARYLAND STATE HIGHWAY ADMINISTRATION AND
THE MARYLAND STATE HISTORIC PRESERVATION OFFICER
PURSUANT TO 36 CFR 800 REGARDING
MD 97 FROM GOLD MINE ROAD TO NORTH OF HOLIDAY DRIVE
IN MONTGOMERY COUNTY, MARYLAND**

WHEREAS, the Federal Highway Administration (FHWA) proposes to assist the Maryland State Highway Administration (SHA) with the reconstruction of MD 97 (Georgia Avenue) from Gold Mine Road to North of Holiday Drive, Selected Alternate 7 Modified, on the west side of Brookeville, in Montgomery County; and

WHEREAS, FHWA has established the undertaking's area of potential effects (APE), as defined at 36 CFR 800.16(d), to be the alignment corridor defined by anticipated limits of right of way for Alternate 7 Modified, and

WHEREAS, FHWA has determined that the undertaking will have adverse effects on the Brookeville Historic District (M23-65), a property listed on the National Register of Historic Places (NRHP), and on the National Register eligible Newlin-Downs Mill Complex archeological site (18MO368), as described in the report entitled "Phase II Archeological and Historical Investigations at Sites 18MO368 and 18MO460 for Project No. MO746B11, MD 97 from Goldmine Road to North of Holiday Drive, Montgomery County, Maryland", prepared by R. Christopher Goodwin and Associates, Inc., dated July 2002; and

WHEREAS, the FHWA has consulted with the State Historic Preservation Officer (MD SHPO), the Town of Brookeville, Maryland National Capital Park and Planning Commission (MNCPPC), and Montgomery Preservation, Inc., pursuant to 36 CFR 800, regulations implementing Section 106 of the National Preservation Act (16U.S.C. 470f); and

WHEREAS, the Advisory Council on Historic Preservation (ACHP) has been notified of the adverse effects of the undertaking and has declined to comment or participate in consultation;

NOW, THEREFORE, the FHWA, MD SHPO, and the SHA agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the undertaking on historic properties.

December 15, 2003 FHWA Letter to Advisory Council on Historic Preservation with FHWA, SHPO and SHA-Signed Memorandum of Agreement (MOA) (Cont'd)

Memorandum of Agreement
MD 97: Gold Mine Road to North of Holiday Drive
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Stipulations

FHWA and SHA will ensure that prior to and during the construction of the Selected Alternate 7 Modified, the following stipulations are implemented:

I. Brookeville Historic District (M:23-65)

A. Design Features

1. SHA will design a landscape plan to reduce the visual intrusion of Alternate 7 Modified on the historic district.
2. SHA will coordinate with MNCPPC and MD SHPO concerning the development, placement and installation of an interpretative sign at the Newlin/Downs Mill Complex, along the Oakley Cabin Trail, concerning its historic significance. The panel will satisfy the public interpretive component of the proposed data recovery treatment of the Newlin/Downs Mill Complex, a contributing resource to the Brookeville Historic District.

B. Plans

SHA will submit plans and specifications for the selected alternate, including landscape, signage, and resource treatment plans to reduce and mitigate impacts to the Brookeville Historic District (M:23-65), to MD SHPO for review and approval to ensure that the designs are compatible with the historic property at the 60% completion stage (Type, Size, Location) and when 90% complete (Final Design).

II. Newlin/Downs Mill Complex (18MO368)

SHA shall develop and implement a treatment plan for the recovery of data from the Newlin/Downs Mill Complex (18MO368), in consultation with the MD SHPO. The plan shall be consistent with relevant guidance listed in Stipulation V, Performance Standards, and shall specify:

- A. The portions of the property where mitigation shall occur;
- B. Any portions of the property that will be destroyed without data recovery;
- C. The research questions to be addressed through data recovery with a description of their relevance and importance;

December 15, 2003 FHWA Letter to Advisory Council on Historic Preservation with FHWA, SHPO and SHA-Signed Memorandum of Agreement (MOA) (Cont'd)

Memorandum of Agreement
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- D. The research and field methods to be used, with an explanation of their relevance to the research questions;
- E. The methods to be used in analysis, data management, and dissemination of data, including a schedule;
- F. The proposed disposition of recovered materials and records;
- G. Proposed methods for involving and informing the interested public;
- H. A proposed schedule for the submission of progress reports to the MD SHA.

SHA shall submit the mitigation plan to the MD SHPO. Unless the MD SHPO objects within 30 days after receipt of the plan, SHA shall implement the mitigation strategy.

III. Unexpected Discovery of Historic Properties

Should historic properties be unexpectedly identified during the implementation of the undertaking, SHA shall make reasonable efforts to avoid, minimize or mitigate adverse effects to such properties, and shall consult to resolve any unavoidable adverse effects pursuant to 36 CFR 800.6.

IV. Future Activities

Related ancillary activities including but not limited to wetland mitigation, stormwater management, and reforestation, may be added to this undertaking in the future. Should such activities be added for which cultural resources studies have not been completed, SHA shall implement such studies adhering to all relevant standards and guidelines referenced in Stipulation V and in accordance with the following:

- A. Identification. SHA professional cultural resources staff shall review any additions or changes to the project and implement identification investigations necessary. The SHA shall provide all completed information to the MD SHPO and all consulting parties under this MOA for review and comment.
- B. Evaluation. The SHA shall ensure that all historic resources identified in any areas inventoried under Stipulation IV(A) will be evaluated in accordance with 36 CFR 800.4(c). The results of any such evaluation efforts shall be provided to the MD SHPO and all consulting parties under this MOA for review and MD SHPO concurrence. The consulting parties shall provide comment within 30 days of receipt of acceptable documentation. Should the parties not be able to reach

December 15, 2003 FHWA Letter to Advisory Council on Historic Preservation with FHWA, SHPO and SHA-Signed Memorandum of Agreement (MOA) (Cont'd)

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agreement, the FHWA shall forward the documentation to the Keeper of the National Register of Historic Places for a final determination.

- C. Treatment. Should any property eligible for inclusion in the National Register of Historic Places be identified under Stipulation IV (A) and (B), the SHA shall make a reasonable good-faith effort to avoid adversely impacting the resources. If adverse impacts are unavoidable, SHA shall, in consultation with the MD SHPO and all consulting parties to this MOA, consider appropriate treatment options. Such options may include, but are not limited to, public interpretation, architectural salvage, landscaping, architectural recordation, sale, relocation, archeological data recovery, or loss without mitigation.

V. Performance Standards and Professional Qualifications

- A. Professional Qualifications. SHA shall ensure that all cultural resources work carried out pursuant to this MOA is carried out by or under the direct supervision of a person or persons meeting at a minimum the Professional Qualifications Standards set forth at 36 CFR 61 Appendix A.
- B. Standards and Guidelines. SHA shall ensure that all cultural resources investigations and work performed pursuant to this agreement shall be conducted consistent with the principles and standards contained in the documents (and subsequent revisions thereof) listed below:
- Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (1983).
 - Standards and Guidelines for Archeological Investigations in Maryland (Shaffer and Cole 1994).
 - Recommended Approach for consultation on Recovery of Significant Information from Archeological Sites, ACHP 1999 (64 FR 27085-27087).
- C. Curation. All materials and records resulting from cultural resources investigations conducted for the project will be curated in accordance with 36 CRF 79 at the Maryland Archeological Conservation Laboratory, unless clear title or Deed of Gift to the collection can not be obtained.

December 15, 2003 FHWA Letter to Advisory Council on Historic Preservation with FHWA, SHPO and SHA-Signed Memorandum of Agreement (MOA) (Cont'd)

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- VI. Dispute Resolution
Should the MD SHPO, or any of the signatories to this agreement, object within 30 days to any plans or actions proposed pursuant to this agreement, the FHWA shall consult with the objecting party to resolve the objection. If the FHWA determines that the objection cannot be resolved, the FHWA shall request the comments of the Advisory Council on Historic Preservation (ACHP) pursuant to 36 CFR 800.11(g). Any Council comment provided in response to such a request will be taken into account by the FHWA in accordance with 36 CFR 800.11(g)(2) with reference only to the subject of the dispute; the FHWA's responsibility to carry out all actions under this agreement that are not subjects of the dispute will remain unchanged.
- VII. Amendment
If any of the signatories to this Agreement believes that the terms of the MOA cannot be carried out, or that an amendment to these terms must be made, that signatory shall immediately consult with the other signatories to develop amendments in accordance with 36 CFR 800.6(c). If an amendment cannot be agreed upon, the dispute resolution process set forth in Stipulation VI will be followed.
- VIII. Termination
Any signatory to this agreement may terminate the Agreement by providing 30 days written notice to the other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. Termination of this Agreement would require compliance with 36 CFR 800. This Agreement may be terminated by the execution of a subsequent agreement that explicitly terminates or supersedes its terms.
- IX. Duration
This Agreement shall be null and void if its terms are not carried out within 5 (five) years from the date of its execution, unless the signatories agree in writing to an extension for carrying out its terms.

Execution of the Memorandum of Agreement by FHWA and the MD SHPO, its subsequent acceptance and implementation of its terms, evidence that FHWA has afforded the signatories an opportunity to comment on Alternate 7 Modified in Montgomery County, Maryland, and its potential effects on historic properties, and that the FHWA has taken into account the potential effects of the undertaking on historic properties.

