

B. AGENCY COORDINATION

**FEDERAL AND STATE ENVIRONMENTAL REVIEW AND REGULATORY AGENCIES
COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT**

Agency/Date	Comments	Response Location
U.S. Environmental Protection Agency December 6, 2001	Rated the proposed action as “EC”; Environmental Concerns (wildlife passage and waterways at planned crossings), and the impact statement as “1” adequate information.	-----
	Concerned about potential impacts of project to wildlife passage and waterways at planned crossings. Appreciates thorough consideration during design to bridge span and height for Meadow Branch and Reddy Branch, to allow for wildlife passage and protection of stream resources. Would like to see a comparison of alternate bridge designs and associated impacts at future time in planning process..	See response on Page VI-B-4 and Section IV: J-2a
Maryland Department of Natural Resources October 22, 2001	Requested a more definitive justification of the selection of 1970 as the time frame start for SCEA.	Section IV: O-1b
	Wetlands SCEA section needs additional paragraphs to discuss potential project impacts or protection mechanisms and relate these to other past/future impacts in study area.	Section IV: O-4a(3c)
	Requested comparison of potential impacts for crossing of Brookeville Road just west of MD 97 (the long bridge over both the stream and existing road versus the traffic circle at Brookeville Road with shorter bridge over stream). Include forest clearing, and volume and area of fill. Hope to see additional information on the potential impacts from road construction to vegetation and wildlife. Suggested giving careful consideration to the use of bridges to optimize wildlife passage and minimize traffic conflicts with wildlife, as well as to maximize the protection of aquatic waterways and resources.	See response on Page VI-B-4 and Section IV: J-2a
Maryland Department of Planning November 19, 2001	Recommended fitting the section of the road that leads into the Town of Brookeville with some type of traffic calming device to limit the traffic that goes through the Town.	Section V: B
	Recommended having pedestrian bridges leading to and from town and walkways along side the new road.	Section ES-5
	Recommended introducing Environmental Sensitive Design elements to the new road (no curb and gutter, narrower road widths, innovative SWM designs).	See response to comment #3
	Suggested that the area surrounding the new road contains endangered species. Questioned whether there were plans to establish the new buffer around the road to include native plant species.	Section III: J-4 / IV: J-3&4
	Section III, Page 8, part b. Future, typo regarding PFAs in the fourth paragraph.	Section III: A-3b
	Section IV, page 26, part 3. Conformity with Regional Air Quality planning, bypass improvement may not have been tested in the air quality conformity analysis. Suggested that SHA contact WCOG.	See response to comment #6
	Maryland Historical Trust stated that their finding of consistency is contingent upon the applicant’s completion of the review process required under Section 106 of the National Historic Preservation Act (included in MDP Letter).	Section VI-C-3



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

*cc: Cynthia
Corman*

December 6, 2001

Ms. Cynthia D. Simpson
Deputy Director
Office of Planning and Preliminary Engineering
Maryland State Highway Administration
707 North Calvert Street
Baltimore, Maryland 21202

RE: MD 97 - Brookeville Project from South of Gold Mine Road to North of Holiday Drive,
Montgomery County, MD
Draft Environmental Impact Statement

Dear Ms. Simpson:

The Environmental Protection Agency (EPA) has received the Draft Environmental Impact Statement (DEIS) for the MD 97 - Brookeville Project dated August 2001. In accordance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) regulations (40 CFR 1500-1508), Section 309 of the Clean Air Act and Section 404 of the Clean Water Act, EPA has reviewed this document.

1 { Based on our review of the DEIS, EPA has rated the environmental impacts of the action as "EC" Environmental Concerns and the adequacy of the impact statement as "1" Adequate Information. A copy of EPA's ranking system is enclosed for your reference. EPA remains concerned about potential impacts of the project to wildlife passage and waterways at planned crossings. The Agency appreciates thorough consideration during design to bridge span and height for Meadow Branch and Reddy Branch, to allow for wildlife passage and protection of stream resources. The Agency hopes to see comparison of alternate bridge designs and associated impacts at a future time in the project planning process.

Thank you for the opportunity to review and comment on this document. The Agency looks forward to continued cooperation in the evaluation of impact and protection of natural resources. If you have any questions, feel free to contact Barbara Rudnick at (215) 814-3322.

Sincerely,


Thomas A. Slenkamp, Acting Director
Office of Environmental Programs

**SUMMARY OF RATING DEFINITIONS
AND FOLLOW UP ACTION***

Environmental Impact of the Action

LO--Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC--Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO--Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU--Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1--Adequate

The EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2--Insufficient Information

The draft EIS does not contain sufficient information for the EPA fully assess the environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3--Inadequate

EPA does not believe that draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640 Policy and Procedures for the Review of the Federal Actions Impacting the Environment.

*Response to USEPA**Comment #1*

The MD 97 Brookeville Project has been processed in accordance with the Maryland Streamlined Environmental and Regulatory Process involving coordination with federal and state resource agencies. This involved agency concurrence of the Alternates Retained for Detailed Study presented in the DEIS as discussed previously. It has since involved federal and state resource agency coordination and concurrence of SHA's Selected Alternate. A draft SACM package was circulated for agency review and comment in February 2003 and the MD 97 Brookeville Project was presented at the March 2003 IAR. Agency comments focused on the status of the draft MOA in compliance with Section 106 of the National Historic Preservation Act of 1966, as amended, and a request for consideration of wildlife passage along the north side of Reddy Branch. The draft SACM package recommended the south side of Reddy Branch for wildlife passage based on non-surveyed contour mapping. In response to USACOE and USFWS comments for a north side passage, additional evaluations were made by SHA. It was concluded that the north side might be possible however a final design will need to await accurate ground surveys as part of project design. The design goal will be the agreed eight-foot vertical and 25-foot horizontal clearance on one side, preferably along the north side of Reddy Branch. Should topographic conditions not allow for adequate clearance along the north side, south side passage will be pursued by SHA as part of final design.

The final SACM package responded to these comments and was distributed at the May 2003 IAR meeting for formal concurrence and comment by the participating agencies. As a result of this process, agency concurrence (without comment) of SHA's Selected Alternate and the conceptual mitigation proposed in the SACM Package was received from the FHWA, USACOE, USFWS and the Metropolitan Washington Council of Government. Agency concurrence (with minor comments) was received from the USEPA and DNR. Both agencies expressed support of the reevaluation of the north-side wildlife passage and DNR offered continued coordination with SHA regarding mitigation designs. **Section VI-B** of this FEIS includes the March, 2003 IAR meeting minutes and signed agency concurrence forms resulting from completion of the SACM component of the Maryland Streamlined Environmental and Regulatory Process. **Section IV-J-2** of this FEIS has also been revised accordingly regarding terrestrial wildlife mitigation.



Chris N. Glendening
Governor

Aileen Kennedy-Townsend
Lt. Governor

Maryland Department of Natural Resources
ENVIRONMENTAL REVIEW
Tawes State Office Building, B-3
Annapolis, Maryland 21401

J. Charles Fox
Secretary

Karen M. White
Deputy Secretary

October 22, 2001

Ms. Cynthia D. Simpson
Deputy Director
Office of Planning and Preliminary Engineering
Mailstop C-301
Maryland State Highway Administration
707 North Calvert Street
Baltimore, Maryland 21202

Dear Ms. Simpson:

The Maryland Department of Natural Resources (DNR) has conducted a review of the Draft Environmental Impact Statement/Section 4(f) Evaluation (DEIS) for the MD 97 - Brookville Project from South of Gold Mine Road to North of Holiday Drive (Project No. MO746B11, Montgomery County). The Department participated in a number of meetings and site visits for this project over the past several years. In general, the information in the DEIS document reflects the information exchanged at these meetings well. We have the following comments on the draft document:

1. A number of important natural resource concepts are addressed in the discussion sections on potential impacts to various vegetation and wildlife resources ("Environmental Consequences; Vegetation and Wildlife"; pages IV-21 to IV-25). The overall scope of the concepts presented in this section are impressive, and we commend the efforts made by the preparers of the document to put this section together. For a project that includes potential new road alignments such as this, it is especially important to discuss the potential impacts of forest habitat fragmentation and the expansion of forest edge habitat. Both of these subjects, as well as several other important natural resource concepts, were expertly addressed. We hope to see similar information on the varied potential impacts from road construction to vegetation and wildlife in future environmental documents.
2. In the presentation of "Secondary and Cumulative Effects Time Frame" (b.) on page IV-43, the wording of the last two sentences should be edited to more definitively justify the selection of 1970 for the time frame start. As the section currently reads, "several past events, which affect Brookeville, occurred in the early 1970's...Therefore, the cumulative effects analysis will address events dating back to 1970". Lacking in this current wording is an explanation of why the several circa 1970 events are more significant than other events occurring earlier and later, and why the

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Cynthia D. Simpson
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circa 1970 events serve as defining events for the Brookeville area in reference to selecting the Secondary and Cumulative Effects Time Frame.

- 2 { 3. On page IV-59, there is a discussion section entitled, "Potential Cumulative Effects - Wetlands" (3c) in the Secondary and Cumulative Effects Analysis (SCEA). This discussion section does not match well with the other nearby sections discussing potential cumulative effects on other natural resources. The other sections typically reference and discuss the potential impacts that will occur with this transportation project, including in several cases the quantitative range of potential impacts that could result from the project under the various build alternates. The other sections also relate potential impacts from this project with other past and future impacts of the same type within the SCEA boundary, including a statement on likely mechanisms that will act to minimize future impacts. While the subject section on wetlands does include a brief discussion of historic wetland losses within the SCEA boundary, it does not discuss the subject transportation project and does not clearly reference future impacts or protection mechanisms. It appears that the wetlands section on potential cumulative effects may have lost a paragraph during editing or was never completed. It seems to be in need of one or more additional paragraphs to discuss potential impacts from this project and to relate these potential impacts to other past and future impacts in the study area.
- 3 { 4. We believe that the alternate methods under study for crossing Brookeville Road just to the west of MD 97 may have a wide range of impacts which differ significantly from each other. This applies specifically to the long bridge over both the stream and existing road versus the traffic circle at Brookeville Road with a shorter bridge over the stream. Forest clearing and volume and area of fill are categories that we would expect to differ significantly. We did not notice any discussion of impact comparison between these potential alternates in the DEIS. A discussion of this issue should be considered for inclusion in the DEIS. If this analysis will be conducted later and cannot be included in the current DEIS document, then it will still be important to carefully document the comparison of potential impacts for these crossing alternates when that analysis does occur.
- 4 { 5. We support the intent, as described in the current DEIS, to consider bridge designs during further project planning stages for crossing the stream channels that are perpendicular to the roadway alignment alternates. If bridge designs are found to be feasible, we will strongly advocate their use to protect aquatic resources and stream channels, as well as to promote safe wildlife passage opportunities. Given the presence of nearby housing developments, multiple roadways, farm fields and forested riparian corridors, the wildlife issues associated with this study area are quite complex. It is expected that populations of deer, racoon, and several other mammals are relatively large in the project area and also that there are likely to be existing factors which hinder the free movements of these species. Conflicts between wildlife movements and roadway use will affect driver safety as well as the health of the wildlife populations. It is advisable to carefully consider the use of bridges to optimize wildlife passage and minimize traffic conflicts with wildlife, as well as to maximize the protection of the waterways and aquatic resources.

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We appreciate the attention that has been given in the draft document to natural resource assessment and protection. We advocate and support your continued efforts to optimize protection of natural resources during future planning phases for this project. If you have any questions concerning these comments, you may contact Greg Golden of my staff at 410-260-8334.

Sincerely,



Ray C. Dintaman, Jr., Director
Environmental Review Unit

cc: Caryn Brookman, FHWA
Denise Rigney, EPA
George Harrison, COE
Paul Wettlaufer, COE
Bob Zepp, USFWS
Cindy Nethen, MDE
Elder Ghigiarelli, MDE
John Nichols, NMFS
Beth Cole, MHT
David Whitaker, MDP

Response to DNR

Comment #1

FEIS Page IV-42, Section IV-O-1b, second paragraph has been revised to read:

“Land use data was a key element in determining the time frame for the Brookeville SCEA. Readily available land use data included mapping from 1973, 1990, and 1997. Prior to 1970, land use data was limited. In addition, several events that affected Brookeville occurred in the early 1970’s including accelerated urbanization in Olney and the construction of a sewer pumping station in Brookeville, which supported the development of larger subdivisions. Therefore, 1970 was selected as the starting point for the SCEA.”

Comment #2

FEIS Page IV-60, Section IV-4.a.3c, the following paragraph has been added:

Total impacts for all five Build Alternates would vary from 0.10 acre to 0.21 acre. SHA’s Selected Alternate would impact four wetlands including two palustrine forested wetlands, impacted for a total of 0.03 acres, one palustrine emergent wetland, impacted for 0.06 acre, and one palustrine scrub-shrub wetland, impacted for 0.03 acres. Alternate 5C and Alternate 8B would have the potential for the greatest impacts (between 0.15 to 0.21 acre). Palustrine forested wetland impacts would account for approximately half of Alternate 5C impacts. Palustrine emergent impacts would be the same (0.06 acre) for Alternate 7, Alternate 8A, and Alternate 8B. Alternate 8B would have at least twice as many palustrine scrub-shrub impacts compared to the other Build Alternates.

Comment #3 and Comment #4

See response to **USEPA Comment #1 on Page V-B-4**:

Also, SHA has recently decided to remove the existing structure over Reddy Branch Stream in conjunction with the closing of this portion of MD 97. The Meadow Branch crossing currently proposed is a two-cell culvert. One cell culvert during low base flows will be designated for wildlife passage. Minor alignment shifts to avoid or minimize impacts to sensitive habitats would be considered during final design. Stormwater management designed to direct water to the median for bio-retention and infiltration would minimize the potential for environmental contamination or sedimentation of sensitive habitats. Bridging wetlands and stream valleys, or designing environmentally sensitive culverts can minimize the effects of habitat fragmentation.

The incidence of wildlife collisions with vehicles could be reduced by restricting or inhibiting wildlife access to the highway, or by enabling motorists to avoid collisions. These measures could include combinations of fencing, one-way gates, passageways, reflectors, lighting, etc. The associated loss of wildlife caused by alternates may be mitigated by the enhancement of the wildlife habitat through reforestation including vegetation with high wildlife food value (mast producing trees, seed, or berry producing shrubs, etc.), and plants which will provide cover for wildlife.



Maryland Department of Planning

Parris N. Glendening
Governor

Kathleen Kennedy Townsend
Lt. Governor

Roy W. Kienitz
Secretary

Ronald N. Young
Deputy Secretary

November 19, 2001

Mr. Douglas H. Simmons
Director
State Highway Administration
Maryland Department of Transportation
P.O. Box 717
Baltimore, MD 21203-0717

REVIEW AND RECOMMENDATION

State Application Identifier: MD20010907-0999
Description: Draft Environmental Impact Statement Section 4(f) Evaluation: MD-97 Brookeville Project - From South of Gold Mine Road to North of Holiday Drive
Applicant: Maryland Department of Transportation
Location: Montgomery County - Town of Brookeville
Approving Authority: U.S. Department of Transportation

Recommendation: Endorsement With Qualifying Comments and Contingent Upon Certain Actions

Dear Mr. Simmons:

In accordance with Presidential Executive Order 12372 and Code of Maryland Regulation 14.24.04, the State Clearinghouse has coordinated the intergovernmental review of the referenced project. This letter constitutes the State process review and recommendation based upon comments received to date. This recommendation is valid for a period of three years from the date of this letter.

Review comments were requested from the Maryland Departments of Housing and Community Development including the Maryland Historical Trust, Environment, Natural Resources, Business and Economic Development; Montgomery County; and the Maryland Department of Planning. As of this date, the Maryland Department of the Environment has not submitted comments. This endorsement is contingent upon the applicant considering and addressing any problems or conditions that may be identified by their review. Any comments received will be forwarded.

The Maryland Departments of Business and Economic Development, Natural Resources; and Montgomery County found this project to be **consistent** with their plans, programs, and objectives.

The Maryland Department of Planning found this project to be **generally consistent** with their plans, programs, and objectives, but included certain qualifying comments discussed below.

The Maryland Department of Housing and Community Development including the Maryland Historical Trust stated that their finding(s) of consistency is/are contingent upon the applicant taking the action(s) summarized below.