December 15, 2003 FHWA Letter to Advisory Council on Historic Preservation with FHWA, SHPO and SHA-Signed Memorandum of Agreement (MOA) (Cont'd)

Memorandum of Agreement
MD 97: Gold Mine Road to North of Holiday Drive
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FEDERAL HIGHWAY ADMINISTRATION

By: 
Nelson J. Castellanos, Division Administrator

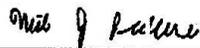
Date: 12/10/03

MARYLAND STATE HISTORIC PRESERVATION OFFICER

By: 
J. Rodney Little, State Historic Preservation Officer

Date: 8/28/03

MARYLAND STATE HIGHWAY ADMINISTRATION

By: 
Neil J. Pedersen, Administrator

Date: 10/13/03

December 3, 2003 MOA Transmittal Letter from SHA to FHWA



Tsg120803-2970

Robert L. Ehrlich, Jr., Governor
Michael S. Steele, Lt. Governor

Robert L. Flanagan, Secretary
Neil J. Pedersen, Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

DEC 03 2003

RE: Project No. MO746B11
MD 97 Brookeville Project
From South of Gold Mine Road to
North of Holiday Drive
Montgomery County, Maryland

Mr. Nelson Castellanos
Federal Highway Administration
Division Administrator
The Rotunda – Suite 220
711 West 40th Street
Baltimore MD 21211

Attn: Ms. Denise W. King

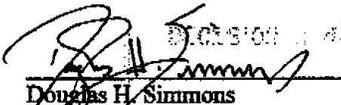
Dear Mr. Castellanos:

Transmitted for your review and signature is the Memorandum of Agreement (MOA) for the MD 97 Brookeville project, addressing adverse effects on the National Register listed Brookeville Historic District and the National Register eligible Newlin/Downs Mill Complex site.

The fully executed MOA will be incorporated into the revised FEIS/Section 4(f) Evaluation. Should you have any questions, please contact Mr. Joseph Kresslein at 410 545-8550.

Sincerely,

Neil J. Pedersen
Administrator

by: 
Douglas H. Simmons
Deputy Administrator for
Planning and Engineering

My telephone number/toll-free number is 410-545-7411
Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone: 410.545.0300 • www.marylandroads.com

December 3, 2003 MOA Transmittal Letter from SHA to FHWA (Cont'd)

Mr. Nelson Castellanos
MD 97 Brookeville Project
Page Two

Attachment

cc: Mr. Nicholas Blendy, Environmental Manager, Project Planning Division, SHA
(w/Attachment)
Ms. Wanda Brocato, Information Specialist, Project Planning Division, SHA
Ms. Allison Grooms, Environmental Analyst, Project Planning Division, SHA
Ms. Carmeletta Harris, Project Manager, Project Planning Division, SHA (w/Attachment)
Mr. Dan Johnson, Federal Highway Administration
Mr. Joseph Kresslein, Assistant Division Chief, Project Planning Division, SHA
(w/Attachment)
Ms. Cynthia D. Simpson, Deputy Director, Office of Planning and Preliminary
Engineering, SHA
Mr. James Wynn, Assistant Division Chief, Project Planning Division, SHA

**August 28, 2003 State Historic Preservation Office Transmittal Letter and
SHPO and SHA Signature Page for the Memorandum of Agreement**



MARYLAND DEPARTMENT OF HOUSING
& COMMUNITY DEVELOPMENT

August 28, 2003

Mr. Bruce M. Grey
Deputy Division Chief
Project Planning Division
State Highway Administration
707 North Calvert Street
P.O. Box 717
Baltimore, MD 21202-0717

Robert L. Ehrlich, Jr.
Governor
Michael S. Steele
Lt. Governor
Victor L. Hoskins
Secretary
Shawn S. Karimian
Deputy Secretary

RE: Project No. MO746B11
MD 97: Goldmine Road to North of Holiday Drive
Montgomery County, Maryland

Dear Mr. Grey:

Thank you for providing the Maryland Historical Trust (Trust) the opportunity to comment on the Memorandum of Agreement (MOA) for the above referenced project. We are enclosing a signed original copy of the MOA.

Per Stipulation I.A.2, the State Highway Administration will coordinate with the Maryland-National Capital Park and Planning Commission (MNCPPC) and the Trust in the development, design, placement and installation of an interpretive sign at the Newlin/Downs Mill Complex. It is our understanding that SHA will negotiate in good faith with the MNCPPC to seek their input and agreement prior to consulting with the Trust during the conduct of this MOA stipulation. We request that SHA demonstrate that coordination with MNCPPC has successfully taken place.

At your convenience, please forward a copy of the fully executed amendment to the Trust for our files. If you have questions or require additional information, please contact Tim Tamburrino at 410-514-7637/tamburrino@dhcd.state.md.us or Beth Cole at 410-514-7631/cole@dhcd.state.md.us.

Sincerely,

Michael K. Day
Deputy Director/Deputy SHPO
Chief, Office of Preservation Services

EJC/TJT
200303301

cc: Mr. Don Sparklin (SHA)
Ms. Mary F. Barse (SHA)

DIVISION OF HISTORICAL AND CULTURAL PROGRAMS 100 COMMUNITY PLACE CROWNSVILLE, MARYLAND 21032 PHONE: 410-514-7600
FAX: 410-987-4071 TOLL FREE: 1-800-756-0119 TTY/RELAY: 711 OR 1-800-735-2258 WWW.DHCD.STATE.MD.US



**August 28, 2003 State Historic Preservation Office Transmittal Letter and
SHPO and SHA Signature Page for the Memorandum of Agreement (Cont'd)**

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MD 97: Gold Mine Road to North of Holiday Drive
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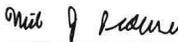
FEDERAL HIGHWAY ADMINISTRATION

By: _____ Date: _____
Nelson J. Castellanos, Division Administrator

MARYLAND STATE HISTORIC PRESERVATION OFFICER

By:  DEPUTY SHPO for Date: 8/28/03
J. Rodney Little, State Historic Preservation Officer

MARYLAND STATE HIGHWAY ADMINISTRATION

By:  _____ Date: 10/2/03
Neil J. Pedersen, Administrator

June 3, 2003 Advisory Council on Historic Preservation Letter



June 3, 2003

Mr. Nelson J. Castellanos
Division Administrator
Federal Highway Administration
The Rotunda, Suite 220
711 West 4th Street
Baltimore, MD 21211-2187

REF: Proposed Reconstruction of MD 97 (Georgia Avenue)
Goldmine Road to North of Holiday Drive
Montgomery, Maryland

Dear Mr. Castellanos:

The ACHP recently received your notification and supporting documentation regarding the adverse effects of the referenced project on properties listed on and eligible for listing on the National Register of Historic Places. Based upon the information you provided, we do not believe that our participation in consultation to resolve adverse effects is needed. However, should circumstances change and you determine that our participation is required, please notify us. Pursuant to 36 CFR 800.6(b)(iv), you will need to file the final Memorandum of Agreement and related documentation at the conclusion of the consultation process. The filing of the Agreement with us is required in order to complete the requirements of Section 106 of the National Historic Preservation Act.

Thank you for providing us with your notification of adverse effect. If you have any questions or require further assistance, please contact Martha Catlin at 202-606-8505.

Sincerely,

Raymond V. Wallace
Historic Preservation Technician
Office of Federal Agency Programs

ADVISORY COUNCIL ON HISTORIC PRESERVATION

1100 Pennsylvania Avenue NW, Suite 809 • Washington, DC 20004
Phone: 202-606-8503 • Fax: 202-606-8647 • achp@achp.gov • www.achp.gov

April 17, 2003 SHA Letter to FHWA for Concurrence to Circulate the Draft MOA
Attachment 1 – SHA Selected Alternate Plans



Robert L. Ehrlich, Jr., Governor
Michael S. Steele, Lt. Governor

Robert L. Flanagan, Secretary
Neil J. Pedersen, Acting Administrator

MARYLAND DEPARTMENT OF TRANSPORTATION

APR 17 2003

Re: Project No. MO746B11
MD 97: Goldmine Road to North of Holiday Drive
Montgomery County, MD
USGS Sandy Spring 7.5" Quadrangle

Mr. Nelson J. Castellanos
Division Administrator
Federal Highway Administration
The Rotunda-Suite 220
711 West 40th Street
Baltimore MD 21211

Attention: Ms. Denise King

Dear Mr. Castellanos:

Please inform the Advisory Council on Historic Preservation (ACHP) of the determination that the proposed MD 97 project (Selected Alternate 7 Modified) will have adverse effects on the Brookeville Historic District (M 23-65) and archeological site 18MO368 (Newlin/Downs Mill Complex), which are eligible for or listed on the National Register of Historic Places (NRHP). In addition, we request that you review the attached draft Memorandum of Agreement (MOA) prepared to address these adverse effects. Please ask the ACHP if it wishes to review and be a signatory to the MOA, which is currently formulated for two parties. The State Historic Preservation Officer (SHPO) concurred with our recommendation of the adverse effects of Alternate 7 Modified on historic properties on November 6, 2002. By carbon copy of this letter, we also request comments on the draft MOA from the SHPO, the Maryland National Capital Park and Planning Commission (MNCPPC) and Montgomery Preservation Inc. Project plans are included as **Attachment 1** and a map with cultural resources is identified as **Attachment 2**.

My telephone number/toll-free number is _____
Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.marylandroads.com

April 17, 2003 SHA Letter to FHWA for Concurrence to Circulate the Draft MOA
Attachment 1 – SHA Selected Alternate Plans (cont'd)

Mr. Nelson J. Castellanos
MD 97: Goldmine Road to North of Holiday Drive
Page Two

Alternate 7 Modified was developed to minimize impacts to the Newlin/Downs Mill Complex (18MO368). Alternate 7 Modified is located on the west side of Brookeville. It begins at a roundabout located on MD 97 near the northern edge of the Longwood Community Center. Access to the town of Brookeville would be via the northeast leg of the roundabout. Alternate 7 Modified continues from the roundabout in a northwesterly direction through a MNCPPC owned property, which is reserved for transportation use, and through the MNCPPC owned Reddy Branch Park. The alignment intersects with Brookeville Road west of existing MD 97 at a roundabout and continues in a northeasterly direction. The roundabout at Brookeville Road has four legs. The north and south legs of the roundabout are to access the proposed alignment, and the west and east legs of the roundabout are to access Brookeville Road. The alternate connects to existing MD 97 north of Brookeville Road. The portion of MD 97 between the northern connection and the Reddy Branch Park would be closed. Consequently, southbound motorists destined for the town of Brookeville would pass through the roundabout at Brookeville Road to access existing MD 97 in town.

Project Impacts on Historic Properties

Brookeville Historic District-Alternate 7 Modified would traverse the westernmost extension of the District boundary to the west, requiring the acquisition of approximately 1.66 acres of wooded property with no historic standing structures. The Brookeville Historic District would be adversely impacted by Alternate 7 Modified because of this property acquisition.

18MO368-Implementation of Alternate 7 Modified will have adverse impacts on the National Register eligible Newlin/Downs Mill Complex (18MO368). Impacts to the various components of the site under Alternate 7 Modified are enumerated below and in **Attachment 3**. **Attachment 4** is a map that illustrates anticipated limits of disturbance under each alternate retained for detailed study. As can be gleaned from this data, Alternate 7 Modified will have the least extensive impact to the site. Under Alternate 7 Modified, approximately 5% of Site 18MO368 will be impacted. Impacts are limited to the northern periphery of the site's core that has been variously disturbed by relatively modern improvements to Brookeville Road. Shovel testing in the portion of the site located within the area of potential effects (APE) for Alternate 7 Modified was conducted during our evaluation, and failed to recover evidence suggesting the presence of significant deposits. The identified features and significant archeological deposits associated with the mill, miller's house, and C-shaped mound will be avoided. However, approximately 700 linear feet of the mill race system will be impacted. Phase III data recovery is recommended to address impacts to the mill race system.

April 17, 2003 SHA Letter to FHWA for Concurrence to Circulate the Draft MOA
Attachment 1 – SHA Selected Alternate Plans (cont'd)

Mr. Nelson J. Castellanos
MD 97: Goldmine Road to North of Holiday Drive
Page Three

The SHPO concurred with our determination (November 6, 2002 concurrence page - **Attachment 5**) that this project would adversely affect historic properties (August 19, 2002 letter and effects table, **Attachment 6**). We have included a draft MOA (**Attachment 7**) to address treatment measures to mitigate adverse effects to the Brookeville Historic District, the Newlin/Downs Mill Complex and to address any future activities such as stormwater management and wetland mitigation.

We invited the MNCPPC and local preservation concerns to provide comments and participate in the consultation process. The MNCPPC Planning Board responded on October 7, 2002 and the Montgomery County Council on September 25, 2002 that they endorsed Alternate 7 Modified (letters included as **Attachment 8**). The Montgomery County Council recommended that subsequent project planning and design activities accommodate safe pedestrian and bicycle crossings for the existing man-made Oakley Cabin trail and a potential future natural surface trail. It also recommended that we preserve the archeological resources in the core areas of the Newlin/Downs Mill site, based on the recommendations of the MNCPPC. The MNCPPC also endorsed our considering the provision of an interpretative panel at the latter site.

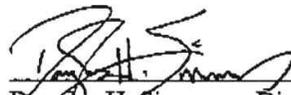
There were no negative comments from the public concerning impacts on cultural resources posed by Alternate 7 Modified.

If you have any questions regarding standing structures please call Ms. Rita M. Suffness at 410-545-8561 or via email at rsuffness@sha.state.md.us. Ms. Mary F. Barse can be reached at 410-545-2883 or via email at mbarse@sha.state.md.us with concerns regarding archeology

Sincerely,

Neil J. Pedersen
Acting Administrator

by:



Douglas H. Simmons, Director
Office of Planning and
Preliminary Engineering

**April 17, 2003 SHA Letter to FHWA for Concurrence to Circulate the Draft MOA
Attachment 1 – SHA Selected Alternate Plans (cont'd)**

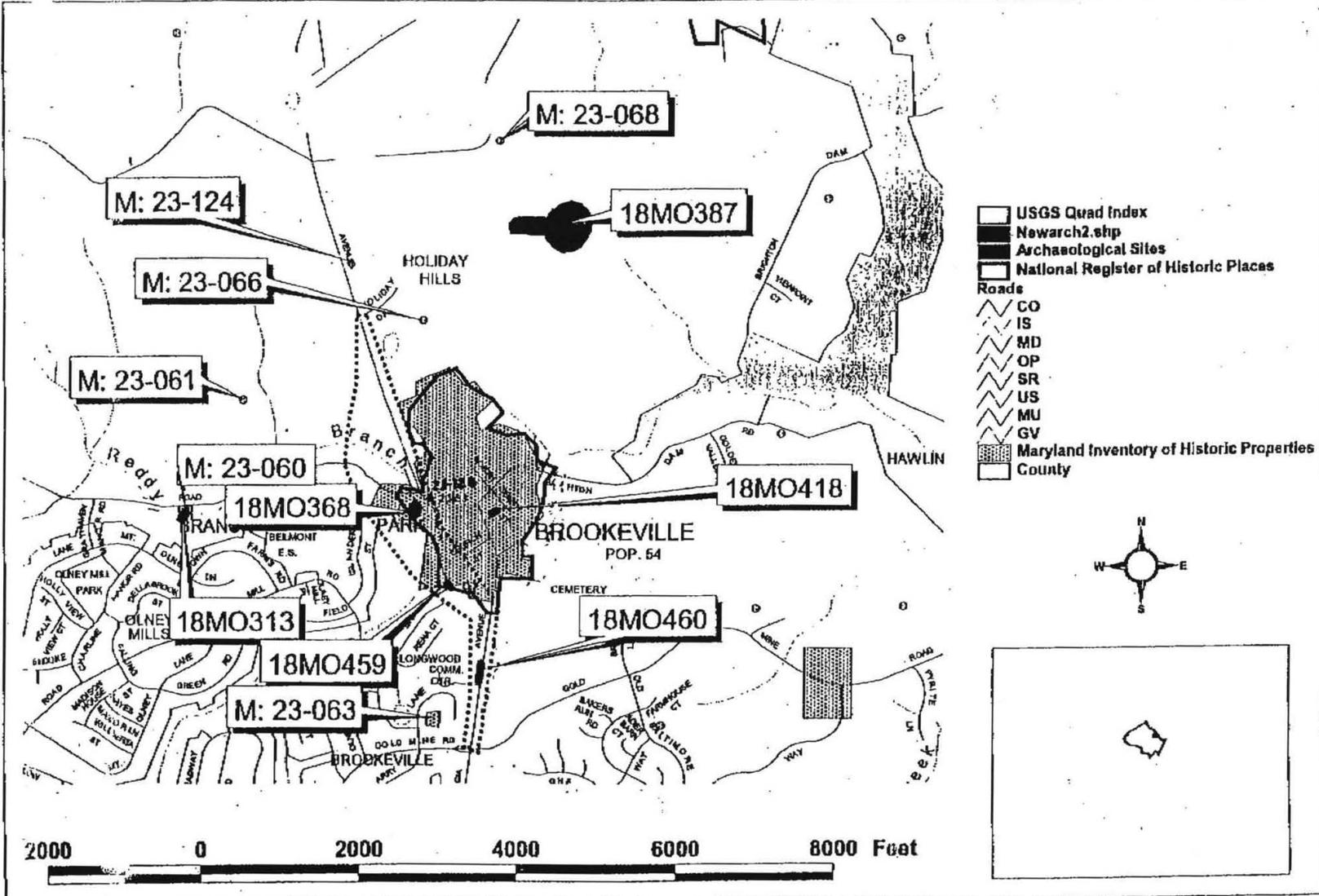
Mr. Nelson J. Castellanos
MD 97: Goldmine Road to North of Holiday Drive
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- Attachments: 1) Project Plans
2) SHA *Sandy Spring, MD* Quad with Inventoried Resources and APE Indicated
3) Impact Matrix for 18MO368
4) Map Showing Limits of Disturbance under Alternates 7, 7 Modified, and 8B
5) SHPO November 6, 2002 Concurrence on Eligibility/Effects
6) SHA August 19, 2002 Letter and Effects Table
7) Draft Memorandum of Agreement
8) MNCPPC County Planning Board September 25, 2002 letter and
Montgomery County Council October 7, 2002 letter

cc: Ms. Mary F. Barse, Group Leader, Project Planning Division, State Highway
Administration, (w/attachments 2, 3, 5, 7)
Mr. Nick Blendy, Environmental Manager, Project Planning Division, State Highway
Administration (w/attachment 7)
Ms. Beth Cole, Review and Compliance Officer, SHPO-MHT (w/attachment 7)
Mr. Wayne Goldstein, President, Montgomery Preservation, Inc. (w/attachment 7)
Mr. Dan Hardy, Supervisor, Transportation Planning, MNCPPC (w/attachment 7)
Ms. Carmeletta Harris, Project Manager, Project Planning Division, State Highway
Administration (w/attachment 7)
Mr. J. Rodney Little, SHPO-MHT (w/attachment 7)
Mr. Douglas Simmons, Director, Office of Planning and Preliminary Engineering, State
Highway Administration
Ms. Cynthia Simpson, Deputy Director, Office of Planning and Preliminary Engineering,
State Highway Administration
Mr. Donald H. Sparklin, Assistant Division Chief, Project Planning Division, State
Highway Administration
Ms. Rita Suffness, Architectural Historian, Project Planning Division, State Highway
Administration (w/attachments 2, 3, 5, 7)

April 17, 2003 SHA Letter to FHWA for Concurrence to Circulate the Draft MOA
Attachment 2 – SHA Sandy Spring, MD Quad

SHA-GIS Cultural Resources Map showing APE



V-A-17

April 17, 2003 SHA Letter to FHWA for Concurrence to Circulate the Draft MOA
 Attachment 3 – Impact Matrix for 18MO368

Mr. J. Rodney Little
 MD 97: Goldmine Road to North of Holiday Drive
 Attachment VI

Impacts to Components of the Newlin-Downs Mill Complex under
 Alternates 7, 7 Modified, and 8B