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Tel: 410.767.4500 • Fax: 410.767.4480 • Toll Free: 1.800.767.6272 • TTY Users: Maryland Relay
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Mr. Douglas H. Simmons
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MDP Comments:

We have provided comments on the project at earlier milestone stages, through the Maryland’s Streamlined Environmental and Regulatory Process, including annotations on the updated alternatives retained for detailed study. These comments are included in Section VI of the DEIS. However, we are providing below some justifications of the alternative that we think is the most suitable along with some specific remarks on DEIS. We look forward to continuing to work with you and the affected local jurisdictions to ensure that the project meets the 1999 agreement criteria and complies with the 1997 PFA law.

Among all proposed alternatives, alternative 8b seems to be the one that meets the 1999 agreement criteria because:

- It does not provide access points to the bypass that could trigger future secondary growth in areas west of the bypass. It also avoids pressure to expand Brookeville road.
- It has minimal residential displacement as well as little environmental damage.
- It provides traffic calming devices on both ends of the bypass to address the issue of future vehicle pressure.

Additional Specific Comments on DEIS

- 1 [• Since this is an historical development area, the section north of the road that leads into town should be fitted with some type of traffic calming device to limit the traffic that goes through the town of Brookeville if the new portion of MD-97 should reach its carrying capacity.
- 2 [• Depending on which alternative is used it would be a good idea to have pedestrian bridges leading to and from town over or under this new roadway. Also is there any consideration of walkways alongside of the new road?
- 3 [• In order to keep this new road as environmentally friendly as possible, we recommend that Environmentally Sensitive Design (ESD) elements be introduced. This could come in the form of no curb and gutter and narrower road widths. Also innovative designs concerning storm water management should be implemented due to the increase in impervious cover associated with this new construction.
- 4 [• This area has been shown to have no known endangered species present, however in the areas surrounding the new road there are known endangered species. Are there any plans to establish this new buffer around the road to include native species of plants?
- 5 [• In Section III, Page 8, part **b. Future**, there is a typo in the fourth paragraph. The sentence should read: “The majority of the previously proposed MD 97 Brookeville Project’s bypass alternatives were outside (not within) the PFA.”
- 6 [• In Section IV, page 26, part 3. **Conformity with Regional Air Quality planning**, it is stated, “this project conforms to the SIP as it originates from a conforming TIP and transportation plan.” However, in the 2001 Washington Metropolitan Region Transportation Improvement Plan, the Brookeville project is listed as a study and not as a specific highway improvement project. Therefore, the bypass improvement may not have been tested in the air quality conformity analysis. SHA should contact WCOG regarding this matter.

Summary of Comments:

- 7 [The Maryland Historical Trust stated that their finding of consistency is contingent upon the applicant’s completion of the review process required under Section 106 of the National Historic Preservation Act

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7 { **Any statement of consideration given to the comments should be submitted to the approving authority, with a copy to the State Clearinghouse.** Additionally, the State Application Identifier Number must be placed on any correspondence pertaining to this project. The State Clearinghouse must be kept informed if the recommendation cannot be accommodated by the approving authority.

Please remember, you must comply with all applicable state and local laws and regulations. If you have any questions about the comments contained in this letter or how to proceed, please contact the State Clearinghouse at (410) 767-4490. **Also please complete the attached form and return it to the State Clearinghouse as soon as the status of the project is known. Any substitutions of this form must include the State Application Identifier Number. This will ensure that our files are complete.**

We appreciate your attention to the intergovernmental review process and look forward to your continued cooperation. If you need to contact a staff person, please call 410-767-4490.

Sincerely,



Linda C. Janey, J.D.
Director, Clearinghouse & Plan Review Unit

LCJ:AM:okk

Enclosures

(* indicates with attachments)

cc: Kathryn Orosz - DHCD
Joane Mueller - MDE
Ray Dintaman - DNR
James Gring - DBED
Scott Reilly - MTGM
Joe Tassone - MDPC
Gil Wagner - MDPM

*Response to MDP**Comment #1*

See **FEIS Page V-6, Section V-B**: “The alternates and typical sections considered were developed in 1999 in response to the October 1997 Smart Growth and Neighborhood Conservation Act, which was intended to control growth and urban sprawl. In compliance with the Smart Growth criteria, roundabouts would be included at the northern and southern termini of these alternates to control traffic flow and to help limit the capacity of the new roadway. The roundabouts would be landscaped as “gateways” to historic Brookeville. Proposed speed limits and access restrictions will enable future design to be consistent with Brookeville’s small town setting. By incorporating these “traffic-calming” features into the currently proposed roadway alignments, sprawl growth near Brookeville will be discouraged, while relieving traffic problems within the historic town.”

Comment #2

In early 1998, concerns over encouraging sprawl development delayed studies of a bypass around Brookeville and other towns across the state when they were determined to be inconsistent with the Smart Growth and Neighborhood Conservation Act. The MD 97 Brookeville Project was then placed on hold and a Smart Growth Working Group was formed to address the concerns regarding the Town of Brookeville and the prevention of sprawl development along the proposed alternates. As a result of the Smart Growth Working Group, In-Town improvements were then investigated. The improvements consisted of the following: a truck origin and destination study; a traffic light at Brighton Dam Road; a roundabout at Brighton Dam Road, Gold Mine Road and Brookeville Road; and pedestrian (sidewalks and crossing) improvements. The Smart Growth Working Group concluded that pedestrian sidewalks and pedestrian crossings should be further investigated. At the time, the Town of Brookeville investigated various funding options, which would allow for pedestrian sidewalks and pedestrian crossings.

As discussed in **Section VI-C** (Cultural Resources) and **Section V** (Section 4(f) Evaluation), the SHA Selected Alternate 7 Modified will include a pedestrian and bicycle trail within the footprint of the new roadway. M-NCPPC staff requested a continuation of the man-made Oakley Cabin Trail to the west of east into Brookeville outside of the footprint area including a pedestrian bridge or culvert extension at Brookeville Road. As explained in SHA’s August 13, 2003 letter to M-NCPPC included in **Section VI-B**, this would, in effect, create additional Section 106 adverse effects and Section 4(f) use of the Brookeville Historic District and public parkland, and by federal law, are precluded by SHA and FHWA interpretation of the Section 4(f) legislation.

Alternate 7 Modified has an open typical section, which consists of two 11-foot lanes and two ten-foot shoulders (five feet paved for bicycle compatibility and five feet graded).

Comment #3

The typical section described above includes Environmentally Sensitive Design elements including the MDP recommendations of no curb and gutter and narrower road width. FEIS, **Section IV-G** (Page IV-20) includes discussions of surface water mitigation including stormwater management.

Comment #4

FEIS Section III-J.3 and Section IV-J.3 were revised to read the following:

“According to the USFWS, no federally listed or proposed endangered or threatened species are known to exist in the project area. In correspondence, DNR, Wildlife and Heritage Division reported no records for federal or state rare, threatened, or endangered plants or animals within the project area, however, there are several small American chestnut (*Castanea dentata*) trees within the western portion of the study area. This species is listed as a state rare or uncommon plant species by DNR. However, based on coordination with DNR, only large mature flowering chestnut trees are typically monitored. It is common to find small chestnut trees throughout portions of Montgomery County. The majority of these trees succumb to the chestnut blight before becoming mature and reaching a flowering stage.”

Reforestation efforts along the new right-of-way have an opportunity to consider use of native plants. This effort will be coordinated with SHA and M-NCPPC.

Comment #5

FEIS Page III-18, Section III-A.3b was revised accordingly.

Future land use in the State of Maryland is guided by the October 1997 “Smart Growth Neighborhood Conservation Initiatives.” The intent is to direct state funding for growth-related projects to areas designated by local jurisdictions as Priority Funding Areas (PFAs). PFAs are existing communities and other locally designated areas as determined by local jurisdictions in accordance with “smart growth” guidelines.

Comment #6

FEIS Section IV-K-3 includes discussions of the Air Quality including conformity with regional air quality analysis. As explained in SHA’s response to Comment 7 below, coordination has been ongoing with the Metropolitan Washington Council of Governments (MWCOG) since the circulation of the DEIS. MWCOG has concurred with the SHA Selected Alternate 7 Modified.

Comment #7

The MD 97 Brookeville Project has been processed in accordance with the Maryland Streamlined Environmental and Regulatory Process including coordination with the MHT. **Section II.B, Section III.B and Section V** (Section 4(f) Evaluation) includes MHT coordination.

On July 3, 2003, the MDP concurred with the final SACM, commenting that the SHA Selected Alternate 7 Modified best minimizes the potential of encouraging secondary sprawl development while meeting the Purpose and Need of the MD 97 Brookeville Project. MDP also recommended that MDOT, SHA, and MDP discuss the steps necessary for submittal of this project to the State Board of Public Works. **Section VI** of this FEIS includes the March, 2003 IAR meeting minutes and signed agency concurrence forms resulting from completion of the SACM component of the Maryland Streamlined Environmental and Regulatory Process.

MEMORANDUM

TO: Ms. Cynthia D. Simpson
Deputy Director
Office of Planning and
Preliminary Engineering
State Highway Administration

FROM: Wanda J. Brocato
Project Planning Division
State Highway Administration

DATE: January 18, 2002

SUBJECT: Interagency Review Meeting Follow-up

The following projects and/or topics presented at the January 16 Interagency Review (IAR) Meeting require follow-up coordination with the review agencies:

Project Presentations

MD 97 (Brookeville) – Courtesy Presentation of Recommended Alternative

- US Army Corps of Engineers (COE) (Paul Wettlaufer) and Department of Natural Resources (DNR) (Greg Golden) inquired about a large tree located in the millrace, whether it was classified as a significant tree (perhaps a Cherry tree), and if we had done a tree survey. State Highway Administration (SHA) (Darrell Sacks) indicated that a significant tree survey was done and SHA (Shannon Rousey) will look this to see if this particular tree was researched and will get back with Paul and Greg.
- COE (Paul Wettlaufer) asked if we could do a number count of the trees (Shingle Oaks) and included in the FONSI. SHA (Darrell) stated that we could do this for the Selected Alternative and will ask the consultant to do it once we have a selected alternative. DNR (Greg Golden) suggested that we include an estimate of the trees as a summary, and not do a detailed count. Greg suggested that it would also be a useful tool to show that SHA avoided Shingle Oaks.
- COE (Paul Wettlaufer) stated that they are okay with both Alternative 7 or 8. However, if Alternative 7 is selected he wants US Fish and Wildlife Service (USFWS) (Bill Schultz) to have input. Bill will review the underpass for wildlife passage (deer, etc.) specifically, the underclearance of any bridges. Also, for Alternative 7, Paul asked that we make the bridge long enough and high enough for a wildlife passage (i.e., 10-foot under clearance over benches on both sides of Reddy Branch). SHA should enhance the riparian buffer along the stream. SHA (Carmen Harris) will follow-up on these matters.

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- COE (Paul Wettlaufer) discussed a list of his recommendations (submitted to SHA) in order for COE to issue a permit. (He had previously listed similar concerns in a letter to SHA in 2000.) SHA (Carmen Harris and Shannon Rousey) will address these issues. SHA (Cheryl Jordan) was also given this list and will supply Paul with plans for stream mitigation for his review.

The next Interagency Review Meeting will be on **Wednesday, February 20.**

If you have any questions about this, please contact me at (410) 545-8569.

WJB

cc:

SHA

Mr. Joseph Finkle
Mr. Bruce Grey
Ms. Carmen Harris
Ms. Susie Jacobs
Ms. Cheryl Jordon
Mr. Joseph Kresslein
Ms. Gay Olsen
Ms. Cathy Rice
Ms. Shannon Rousey
Mr. Darrell Sacks
Mr. Robert Sanders
Mr. Douglas Simmons
Mr. Donald Sparklin
Mr. Jim Wynn

CONSULTANT

Ms. Noreen Kirkpatrick (G&O)

AGENCIES

Mr. Mohammed Ayub (MDE)
Mr. Phillip Bello (FHWA)
Mr. Harvey Bloom (BMC)
Mr. David Boellner (MDE)
Ms. Caryn Brookman (FHWA)
Mr. Rich Bulavinetz (COE)
Ms. Elizabeth Cole (MHT)
Mr. Bob Cooper (MDE)
Mr. Joseph DaVia (COE)
Mr. Steve Elinsky (COE)
Mr. Elder Ghigiarelli (MDE)
Mr. Greg Golden (DNR)
Mr. J. Hamilton (MDE)
Mr. Steve Harman (COE)
Ms. Fatimah Hasan (MDOT)
Ms. Susan Hinton (NPS)
Ms. Lisa Hoerger (DNR-CBCAC)
Mr. Larry Hughes (DNR)
Ms. Mary Huie (FHWA)
Mr. John Hurt (MDE)
Mr. Dan Johnson (FHWA)
Mr. Ron Kirby (MWCOCG)
Mr. Roland Limpert (DNR)
Ms. Dawn McCleary (DNR-CBCAC)
Mr. Sean McKewen (MDE)

Ms. Cynthia D. Simpson
Page 3

cc:

AGENCIES (Continued)

Ms. Jennifer Moyer (COE)
Ms. Cindy Nethen (MDE)
Mr. John Nichols (NMF)
Mr. Robert Pennington (USFWS)
Ms. Denise Rigney (EPA)
Ms. Barbara Rudnick (EPA)
Mr. Bill Schultz (USFWS)
Mr. Scott Smith (DNR)
Ms. Jamie Stark (EPA)
Ms. Esther J. Strawder (FHWA)
Mr. David Sutherland (USFWS)
Mr. Paul Wettlaufer (COE)
Ms. Denise Winslow (FHWA)
Mr. David Whitaker (MDP)
Ms. Cynthia Wilkerson (NPS)
Ms. Bihui Xu (MDP)
Mr. Robert Zepp (USFWS)

**BROOKEVILLE BYPASS – CONCEPTUAL MITIGATION
MEETING MINUTES**

Project: MD 97 Brookeville Bypass Project

Subject: Conceptual Mitigation Meeting

Date: February 8, 2002

Location: Longwood Community Center

Attendees: Mr. Paul Wettlaufer, United States Army Corps of Engineers
Mr. Bill Schultz, United States Fish and Wildlife Service
Mr. Brian Bernstein, KCI Technologies, Inc.

The following issues were discussed as part of a site visit to the MD 97 study area on February 8, 2002. Attendees included Mr. Paul Wettlaufer from the United States Army Corp of Engineers (ACOE), Mr. Bill Schultz from the United States Fish and Wildlife Service (USFWS) and Mr. Brian Bernstein from KCI Technologies, Inc. (KCI). The group met in the field to discuss various conceptual mitigation issues associated with the bypass project. The first set of issues (in italics) are those raised by the ACOE as part of SHA Interagency Review Meeting on January 16, 2002. Responses to these issues are described immediately below each issue.

ACOE Mitigation Requirements

- 1. Need a bench for wildlife on each side of the stream at the crossing of Reddy Branch. The bridge will have 9-foot under clearance. It would be desirable to acquire some replacement parkland here to maintain a riparian wildlife corridor. Also, to reestablish a riparian corridor, need to remove pavement on the portion of MD 97 in the floodplain which is being abandoned. (The historic bridge can remain).*

Response 1. Based on discussions with both Mr. Wettlaufer and Mr. Schultz, the 9-foot underclearance is to be measured from top of stream bank to the bottom of the bridge. In addition, the bench should be at least 4 feet wide along each side of the stream. The concept of acquiring replacement parkland to maintain a wildlife corridor was also discussed. Mr. Bernstein mentioned that he would discuss this further with the Maryland State Highway Administration. The removal of pavement is already shown as an option for both Alternative 7 and 8B.

2. *Need to discuss a dry cell for critter passage at the culvert for Meadow Branch. This 240-foot culvert would eliminate several meanders, reducing the stream reach by approx. 85 feet, and increasing the gradient of the stream through the culvert. Concerns are head cutting, fish passage, flooding, reduction in groundwater recharge/discharge functions, loss of 240 feet of benthic invertebrate and fish habitat, obstruction of the riparian wildlife corridor, reduction in nutrient retention and sediment retention functions by the filling of one acre of floodplain, and culvert obstruction by woody debris. Possible mitigation measures include wetland and floodplain restoration or creation, removal of existing culverts, stormwater retrofits in the Olney Mills subdivision upstream, stream stabilization /restoration/reforestation, acquisition of replacement parkland along Reddy Branch, and construction of a longer bridge over Reddy Branch.*

Response 2. The group walked along Meadow Branch from its confluence with Reddy Branch, as well as throughout the Meadow Branch watershed. There were no obvious stormwater management retrofit opportunities identified. The most likely stream restoration opportunities are as follows:

physical restoration opportunities (grading, bioengineering, etc.) are limited to an area immediately upstream and downstream of where the culvert would be placed. Including the width of the culvert, the total restoration area is approximately 600 to 700 linear feet.

other restoration opportunities may involve plantings, including the placement of willow and dogwood cuttings along various open sections of Meadow Branch. Likely areas are especially obvious along the lower end of the Meadow Branch watershed (from Olney Mill Road downstream to Brookeville Road).