	Impacts under Alternate 7	Impacts under Alternate 7 Modified	Impacts under Alternate 8B
18MO368 Newlin Downs Mill Complex	60% of Site's Core	5% of Site's Core	Core of Site is Avoided
Components of Site 18MO368			
Mill Worker's House Including Stone Retaining Wall and Well	YES	NO	NO
Mill Structure including Cobble Roadway, Wheel Race/Pit, and Tail Race	YES	NO	NO
C-Shaped Mound (Refuse Disposal Area)	YES	NO	NO
Large Race (Western Race along Reddy Branch)	600 Linear Feet	500 Linear Feet	300 Linear Feet
Small Race (Southern Race along Reddy Branch)	200 Linear Feet	200 Linear Feet	200 Linear Feet
Total Mill Race Impacts	800 Linear Feet	700 Linear Feet	500 Linear Feet
Project Costs	12.2 Million	Approximately 12.5 Million	17.0 Million
Data Recovery Costs	\$350,000.00 – 400,000.00	\$100,000.00	\$75,000.00

**April 17, 2003 SHA Letter to FHWA for Concurrence to Circulate the Draft MOA
Attachment 4 – Map Showing Limits of Disturbance under Alternates 7, 7 Modified, and 8B**

*This is a folded enlargement of the
SHA Selected Alternate 7 Modified Alignment*

April 17, 2003 SHA Letter to FHWA for Concurrence to Circulate the Draft MOA
Attachment 5 – SHPO November 6, 2003 Concurrence on Eligibility/Effects

Mr. J. Rodney Little
MD 97: Goldmine Road to North of Holiday Drive
Page Nine

Concurrence with the MD State Highway Administration's
Determination(s) of Eligibility and/or Effects

Project No.: MO746B11 MHT Log No. 200203306
Project Name: MD 97: Goldmine Road to North of Holiday Drive
County: Montgomery
Letter Date: August 19, 2002

The Maryland Historical Trust has reviewed the documentation attached to the referenced letter and concurs with the MD State Highway Administration's determinations as follows:

Eligibility (as noted in the Eligibility/ Effect Table [Attachment VII])
 Concur 18MO368 = NR Eligible
 Do Not Concur 18MO460 = Not Eligible

Effect (as noted in the Effects Table [Attachment VII])
 No Properties Affected
 No Adverse Effect
 Conditioned upon the following action(s) (see provisions outlined in body of the letter)
 Adverse Effect

Agreement with FHWA's Section 4(f) criteria of temporary use (as detailed in the referenced letter, if applicable):
 Agree

Comments: MHT awaits further consultation with SHA/FHWA to resolve the project's adverse effects and negotiate an appropriate MOA

By: [Signature] Date: 11-6-02
MD State Historic Preservation Office/
Maryland Historical Trust

Return by U.S. Mail or Facsimile to:
Mr. Bruce Grey, Assistant Division Chief, Project Planning Division,
MD State Highway Administration, P.O. Box 717, Baltimore, MD 21203-0717
Telephone: 410-545-8564 and Facsimile: 410-209-5004

**April 17, 2003 SHA Letter to FHWA for Concurrence to Circulate the Draft MOA
Attachment 6 – Draft MOA**

DRAFT

**MEMORANDUM OF AGREEMENT BETWEEN
THE FEDERAL HIGHWAY ADMINISTRATION AND
THE STATE HISTORIC PRESERVATION OFFICE
PURSUANT TO 36 CFR 800.6 (b)(1) REGARDING
MD 97 FROM GOLD MINE ROAD TO NORTH OF HOLIDAY DRIVE
IN MONTGOMERY COUNTY, MARYLAND**

WHEREAS, the Federal Highway Administration (FHWA) proposes to assist the Maryland State Highway Administration (SHA) with the reconstruction of MD 97 (Georgia Avenue) from Gold Mine Road to North of Holiday Drive, Selected Alternate 7 Modified on the west side of the town of Brookeville, in Montgomery County; and

WHEREAS, FHWA has established the undertaking's area of potential effects (APE), as defined at 36 CFR 15 800.16(d), to be the alignment corridor defined by anticipated limits of right of way for Alternate 7 Modified; and

WHEREAS, FHWA has determined that the undertaking will have adverse effects on the Brookeville Historic District (M23-65), a property listed on the National Register of Historic Places (NRHP), and on the National Register eligible Newlin/Downs Mill Complex archeological site (18MO368), as described in the report entitled "Phase II Archeological and Historical Investigations at Sites 18MO368 and 18MO460 for Project No. MO746B11, MD 97 from Goldmine Road to North of Holiday Drive, Montgomery County, Maryland", prepared by R. Christopher Goodwin and Associates, Inc., dated July 2002; and

WHEREAS, the FHWA has consulted with the State Historic Preservation Officer (MD SHPO), the Town of Brookeville, Maryland National Capital Park and Planning Commission (MNCPPC), and Montgomery Preservation, Inc., pursuant to 36 CFR 800, regulations implementing Section 106 of the National Preservation Act (16U.S.C. 470f); and

WHEREAS, the Maryland Department of Transportation, State Highway Administration (SHA) has participated in consultation, and has been invited to concur in this Memorandum of Agreement (MOA);

NOW, THEREFORE, the FHWA, MD SHPO, and the SHA agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the undertaking on historic properties.

**April 17, 2003 SHA Letter to FHWA for Concurrence to Circulate the Draft MOA
Attachment 6 – Draft MOA (cont'd)**

Stipulations

FHWA will ensure that prior to and during the construction of the Selected Alternate 7 Modified the following stipulations are implemented:

I. Brookeville Historic District (M23-65)

A. Design Features

1. SHA will design a landscape plan to reduce the visual intrusion of Alternate 7 Modified on the historic district.
2. SHA will coordinate with MNCPPC and the MD SHPO concerning the development and placement of an interpretative sign at the Newlin/Downs Mill Complex, along the Oakley Cabin Trail, concerning its historic significance. The panel will satisfy the public interpretive component of the proposed data recovery treatment of the Newlin/Downs Mill Complex, a contributing resource to the Brookeville Historic District.
3. SHA will ensure the continuity of the Oakley Cabin Trail in the design of Alternate 7 Modified.

B. Plans

SHA will submit plans and specifications for the selected alternate, including landscape, signage, and resource treatment plans to reduce and mitigate impacts to the Brookeville Historic District, to the MD SHPO for review and approval. This will ensure that the designs are compatible with the historic district at the 30% completion stage (Preliminary Investigation) and when 90% complete (Final Review).

II. Newlin/Downs Mill Complex (18MO368)

SHA shall develop and implement a treatment plan for the recovery of data from the Newlin/Downs Mill Complex, in consultation with the MD SHPO. The plan shall be consistent with relevant guidance listed in Stipulation V, Performance Standards, and shall specify:

- A. The portions of the property where mitigation shall occur;
- B. Any portions of the property that will be destroyed without data recovery;
- C. The research questions to be addressed through data recovery with a description of their relevance and importance;

April 17, 2003 SHA Letter to FHWA for Concurrence to Circulate the Draft MOA
Attachment 6 – Draft MOA (cont'd)

- D. The research and field methods to be used, with an explanation of their relevance to the research questions;
- E. The methods to be used in analysis, data management, and dissemination of data, including a schedule;
- F. The proposed disposition of recovered materials and records;
- G. Proposed methods for involving and informing the interested public; and
- H. A proposed schedule for the submission of progress reports to the MD SHA.

SHA shall submit the mitigation plan to the MD SHPO. Unless the MD SHPO objects within 30 days after receipt of the plan, SHA shall implement the mitigation strategy.

III. Unexpected Discovery of Historic Properties

Should historic properties be unexpectedly identified during the implementation of the undertaking, SHA shall make reasonable efforts to avoid, minimize or mitigate adverse effects to such properties, and shall consult to resolve any unavoidable adverse effects pursuant to 36 CFR 800.6.

IV. Future Activities

Related ancillary activities, including but not limited to wetland mitigation, stormwater management and reforestation, may be added to this undertaking in the future. Should such activities be added for which cultural resources studies have not been completed, SHA shall implement such studies adhering to all relevant standards and guidelines referenced in Stipulation V and in accordance with the following:

- A. Identification. SHA professional cultural resources staff shall review any additions or changes to the project and implement identification investigations which are necessary. The SHA shall provide all completed information to the MD SHPO and all consulting parties under this MOA for review and comment.
- B. Evaluation. The SHA shall ensure that all historic properties identified in any areas inventoried under Stipulation IV(A) will be evaluated in accordance with 36 CFR 800.4(c). The results of any such evaluation efforts shall be provided to the MD SHPO and all consulting parties under this MOA for review and to the MD SHPO for concurrence. The consulting parties shall provide comment within 30 days of receipt of acceptable documentation. Should the parties not be able to reach agreement, the FHWA shall forward the documentation to the Keeper of the NRHP for a final determination.

April 17, 2003 SHA Letter to FHWA for Concurrence to Circulate the Draft MOA
Attachment 6 – Draft MOA (cont'd)

- C. Treatment. Should any property eligible for inclusion in the NRHP be identified under Stipulation IV (A) and (B), the SHA shall make a reasonable good-faith effort to avoid adversely impacting the resource. If adverse impacts are unavoidable, SHA shall, in consultation with the MD SHPO and all consulting parties to this MOA, consider appropriate treatment options. Such options may include, but are not limited to, public interpretation, architectural salvage, landscaping, architectural recordation, sale, relocation, archeological data recovery, or loss without mitigation.

V. Performance Standards and Professional Qualifications

SHA shall ensure that all cultural resources work carried out pursuant to this MOA is carried out by or under the direct supervision of a person or persons meeting at a minimum the Professional Qualifications Standards set forth at 36 CFR 61 Appendix A.

- A. Standards and Guidelines. SHA shall ensure that all cultural resources investigations and work performed pursuant to this agreement shall be conducted consistent with the principles and standards contained in the documents (and subsequent revisions thereof) listed below:
- B. Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (1983).
- C. Standards and Guidelines for Archeological Investigations in Maryland (Shaffer and Cole 1994).
- D. Recommended Approach for Consultation on Recovery of Significant Information from Archeological Sites, ACHP 1999 (64 FR 27085-27087).
- E. Curation: All materials and records resulting from cultural resources investigations conducted for the project will be curated in accordance with 36 CFR 79 at the Maryland Archeological Conservation Laboratory, unless clear title or Deed of Gift to the collection cannot be obtained.

VI. Dispute Resolution

Should the MD SHPO, or any of the signatories to this MOA, object within 30 days to any plans or actions proposed pursuant to this agreement, the FHWA shall consult with the objecting party to resolve the objection. If the FHWA determines that the objection cannot be resolved, the FHWA shall request the comments of the Advisory Council on Historic Preservation (ACHP) pursuant to 36 CFR 800.11(g). Any ACHP comment provided in response to such a request will be taken into account by the FHWA in accordance with 36 CFR 800.11(g)(2) with reference only to the subject of the dispute; the FHWA's responsibility to carry out all actions under this MOA that are not subjects of the dispute will remain unchanged.

**April 17, 2003 SHA Letter to FHWA for Concurrence to Circulate the Draft MOA
Attachment 6 – Draft MOA (cont'd)**

VII. Amendment

If any of the signatories to this MOA believe that the terms of the MOA cannot be carried out, or that an amendment to these terms must be made, that signatory shall immediately consult with the other signatories to develop amendments in accordance with 36 CFR 800.6(c). If an amendment cannot be agreed upon, the dispute resolution process set forth in Stipulation VI will be followed.

VIII. Termination

Any signatory to this agreement may terminate the MOA by providing 30 days written notice to the other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. Termination of this MOA would require compliance with 36 CFR 800. This MOA may be terminated by the execution of a subsequent agreement that explicitly terminates or supersedes its terms.

IX. Duration

This MOA shall be null and void if its terms are not carried out within 5 (five) years from the date of its execution, unless the signatories agree in writing to an extension for carrying out its terms.

Execution of the MOA by FHWA and the MD SHPO, its subsequent acceptance and implementation of its terms, evidence that FHWA has afforded the signatories an opportunity to comment on Alternate 7 Modified in Montgomery County, Maryland, and its potential effects on historic properties, and that the FHWA has taken into account the potential effects of the undertaking on historic properties.

**April 17, 2003 SHA Letter to FHWA for Concurrence to Circulate the Draft MOA
Attachment 6 – Draft MOA (cont'd)**

FEDERAL HIGHWAY ADMINISTRATION

By: _____ Date: _____
Nelson J. Castellanos, Division Administrator

MARYLAND STATE HISTORIC PRESERVATION OFFICE

By: _____ Date: _____
J.Rodney Little, State Historic Preservation Officer

Concur:

MARYLAND STATE HIGHWAY ADMINISTRATION

By: _____ Date: _____
Neil J. Pedersen, Acting Administrator

**April 17, 2003 SHA Letter to FHWA for Concurrence to Circulate the Draft MOA
Attachment 7 – Montgomery County Planning Board September 25, 2002 Letter**



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

OFFICE OF THE COUNCIL PRESIDENT

September 25, 2002

Mr. Parker Williams, Administrator
State Highway Administration
707 North Calvert Street
Baltimore, Maryland 21202

Dear Mr. Williams:

On September 25, 2002 the Council reviewed the results of the State Highway Administration's project planning study for the Brookeville Bypass. After reviewing the final alternates, the Council recommended proceeding to final design with Alternate 7 Modified as recommended by the Montgomery County Planning Board and as described in the Planning staff's packet (attached). The Council also concurred with the associated recommendations on ©2 of the packet.

We wish to thank Doug Simmons and Carmen Harris for briefing us at our Council worksession. Along with Dan Hardy and Jeff Price of the Planning Board's staff, they aided greatly in helping us understand the alternates that were developed for this study, and in particular the advantages of Alternate 7 Modified.

Sincerely,

Steven A. Silverman
Council President

SS:go

cc: The Honorable Kumar Barve, Chair, Montgomery County House Delegation
The Honorable Ida Ruben, Chair, Montgomery County Senate Delegation
The Honorable Douglas Duncan, Montgomery County Executive
John Porcari, Secretary, Maryland Department of Transportation
Nelson Castellanos, Maryland Division Chief, Federal Highway Administration
Derick Berlage, Chair, Montgomery County Planning Board
Albert J. Genetti, Jr., Director, Department of Public Works and Transportation

STELLA B. WERNER COUNCIL OFFICE BUILDING, 100 MARYLAND AVENUE, ROCKVILLE, MARYLAND 20850
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WWW.CO.MO.MD.US/COUNCIL



**April 17, 2003 SHA Letter to FHWA for Concurrence to Circulate the Draft MOA
Attachment 8 – Montgomery County Planning Board October 7, 2002 Letter**

Jan 10 03 02:58p

MRO

301-495-1302

P. 2



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Office of the Chairman, Montgomery County Planning Board

October 7, 2002

Parker Williams, Administrator
Maryland Department of Transportation
State Highway Administration
P.O. Box 717
Baltimore, MD 21203-0717

Dear Mr. Williams:

The Montgomery County Planning Board reviewed the MD 97 Brookeville project planning study at the regularly scheduled meeting of September 19, 2002. The Board endorsed the staff recommendations (copy enclosed) as described below:

1. The Montgomery County Planning Board recommends that the State Highway Administration select Alternate 7 Modified, a western bypass of the Town of Brookeville, as the preferred alternate for the MD 97 Brookeville project planning study.
2. During the preparation of the Final Environmental Impact Statement, SHA should prepare interagency memoranda of understanding defining the process to achieve the Smart Growth condition which specifies future widening or access to be prohibited via third-party easement.
3. Subsequent project planning and design activities should incorporate the following, prior to mandatory referral:
 - a. Accommodation of safe pedestrian and bicycle crossings for the existing Oakley Cabin Trail and a potential future natural surface trail as described in the Countywide Park Trails Plan.
 - b. Preservation of the archeological resources in the core areas of the Newlin/Downs Mill site

**April 17, 2003 SHA Letter to FHWA for Concurrence to Circulate the Draft MOA
Attachment 8 – Montgomery County Planning Board October 7, 2002 Letter (cont'd)**

301-495-1302

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- c. Selection of a bridge, rather than a culvert, to cross Meadow Branch
- d. Mitigation strategies for parkland and wetlands impacts
- e. Identification of stormwater management pond locations
- f. Identification of construction impacts, including required staging areas
- g. Determination of ownership and maintenance responsibility for the portions of existing MD 97 to be bypassed

We look forward to continued coordination with your staff on this important project as it moves forward into detailed design.

Sincerely,



Derick P. Berlage
Chairman

DPB:DKH:cmd

MCPB MD 97 Brookeville Recommendations to SHA.doc

V-A.2 August 19, 2002 SHA Letter to MHT for Review Request for Concurrence of Eligibility of Archaeological Resources and Effects to Historic Resources

August 19, 2002

Re: Project No. MO746B11
MD 97: Goldmine Road to North of Holiday Drive
Montgomery County, MD
USGS *Sandy Spring* 7.5" Quadrangle

Mr. J. Rodney Little
State Historic Preservation Officer
Maryland Historical Trust
100 Community Place
Crownsville MD 21032-2023

Dear Mr. Little:

Introduction and Project Description

This letter serves to inform the Maryland Historical Trust of the results of Phase II evaluations of archeological sites 18MO368 and 18MO460, and to request your reconfirmation of our finding that there will be adverse effects to historic properties by the proposed project No. MO746B11. Project plans are included as **Attachment I**.

Our previous consultation in February and April 2001, resulted in a determination of adverse effects to historic properties under Alternate 5C, Alternate 7, Alternate 8A, and Alternate 8B. Since that time, we have studied the possibility of bridging Alternate 7 over Reddy Branch (Alternate 7A), and developed Alternate 7 Modified to minimize impacts to the Newlin Downs Mill Complex (18MO368). We have since dropped Alternate 5C, Alternate 7A, and Alternate 8A. Alternates that are being carried forward consist of Alternate 7, Alternate 7 Modified, and Alternate 8B, for which all identification and evaluation studies for both historic structures and archeology has been completed. All historic properties within the APE have been identified and evaluated for eligibility to the National Register of Historic Places (NRHP).

Previously identified NRHP eligible or listed properties within the current APE include the Brookeville Historic District (M 23-65), Bordleys Choice (M 23-66), and archeological site 18MO368 (Newlin Downs Mill Complex). It is our opinion that site 18MO460 is not eligible for listing on the NRHP. Determination of Eligibility Forms for archeological sites 18MO368 as well as 18MO460 were electronically mailed to Ms. Elizabeth J. Cole on August 15, 2002. All of the current alternates would adversely impact site 18MO368. Remaining issues involve your concurrence on the eligibility of these archeological sites, your concurrence in our determination of adverse effects under newly developed Alternate 7 Modified, and further consultation on appropriate treatment measures once an alternate has been selected. We also wish to clarify the

August 19, 2002, SHA Letter to MHT for Review Request for Concurrence of Eligibility of Archaeological Resources and Effects to Historic Resources (cont'd)

Mr. J. Rodney Little
MD 97: Goldmine Road to North of Holiday Drive
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effect determination for Bordleys Choice. Modifications, including the development of Alternate 7 Modified, and re-assessment of the potential for effects has resulted in our determination that the site would not be impacted by any of the alternatives.

Alternates Retained for Detailed Study

Alternate 7

Alternate 7 is located on the west side of Brookeville. Alternate 7 begins at a roundabout located on MD 97 near the northern edge of the Longwood Community Center. Access to the town of Brookeville would be via the northeast leg of the roundabout. Alternate 7 continues from the roundabout in a northwesterly direction through the Maryland National Capital Park and Planning Commission (MNCPPC) property, which is reserved for transportation use, and through the Reddy Branch Park. The alignment intersects with Brookeville Road west of existing MD 97 at a roundabout and then continues in a northeasterly direction. The roundabout at Brookeville Road has four legs, the north leg and the south leg of the roundabout is to access the proposed alignment, and the west leg and east leg of the roundabout access Brookeville Road. The alternate connects to existing MD 97 north of Brookeville Road. The portion of MD 97 between the northern connection and the Reddy Branch would be closed. Consequently, southbound motorists destined for the town of Brookeville would pass through the roundabout at Brookeville Road to access existing MD 97 in town.