Mr. Wettlaufer stated that if this mitigation was approved by Maryland Nation Capital Parks and Planning Commission (MNCPPC), it would meet the ACOE's mitigation requirements. Mr. Schultz concurred as well.

3. *Are retaining walls going in on Alt. 7, closed section? These helped minimize impacts to Shingle Oak. Let's get a better handle on how many shingle oak are actually impacted.*

Response 3. Brian Bernstein described where the shingle oaks are located including other areas within the study area. He also mentioned that SHA will request KCI to determine the numbers of shingle oaks to be impacted by the selected alternative.

4. *Mitigation for loss of 700 feet of stream at the south end of the project.*

Response 4. This area in question is the unnamed ephemeral channel that begins along the north end of the ballfields at Longwood Community Center and extends in a northwesterly direction until it's confluence with Meadow Branch. The group walked the

channel to better understand the source of hydrology and how much of the channel would be impacted from any of the western alignments (at this part of the study area, all three western alternatives share the same alignment).

Since the majority of the channel is likely to be impacted from the bypass, there are minimal restoration efforts that can be proposed for this area. Depending on the limit of disturbance, only one area was identified that may be considered further. This area is immediately downstream of the outfall extending from the ballfields. Likely mitigation would include creating a basin to slow the flow extending from the outfall. The feasibility of this will depend on determining the actual impact associated with the alignment. This determination could not be based on the existing flagging present on site but instead would require that the actual limit of disturbance be flagged instead.

Other Issues

Mr. Bernstein showed both the ACOE and USFWS a potential wetland mitigation site along Brighton Dam Road. The area is an open field, totaling approximately 1.25 acres, and is immediately adjacent to Reddy Branch. A section of stream along the field is highly eroded. Mr. Bernstein proposed the idea of stabilizing the streambanks while at that the same time creating a small floodplain wetland. The wetland would ideally provide some flood flow alteration as well as other functions and values impacted during the construction of the selected alternative. Both Mr. Wettlaufer and Mr. Schultz agreed the mitigation opportunities were valid and should be pursued.

The group discussed the fact that all the potential mitigation discussed is in parkland owned by MNCPPC and that their final approval of the mitigation efforts would be needed. Mr. Bernstein stated that he was in the process of organizing a meeting with MNCPPC to review the potential mitigation opportunities.

Mr. Bernstein also asked what level of detail the ACOE and USFWS would require as part of the conceptual mitigation for the Final Environmental Impact Statement (FEIS) and permitting. Mr. Wettlaufer stated that a letter from the landowner (in this case, MNCPPC) agreeing to the mitigation on their land would suffice. In addition, a general description of what was proposed including a description of each area would be needed. No formal design plans are required as part of the conceptual mitigation package for the FEIS.

We believe that the above accurately reflects what transpired at this meeting. However, we will appreciate comments involving a difference in understanding of what occurred. Unless we are notified in writing to the contrary within ten days after receipt, we will assume that all in attendance concur in the accuracy of this transcription.

Cc: All Attendees
Shannon Rousey, SHA
Carmen Harris, SHA
Cheryl Jordon, SHA

MARYLAND ENVIRONMENTAL TRUST

March 18, 2002

Mr. Douglas Simmons, Director
Office of Planning and Preliminary Engineering
State Highway Administration, PO Box 717
Baltimore, MD 21203-0717

Dear Mr. Simmons:

Thank you for your letter of February 22nd regarding the MD 97 Brookeville bypass project. The Board of Trustees of the Maryland Environmental Trust considered your request at its March meeting and offers some changes to the easement along the bypass to make possible achievement of the objective of ensuring denial of access to it.

When we first reviewed the proposal last summer, we were concerned that the objective sought could be defeated by the merger doctrine, which holds that a recorded owner of property cannot hold an easement in the same property. Accordingly, we asked the Office of the Attorney General to advise us.

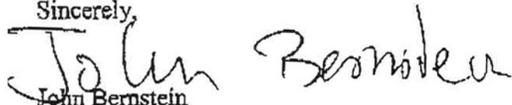
The response is attached. It advises that there is a merger issue, since the Department of Transportation and the MET are both agencies of the State, which will hold title to the roadway. Although there are no cases in Maryland addressing whether the common law merger doctrine applies to State agencies, she concludes that MET does not have the power to sue another State agency, and therefore could not enforce an easement against another State agency in a court.

Therefore, we suggest the following changes to the Letter of Commitment and Memorandum of Understanding:

- (1) It should allow MET to assign or co-hold the easement with another land trust that is not an instrumentality of the State, in order to ensure the permanency of the easement.
- (2) The easement should be on a strip of land *in private ownership* that is *outside* the right of way for the roadway. This could be achieved by acquisition of a narrow easement outside the right-of-way and granting it to MET with a "no access" provision. This would enable MET and/or a co-holder of the easement to enforce the easement against anyone seeking to cross it to obtain access or connection to the roadway even if SHA should agree to grant access.

The Board of Trustees has approved the approach described above. Please call me (410-514-7903) or Jim Highsaw of our staff (410-514-7909) if you have any questions.

Sincerely,


John Bernstein
Director

Cc: Carmeletta Harris

MARYLAND ENVIRONMENTAL TRUST

Memorandum

TO: MET Board of Trustees

FROM: Shaun Fenlon, OAG

VIA: John Bernstein *JB*

DATE: August 27, 2001

RE: **Brookeville Bypass Easement and Merger Issues**

The Board requested the opinion of the Attorney General on the question of whether an MET easement on SHA lands could be effective or enforceable. Here is my answer; note that this is not an opinion of the Attorney General.

I believe the answer can be broken down in to two parts, a discussion about merger and a reminder about the inability of MET to sue other state agencies. I view the merger discussion as going to the issue of whether an easement is effective. The inability of MET to sue other agencies means that an easement is unenforceable, even if it effective. For purposes of this answer, remember that MET is a state agency. 59 Opinions of the Attorney General 601, 602 (1974) (stating "the Maryland Environmental Trust is a state agency"); 76 Opinions of the Attorney General (May 31, 1991) (MET is fiscally dependant and supervised by the State).

As you know, the merger doctrine is well established in Maryland. Orfanos Contractors v. Schaefer, 582 A.2d 547, 85 Md. App. 123 (a recorded owner of property cannot hold an easement in the same property). However, there are no cases in Maryland addressing whether the common law doctrine applies to state agencies. In Guy v. State, 438 A.2d 1250, 1252-53 (1979), a Delaware court concluded that an easement to one agency of Delaware merged into the fee simple interest later acquired by another state agency. The state of Delaware argued that the fee simple interest of the Department of Natural Resources should not have extinguished the "daylighting" easement held by the Delaware Highway Department. However, the court rejected the argument, reasoning that the state agencies act for the benefit of the citizens of Delaware.

There are a number of other arguments, which may or may not be persuasive to a court, including:

1. the common law doctrine of merger should not affect a state agency;
2. if the parties, especially two state agencies, initially intend a document to be effective notwithstanding the possible effect of merger, then it should be effective, because merger is a doctrine to interpret the intent of parties and it should not be made into a restraint on alienation; and
3. if the General Assembly mandates an easement from one state agency to another, then that should override the common law doctrine.

As you know, I've long believed that this issue has good enough arguments on each side that I cannot predict what a Maryland appellate court would decide. However, I do believe that MET has a better argument in the circumstance where MET will be receiving an easement from a state agency (versus when a state agency later acquires the fee simple interest on a property already encumbered with an easement).

Assuming that an easement is not merged and remains effective between two state agencies, the next question is whether one agency (MET) can sue another one. The answer is simple. MET does not have the power to sue another state agency. 57 Opinions of the Attorney General 352 (1972); therefore, even if an easement is not merged, MET cannot enforce an easement against another state agency in a court.

Aside from the merger issue and the inability to sue another state agency, there are some important practical considerations. First, as long as SHA will own the property, the easement will operate like an MOU between two state agencies. In this sense, if SHA ever violates the terms of the easement, MET can argue within the political system that another state agency is violating its agreement. The argument would never go to court, but the easement would give MET an opportunity to persuade the right people in the Executive and Legislative branches.

2. The Board also asked if land owners adjoining a state highway had a statutory right to access to the highway. I have never heard of any such provision, but I will ask an AAG at SHA about this concept. If I am not satisfied with the answer from SHA, I will research it myself.



Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor
John D. Porcari
Secretary
Parker F. Williams
Administrator

RECEIVED

DEC 06 2002

Ans'd.....

MEMORANDUM

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

FROM: Joseph R. Kresslein *JK*
Assistant Division Chief
Project Planning Division

DATE: December 3, 2002

SUBJECT: Project No. MO746B11
MD 97 Brookeville Study
Montgomery County, Maryland

RE: Agency and SHA Field Review

The purpose of the meeting, held on September 20, was to review the new alignment for Alternate 7 Modified, the SHA recommended alternate, and discuss those areas where avoidance or minimization options such as bridges or other structures are proposed. The field review also provided the opportunity for SHA design divisions to comment on issues associated with the mitigation commitments that will become stipulations' in the Section 404 permit.

Those in attendance included the following:

ATTENDEES

- Mr. Max Azizi, Federal Highway Administration (FHWA)
- Ms. Mary Barse, SHA-Project Planning Division (SHA-PPD)
- Mr. Brian Bernstein**, KCI Technologies (KCI)
- Mr. Stephen Ches, SHA-Office of Highway Design (SHA-OHD)
- Mr. Prakash Dave, SHA-Office of Bridge Design (SHA-OBD)
- Mr. Dan Hardy, Maryland National Capital Park & Planning Commission (MNCPPC)
- Ms. Carmen Harris, SHA- Project Planning Division (SHA-PPD)
- Mr. Don Hoey, SHA-Environmental Programs Division (SHA-EPD)
- Mr. Steve Hurt, McCormick Taylor & Associates for Maryland Department of the Environment
- Ms. Denise King, Federal Highway Administration (FHWA)

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

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Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

Ms. Cynthia D. Simpson
MD 97 Brookeville Study
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Mr. Ruel Manuel, SHA- Project Planning Division (SHA-PPD)
Mr. Andy Parker, AD Marble (ADM)
Ms. Shannon Rousey, SHA- Project Planning Division (SHA-PPD)
Ms. Barbara Rudnick, US Environmental Protection Agency (EPA)
Mr. Bill Schultz, US Fish & Wildlife (USFWS)
Dr. Jim Sorensen, Maryland National Capital Park & Planning Commission (MNCPPC)
Ms. Rita Suffness, SHA-Project Planning Division (SHA-PPD)

Shannon Rousey began the meeting with introductions. Carmen Harris provided an overview of Alternate 7 Modified for those who did not attend the August interagency meeting. Shannon then asked if there were any questions/comments or areas of concern that needed to be addressed prior to starting the field portion of the meeting. No questions were asked.

The group decided to start the field walk at the Newlin's Mill archeological site to allow some in attendance to leave after reviewing the site. Dr. Sorensen and Mary Barse gave an overview of the archeological site, discussing the features that were present and the significance of those features. Mary pointed out the proposed location of Alternate 7 Modified, in comparison to original Alternate 7, which directly impacted the site. It was mentioned that the archeological site is well preserved and intact. Dr. Sorensen gave a brief history of the Newlin's Mill and Oakley Cabin. Mary provided an overview of the Mill race system and how it worked. This concluded the archeological portion of the field review. At this point, Denise King and Max Azizi of FHWA, Dr. Sorensen, Mary Barse and Rita Suffness departed and the rest of the group continued on the field review.

Brian Bernstein led the group across Brookeville Road to look at the area of MD 97 that will be closed to traffic. Discussions ensued over the plans for the Reddy Branch bridge on MD 97 near the Brookeville Road intersection. Carmen Harris noted that the bridge is not historic and there have not been any decisions on whether or not the bridge will be removed. Steve Ches suggested that the bridge could stay for future pedestrian use. This area has been subject to flooding in the past, and Don Hoey suggested that if hydraulically sound, the bridge and roadway (including embankment) could be removed and could serve as floodplain mitigation. It was also noted that an existing bridge on Brookeville Road over Reddy Branch, upstream of the bridge over MD 97, is also likely to contribute to flooding within the area. At a prior Interagency Review Meeting, both DNR and US Army Corps of Engineers (ACOE) mentioned that they would prefer some of the impervious roadway surface removed and replaced with natural surfaces. SHA agreed to further consider the request as a mitigation option.

The next site visited was the proposed location of the bridge over Reddy Branch. Dan Hardy noted that MNCPPC would like to see the bridge extended to allow for wildlife passage, with a natural surface under the bridge. Dan also mentioned that MNCPPC would also like to see the area beneath the bridge accommodate pedestrian and bicyclist passage, as well. Bill Schultz had no objection to an extended bridge, and questioned why there is a sag in the vertical alignment

Ms. Cynthia D. Simpson
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profile where the stream is located. A reduction in floodplain impacts was cited, along with geometric considerations regarding the tie-in points. Bill requested additional information regarding the justification for the tie-in points. The height of the bridge was discussed, and it was suggested that a longer bridge with a pier be considered. Prakash Dave mentioned that for every foot the bridge is raised, it would make the bridge four (4) feet longer. Both Prakash Dave and Don Hoey had mentioned that with a longer bridge, the pier may need to be placed in the middle of the stream, increasing the potential for impacts to the stream, and would require more scour protection. Bill Schultz then suggested a combination of a bridge and culverts. Dan Hardy suggested that a series of dry-cell culverts could be used for wildlife passage. Shannon Rousey asked Dan if MNCPPC would support fencing that funnels the wildlife into the culverts. Dan replied that he did not think it would be a problem. A discussion of the range of bridge options and clearances continued among the group. Dan Hardy suggested several shorter span bridges, citing that the cost would most likely be lower with the several short span bridges. Bill suggested a shorter span bridge with culverts. Prakash expressed concern with the suggestion of a 20-foot box culvert, but suggested that two 10-foot boxes may be possible.

Originally, Bill Schultz requested 9 feet of underclearance beneath the bridge and a 25-foot bank on each side. He ultimately agreed to a 25-foot embankment on one side with an 8-foot underclearance on that same side of the stream, but requested additional information from SHA regarding previous studies on wildlife passages and requirements before rendering a final decision. In a meeting held after the field review the Office of Bridge Design agreed that SHA could accommodate an 8.5-foot underclearance and the 25-foot embankment on one side of the stream to address the USFWS request. A follow-up meeting with the MD 97 team and SHA's Bridge Design Division is scheduled for November 27.

The field review then moved to the proposed Meadow Branch crossing. Dan Hardy had mentioned that at the Planning Board meeting the night before, Montgomery County was in favor of a bridge over Meadow Branch. In previous conversations it was mentioned that the ACOE recommended a dry cell culvert, while the SHA design included two dry cell culverts at this location. Prakash Dave indicated that this would be further evaluated and that a follow-up meeting would be scheduled with MNCPPC. Brian provided an overview of mitigation options that have been discussed with MNCPPC, USFWS, ACOE and DNR. Stream restoration was a major mitigation topic, since so many areas of the stream were degraded. Brian identified areas that were good candidates for the restoration, such as areas south of Brookeville Road in Meadow Branch and in Reddy Branch in the area adjacent to the field off of Brighton Dam Road. He also noted that the limits of the stream restoration could change based on further studies.