Alternate 7 Modified

Alternate 7 Modified is similar to Alternate 7 except that the alignment is shifted 30 feet away from Alternate 7 in a more westerly direction between the Reddy Branch Stream Valley Park and the M-NCPPC property, which is reserved for transportation use, to minimize impacts to the Newlin Downs Mill Complex. Alternate 7 Modified is located on the west side of Brookeville. Alternate 7 Modified begins at a roundabout located on MD 97 near the northern edge of the Longwood Community Center. Access to the town of Brookeville would be via the northeast leg of the roundabout. Alternate 7 Modified continues from the roundabout in a northwesterly direction through the MNCPPC property, which is reserved for transportation use, and through the Reddy Branch Stream Valley Park. The alignment intersects with Brookeville Road west of existing MD 97 at a roundabout and then continues in a northeasterly direction. The roundabout at Brookeville Road has four legs, the north leg and the south leg of the roundabout is to access the proposed alignment, and the west leg and east leg of the roundabout access Brookeville Road. A retaining wall will be constructed on the eastern leg to allow for a reduced typical section that incorporates a 4-foot wide shoulder. The alternate connects to existing MD 97 north of Brookeville Road. The portion of MD 97 between the northern connection and the Reddy Branch would be closed. Consequently, southbound motorists destined for the town of Brookeville would pass through the roundabout at Brookeville Road to access existing MD 97 in town.

August 19, 2002, SHA Letter to MHT for Review Request for Concurrence of Eligibility of Archaeological Resources and Effects to Historic Resources (cont'd)

Mr. J. Rodney Little
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Alternate 8B

Alternate 8B is located west of both Alternate 7 and Alternate 7 Modified. Alternate 8B begins at a roundabout located on MD 97 near the northern edge of the Longwood Community Center and heads in a northwesterly direction through the MNCPPC property and the Reddy Branch Stream Valley Park. Alternate 8B would cross Brookeville Road on a bridge with no direct access between the bypass and Brookeville Road. Access to MD 97 and the town of Brookeville via Brookeville Road would remain unchanged. The alignment continues northeast from the bridge and connects to existing MD 97 with a three-leg roundabout located north of Brookeville Road. This three-leg roundabout includes existing MD 97 from the north, the bypass from the southwest, and the in-town portion of MD 97 from the southeast.

Funding : Federal funds are anticipated for this project.

Status Update: Area of Potential Effects (APE)

We have examined the project area in light of any changes that might be introduced that would have the potential to affect characteristics qualifying historic properties for inclusion in the NRHP. We have developed the APE in consideration of both architecture and archeology (**Attachment II**). As previously coordinated under western bypass Alternates 7, 8A, and 8B, the APE for architecture was drawn broadly enough for these earlier alternatives to accommodate all possible construction impacts, and the extent of viewsheds from the roadway, including Alternate 7 Modified. The current APE for archeology is defined by the anticipated limits of disturbance under Alternates 7, 7 Modified, and Alternate 8B. Although Alternate 7 Modified proposes to shift the centerline 30 feet to the west of Alternate 7, there is no expansion of the APE as previously coordinated under Alternates 7, 8A, and 8B.

Status Update: Identification Methods and Results

All historic properties within the APE have been identified and evaluated for eligibility to the NRHP. NRHP eligible or listed properties within the current APE include the Brookeville Historic District (M 23-65), Bordleys Choice (M 23-66), and archeological site 18MO368 (Newlin Downs Mill Complex).

Architecture: The Brookeville Historic District, and Bordleys Choice are the only above ground resources located within the current APE. All other previously identified historic properties are located outside the APE.

Archeology: SHA previously conducted Phase I Identification studies (Fehr et al. 1997) for Alternates 3A, 3B, 4A, 4B, and 5. The survey identified Sites 18MO459, 18MO460, and a number of decontextualized random finds (18MOX86), and reinvestigated previously recorded Sites 18MO368 and 18MO387. Of these sites, 18MO387, 18MO368, and 18MO460 were recommended for evaluation if impacts could not be avoided. Site 18MO459 was determined

August 19, 2002, SHA Letter to MHT for Review Request for Concurrence of Eligibility of Archaeological Resources and Effects to Historic Resources (cont'd)

Mr. J. Rodney Little
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not eligible for listing on the NRHP (MHT letter of August 13, 1997).

Subsequently, new and modified alternatives were developed (Alternates 7, 8A, 8B, 5C), and further archeological identification investigations were conducted (Fehr et al. 2001). Two previously undocumented sites (18MO558 and 18MO559) were identified in areas of the expanded APE not subject to prior archeological survey efforts, and were determined not eligible as documented in your letter of April 16, 2001. Site 18MO387 was reinvestigated and would be avoided by Alternate 5C. In addition, Site 18MO368 (the Newlin Downs Mill) was reinvestigated to more precisely define its boundaries, character, and research potential, and to assess potential impacts under the newly developed alternatives. Consequently, you concurred that Phase II evaluation of sites 18MO368 and 18MO460, and precautionary measures during construction in the vicinity of Locust Grove Farm, were warranted.

The results of our recent Phase II investigations of 18MO368 and 18MO460 are documented in the enclosed technical report entitled **Phase II Archeological and Historical Investigations at Sites 18MO368 and 18MO460 for Project No. MO746B11, MD 97 from Goldmine Road to North of Holiday Drive, Montgomery County, Maryland**, for your review and comment (**Attachment III**). The report was prepared on behalf of SHA by R. Christopher Goodwin and Associate, Inc. We have reviewed the report and believe the consultant has satisfactorily documented the evaluation of each site's integrity, research value, and eligibility to the NRHP. Our specific comments are appended as **Attachment IV**.

Site 18MO368 is significant both individually and as a contributing resource to the Brookeville Historic District. It qualifies for inclusion on the NRHP under Criteria A, C, and D. This site is important chiefly for the information it contains and does not warrant preservation in place. It is considered significant at a local level. The information it contains can be recovered through available techniques and technologies, and will not require extreme measures or costs. A general data recovery plan detailing research issues and strategies is provided for your comment as **Attachment V**. This plan may be further modified in consultation with your office to accommodate varying ranges of impacts specific to each of the alternatives.

Criterion A (Event): Association with "a pattern of events or a historic trend that made a significant contribution to the development of a community". This pattern of events is the establishment and evolution of small commercial town centers in Montgomery County to serve the local farming communities. Site 18MO368 is an archeologically intact example of a 19th century mill site that is representative of these rural industrial enterprises which fueled and sustained the development of agriculture in Montgomery County. Although mills were typical components of town systems in Montgomery County, the Newlin-Downs Mill was only one of

August 19, 2002, SHA Letter to MHT for Review Request for Concurrence of Eligibility of Archaeological Resources and Effects to Historic Resources (cont'd)

Mr. J. Rodney Little
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two clover mills operating at that time. Site 18MO368 contributes to the Brookeville Historic District under Criterion A as the remaining example of one of the primary industries in the service town.

Criterion C (Physical design or construction, including architecture, landscape architecture, engineering, or artwork). Site 18MO368 is significant under Criterion C as a contributing resource to the Brookeville Historic District. The District is significant for its collection of unaltered early and mid 19th century architecture and pristine setting. Given the development pressure and encroachment upon many Montgomery County towns, Brookeville remains relatively untouched with narrow, curving streets and great trees. Although the mill itself is no longer standing, the site retains sufficient landscape integrity to convey its former presence and physical role in defining the community in its relationship to the streams and transportation system. The site represents an important element of the way in which the commercial and residential structures of the town related to one another and to the outlying farm community.

Criterion D (important information in history): Site 18MO368 can contribute to our understanding of the role, layout, and functioning of mills and the lives of mill worker's in 19th century Montgomery County. The archeological remains have the potential to address issues related to cultural landscape, material culture, commerce, subsistence, and industry during the 19th century.

Site 18MO460 no longer retains sufficient integrity to provide the spatial or temporal context needed to understand site occupation and development. Analysis of artifact patterning indicates that individual households cannot be differentiated in space or time. Research questions proposed during Phase II evaluation relied on the assumption that the site retained sufficient integrity to distinguish activity areas, specific households, and preserved faunal and floral remains, in order to address the nature of the historic landscape, site structure, discard patterns, socio-economic status, ethnicity, and subsistence. The primary artifact deposit in the most intact portion of the site appears to represent a relatively short-term dumping episode not related to the 19th century occupation of the site, and does not represent the remains of a single household. Consequently, the site lacks the ability to address these research questions and is considered not eligible under Criterion D, the only applicable criterion. Approximately 95 per cent of the site will be impacted by the shared alignment of Alternates 7 and 8. No further archeological investigations are recommended.

Assessment of Impacts

Architecture:

Bordleys Choice - This site is located north of Brookeville and just south of new subdivision housing. Alternates 7, 7 Modified, and 8B tie into existing MD 97 well to the south of Bordleys Choice, on which the structures are situated to the rear of the extensive property and well

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Archaeological Resources and Effects to Historic Resources (cont'd)

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buffered by heavy vegetation along the frontage with MD 97. The buildings are isolated by extensive vegetation and differing elevations, and are outside of the viewsheds of these alternates. Alternates 7 and 7 Modified tie into existing MD 97 well to the south of the historic site boundary, whereas Alternate 8B, for which a roundabout would be located further north than those anticipated under the other alignments, would tie into existing MD 97 along the frontage of the property. Nonetheless, because of the isolated nature of the buildings, the heavy buffering provided by extensive vegetation, and the lack of any changes to MD 97 within the Bordleys Choice frontage, we believe the site would not be impacted. This modifies the effect determination previously submitted to your office on May 24, 2001.