Ms. Cynthia D. Simpson
MD 97 Brookeville Study
Page Four

Brian Bernstein, Shannon Rousey, Barbara Rudnick, Steve Hurt and Bill Schultz continued to a proposed wetland mitigation location near Brighton Dam Road. At the site, which is an open field, Brian explained that MNCPPC owned the property and had verbally expressed their preference for SHA creating wetland mitigation and stream restoration in the area. Everyone agreed that it would be a suitable location for the mitigation. SHA will continue coordination with MNCPPC regarding mitigation throughout the planning process.

cc: Attendees
Ms. Danelle Bernard, SHA-OBD
Mr. Ken Briggs, SHA-OHD
Ms. Elizabeth Cole, MHT
Mr. Earle Freedman, SHA-OBD
Mr. Elder Ghigiarelli, MDE
Mr. Greg Golden, DNR
Ms. Karen Kahl, RKK
Ms. Jamaica Kennon, SHA-PPD
Mr. Joseph R. Kresslein, SHA-PPD
Mr. Kirk McClelland, SHA-OHD
Mr. John Nichols, USMFS
Mr. Bob Simpson, Montgomery County
Ms. Cynthia Wilkerson, NPS
Ms. Bihui Xu, MDP



**Maryland Department of Transportation
State Highway Administration**

Parris N. Glendening
Governor
John D. Porcari
Secretary
Parker F. Williams
Administrator

MEMORANDUM

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

FROM: Carmeletta T. Harris
Project Engineer
Project Planning Division *Jamaica Kennon for*

DATE: February 19, 2002

SUBJECT: MO746B11
MD 97 Brookeville Project
Montgomery County

RE: January 17, 2002 Smart Growth Meeting

The meeting began with brief introductions. The following people were in attendance:

NAME	ORGANIZATION	PHONE	EMAIL
John Frece	Office of Smart Growth	4109745292	Jfrece@gov.state.md.us
Bruce Grey	SHA-PPD	4105458540	Bgrey@sha.state.md.us
Don Halligan	MDOT	4108651294	Dhalligan@mdot.state.md.us
Dan Hardy	M-NCPPC	3014954530	Dan.hardy@mncppc-mc.org
Carmen Harris	SHA-PPD	4105458522	Charris@sha.state.md.us
Melissa Kosenak	SHA-PPD	410545816	Mkosenak@sha.state.md.us
Joe Kresslein	SHA-PPD	4105458550	JKresslein@sha.state.md.us
Rich Kuzmyak	Office of Smart Growth	4107672631	Rkuzmyak@gov.state.md.us
Shannon Rousey	SHA-PPD	4105452864	Srousey@sha.state.md.us
Cynthia Simpson	SHA-PPD	4105458500	Csimpson@sha.state.md.us
Ed Strocko	MDOT	4108651307	Estrocko@mdot.state.md.us
Denise Winslow	FHWA	4109624342	Denise.winslow@fhwa.dot.gov
Jim Wynn	SHA-PPD	4105458520	Jwynn@sha.state.md.us
Bihui Xu	MDP	4107859528	Bxu@mdp.state.md.us

The purpose of the meeting was to verify that the MD 97 Brookeville alternates complied with the Smart Growth criteria designated for this project.

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

MD 97 Brookeville Smart Growth Meeting
January 17, 2002
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Carmen Harris began by reviewing the Smart Growth Criteria designated for the MD 97 Brookeville Project and how they have been addressed. The criteria are as follows:

- 1) “Under local ordinance, the county is to adopt, through appropriate enforceable action, restrictions that will prevent the bypass from allowing sprawl development. Any capacity a bypass might add to the network cannot be used to allow development outside the current boundaries of the Town of Brookeville.”
Montgomery County has amended their Annual Growth Policy to discourage growth along the alternates.
- 2) “A permanent easement to be held by an entity such as the Maryland Environmental Trust must border the entire roadway to ensure that no future access, widening, or connection to the bypass is possible.”
SHA currently drafting a Letter of Agreement for MET.”
- 3) “If for any reason these controls fail, Montgomery County will reimburse the State for the full cost of the bypass.”
Hopefully will not need to be addressed.
- 4) “Montgomery County, the Maryland department of transportation and Howard County Governments must work out a safe traffic calming point north of the bypass to limit future traffic to the current capacity of MD 97 through Brookeville.”
Accomplished with the design of roundabouts north of Brookeville.

Ms. Harris then summarized the citizen comments including testimony given at the October 3rd Location/Design Public Hearing. Citizen testimony and comments supported both alternates 7 and 8B.

Ms. Harris then reviewed the alternates. She explained that at the December 13th Team Meeting, the Team agreed to drop alternates 5C and 8A from consideration for several reasons, including cost, environmental impacts, and socio-economic impacts. Therefore, at this point, we are carrying both alternate 7 and alternate 8B. The COE is agreeable to either alternate 7 or 8B.

Ms. Harris stated that the purpose of this meeting was to get input from the Maryland Department of Planning (MDP), the Governor’s Office of Smart Growth and MDOT verifying that both alternates 7 and 8B complied with the Smart Growth criteria set forth for this project.

Ms. Xu stated that MDP supported alternate 8B because they did not think that alternate 7 complied with the Smart Growth Criteria. In addition, she commented that MDP had concerns about potential high speeds on the bypass. Posted speed of the bypass would be between 35 mph and 40 mph for any of the alternates.

Rich Kuzmyak stated that he did not think that any of the proposed alternates would cause an increase in speed along the bypass.

John Frece stated that the Governor’s Office of Smart Growth agrees that all four alternates comply with Smart Growth. Mr. Frece also stated that Condition #3, “If for any

MD 97 Brookeville Smart Growth Meeting
January 17, 2002
Page 3

reason these controls fail, Montgomery County will reimburse the State for the full cost of the bypass" would be very difficult to enforce. He suggested putting on paper how this condition would be enforced.

Mr. Kuzmyak stated that from a transportation standpoint, alternate 7 makes the most sense and could potentially better calm traffic than alternate 8B. Ms. Harris stated that alternate 7 cuts the Mill Race in half whereas alternate 8B could cross over the Mill Race.

Ms. Xu stated that she would support traffic calming measures such as narrower lane widths along the bypass. She also reiterated her position that although alternate 7 is relocating the access to Brookeville, that it is still an access to Brookeville, therefore she does not believe that it complies with the Smart Growth criteria for this project.

Other issues associated with alternate 7 include the disruption to the rural and rustic nature of Brookeville Road that a roundabout would create. As well as the potential increase in east west traffic along Brookeville Road.

Dan Hardy stated that preliminarily, he would support alternate 7, however, he wanted to know more about the impacts to the Mill Race before he would formally give a preference.

SHA staff will prepare a cost estimate for Phase II Archeology.

Denise Winslow stated that at this time, FHWA legal was leaning toward alternate 7 due to the visual impacts to the historic district caused by alternate 8B. However, FHWA has not yet had the opportunity to review issues related to the Mill Race.

The team agreed to look into a revised alternate 7 that would be located further from Islander Street and have less impact on the Mill Race.

The team agreed that neither a four-way stop nor a fly over ramp were reasonable. The team also agreed that the bypass should not allow for future widening of MD 97 either north or south of the study area.

Ms. Xu stated that she would revisit the alternate with her staff in light of the Governor's Office of Smart Growth verifying that all four alternates comply with the Smart growth criteria set forth for this project.

FOLLOW UP ITEMS:

SHA will look into a revised alternate 7 that would be located further from Islander Street and have less impact on the Mill Race.

SHA will prepare a cost estimate for Phase II Archeology.

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



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

MEMORANDUM:

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

FROM: Carmeletta T. Harris
Project Manager
Project Planning Division

A handwritten signature in black ink, appearing to read 'Carmeletta T. Harris', is written over the printed name in the 'FROM' field.

DATE: March 25, 2003

SUBJECT: MD 97 Brookeville Project
Montgomery County
Project No. MO746B11

RE: Meeting with USCOE, USF&WS, MDE
to discuss mitigation at Reddy Branch.

A meeting was held on Wednesday, March 19, 2003 in the Project Planning Conference Room. The purpose of the meeting was to discuss mitigation requirements, and the proposed structure over Reddy Branch with the resource agency representatives for the MD 97 Brookeville project. More specifically, the meeting focused on comments made at the Interagency Review Agency regarding wildlife passage mitigation.

Those in attendance included the following:

Mr. Nick Blendy, SHA-PPD
Ms. Danelle Bernard, SHA-Bridge Design
Mr. Joe DaVia, Army COE
Ms. Carmeletta Harris, SHA-PPD
Mr. Steve Hurt, consultant for MDE
Ms. Karen Kahl, RK&K (via conference call)
Mr. Bill Schultz, USF&WS
Mr. Alvaro Sifuentes, SHA-PPD
Mr. Paul Wettlaufer, Army COE
Mr. Jim Wynn, SHA-PPD

My telephone number/toll-free number is _____
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MD 97 Brookeville Project
In-House Agency meeting
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Carmeletta Harris explained to the group the status of the proposed bridge design focusing on the Comparison of Alternate 7M with Different Grades matrix that was distributed (See Attachment). SHA's recommended design at Reddy Branch stream is the 0.8% grade that allows for a horizontal clearance of 25' and a vertical clearance of 8.5' for wildlife passage on the south side of the structure and a horizontal clearance of 10' on the north side of the Reddy Branch stream structure. Paul Wettlaufer of the US Army Corps of Engineers (ACOE) and Bill Schultz of the USF&WS had earlier commented that both were under the impression that the desired vertical clearance was on the north side of the alignment. Carmen explained that the 8' clearance on the south side of the bridge was discussed at the September 2002 agency field view and thought that SHA had received verbal approval by representatives from the agencies.

Karen Kahl via conference call, explained that an 8' vertical clearance on the north side of the structure at Reddy Branch Stream would not be able to be achieved using the 0.8% grade that was developed to minimize overall impacts and costs. Discussions regarding engineering criteria and drainage associated with roadway tie-ins including the roundabout, balancing earthwork, and the potential for additional impacts to the nearby wetland and the archaeological site.

Jim Wynn offered that SHA and RK&K would evaluate the vertical clearance on the north side of the structure at Reddy Branch. Karen reminded everyone that the conceptual engineering is based on 2 foot contour mapping and this needs to be considered. It was agreed that an engineering comparison of reduced grades and possibly shift of the structure would occur, in addition, Karen would provide an analysis sheet that would include the environmental impacts.

Additional items discussed included the potential for reducing the slope of the stream embankment along the south side of Reddy Branch to encourage deer passage to paths of least resistance rather than any consideration of fencing or ditching that could impact the historic setting. If the results from the study show that the northern clearance cannot be achieved, the flattening of the slopes of the stream embankment along the south side would be used as mitigation and would be included in the SHA Selected Alternate and Conceptual Mitigation Package.

It was also agreed that the removal of the existing MD 97 Bridge near Reddy Branch would benefit wildlife passage along both sides of the Reddy Branch stream and should be consistent with MNCPPC's overall plans for the area. The ACOE would still like to have MNCPPC agreement on proposed mitigation. Nick Blendy indicated that this is ongoing for wetland mitigation and stream restoration, and possibly the wildlife passage issue depending on the timing and outcome of RK&K's bridge elevation comparison.

MD 97 Brookeville Project
In-House Agency meeting
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Carmen requested that RK&K provide preliminary results by March 27th. It was also agreed that SHA would contact the agencies to discuss the results of the findings with respect to the north side evaluation of the proposed Reddy Branch Stream structure. As appropriate, this information would be incorporated into the final SHA Selected Alternate and Conceptual Mitigation Package in April.

cc: File w/incoming
Attendees
Mr. Bruce Grey, Deputy Division Chief, State Highway Administration
Ms. Susie Ridenour, Division Chief, Environmental Programs Division, State Highway
Administration
Mr. James Wynn, Assistant Division Chief, State Highway Administration

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



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

MARYLAND DEPARTMENT OF TRANSPORTATION

MEMORANDUM

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

FROM: Wanda J. Brocato 
Project Planning Division

DATE: March 28, 2003

SUBJECT: Interagency Review Meeting Follow-up

The following projects and/or topics presented at the March 19 Interagency Review (IAR) Meeting require follow-up coordination with the review agencies:

Project Presentations

MD 97 Brookeville – Selected Alternative/Conceptual Mitigation

- Federal Highway Administration (FHWA) (Denise King) needs to ask ACHP if they want to be a participant in the MOA. State Highway Administration (SHA) (Carmen Harris/Nick Blendy) will send Denise an information package for the ACHP.
- U.S. Army Corps of Engineers (COE) (Paul Wettlaufer) will concur with this package, but will need a letter from MNCPPC approving exact locations of mitigation on their property before the COE would issue a permit. U.S. Fish and Wildlife Service (USFWS) (Bill Schultz) will also need a copy of the letter from MNCPPC approving exact locations of mitigation on their property. SHA (Carmen Harris/Nick Blendy) will follow-up on this matter.
- COE (Paul Wettlaufer) requested that the wildlife bench be put on the north side, not the south side. USFWS (Bill Schultz) supported this and indicated that this could affect his submitted concurrence. SHA (Carmen Harris) will take another look at this matter and get back with the agencies.

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

Ms. Cynthia D. Simpson
Page 2

If you have any questions about this, please contact me at (410) 545-8569.

WJB

cc:

SHA

Mr. Nick Blendy
Mr. Joseph Finkle
Mr. Bruce Grey
Ms. Carmen Harris
Ms. Susie Jacobs
Mr. Joseph Kresslein
Ms. Gay Olsen
Ms. Sue Rajan
Ms. Cathy Rice
Mr. Darrell Sacks
Mr. Robert Sanders
Mr. Douglas Simmons
Mr. Donald Sparklin
Ms. Lorraine Strow
Mr. Jim Wynn

AGENCIES

Mr. Mohammed Ayub (MDE)
Mr. Phillip Bello (FHWA)
Mr. Harvey Bloom (BMC)
Mr. David Boellner (MDE)
Ms. Caryn Brookman (FHWA)
Mr. Rich Bulavinetz (COE)
Ms. Elizabeth Cole (MHT)
Mr. Bob Cooper (MDE)
Mr. Joseph DaVia (COE)
Mr. Steve Elinsky (COE)
Mr. Elder Ghigiarelli (MDE)
Mr. Greg Golden (DNR)
Mr. J. Hamilton (MDE)
Mr. Steve Harman (COE)
Ms. Fatimah Hasan (MDOT)

Ms. Cynthia D. Simpson
Page 3

cc: (Continued)

CONSULTANT

Ms. Noreen Kirkpatrick (G&O)

AGENCIES

Ms. Susan Hinton (NPS)
Ms. Lisa Hoerger (DNR-CBCAC)
Mr. Larry Hughes (DNR)
Ms. Mary Huie (FHWA)
Mr. Steve Hurt (MDE)
Mr. Dan Johnson (FHWA)
Ms. Denise King (FHWA)
Mr. Ron Kirby (MWCOG)
Mr. Roland Limpert (DNR)
Ms. Dawn McCleary (DNR-CBCAC)
Mr. Sean McKewen (MDE)
Ms. Jennifer Moyer (COE)
Ms. Cindy Nethen (MDE)
Mr. John Nichols (NMF)
Mr. Robert Pennington (USFWS)
Mr. David Reynolds (NPS)
Ms. Denise Rigney (EPA)
Ms. Barbara Rudnick (EPA)
Mr. Bill Schultz (USFWS)
Mr. Scott Smith (DNR)
Ms. Jamie Stark (EPA)
Ms. Esther J. Strawder (FHWA)
Mr. David Sutherland (USFWS)
Mr. Paul Wettlaufer (COE)
Mr. David Whitaker (MDP)
Ms. Bihui Xu (MDP)
Mr. Robert Zepp (USFWS)

**MD 97 BROOKEVILLE
TRANSPORTATION STUDY
MONTGOMERY COUNTY, MARYLAND**

PROJECT NO. MO746B11

**ALTERNATE 7 MODIFIED
CONCURRENCE DOCUMENT
SELECTED ALTERNATE AND CONCEPTUAL MITIGATION**

MAY 2003

MARYLAND STATE HIGHWAY ADMINISTRATION

**MD 97 BROOKEVILLE
Transportation Study**

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PURPOSE AND NEED

The purpose and need for this project is to remove the continually increasing traffic volumes from the Town of Brookeville, improve traffic operations and safety on existing MD 97, and preserve the historic character of the town.

Existing Conditions

Brookeville is a unique town because of its relatively unaltered period architecture; it's pristine and tranquil setting and its tie to our country's history. Currently, Brookeville's quaint, curving streets and enveloping trees distinguish the area from the modern and encroaching development of areas such as Olney. Brookeville residents are concerned that the resulting traffic volume increases will alter the historic character of their town.