Brookeville Historic District -

Alternates 7, 7 Modified, and 8B would traverse the westernmost extension of the District boundary to the west, requiring the acquisition of approximately 1.6 to 1.8 acres of wooded property with no historic standing structures. Alternate 7 requires 1.82 acres and Alternate 7 Modified requires 1.66 acres. Under Alternate 8B, 1.58 acres would be required from the District. Consequently, the Brookeville Historic District would be adversely impacted by Alternates 7, 7 Modified, and 8B, because of this property acquisition.

Archeology:

Site 18MO368 - Implementation of Alternatives 7, 7 Modified, or 8B, will have adverse impacts upon the NRHP eligible Newlin Downs Mill Complex (18MO368), including the system of mill races which contribute to the property's historicity. Impacts to the various components of the site under each alternate are enumerated below and in **Attachment VI**. **Attachment VII** is a map that illustrates anticipated limits of disturbance under each alternate.

Under Alternate 7, approximately 60% of Site 18MO368 will be impacted, including the core containing the remains of the mill, miller's house, C-shaped mound, and the mill race system. Approximately 800 linear feet of the mill race system will be impacted. Phase III data recovery is recommended if Alternate 7 is selected.

Under Alternate 7 Modified, approximately 5% of Site 18MO368 will be impacted. Impacts are limited to the northern periphery of the site's core that has been variously disturbed by relatively modern improvements to Brookeville Road. Shovel testing in the portion of the site located within the APE for Alternate 7 Modified was conducted during our evaluation, and failed to recover evidence suggesting the presence of significant deposits. The identified features and significant archeological deposits associated with the mill, miller's house, and C-shaped mound, will be avoided. However, approximately 700 linear feet of the mill race system will be impacted. Phase III data recovery is recommended to address impacts to the mill race system if Alternate 7 Modified is selected.

August 19, 2002, SHA Letter to MHT for Review Request for Concurrence of Eligibility of Archaeological Resources and Effects to Historic Resources (cont'd)

Mr. J. Rodney Little
MD 97: Goldmine Road to North of Holiday Drive
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Under Alternate 8B, the core of Site 18MO368 will be avoided; however, approximately 500 linear feet of the millrace will be impacted. Phase III data recovery is to address impacts to the mill race system if Alternate 8B is selected.

Review Request

Please examine the attached maps, plans, and other supporting documentation. We request your concurrence by September 23, regarding the eligibility of archeological resources, and effects to historic properties as indicated on the attached eligibility and effects table (**Attachment VIII**). SHA will continue consultation with your office regarding selection of an alternate, and appropriate treatment measures to mitigate adverse effects once an alternative has been selected. Possible mitigation measures, besides Phase III survey, may include landscaping to reduce the visual intrusion of the proposed roadway on the Brookeville Historic District. In addition, signage could be developed to interpret the historic trails in the project area, in concert with MNCPPC, especially the Oakley Cabin Trail connecting Brookeville with the historic African American Cabin. Furthermore, SHA will ensure the continuity of the Oakley Cabin Trail in the design process, regardless of which alternative is selected.

By carbon copy, we invite the Montgomery County Historic Preservation Commission and Montgomery Preservation, Inc. to provide comments and participate in the consultation process. Pursuant to the requirements of the implementing regulations found at 36 CFR Part 800, SHA seeks their assistance in identifying historic preservation issues as they relate to this specific project (see 36 CFR 800.2 (4) and (6), and 800.3 (f) for information regarding the identification and participation of consulting parties, and 800.4 and 800.5 regarding the identification of historic properties and assessment of effects). For additional information regarding the Section 106 regulations, see the Advisory Council on Historic Preservation's website, www.achp.gov, or contact the Maryland State Highway Administration or the Maryland Historical Trust. If no response is received by, September 23, 2002 we will assume that this office declines to participate. Please call Ms. Rita M. Suffness at 410-545-8561 with questions regarding standing structures for this project. Ms. Mary F. Barse can be reached at 410-545-2883 with concerns regarding archeology.

August 19, 2002, SHA Letter to MHT for Review Request for Concurrence of Eligibility of Archaeological Resources and Effects to Historic Resources (cont'd)

Mr. J. Rodney Little
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Very truly yours,

Cynthia D. Simpson
Deputy Director
Office of Planning and
Preliminary Engineering

by:

Bruce M. Grey
Deputy Division Chief
Project Planning Division

Attachments: I) Project Plans
II) SHA *Sandy Spring, MD* Quad with Inventoried Resources and APE Indicated
III) Draft Archeological Report
IV) SHA Comments on Draft Archeological Report
V) Plan for Data Recovery at 18MO368
VI) Impact Matrix for 18MO368
VII) Map showing Site 18M)368 and the Brookeville Historic District with Limits of Disturbance under Alternates 7, 7 Modified, and 8B
VIII) Eligibility/Effects Table

cc: Ms. Mary F. Barse, SHA - PPD (w/ Attachments II, IV, VI, and VIII)
Ms. Carmeletha Harris, SHA – PPD (w/ Attachment VIII)
Ms. Maria Hoey, Montgomery Preservation, Inc. (w/ Attachments I, II, and VIII)
Mr. Dan Johnson, FWHA (w/ Attachments I, II, III, IV, V, VI, VII, and VIII)
Mr. Joseph Kresslein, SHA – PPD (w/ Attachment VIII)
Ms. Shannon Rousey, SHA - PPD (w/ Attachments II, VI, and VIII)
Dr. James Sorensen, M-NCPPC, Office of History and Archeology (w/ Attachments I, II, III, IV, V, VI, VII, and VIII)
Ms. Cynthia D. Simpson, SHA-OPPE (w/ Attachment VIII)
Mr. Donald Sparklin, SHA – PPD (w/ Attachment VIII)
Ms. Rita Suffness, SHA - PPD (w/ Attachments II and VIII)
Ms. Gwen Marcus Wright, M-NCPPC Historic Preservation Section (w/ Attachments I, II, and VIII)

August 19, 2002, SHA Letter to MHT for Review Request for Concurrence of Eligibility of Archaeological Resources and Effects to Historic Resources (cont'd)

Mr. J. Rodney Little
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Concurrence with the MD State Highway Administration's
Determination(s) of Eligibility and/or Effects

Project No.: MO746B11 MHT Log No. 200203306
Project Name: MD 97: Goldmine Road to North of Holiday Drive
County: Montgomery
Letter Date: August 19, 2002

The Maryland Historical Trust has reviewed the documentation attached to the referenced letter and concurs with the MD State Highway Administration's determinations as follows:

Eligibility (as noted in the Eligibility/ Effect Table [Attachment VII])
 Concur 18MO368 = NR Eligible
 Do Not Concur 18MO460 = Not Eligible

Effect (as noted in the Effects Table [Attachment VII])
 No Properties Affected
 No Adverse Effect
 Conditioned upon the following action(s) (see provisions outlined in body of the letter)
 Adverse Effect

Agreement with FHWA's Section 4(f) criteria of temporary use (as detailed in the referenced letter, if applicable):
 Agree

Comments: MHT awaits further consultation with SHA/FHWA to resolve the project's adverse effects and negotiate an appropriate MOA

By: [Signature] Date: 11-6-02
MD State Historic Preservation Office/
Maryland Historical Trust

Return by U.S. Mail or Facsimile to:
Mr. Bruce Grey, Assistant Division Chief, Project Planning Division,
MD State Highway Administration, P.O. Box 717, Baltimore, MD 21203-0717
Telephone: 410-545-8564 and Facsimile: 410-209-5004

August 19, 2002, SHA Letter to MHT for Review Request for Concurrence of Eligibility of Archaeological Resources and Effects to Historic Resources (cont'd)

Hybrid Eligibility/Effects Table
Attachment VIII

Project Name: MD 97: Gold Mine Road to North of Holiday Drive

August 19, 2002

Resource	Type	SHA NR Det.	SHPO Opinion	Alternate 7		Alternate 7 Modified		Alternate 8B		Attachment	Remarks
				Impact	SHPO Concur	Impact	SHPO Concur	Impact	SHPO Concur		
Brookeville Historic District (M23-65)	HD	NRL	6/29/95	Adverse	4/16/2001	Adverse	Requested 8/2002	Adverse	4/16/2002		
Bordleys Choice (M23-66)	S B	NR	6/29/95 4/16/96	None	(5/24/2001) Requested 8/2002	None	Requested 8/2002	None	(5/24/2002) Requested 8/2002		
Newlin Downs Mill Complex 18MO368	A	NR	Requested 8/2002	Adverse	Requested 8/2002	Adverse	Requested 8/2002	Adverse	Requested 8/2002	Attach. 3, Attach. 6	Data Recovery Recommended
18MO460	A	X		None	Requested 8/2002	None	Requested 8/2002	None	Requested 8/2002	Attach. 3	No Further Work Recommended
Effects				AE	Requested 8/2002	AE	Requested 8/2002	AE	Requested 8/2002		

Codes:

Resource Types: S (Structure), A (Archeological Site), HD (Historic District), NHL (National Historic Landmark)

NR Determination: ND (Not Determined), X (Not Eligible), NR (Eligible), NRL (Listed), NHL (Landmark)

SHPO Opinion: (B) designates opinion regarding boundary, Code following date signifies SHPO opinion

Impact: None, No Adverse, Adverse

Effects: NPA (No Properties Affected), NAE (No Adverse Effect), AE (Adverse Effect)

Bold rows indicate review action requested

V-A.3 The Impact of the Brookeville Bypass Alternates on the Oakley Cabin Trail Interpretive Plan Submitted by M-NCPPC Summer 2002**The Impact of the Brookeville Bypass Alternates on the Oakley Cabin Interpretive Plan**

Susan Soderberg, Education and Outreach Planner

Oakley Cabin is the only publicly owned African American historical site in Montgomery County that is open to the public. According to archeological research the cabin, along with two identical cabins next door to this one, were built in the early 1800s to house slaves on the Dorsey farm, "Oakley." The 1 ½ story cabin was first the home to slaves and later became the center of a small roadside Free Black community. Now owned by the Montgomery County Parks Department, the cabin has been fully restored and furnished to depict the various periods of its history.