MD 97 is an arterial highway serving the east Montgomery County corridor and central Maryland from Washington, D.C. and the Capital Beltway to I-70 in Howard County. MD 97 is functioning as a major north-south commuter route between the employment areas in and surrounding Washington, D.C. and the residential communities north of Brookeville, including upper Montgomery County, Howard, and Frederick counties.

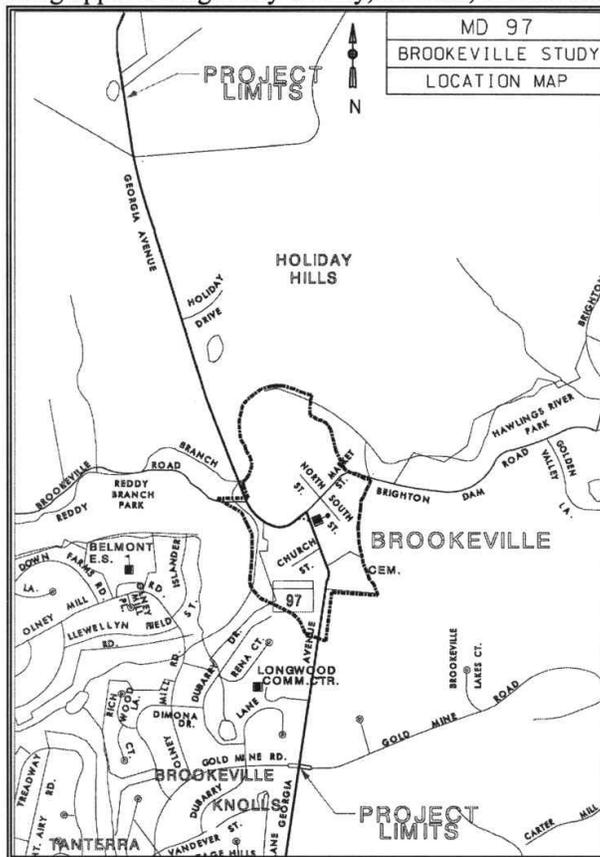


Figure 1
Brookeville, Maryland

In Brookeville, MD 97 has a sharp “dog-leg” bend in its horizontal alignment accompanied by sharp curves in its vertical alignment. The resulting geometrics are substandard in design. North of the study area, MD 97 is a two-lane roadway with 11 to 12 foot lane widths, with 0 to 5 foot shoulders and right-of-way widths of 40 feet. However, less than one mile south of the study area (southern project limit, see Figure 1) traffic demand has necessitated the improvement of MD 97 to a multi-lane divided roadway from Olney to Washington, D.C. No access controls are in place.

Traffic

Average Daily Traffic

Average Daily Traffic (ADT) volume along the MD 97 study section for 1995 was approximately 9,000 vehicles per day (VPD) south of Brookeville and 8,500 VPD north of Brookeville. Trucks account for 5% of the traffic volume. The forecasted ADT for the design year 2020 is approximately 18,000 VPD south of Brookeville and 17,000 VPD north of Brookeville.

Level of Service

Based on 1996 traffic data, MD 97 currently operates at a Level of Service (LOS) “C” north of Brookeville and “D” south of Brookeville under current traffic conditions. In the design year of 2020 the roadway will operate at a LOS “D” north of Brookeville and “E” south of Brookeville.

The “T” intersection operates at a LOS “D” which indicates long queues of vehicles waiting in turn to pass through the intersection. The LOS, together with the “stop” controlled intersection, results in the degradation of Brookeville’s historic character and small town ambiance as the vehicles waiting in queue contribute to both noise and air pollution. Several structures that contribute to the historic integrity of the town are situated very close to the roadway. Air pollution is a potential source of deterioration to the exterior of several structures. In addition, vibrations from the passing traffic endanger the integrity of these structures.

Accident History

The accident history from 1991 to 1993 in the project area shows a total of 25 reported accidents. The total average accident rate for the study area was 140.1 accidents for every one hundred million vehicle miles of travel (acc/100mvm). This accident rate is approximately 27% lower than the statewide average rate of 192.5 acc/mvm for all similarly designed highways now under state maintenance.

Approximately 33% of all accidents resulted from rear end collisions, 25% from collisions with fixed objects, and 10% from collisions with parked cars. None of these rates are significantly higher than the statewide average rate for each type of collision. Of the total number of accidents, 52% involved personal injuries and 48% involved some property damage. There were no fatal accidents within the study area. Approximately

60% of all of the accidents reported were the result of excessive speed or a failure to reduce speed. The rear end accidents and failure to reduce speed are certainly contributed to the stop condition along MD 97.

ALTERNATES PUBLIC WORKSHOP

The Maryland State Highway Administration (SHA) held an Alternates Public Workshop on June 8, 2000 at the Rosa M. Parks Middle School. The purpose of the workshop was to inform the public that the project had been re-initiated, to present the compliance criteria that is consistent with the intent of the Smart Growth legislation, to reintroduce the public to the alternates previously presented and to gather public input on new alternates that were developed. The SHA presented concepts for public comment and representatives from SHA, the Town of Olney, and Montgomery County received comments and answered questions asked by those in attendance. Approximately 117 people attended the Public Workshop.

Following the Alternates Public Workshop, SHA, in coordination with the Federal Highway Administration (FHWA), reviewed both citizen and agency comments to determine which alternates should be studied in detail and which alternates should be eliminated.

ALTERNATES RETAINED FOR DETAILED STUDY

Based on comments received from Federal and State agencies, alternates were identified for detailed study. The Alternates Retained for Detailed Study (ARDS) were developed in more detail and presented in the Draft Environmental Impact Statement (DEIS) circulated in Summer 2001. The alternates are described below. In addition to these alternates, SHA agreed to modify the existing roadway profile for MD 97 just north of Holiday Drive to improve the intersection sight distance for vehicles exiting Holiday Drive. By slightly raising the grade of MD 97 through a short sag curve, the motorist will have a longer sight distance and the approaching vehicles will not disappear from the line of sight. This improvement will be included with all of the alternates, as well as the No-Build.

Alternate 1: No-Build

Under Alternate 1 (the No-Build Alternate), the existing two-lane, undivided roadway would remain with shoulder widths ranging from zero to four feet from Gold Mine Road to 100 feet south of the intersection with Market Street. A small portion of MD 97 between the intersections of Market Street and Brookeville Road is currently a 25-foot, closed section roadway with a small sidewalk along the northbound roadway extending from 200 feet south of the T-intersection to 150 feet north of the T-intersection. Sidewalks are on both sides of Market Street from the T-intersection up to the eastern town limits.

Minor improvements would be made to MD 97 as part of regular maintenance and safety operations; however, routine maintenance operations would not measurably affect the roadway capacity or relieve the roadway's congestion. The quality of life for the Town of Brookeville would not be enhanced by the selection of the No-Build Alternate because commuter through traffic would continue to deteriorate the Town of Brookeville.

Alternate 1 does not address the Purpose and Need of the project, which is to remove the continually increasing traffic volumes from the Town of Brookeville, improve traffic operations and safety on existing MD 97, and preserve the historic character of the town.

Alternate 5C: Eastern Bypass

Alternate 5C provides a 2.12-mile long bypass for commuter traffic on the east side of Brookeville. Existing MD 97 through town would be used predominantly for local, in-town traffic. Figure 2 in the appendix shows that this alignment departs from existing MD 97 in a northeasterly direction near Gold Mine Road and then turns to the north approaching Brighton Dam Road and Reddy Branch. It crosses over both of these at a point where the Reddy Branch is parallel to Brighton Dam, a location suggested by the Corp of Engineers (COE) and United States Fish and Wildlife Service (USFWS). Alternate 5C continues north, crossing over Lubar Drive and proposed Bordly Drive, and passes underneath the PEPCO transmission lines. It turns northwest and rejoins existing MD 97 north of the proposed Bordly Drive in the vicinity of the Hawlings River Steam Valley Park.

Alternate 5C is consistent with the Smart Growth criteria, because roundabouts will be added to the southern and northern termini as part of the detailed studies. Alternate 5C, however, is not compatible with local comprehensive planning in that both the 1994 Brookeville Comprehensive Plan and the 1980 Olney Master Plan include an alignment to the west of Brookeville. Alternate 5C addresses the Purpose and Need of the project, but requires the most right-of-way acquisitions from properties because residential development occurs east of the Town of Brookeville, Alternate 5C would result in one business and five residential relocations south of Brighton Dam Road.

Although Alternate 5C avoids right-of-way impacts to the Brookeville Historic District, it has an adverse impact to the viewshed of the District. It has the least amount of impacts to the Reddy Branch Stream Valley Park but is the only alignment that impacts the Hawlings River Stream Valley Park (1.8 acres). Alternate 5C is the lengthiest alternate and the most expensive, costing approximately \$34 million.

Alternate 7: Western Bypass

Alternate 7 provides a 0.72-mile long bypass for commuter traffic on the west side of Brookeville. Existing MD 97 through town would be used predominantly for local, in-town traffic. Figure 3 in the appendix shows this proposed alignment. Alternate 7 departs from existing MD 97 just south of the Longwood Community Center and heads in a northwesterly direction. It passes through a roundabout located near the northern edge of the Longwood Community Center. The roundabout provides access to existing

MD 97 and the Town of Brookeville. Access to Brookeville would be via the northeast side of the roundabout. Alternate 7 exits from the roundabout in a northwesterly direction and continues through the Maryland National Capital Park and Planning Commission (MNCPPC) property, which is reserved for transportation use (near Dubarry Drive and Rena Court), and through the Reddy Branch Stream Valley Park. It crosses Brookeville Road west of existing MD 97 at a roundabout and then continues in a northeast direction. The roundabout at Brookeville Road has four legs, two for the bypass and two for Brookeville Road. The alternate connects to existing MD 97 north of the intersection with Brookeville Road. The portion of existing MD 97 between this new connection and the Reddy Branch bridge would be closed. It has not been determined if the MD 97 bridge over Reddy Branch Stream will be removed in conjunction with the closing of this portion of MD 97. The Maryland Historical Trust (MHT) determined that this bridge was not National Register Eligible in 1998. Consequently, southbound motorists destined for the Town of Brookeville must pass through the roundabout at Brookeville Road to access existing MD 97 in historic Brookeville.

Alternate 7 is the least expensive alternate with an estimated cost of \$12 million. Alternate 7 addresses the Purpose and Need of the project. It also requires the least amount of right-of-way from properties.

Alternate 8A: At-Grade Western Bypass

Alternate 8A provides a 0.95-mile long bypass for commuter traffic on the west side of Brookeville (west of Alternate 7). Existing MD 97 through town would be used predominantly for local, in-town traffic. Alternate 8A, shown on Figure 5 in the appendix, begins in the same location as Alternate 7. Alternate 8A departs from existing MD 97 just south of the Longwood Community Center and heads in a northwesterly direction. It passes through a roundabout located near the northern edge of the Longwood Community Center. The roundabout provides access to existing MD 97 and the Town of Brookeville. Alternate 8A continues northwest through the MNCPPC transportation easement property and through the Reddy Branch Stream Valley Park. Alternate 8A crosses Brookeville Road approximately 900 feet west of existing MD 97 at a three-leg roundabout (two for the bypass and one for Brookeville Road to/from the west).

Alternate 8A continues northeast (from the Brookeville Road roundabout) and connects to another roundabout located north of the Brookeville Road roundabout. This northern three-legged roundabout connects to existing MD 97 from the north, the bypass from the southwest, and the in-town portion of MD 97 from the southeast.

Existing Brookeville Road from south of the roundabout to its intersection with MD 97 would be closed. It has not been determined whether the structure on Brookeville Road over Meadow Branch will be removed in conjunction with the closing of this portion of Brookeville Road. Additional evaluation will be completed in consultation with the local jurisdiction in detailed design. Consequently, eastbound motorists on Brookeville Road destined for the Town of Brookeville must pass through the northern roundabout.

The estimated cost for Alternate 8A is \$18 million. Alternate 8A also addresses the Purpose and Need of the project.

Alternate 8B: Grade-Separated Western Bypass

Alternate 8B would follow a similar alignment to Alternate 8A between the Longwood Community Center and Brookeville Road. The alignment crosses Brookeville Road on a curved bridge. Figure 6 shows the alignment of Alternate 8B. Access to MD 97 and Brookeville Historic District via Brookeville Road would remain unchanged. Similar to Alternate 8A, the alignment continues northeast and connects to a three-legged roundabout located north of Brookeville Road. This northern three-legged roundabout connects to existing MD 97 from the north, the bypass from the southwest, and the in-town portion of MD 97 from the southeast.

The estimated cost for Alternate 8B is \$18 million. Alternate 8B addresses the Purpose and Need of the project.

COMBINED LOCATION/DESIGN PUBLIC HEARING

The SHA held a Combined Location/Design Public Hearing on October 3, 2001 at the Rosa M. Parks Middle School. The purpose of the Combined Location/Design public hearing was to present the results of the engineering and environmental studies completed for the MD 97 Brookeville project and to provide an opportunity for interested individuals, association, citizen groups or government agencies to offer verbal or written comments. Twenty-three people provided public testimony and seventeen people provided written comments. Out of the forty total public comments (oral and written comments) sixty-eight percent supported a build alternate of some type. Thirty-nine percent of the Public Hearing speakers supported Alternate 7 (Western Bypass) and nine percent supported Alternate 8B (Grade Separated Western Bypass). There was no support for Alternate 5C (Eastern Bypass). No one supported Alternate 8A (At-Grade Western Bypass).

Of the seventeen written comments received, thirty five percent supported Alternate 8B (Grade Separated Western Bypass), thirty percent supported Alternate 7 (Western Bypass) and twelve percent supported Alternate 5C (Eastern Bypass). There was no support for Alternate 8A (At-Grade Western Bypass).

Following the Combined Location/Design Public Hearing further studies were developed regarding the Newlin Downs Mill Complex archeological site located in the historic district south of Brookeville Road. As a result of the Phase II archeological findings, Alternate 7 Modified was developed to minimize impacts to the archeological site. The SHA Selected Alternate is Alternate 7 Modified and is described on page 10.

ALTERNATES NOT SELECTED

Alternate 1 – No Build

Alternate 1 (No-Build) was not selected because it does not satisfy the purpose and need. Minor improvements for normal traffic maintenance and safety operations will not improve the degrading roadway capacity. The quality of life for the Town of Brookeville would not be enhanced by the selection of the No-Build Alternate because commuter through traffic would continue to deteriorate the quality of life in the historic Town of Brookeville.

Alternate 5C – Eastern Bypass

Alternate 5C was not selected because of substantially higher project cost, lack of public support, and greater stream, wetland and prime farmland soil impacts. Alternate 5C is the only alternate that impacts two public parks (Hawlings River Stream Valley and Reddy Branch). Alternate 5C bisects Reddy Branch Park east of Brookeville. Alternate 5C also lacks compatibility with the local Comprehensive Plans and is the only Alternate that will result in both residential relocations (5) and a business displacement (1). The cost of Alternate 5C, \$34 million, nearly doubles the \$18 M cost of the most expensive western alignment Alternate 8B and is more than twice the estimated \$12.5 million cost of the Selected Alternate 7 Modified. Only three (out of 40) comments received at the Combined Location/Design Public Hearing expressed support for Alternate 5C with approximately 20 of the 40 total public comments indicating opposition to Alternate 5C.

Alternate 7 – Western Bypass

Alternate 7 was not selected because it resulted in the greatest impact to the Brookeville Historic District (2.2 acres compared to 1.66 acres for Alternate 7 Modified) and the Newlin/Downs Mill Complex archeological site. An element of the Purpose and Need for the project is to preserve the historic character of the town.

Alternate 8A – At-Grade Western Bypass

Alternate 8A was not selected because of the lack of public support. There was no support for Alternate 8A at the Combined Location/Design Public Hearing. Alternate 8A also serves the same function as Alternate 7 by removing the traffic flow from the Town of Brookeville and removing the traffic out of the Town of Brookeville. Alternate 8A was also not selected because it is more expensive (about \$1.5 million) than Alternate 7 Modified despite comparable environmental impacts.

Alternate 8B – Grade Separated Western Bypass

Alternate 8B was also not selected because of higher cost, environmental impacts, including the impact to the view-shed of the historic district resulting from the grade separation over Brookeville Road and increased noise in the Town of Brookeville. The

elevated structure is within sight distance from the historic district; a concern expressed by many citizens of Brookeville. In addition, the estimated \$18.5 million cost of Alternate 8B was approximately \$5.8 million greater than Alternate 7 and about \$5.5 million greater than the Selected Alternate 7 Modified.