Programming at this unique African American architectural and cultural site centers on promoting awareness of and education about the Free Black rural neighborhoods that appeared after the Civil War, what it was like to live in that time, and how these small communities evolved and influenced the larger culture.

Interpretation of the Cabin centers on the post-Civil War period when it was the center of a roadside community. From census records we know that some whites lived in this community as well as family groups of African Americans. Some of these people worked at Newlins Mill in Brookeville. This mill is a significant part of the interpretation since the mill pond was directly behind the Cabin and provided water for the people and animals in the community. A trail has been created along the mill race that connected the mill pond with the mill. This trail provides a way for tours of hikers to get from Oakley Cabin to the historic Town of Brookeville.

Brookeville Road, a Montgomery County Rustic Road, also is included as an important part of the interpretation of Oakley Cabin. Oakley and other early farms in the county were established along Brookeville Road because it was one of the main east-west roads in the area connecting the Potomac River crossing at the Mouth of the Monocacy River, to the Patuxent River crossing at Snell's Bridge – thus connecting the port of Baltimore with western Virginia and points west. This makes it one of the few sections of original "Baltimore Roads" that we have left in the county. Oakley Cabin is a much better housing facility for slaves than can usually be found because it is so large and has a floor and inside stairway. It may have been built as a "model cabin" to show off the carpentry skill of Oakley slaves who would then be rented out to others for building similar houses. This is speculation, but the fact that the post-war community had a carpenter, a blacksmith and a basketmaker, gives even more evidence that the people who lived in the cabins made a living from selling products and services to those traveling on the Brookeville (or Baltimore) Road.

Brookeville Road may also have figured in the re-grouping of the United States soldiers after the Battle of Bladensburg defeat by the British in August, 1814. The soldiers had scattered to areas of central and western Montgomery County and were regrouped in Ellicott Mills (Ellicott City). Those who came from the western area of the county would have come along Brookeville Road to get to Snell's Bridge to cross the Patuxent River to get to Ellicott Mills.

Since Brookeville Bypass Alternates #7 and #8A would destroy part of the mill race and trail, and would disrupt Brookeville Road and its original connection to Brookeville and Snell's Bridge, I endorse **Alternate #8B** which will bridge both the mill race and the road.

**The Impact of the Brookeville Bypass Alternates on the Oakley Cabin Trail interpretive Plan
Submitted by M-NCPPC Summer 2002 (cont'd)**

OAKLEY CABIN INTERPRETIVE TRAIL

The half-mile Oakley Cabin Trail connects the historic African American Cabin with the Historic 1794 Town of Brookeville. It runs most of the way along an old mill race for the Newlins Mill in Brookeville.

Oakley Cabin

This Cabin was built for slaves of Richard Dorsey in the 1820s. The Dorsey home, Oatlands was up the hill behind the Cabin. Dorsey owned 27 slaves. He was the son of William and Ann Dorsey. Ann was the daughter of Richard Brooke, founder of Brookeville who had given her the land for the farm. After emancipation, the Cabin, along with two identical cabins to the west, became the center of a roadside community. Some of the people who lived here worked at the mill.

1. Reddy Branch Crossing

This was where the lane leading to the Oakley manor house crossed the creek on a wooden bridge. The house was built by Col. Richard Brooke in 1764. It was burned in the 1970s.

2. Mill Race

A mill race is a long ditch that directs water, held in a pond by a dam, to the water wheel on the mill. The wheel is turned by the stream of water and then turns the large grinding stones inside the mill to grind the wheat or corn. The higher the drop between the mill pond and the mill, the more force that the water has when it runs over the mill wheel. Some mill races have been known to be two miles long. The mill pond was behind Oakley Cabin.

3. View Locust Grove

Locust Grove can be seen across the creek and Brookeville Road. Built about 1810 by John Hammond Riggs, the large stone house was bought by Jeremiah and Harriet Howard in 1830 and was home to the Howard family for more than a century. The path up the spring run-off leads to Belmont Elementary School.

4. Quarry Site

This and other large holes along the path are a result of the quarrying of stone used for the foundations of the cabins and nearby houses, such as Locust Grove.

5. Brookeville Road

The trail now runs close to Brookeville Road—a Montgomery County Rustic Road. This was one of the few roads that existed at the time Montgomery County was formed in 1776. It connected to the west with the Frederick/Georgetown Road (Rt. 355), and to the east with Snell's bridge across the Patuxent River, one of only two bridges across this river in the county at the time.

6. Path to Longwood

This connecting path leads to Islander Street in the Olney Manor development, which leads to Longwood Recreation Center.

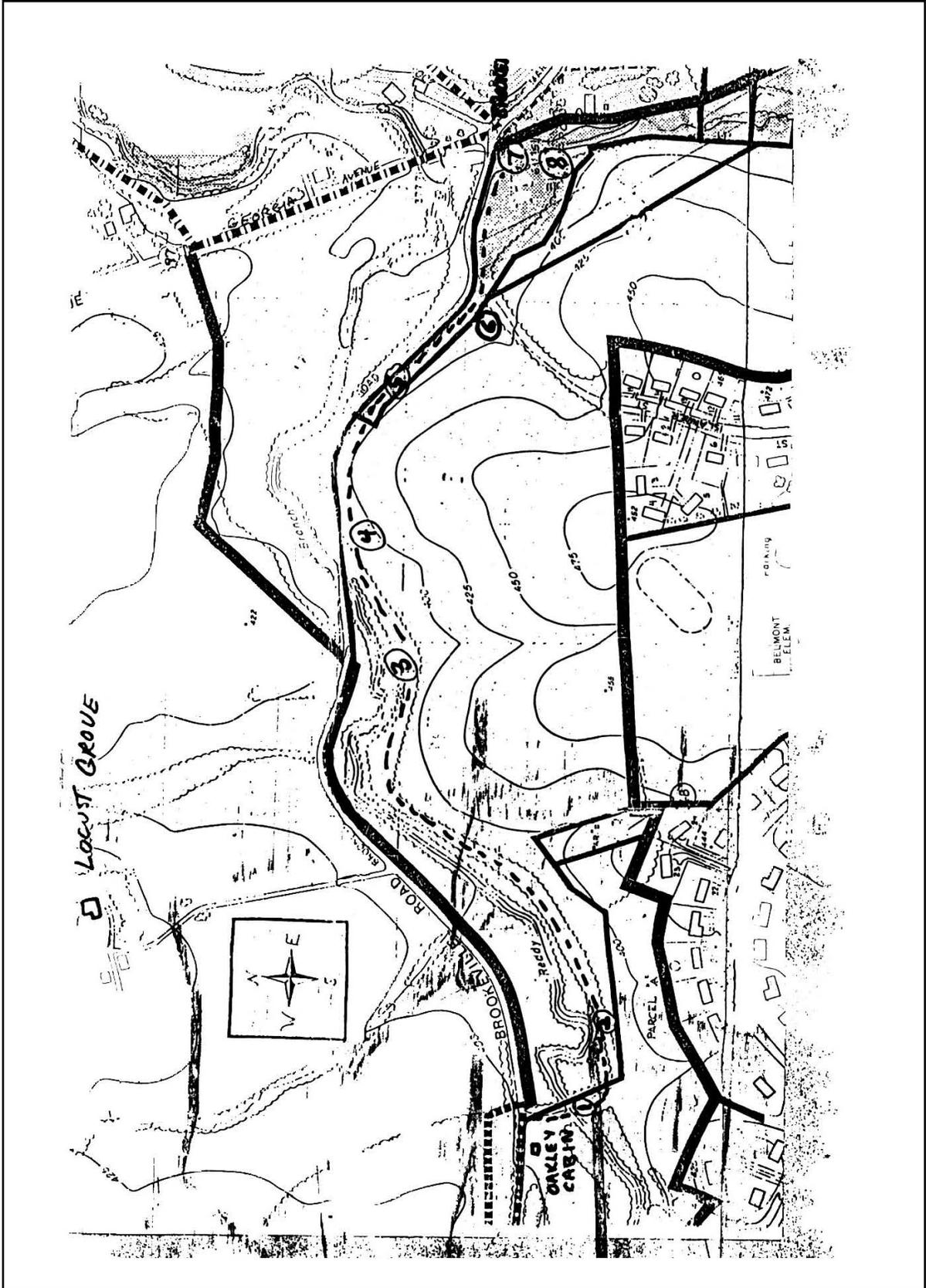
7. Newlin's Mill

This mill operated as an oil mill from about 1800, making flax seed into lindseed oil. By 1825 David Newlin, owner of the mill, had added stones for grinding wheat. The mill operated until the early 1900s.

8. Miller's Cottage Site

The foundation stones are all that is left of the house of the man who ran the mill.

The Impact of the Brookeville Bypass Alternates on the Oakley Cabin Trail Interpretive Plan Submitted by M-NCPPC Summer 2002 (cont'd)



V-A.4

May 16, 2002 M-NCPPC Fax to SHA Requesting Shift in Option 7A

LaserJet 3100;

301 948 3471;

May-16-02 10:07AM;

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TO: Mary Barse, Archaeologist, Maryland Department of Transportation

FROM: James D. Sorensen, Ph.D., Archaeologist, Montgomery County
Park & Planning Commission

SUBJECT: Adjustment to the Alignment of Alternative 7A of the Proposed Brookeville Bypass

It is the position of the Montgomery County Park & Planning Staff (Transportation Planning, Park Planning & Resource Analysis, Historic Preservation and Archaeological staffs) that if the proposed Brookeville Bypass 7A option is chosen, its alignment should be adjusted and shifted west so that the historical sites of Newlin's Mill and Miller's dwelling and related outbuildings would no longer fall within the limits of disturbance of the project.

CC: Daniel Hardy
Michael Zimore
Gwen Wright

Montgomery County Planning Board