DESCRIPTION OF SHA-SELECTED ALTERNATE

The SHA Selected Alternate is Alternate 7 Modified, with points of access occurring at roundabouts at Brookeville Road and the southern termini just north of Gold Mine Road. Alternate 7 Modified is similar to Alternate 7 (see Figure 3) except that Alternate 7 Modified is shifted approximately 30-40 feet in a westerly direction through the Reddy Branch Stream Valley Park between the roundabout located at Brookeville Road and the area north of Dubarry Drive (see Figure 4). A retaining wall will be placed on the south side of Brookeville Road, east of the roundabout to further minimize impacts to the Mill Complex wheel race platform due to the close proximity of the proposed alignment.

Alternate 7 Modified continues in a northeasterly direction crossing Brookeville Road west of existing MD 97 at a roundabout and then continues to the northeast. The roundabout at Brookeville Road has four legs, two legs for the bypass (through traffic) and two legs for access westbound and eastbound on Brookeville Road. The alternate connects to existing MD 97 north of the roundabout at Brookeville Road. A portion of existing MD 97 north of Brookeville Road would be closed. It has not been determined whether the MD 97 existing structure over Reddy Branch Stream will be removed in conjunction with the closing of this portion of MD 97. Consequently, southbound motorists destined for the Town of Brookeville must pass through the roundabout at Brookeville Road to access existing MD 97 in town.

Alternate 7 Modified has a design speed of 40 miles per hour. Alternate 7 Modified has an open typical section, which consists of two 11' lanes, two 10' shoulders (5' paved for bicycle compatibility and 5' graded). Open and closed roadway sections were evaluated for the DEIS Build Alternates. The SHA has selected the open section for Alternate 7 Modified (see Figure 7) because existing MD 97 is an open section and this is consistent with both the northern and southern tie ins with existing MD 97 (see Figures 8 and 9).

Alternate 7 Modified has an estimated cost of \$12.5 million (see Table ES-1)

In addition to these alternates, SHA agreed to modify the existing roadway profile for MD 97 just north of Holiday Drive to improve the intersection sight distance for vehicles exiting Holiday Drive. By slightly raising the grade of MD 97 through a short sag curve, the motorist will have a longer sight distance and the approaching vehicles will not disappear from the line of sight (see Figure 4).

SMART GROWTH CRITERIA

The Alternate 7 Modified alignment for the proposed MD 97 Brookeville project lies outside the county defined Priority Funding Areas (PFA) under Maryland's Smart

only 0.12 ac of impacted wetlands. Although the \$12.5 million dollar cost is slightly higher than Alternate 7, Alternate 7 Modified was developed to minimize impacts to the historic Newlin/Downs Mill archaeological site, as explained previously.

Based on these findings, it can be concluded that the SHA selected Alternate 7 Modified is the least environmentally damaging practical alternate of those identified in the DEIS. Please refer to appended Table ES-1 for a summary of the following impacts:

Natural Environmental

Wetlands and 100-year floodplains are associated with Meadow Branch, Reddy Branch, and tributaries of Hawlings River. These streams, in the Hawlings River sub-watershed of the Patuxent River watershed, are Use IV waters (Recreational Trout) and may require an in-stream work restriction from March 1 to May 31. Each build alternate would impact less than one-quarter acre of wetlands. Alternate 7 Modified (SHA Selected Alternate) would cross two streams, Meadow Branch and Reddy Branch with impacts of approximately 1,339 linear feet. Alternate 7 Modified would impact 3.2 acres of floodplain. The MDE has recommended that all stream channels be maintained.

There are no known state or federally listed threatened or endangered species identified within the study area. The shingle oak (*Quercus imbricaria*) has been identified to the west of the Town of Brookeville and south of Brookeville Road. The shingle oak tree is considered uncommon in Maryland and is on the Maryland Department of Natural Resource's (DNR) "watch list" as a candidate for listing as a state threatened species. Based on preliminary field views, it is estimated that approximately 20 smaller diameter shingle oak trees would be impacted by Alternate 7 Modified. SHA will continue to coordinate with DNR and, as necessary during final design and construction, attempt to avoid larger species and include shingle oaks as part of reforestation mitigation.

Wildlife Passage

Based on comments from the agencies, the proposed structure over Reddy Branch Stream near the roundabout located on Brookeville Road (as shown on Figure 4 in the appendix) will be designed to accommodate wildlife passage. This bridge alignment will meet the minimum requirements preferred by USFWS, DNR, COE, and MNCPPC which consisted of a minimum of an 8-foot vertical clearance with a 25-foot embankment on the same side. Based on non-surveyed contour mapping, SHA recommended the south side for wildlife passage in the draft Selected Alternate and Conceptual Mitigation Package dated February 2003. In response to COE and USFWS comments at the March 19, 2003 IAR, additional evaluations were made for the north side passage. It was concluded that the north side may be possible however a final decision will need to await accurate ground surveys as part of project design. The design goal will be the agreed to 8 ft. vertical and 25 ft. horizontal clearance on one side, preferably along the north side of Reddy Branch. The COE has also suggested that SHA also consider a south side sloped pathway towards the stream to establish a path of least resistance for deer passage along the south side. Should topographic conditions not allow for adequate clearance along the

north side, the south side passage will be pursued by SHA as part of final project design. In the interim, coordination will continue with the resource agencies.

Publicly Owned Parks and Recreation Areas

Three publicly owned public parks are located within the study limits: Hawlings River Park, Reddy Branch Stream Valley Park, and the Longwood Community Center. Although the Longwood Community Center is a publicly owned recreational facility subject to the 4(f) criteria, the portion of the property that will be impacted by the alternates was reserved for transportation use when the recreational facility was initially planned and therefore is not provided protection under Section 4(f) of the Department of Transportation Act of 1966.

During the development of the alternates, SHA agreed to avoid impacts to the Longwood Community Center ball fields in the southwest corner of the southern roundabout. There was also an agreement to provide guardrail and screening or fencing to protect both vehicles and children. All of the build alternates would impact the Reddy Branch Park. However, Alternate 5C also impacted the Hawlings River Stream Valley Park. Alternate 7 Modified the SHA Selected Alternate, impacts 5.62 acres of Reddy Branch Park.

Historic Resources

Standing Structures

The Town of Brookeville is listed on the National Register of Historic Places as a historic district. Coordination with the MHT indicates that each of the five build alternates would have an adverse effect on the Brookeville Historic District. Alternate 5C would not require any right-of-way from the Brookeville Historic District. Alternate 7, Alternate 7 Modified, Alternate 8A, and Alternate 8B would impact approximately 2.2 acres, 1.66 acres, 1.84 acres, and 2.0 acres of right-of-way, respectively, within the Brookeville Historic District including crossings of the half-mile long man-made Oakley Cabin Trail which runs along an old mill race to the south of Brookeville Road.

A Section 106 Memorandum of Agreement (MOA) has been drafted to address the adverse effects of Alternate 7 Modified. It describes mitigation, including design of a landscape plan, the development and placement of an interpretative sign at the Newlin/Downs Mill Complex and ensuring the continuity of the man-made Oakley Cabin Trail in the design of Alternate 7 Modified.

The National Register Eligible Bordley's Choice is located just north of the Brookeville Historic District. Coordination with the MHT indicated that Alternate 5C has no adverse effect on the Bordley's Choice historic site. MHT has also concurred that Alternate 7, Alternate 7 Modified, Alternate 8A, and Alternate 8B would have no adverse effect on Bordley's Choice.

Archeological Sites

Two archeological sites have been identified within the project area. The Newlin/Downs Mill Complex (18MO368) at the intersection of Brookeville Road and MD 97 (2 acres) and two domestic structures (18MO460) near Longwood Community Center. A Phase II archeological study was required to evaluate their significance and was completed on July 8, 2002.

Site 18MO460 is the remains of a 19th and 20th century domestic occupation associated with the historic village of Brookeville. Phase II evaluation of the site was conducted in March and April 2002. These investigations determined that 18MO460 does not qualify for inclusion on the National Register of Historic Places. Concurrence in these findings by the MHT was received on November 6, 2002.

Site 18MO368 is the remains of the 18th - 19th century Newlin/Downs Mill complex containing numerous architectural features and artifact deposits related to the mill as well as the miller's residence and a millrace system, and as such could contribute important information concerning the industrial economy and community planning in the Maryland Piedmont during a time period characterized by agrarian intensification and internal improvement (1780 -1860). Direct impacts were anticipated with Alternates 7, Alternate 7 Modified, Alternate 8A, Alternate 8B, as the linear site could not be avoided by any of these four proposed western alternates. The MHT concurred that Phase II evaluation of 18MO368 was warranted to conclusively determine its eligibility to the National Register of Historic Places if any alternate were selected.

Phase II evaluation of the site was conducted in March and April 2002. These investigations determined that Site 18MO368 is significant both individually and as a contributing resource to the Brookeville Historic District.

Under Alternate 7 Modified, approximately 5% of Site 18MO368 will be impacted, the mill race system will be affected, but not the identified features and significant archaeological deposits of the site associated with the mill and miller's house. Approximately 700 linear feet of the mill race system will be impacted by Alternate 7 Modified. Phase III data recovery is recommended if the site cannot be avoided during design of Alternate 7 Modified.

On November 6, 2002 the MHT concurred with SHA's eligibility evaluations for the archeological sites and confirmed the adverse effect determination on Site 18MO368. MHT also concurred that the site can be mitigated through data recovery. Section 4(f) does not apply as MHT's concurrence includes agreement that the site does not warrant preservation in place.

Socio-Economic

The existing land use in the project area is a combination of residential, agricultural, and parkland. There are no anticipated land use changes as the result of this project. In addition, the relocation of MD 97 is identified in the 1980 Olney Comprehensive Plan and the 1994 Brookeville Comprehensive Plan.

Alternate 7, Alternate 7 Modified, Alternate 8A, and Alternate 8B would not require any residential or commercial displacements. Alternate 5C would require five residential relocations and one business displacement.

Minimization Measures

Alternate 7 Modified (refer to Figures 8 and 9 in the Appendix).

Impacts to the resources were reduced by adjusting the horizontal and vertical alignments as well as the cross section elements.

Alignment shifts: At the southern end of the alignment, between Sta. 12+00 and 16+00, the roundabout was shifted to the northwest and the approach radius from the south was decreased to 300 feet. This adjustment reduced impacts to the Longwood Community Center's ball fields.

Between Sta. 17+00 and Sta. 27+00, the degree of curve was increased to 4°00' (approximately 1,432-foot radius) and the alignment was shifted slightly to the east to split the distance between the residential community and the historic district. This shift would reduce the noise and visual impacts to the houses on Rena Court and Dubarry Drive and reduce the wetland impacts.

The horizontal alignment was shifted to the west between the MNCPPC property and the roundabout to reduce impacts to the archeological site.

Vertically, the roadway profile was lowered between Sta. 18+00 and Sta. 32+00 so the roadway will be lower than the houses along Rena Court and Dubarry Drive, which will improve the view from these houses. This change will also reduce the amount of fill needed for the roadway.

In addition, the roadway profile was raised between Sta. 32+00 and Sta. 38+00 to reduce the amount of cut to the hillside and raised between Sta. 41+00 and Sta. 46+00 to obtain adequate vertical clearance for animal passage.

Cross section adjustments: The following table lists cross section adjustments, primarily slope reductions and the use of retaining walls where necessary, to reduce fill/cut requirements in order to minimize impacts to adjacent features:

Alternate 7 Modified – Open Section Adjustments

Alternate	Station	Cross Section Adjustments	Avoidance/Minimization
Alternate 7 Modified	Sta 24+00 to 27+50 LT	3:1 Slopes	Reduce Fill / Reduce Impact to ROW, Streams, Wetlands, Floodplains, Woodlands and Parklands
Alternate 7 Modified	Sta 27+50 to 31+00 RT	2:1 Slopes	Reduce Fill / Reduce Impact to ROW, Streams, Floodplains, Woodlands, Parkland, Shingle Oaks and Historic District
Alternate 7 Modified	Sta 28+00 to 32+00 LT	3:1/2:1 Slopes	Reduce Fill/Cut / Reduce Impact to ROW, Streams, Wetlands, Floodplains, Woodlands, Parkland, Shingle Oaks and Historic District
Alternate 7 Modified	Sta 38+00 to 40+00 LT	2:1/3:1 Slopes	Reduce Cut / Reduce Impact to ROW, Streams, Wetlands, Floodplains, Woodlands, Parkland and Historic District
Alternate 7 Modified	Sta 38+50 to 44+00 RT	2:1/3:1 Slopes	Reduce Fill / Reduce Impact to ROW, Floodplains, Woodlands, Parkland and Historic District

MITIGATION

Noise

The Noise Sensitive Areas (NSA) includes residences along Rena Court, Islander Street, Dubarry Drive and Goldmine Road as well as one area within the Town of Brookeville. Sound mitigation for these areas is not reasonable because the cost exceeds the cost per residence criteria. SHA’s Noise Policy states that the cost per residence must be at or below \$50,000 to qualify for noise mitigation and each of the NSA’s will exceed \$50,000, therefore noise mitigation is not considered reasonable.

Stream Restoration and Wetland Mitigation

Alternate 7 Modified will impact 0.12 acres of wetlands and 1,339 linear feet of streams. During the summer of 2002, SHA met with state and federal resource officials to discuss stream restoration as well as wetland and parkland mitigation. Potential areas for stream restoration and wetland mitigation within Reddy Branch Park were evaluated by representatives of the resource agencies and MNCPPC. Written approval from MNCPPC to use Reddy Branch Park for stream restoration and wetland mitigation was received by SHA on May 1, 2003 (Attachment 2). Approved stream restoration locations include upstream and downstream of where Alternate 7 Modified crosses Meadow Branch and along a section of Reddy Branch adjacent to Brighton Dam Road. Stream restoration techniques are likely to include riparian buffer plantings and grading and stabilization of

eroded stream banks. SHA will continue to work closely with the agencies and MNCPPC in the development of the detailed stream restoration and wetland mitigation design.

Public Parkland/Section 4(f)

Selected Alternate 7 Modified will impact 5.62 acres of Reddy Branch Park. MNCPPC is the park owner and agency with jurisdiction over the Reddy Branch Park. Coordination has occurred with park officials throughout the planning process and will continue as part of the Section 4(f) process. At a May 5, 2003 meeting between SHA and MNCPPC staff, potential parkland replacement lands were identified to address Section 4(f) impacts associated with the Selected Alternate.

At the meeting, storm water management ponds within the park were also preliminarily approved, and reforestation opportunities and cultural resource mitigation within Reddy Branch Park were discussed. It was agreed to discuss a joint agency Memorandum of Understanding outlining mitigation as part of the Section 4(f) Evaluation procedures.

Historical/Archeological

In compliance with 36CFR800, a draft MOA is being processed for Alternate 7 Modified (Attachment 1). MNCPPC is an invited participant in the Section 106 process. The Federal Highway Administration (FHWA) has forwarded the draft MOA to the Advisory Council on Historic Preservation (ACHP).

Newlin/Downs Mill Complex (18MO368)

SHA shall develop and implement a data recovery plan to mitigate impacts to the Newlin/Downs Mill Complex 18MO368, in consultation with the MD SHPO. This is addressed in the April 17, 2003 SHA correspondence to FHWA (Attachment 1).

Public and Agency Coordination

On November 13, 2002 the Study Team presented the Recommended Alternate 7 Modified for MD 97 Brookeville Project to the State Highway Administrator.

Key resource agency coordination meetings and public involvement dates include:

- December 1995 Wetland Jurisdictional Review Meeting.
- Public comments received from the Informational Public Workshop that was held on June 22, 1995.
- Public comments received from the Alternates Public Workshop that was held on May 28, 1996.
- Public comments received from the Informational Public Meeting that was held on June 8, 2000.
- September 2000 Interagency Review (IAR) meeting - discussed draft version of the Alternates Retained for Detailed Study.

- October 2000 Interagency Field Review - reacquainted the environmental review agencies with the project area and provided them with the opportunity to view the proposed ARDS alignments.
- November 17, 2000 - Community Field Review.
- Review of public and agency comments on the DEIS September 1, 2001.
- Public comments received from the Combined Location/Design Hearing that was held on October 3, 2001.
- January 16, 2002 IAR - courtesy presentation regarding the preferred alternate.
- September 20, 2002 - Agency Field Review was held to look at the archeology site and review the newly developed Alternate 7 Modified.
- March 19, 2003 IAR- present Alternate 7 Modified as SHA's selected alternate as identified in the February 2003 draft Selected Alternate and Conceptual Mitigation package.
- Twelve Focus Group meetings were held on the following dates:
 - 4/19/95
 - 3/14/96
 - 4/8/96
 - 9/9/96
 - 12/9/96
 - 6/11/98
 - 4/24/00
 - 9/25/00
 - 8/14/01
 - 11/17/01
 - 3/18/02
 - 7/24/02

MD 97 BROOKEVILLE ERRATA

FINAL SELECTED ALTERNATIVE AND CONCEPTUAL MITIGATION PACKAGE-MAY 2003

FEDERAL HIGHWAY ADMINISTRATION	RESPONSE
<p>FHWA (Denise King) commented on the draft Selected Alternative and Conceptual Mitigation (SACM) Package that the Oakley Cabin Trail is a man-made trail.</p>	<p>The Oakley Cabin Trail is now referred to as man-made in the final SACM Package.</p>
<p>FHWA (Denise King) noted at the March 19, 2003 Interagency Review (IAR) Meeting that the Section 106 Memorandum of Agreement (MOA) package must be sent to the Advisory Council on Historic Preservation (ACHP)</p>	<p>The draft MOA was submitted to FHWA on April 17, 2003 (see Attachment 1). The transmittal letter includes appropriate statements requesting FHWA to inform the ACHP of the adverse effects and asking if the ACHP wishes to review and be a signatory to the MOA. FHWA has sent the draft MOA to the ACHP.</p>
US ARMY CORPS OF ENGINEERS	RESPONSE
<p>COE (Paul Wettlaufer) stated at the March 19 IAR that his agency will concur with the SACM package but will require a concurrence letter from MNCPPC for wetlands and stream restoration before a permit will be issued. The COE approves of the mitigation in terms of offsetting the impact.</p>	<p>Coordination between SHA, MNCPPC and the COE that occurred subsequent to the IAR has resulted in written agreement of stream restoration and wetlands mitigation locations within Reddy Branch Park. The MNCPPC's approval letter approval letter dated May 1, 2003 is attached (see Attachment 2).</p>
<p>COE (Paul Wettlaufer) also commented that the wildlife bench was supposed to be on the north side of Reddy Branch but the south side is recommended in the package. He believes that the northern side has room for vertical clearance and there is also the opportunity to remove pavement from the existing road and connect a large tract that includes the riparian corridor.</p>	<p>After the IAR meeting, SHA and MNCPPC meet with the COE, USFWS and MDE to discuss wildlife passage mitigation (see Attachment 3). The northern passage was reevaluated and may be possible. A final decision will need to await ground survey as part of final design. In the interim, the SHA recommended south side wildlife passage will remain. Coordination will continue with the COE and USFWS.</p>
US FISH & WILDLIFE SERVICE	RESPONSE
<p>USFWS (Bill Schultz) commented that before he will concur, MNCPPC must provide a letter approving the stream restoration and wetlands locations. MNCPPC (Dan Hardy) stated that the agency is satisfied with the selected alternate and mitigation details need to be finalized.</p>	<p>At the IAR, SHA (Gay Olsen) noted that USFWS has already concurred but Bill Schultz clarified that concurrence has only been given on the draft package (see Attachment 4). Please also refer to the above response to the COE. Agencies including the USFWS will receive the final SACM package for concurrence</p>
MARYLAND DEPARTMENT OF ENVIRONMENT	RESPONSE
<p>MDE (Steve Hurt) is looking at the need to maintain stream channels due to the over widened bridge structure</p>	<p>MDE participated in the March 19 meeting after the IAR (see Attachment 3). The MDE recommendation to maintain stream channels is included in the final SACM Package for consideration in final design.</p>

**MD 97 – BROOKEVILLE – PROJECT PLANNING STUDY –MAY 2003
CONCURRENCE FOR SELECTED ALTERNATE AND CONCEPTUAL MITIGATION**

Alternates Retained for Detailed Study

At the October 2000 Interagency Review IAR meeting, four alternates were recommended to be retained for further study. The Alternates Retained for Further Study are as follows: Alternate 1–No-Build Alternate, Alternate 5C–Eastern Bypass (**Figure 2**), Alternate 7–Western Bypass (**Figure 3**) and Alternate 8–Western Bypass which became Alternate 8A (**Figure 5**) and Alternate 8B (**Figure 6**). Concurrence was received from the agencies and the alternates were presented in the MD 97 Brookeville Project Draft Environmental Impact Statement/Section 4(f) Evaluation dated August 2001. The referenced **Figures** are appended to the Selected Alternate and Conceptual Mitigation (SACM) package attached to this Executive Summary document.

Combined/Location Design Public Hearing

A Combined Location/Design Public Hearing was held October 3, 2001. Approximately 117 citizens attended and a total of 40 public comments were made (23 oral and 17 written comments). As a result of public and agency comments, Alternate 7 was identified as the preferred alternate. Subsequent to the Public Hearing, Alternate 7 Modified was developed to minimize impacts to the National Register eligible Newlin/Downs Mill Complex archeological site. The modified alignment was presented at the January 2002 IAR meeting. An agency field view of Alternate 7 Modified occurred on September 20, 2002 and included mitigation sites.

Description of SHA-Selected Alternate

The SHA Selected Alternate, Alternate 7 Modified, is similar to Alternate 7 except that Alternate 7 Modified is shifted approximately 30-40 feet in a westerly direction through the Reddy Branch Park to minimize impacts to the Newlin/Downs Mill Complex archaeological site (**Figure 4**). A retaining wall will be placed on the south side of Brookeville Road, east of the roundabout to further minimize impacts to the Newlin/Downs Mill Complex. Alternate 7 Modified has a design speed of 40 miles per hour. Alternate 7 Modified has an open typical section, which consists of two 11' lanes, two 10' shoulders with a 4' paved area for bicycle compatibility (**Figure 7**). The SHA has selected the open section because existing MD 97 is an open section and this is consistent with both the northern and southern tie-ins with existing MD 97 (**Figures 8 and 9**). Roadway access is limited to the two roundabouts, at Brookeville Road and the southern termini. Cost is estimated at \$12.5 million.

Summary of Environmental Impacts and Conceptual Mitigation

Alternate 7 Modified and the build alternates impacts are summarized in appended Table ES-1

Natural Environmental: Alternate 7 Modified would cross two streams, Meadow Branch and Reddy Branch with impacts of approximately 1,339 linear feet. These streams in the Hawlings River sub-watershed and the Patuxent River watershed are Use IV waters (Recreational Trout) and may require an in-stream work restriction from March 1 to May 31. Alternate 7 Modified will impact approximately 3.2 acres of floodplain and less than one-quarter acre of wetlands. The proposed MD 97 structure over Reddy Branch will be designed to accommodate wildlife passage along Reddy Branch by providing an 8 ft. vertical and 25 ft. horizontal clearance along one side of the stream as agreed to by the agencies. SHA will evaluate north side passage option during final design when topographic survey of the area is completed. Conceptual design of the Meadow Branch crossing consists of a box culvert in accordance with MDE design criteria. Design of the Reddy Branch Bridge and Meadow Branch culvert will be coordinated with the state and federal resource agencies as part of the and permitting requirements. Stream restoration and wetland mitigation sites within Reddy Branch Park have been coordinated with and approved by the agencies including written concurrence from the Maryland National Capital Parks and Planning Commission (MNCPPC).

MD 97 - Brookeville Study
 Selected Alternate and Conceptual Mitigation

Publicly Owned Parks and Recreation Areas: Alternate 7 Modified will impact 5.6 acres of Reddy Branch Park compared to 5.3 acres for Alternate 7 and 6.3 acres for Alternate 8. SHA met with MNCPPC on May 5, 2003 to discuss mitigation within Reddy Branch Park. A joint agency Memorandum of Understanding may be established between SHA and MNCPPC outlining mitigation including replacement of public parkland.

Historic Resources: Alternate 7 Modified will have an adverse effect on the National Register (NR) listed Brookeville Historic District (district) and the NR eligible Newlin/Downs Mill archaeological site. Alternate 7 Modified requires about 1.7 acres of right-of-way from the district, compared to Alternates 7 (1.8 acres), 8A (1.4 acres) and 8B (1.6 acres). Alternate 7 Modified impacts about 700 linear feet of the millrace but avoids the core of the archaeology site. A draft Section 106 Memorandum of Agreement (MOA) has been submitted to FHWA for review and forwarding to the Advisory Council on Historic Preservation (ACHP) stipulating historic site mitigation including: landscaping to reduce the visual intrusion on the historic district and Phase III data recovery if portions of the mill site cannot be avoided. The continuity of the man-made Oakley Cabin Trail will be assured.

Socio-Economic and Smart Growth: No displacements are involved. Land use changes are not anticipated as the result of the project. The relocation of MD 97 is identified in the 1980 Olney Comprehensive Plan. Alternate 7 Modified is located outside of the defined Priority Funding Areas (PFA). However, SHA is prepared to dedicate a permanent easement to the Maryland Environmental Trust (MET) to address the potential for growth outside the PFA. The easement will border the entire roadway to ensure no future access, widening or connections to the Selected Alternate.

Project Name & Limits: MD 97, Brookeville Study, Montgomery County		
Having reviewed the attached SHA Selected Alternative and Conceptual Mitigation concurrence/comment package and the summary presented above, the following agency (by signing this document):		
<input type="checkbox"/> Federal Highway Administration	<input type="checkbox"/> Fish and Wildlife Service	<input type="checkbox"/> MD Dept. of Natural Resources
<input type="checkbox"/> Environmental Protection Agency	<input type="checkbox"/> National Park Service	<input type="checkbox"/> MD Dept. of the Environment
<input type="checkbox"/> Corps of Engineers	<input type="checkbox"/> National Marine Fisheries Service	
<input type="checkbox"/> Concurs (without comments) <input type="checkbox"/> Concurs (w/ <u>minor</u> comments) <input type="checkbox"/> Does Not Concur		
Comments / Reasons for Non-Concurrence:		
<i>Note: Do <u>not</u> provide "conditional" concurrence. You should either concur with the information as provided (without comments or with minor comments) or not concur until revisions are made or additional information is provided.</i>		
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<input type="checkbox"/> Provides Comments (below or attached) <input type="checkbox"/> Has No Comments		
Comments:		
Additional Information Needed:		
Signature: _____		Date: _____

STREAMLINED PROCESS TRACKING

TO: EM: Nick Blundy Date: 6/4/03
 PM: Carmen Harris Project: MD97 Brookeville
 FROM: Gay Olsen/Wanda Brocato Project No.: MO 746 B11

- Purpose and Need
- Preliminary/Draft
- Alternatives Retained for Detailed Study
- Final/Formal
- SHA's Selected Alternative & Conceptual Mitigation

- Concurrence w/o Comments
- Concurrence w/Comments
- Comments

- FHWA
- EPA
- COE
- FWS
- NPS
- NMFS
- DNR
- MDE
- MDP
- MHT
- MPO

Response Required: Yes No

Comments: FyI

NOTE: Make sure all agencies receive a copy of this incoming concurrence/comment letter and (if applicable) the outgoing SHA response.

- cc: Simpson Grey Kresslein Sparklin Wynn
 Sanders Finkle Jacobs FHWA Pedersen
 Rice Simmons
 - Denise King
 - Esther Strawder

Revised 12/14/00

MD 97 - Brookeville Study
 Selected Alternate and Conceptual Mitigation

Publicly Owned Parks and Recreation Areas: Alternate 7 Modified will impact 5.6 acres of Reddy Branch Park compared to 5.3 acres for Alternate 7 and 6.3 acres for Alternate 8. SHA met with MNCPPC on May 5, 2003 to discuss mitigation within Reddy Branch Park. A joint agency Memorandum of Understanding may be established between SHA and MNCPPC outlining mitigation including replacement of public parkland.

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Project Name & Limits: MD 97, Brookeville Study, Montgomery County		
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<input checked="" type="checkbox"/> Corps of Engineers	<input type="checkbox"/> National Marine Fisheries Service	
<input checked="" type="checkbox"/> Concurs (without comments) <input type="checkbox"/> Concurs (w/ <u>minor</u> comments) <input type="checkbox"/> Does Not Concur		
Comments / Reasons for Non-Concurrence:		
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<input type="checkbox"/> Provides Comments (below or attached) <input type="checkbox"/> Has No Comments		
Comments:		
Additional Information Needed:		
Signature: <u>Paul Wootlauffer</u>	Date: <u>5/29/03</u>	

STREAMLINED PROCESS TRACKING

TO: EM: Nick Blendy Date: 6/9/03
 PM: Cornel Harris Project: MD 97 - Brookeville
 FROM: Gay Olsen/Wanda Brocato  Project No.: MO 746 B11

- | | |
|--|--|
| <input type="checkbox"/> Purpose and Need | <input type="checkbox"/> Preliminary/Draft |
| <input type="checkbox"/> Alternatives Retained for Detailed Study | <input checked="" type="checkbox"/> Final/Formal |
| <input checked="" type="checkbox"/> SHA's Selected Alternative & Conceptual Mitigation | |

- | | | |
|---|---|---|
| <input checked="" type="checkbox"/> Concurrence w/o Comments
<i>FHWA</i> | <input type="checkbox"/> Concurrence w/Comments | <input checked="" type="checkbox"/> ^{NO} Comments
<i>WCOG (MPO)</i> |
|---|---|---|

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|--|-------------------------------|---|
| <input checked="" type="checkbox"/> FHWA | <input type="checkbox"/> NPS | <input type="checkbox"/> MDP |
| <input type="checkbox"/> EPA | <input type="checkbox"/> NMFS | <input type="checkbox"/> MHT |
| <input type="checkbox"/> COE | <input type="checkbox"/> DNR | <input checked="" type="checkbox"/> MPO - <i>WCOG</i> |
| <input type="checkbox"/> FWS | <input type="checkbox"/> MDE | |

Response Required: Yes No

Comments: *FYI*

NOTE: Make sure all agencies receive a copy of this incoming concurrence/comment letter and (if applicable) the outgoing SHA response.

- cc: Simpson Grey Kresslein Sparklin Wynn
 Sanders Finkle - *(WCOG only)* Jacobs FHWA - *Darlene King (WCOG only)* Pedersen
 Rice Simmons

Revised 12/14/00

MD 97 - Brookeville Study
 Selected Alternate and Conceptual Mitigation

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<input type="checkbox"/> Provides Comments (below or attached) <input type="checkbox"/> Has No Comments		
Comments:		
Additional Information Needed:		
Signature: <u>Denise G. King</u>	Date: <u>6/6/03</u>	

MD 97 - Brookeville Study
 Selected Alternate and Conceptual Mitigation

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<input type="checkbox"/> Environmental Protection Agency	<input type="checkbox"/> National Park Service	<input type="checkbox"/> MD Dept. of the Environment
<input type="checkbox"/> Corps of Engineers	<input type="checkbox"/> National Marine Fisheries Service	
<input type="checkbox"/> Concurs (without comments) <input type="checkbox"/> Concurs (w/ <u>minor</u> comments) <input type="checkbox"/> Does Not Concur		
Comments / Reasons for Non-Concurrence:		
<i>Note: Do <u>not</u> provide "conditional" concurrence. You should either concur with the information as provided (without comments or with <u>minor</u> comments) or not concur until revisions are made or additional information is provided.</i>		
<input type="checkbox"/> MD Historical Trust	<input type="checkbox"/> MD Department of Planning	<input checked="" type="checkbox"/> Metropolitan Planning Organization
<input type="checkbox"/> Provides Comments (below or attached) <input checked="" type="checkbox"/> Has No Comments		
Comments:		
Additional Information Needed:		
NONE		
Signature: <u>Ronald F. Kirby</u>	Date: <u>June 3, 2003</u>	

Ronald F. Kirby
 Director, Department of
 Transportation Planning
 Metropolitan Washington
 Council of Governments

STREAMLINED PROCESS TRACKING

TO: EM: Nick Bledy Date: 6/18/03
 PM: Carner Harris Project: MD 97 Brookeville
 FROM: Gay Olsen/Wanda Brocato *[Signature]* Project No.: _____

- | | |
|--|--|
| <input type="checkbox"/> Purpose and Need | <input type="checkbox"/> Preliminary/Draft |
| <input type="checkbox"/> Alternatives Retained for Detailed Study | <input checked="" type="checkbox"/> Final/Formal |
| <input checked="" type="checkbox"/> SHA's Selected Alternative & Conceptual Mitigation | |

- | | | |
|--|---|-----------------------------------|
| <input checked="" type="checkbox"/> Concurrence w/o Comments | <input type="checkbox"/> Concurrence w/Comments | <input type="checkbox"/> Comments |
|--|---|-----------------------------------|

- | | | |
|---|-------------------------------|------------------------------|
| <input type="checkbox"/> FHWA | <input type="checkbox"/> NPS | <input type="checkbox"/> MDP |
| <input type="checkbox"/> EPA | <input type="checkbox"/> NMFS | <input type="checkbox"/> MHT |
| <input type="checkbox"/> COE | <input type="checkbox"/> DNR | <input type="checkbox"/> MPO |
| <input checked="" type="checkbox"/> FWS | <input type="checkbox"/> MDE | |

Response Required: Yes No

Comments: FYI

NOTE: Make sure all agencies receive a copy of this incoming concurrence/comment letter and (if applicable) the outgoing SHA response.

- cc: Simpson Grey Kresslein Sparklin Wynn
 Sanders Finkle Jacobs FHWA Pedersen
 Rice Simmons
- Denise King
- Estelle Stowder

Revised 12/14/00

MD 97 - Brookeville Study
 Selected Alternate and Conceptual Mitigation

Publicly Owned Parks and Recreation Areas: Alternate 7 Modified will impact 5.6 acres of Reddy Branch Park compared to 5.3 acres for Alternate 7 and 6.3 acres for Alternate 8. SHA met with MNCPPC on May 5, 2003 to discuss mitigation within Reddy Branch Park. A joint agency Memorandum of Understanding may be established between SHA and MNCPPC outlining mitigation including replacement of public parkland.

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Project Name & Limits: MD 97, Brookeville Study, Montgomery County		
Having reviewed the attached SHA Selected Alternative and Conceptual Mitigation concurrence/comment package and the summary presented above, the following agency (by signing this document):		
<input type="checkbox"/> Federal Highway Administration <input type="checkbox"/> Environmental Protection Agency <input type="checkbox"/> Corps of Engineers	<input checked="" type="checkbox"/> Fish and Wildlife Service <input type="checkbox"/> National Park Service <input type="checkbox"/> National Marine Fisheries Service	<input type="checkbox"/> MD Dept. of Natural Resources <input type="checkbox"/> MD Dept. of the Environment
<input checked="" type="checkbox"/> Concurs (without comments) <input type="checkbox"/> Concurs (w/ <u>minor</u> comments) <input type="checkbox"/> Does Not Concur		
Comments / Reasons for Non-Concurrence:		
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<input type="checkbox"/> Provides Comments (below or attached) <input type="checkbox"/> Has No Comments		
Comments:		
Additional Information Needed:		
Signature: <u>William Schult</u>		Date: <u>6/11/03</u>

STREAMLINED PROCESS TRACKING

TO: EM: Nick Bledy Date: 6/24/83
 PM: Carner Harris Project: MD97 Brackeville
 FROM: Gay Olsen/Wanda Brocato B Project No.: MD 746 B11

- Purpose and Need
- Preliminary/Draft
- Alternatives Retained for Detailed Study
- Final/Formal
- SHA's Selected Alternative & Conceptual Mitigation

- Concurrence w/o Comments
- Concurrence w/Comments
MINDR
- Comments

- FHWA
- EPA
- COE
- FWS
- NPS
- NMFS
- DNR
- MDE
- MDP
- MHT
- MPO

Response Required: Yes No

Comments: FYI

NOTE: Make sure all agencies receive a copy of this incoming concurrence/comment letter and (if applicable) the outgoing SHA response.

- cc: Simpson Grey Kresslein Sparklin Wynn
 Sanders Finkle Jacobs FHWA Pedersen
 Rice Simmons *- Denise King*
- Cathie Strander

Revised 12/14/00

JUN-23-2003 16:21

EPA III ESD

215 8142783 P.02/02

MD 97 - Brookeville Study
 Selected Alternate and Conceptual Mitigation

Publicly Owned Parks and Recreation Areas: Alternate 7 Modified will impact 5.6 acres of Reddy Branch Park compared to 5.3 acres for Alternate 7 and 6.3 acres for Alternate 8. SHA met with MNCPPC on May 5, 2003 to discuss mitigation within Reddy Branch Park. A joint agency Memorandum of Understanding may be established between SHA and MNCPPC outlining mitigation including replacement of public parkland.

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<input type="checkbox"/> Corps of Engineers	<input type="checkbox"/> National Marine Fisheries Service	
<input type="checkbox"/> Concur (without comments) <input checked="" type="checkbox"/> Concur (w/ <u>minor</u> comments) <input type="checkbox"/> Does Not Concur		
Comments / Reasons for Non-Concurrence: EPA appreciates the coordination with MNCPPC and is supportive of reevaluation for a northern wildlife passage.		
<i>Note: Do not provide "conditional" concurrence. You should either concur with the information as provided (without comments or with minor comments) or not concur until revisions are made or additional information is provided.</i>		
<input type="checkbox"/> MD Historical Trust	<input type="checkbox"/> MD Department of Planning	<input type="checkbox"/> Metropolitan Planning Organization
<input type="checkbox"/> Provides Comments (below or attached) <input type="checkbox"/> Has No Comments		
Comments:		
Additional Information Needed:		
Signature: <u><i>Salman Khatib</i></u>		Date: <u>6/23/03</u>



Susan Hinton
01/23/2004 04:32 P M
EST

To: "NICHOLAS BLENDY" <NBlendy@sha.state.md.us>
cc:
Subject: Re: Fwd: FW: MD 97, Brookville Project--FEIS/Section 4(f)
Evaluation--Legal sufficiency determination

OK. Given the determination by FHWA, we concur.

Thanks for your help in getting the info that we needed.

Susan Hinton, ASLA, AICP
Regional Transportation Liaison
National Park Service
National Capital Region

Phone: (202) 619-7106
Fax: (202) 619-7420

22 '03 02:40PM WETLANDS/WATERWAYS 410 537 3751

P.2/2

MD 97 - Brookeville Study
Selected Alternate and Conceptual Mitigation

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<input type="checkbox"/> Provides Comments (below or attached) <input type="checkbox"/> Has No Comments		
Comments:		
Additional Information Needed:		
Signature: <u>Eddie A. Thigianelli</u>	Date: <u>12/22/03</u>	

FROM : ENVIRONMENTAL REVIEW UNIT

PHONE NO. : 1 410 260 8339

Jun. 23 2003 03:35PM P1



Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Maryland Department of Natural Resources
ENVIRONMENTAL REVIEW
Tawes State Office Building, B-3
Annapolis, Maryland 21401

C. Ronald Franks
Secretary

W. P. Jensen
Deputy Secretary

FAX TRANSMITTAL MEMO

Date: 6 / 23, 2003

We are sending 2 Pages
(Including this cover sheet)

To: Gay Olsen

Office: SHA

Fax #: 410-209-5004

Comments: DNR concurrence on:

SACM MD97 Brookville Project
Montgomery County,

Thanks

Ray
From: Ray Dintaman

Fax #: 410-260-8339

Phone #: 410-260-8331

Telephone: (410) 260-8330
DNR TTY for the Deaf: (410) 260-8835

FROM : ENVIRONMENTAL REVIEW UNIT

PHONE NO. : 1 410 260 8339

Jun. 23 2003 03:29PM P2



Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Maryland Department of Natural Resources

Environmental Review
Tawes State Office Building
580 Taylor Avenue
Annapolis, Maryland 21401

C. Ronald Franks
Secretary

W. P. Jensen
Deputy Secretary

June 23, 2003

Ms. Gay Olsen
Project Planning Division
Maryland Department of Transportation
State Highway Administration
P.O. Box 717
Baltimore, Maryland 21203-0717

Dear Ms. Olsen:

This letter is in reply to Cynthia D. Simpson's letter of request, dated May 21, 2003, for Maryland Department of Natural Resources (DNR) concurrence on the State Highway Administration's (SHA) Selected Alternate and Conceptual Mitigation (SACM) for the MD 97 Brookeville Project; Project No. MO746B11, Montgomery County.

The Department participated in discussions of this project at the Interagency Meeting and at field visits over the past several years. Also, the Department has provided written comments at the various comment and concurrence points in the Maryland Streamlined Environmental and Regulatory Process. DNR concurs with the Selected Alternate and Conceptual Mitigation and advocates continued efforts to optimize protection of natural resources during further planning for this project. We support the continued coordination that is referenced in the SACM package regarding the stream crossing structure designs, especially the wildlife crossing location which is still being evaluated and coordinated for the Reddy Branch stream crossing. Continued coordination may also be needed, as referenced, on the issue of the presence of shingle oak (*Quercus imbricaria*) in the study area. We will plan to participate in these continued interagency natural resource discussions.

If you have any questions concerning these comments, you may contact Greg Golden of my staff at 410-260-8334.

Sincerely,

Ray C. Dintaman, Jr., Director
Environmental Review Unit

FROM : ENVIRONMENTAL REVIEW UNIT

PHONE NO. : 1 410 260 8339

Jun. 23 2003 03:36PM P2

MD 97 - Brookeville Study
Selected Alternate and Conceptual Mitigation

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Project Name & Limits: MD 97, Brookeville Study, Montgomery County		
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<input type="checkbox"/> Environmental Protection Agency	<input type="checkbox"/> National Park Service	<input type="checkbox"/> MD Dept. of the Environment
<input type="checkbox"/> Corps of Engineers	<input type="checkbox"/> National Marine Fisheries Service	
<input type="checkbox"/> Concur (without comments)	<input checked="" type="checkbox"/> Concur (w/ <u>minor</u> comments)	<input type="checkbox"/> Does Not Concur
Comments / Reasons for Non-Concurrence:		
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<input type="checkbox"/> Provides Comments (below or attached)		<input type="checkbox"/> Has No Comments
Comments:		
Additional Information Needed:		
Signature: <u>Ray C. Dintaman</u>	Date: <u>June 23, 2003</u>	



Maryland Department of Planning

Robert L. Ebrlich, Jr.
Governor

Michael S. Steele
Lt. Governor

Audrey E. Scott
Secretary

Florence E. Burian
Deputy Secretary

July 3, 2003

Ms. Cynthia D. Simpson, Deputy Director
Office of Planning & Preliminary Engineering
Maryland State Highway Administration
P.O. Box 717
Baltimore, MD 21203-0717

Attention: Ms. Gay Olsen

**Re: MD 97 - Brookeville Project
Selected Alternate and Conceptual Mitigation**

Dear Ms. Simpson:

This is in response to SHA's request for comments on the Selected Alternate for the MD 97 Brookeville Project. In this letter, MDP provides an interpretation on how the Selected Alternate and the agency coordination efforts that have been taken thus far have addressed the central issues related to Maryland's Smart Growth and Neighborhood Conservation regulations and policy.

Overall, the Selected Alternate – Alternate 7 Modified best minimizes the potential of encouraging secondary sprawl development while meeting the Purpose and Need of the MD97 - Brookeville project. This Alternate's articulate design features appear to limit the future capacity of the planned bypass to no more than that of the capacity that which MD97 currently has through the Town of Brookeville. At essence is that the planned facility will remove the existing northbound and southbound traffic bottlenecks in the center of Brookeville. Specific design features that contribute to this include the 11ft. travel lanes and overall design speed of 40 mph, the roundabouts at Brookeville Road and at the southern end of the proposed bypass, and closing of the current MD97 for future through traffic. We also note that by locating the bypass as near as possible to the Town of Brookeville, this alternate appears to limit secondary and cumulative effects of the facility within this area.

The Governor's March 5, 1999 letter proposed four criteria to restart the planning study for the MD97 - Brookeville project (the March 5, 1999 letter is attached). These four criteria were made through negotiation and an agreement with local elected officials in Montgomery County. MDP recognizes that MDOT/SHA, Montgomery County officials, local officials, and all state and local agencies have taken significant efforts to address the Governor's four criteria.

JUL11'03 AM 9:45 OPPE

301 West Preston Street Suite 1101 Baltimore, Maryland 21201-2305
Telephone: 410.767.4500 Fax: 410.767.4480 Toll Free: 1.877.767.6272 TTY Users: Maryland Relay
Internet: www.MDP.state.md.us

In regard to Criterion 1, the Montgomery County Council amended the County's Annual Growth Policy in an effort to prevent the use of the bypass to promote secondary sprawl development outside Brookeville. Currently, Montgomery County is in the process of updating the Olney Master Plan. A proposal included in the draft plan's Transportation Network Recommendations is to "establish a "two-lane" roadway policy for rural portion of Planning Area." The portion of MD 97 north of Brookeville sits within this designated rural area. Designating the rural portion of MD 97 to remain a two-lane road facility will greatly support the Montgomery County's "Wedges and Corridors" Policy and is the critical step to help to preserve the roadway capacity of MD 97 through Brookeville. The recommendation for a "two-lane" roadway policy is consistent with the intent of Criterion 1. Our Department supports the County's recommendation to establish a two-lane roadway policy in the rural portion of the Olney Planning Area.

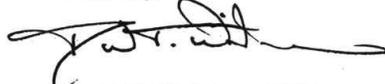
We note that SHA has been at the forefront in the effort to provide quality project design for this project consistent with Criterion 2. In coordination with Maryland Environmental Trust, SHA has negotiated the use of a permanent easement to prevent inconsistent development along the right-of-way of the proposed bypass facility. This meets the requirements of Criterion 2. We note that it would be prudent to have the permanent easement agreement signed and entered into the public record prior to obtaining construction funding for the MD97 – Brookeville project.

With regard to Criterion 3, Montgomery County and the State should fully discuss under what circumstances the State may seek reimbursement for the cost of the bypass facility.

As stated in MDP's February 7, 2001 letter to SHA, prior to providing state funding for the construction of the project, an exception from the Maryland Board of Public Works will be required. We recommend that MDOT, SHA and MDP discuss the steps necessary for submittal of this project to the Board of Public Works.

Thank you for providing MDP the opportunity to review and provide comments on the Selected Alternate for the MD97 – Brookeville project. Should you have any questions with regard to the above comments, please do not hesitate to contact me at 410-767-4564 or Bihui Xu at 410-767-4567.

Sincerely,



David T. Whitaker, AICP
Manager – Transportation
Planning Unit

- cc: Tom Rimrodt, Asst. Secretary - MDP
- James T. Noonan, MDP
- Joseph Kresslein, SHA
- Dan Johnson, FHWA
- Barbara Rudnick, EPA
- Paul Wettlaufer, COE
- Bill Schultz, USFWS
- Greg Golden, DNR

Elder Ghigiarelli, MDE
Michael Day, MHT
Attn: Beth Cole
Ron Kirby, WCG
Don Halligan, MDOT
Fatimah Hasan, MDOT
Charles R. Loehr, M-NCPPC, Montgomery County
Attn: Dan Hardy
Khalid Afzal

STATE OF MARYLAND
OFFICE OF THE GOVERNOR



March 5, 1999

PARRIS N. GLENDE
GOV

ANNAPOLIS C
STATE H
100 STATE C
ANNAPOLIS, MARYLAND
1410 874
(TOLL FREE) 1-800-811-

WASHINGTON OI
SUITE
444 NORTH CAPITOL STREET,
WASHINGTON, D.C. 2
2021 824-

TDD 1410 333-

The Honorable Isiah Leggett
President
Montgomery County Council
100 Maryland Avenue
Rockville MD 20850

Dear Ike:

As a follow up to our conversation last week, I appreciate your desire to find a positive solution to the Brookeville bypass issue. Your recognition of the statewide implication of my decisions about the bypass and the need to control sprawl development across County lines is appreciated.

The ideas we discussed about Montgomery County being able to guarantee that no sprawl development would result from the construction of the bypass speak directly to the real policy issues at stake. We must curtail the unbridled sprawl that has chewed up fertile rural areas and valuable open space, harmed our environment and damaged our quality of life.

Following up on our discussion, I have developed a proposal that could allow the future construction of the bypass without encouraging sprawl development north of Brookeville. If the County could implement the four items listed below, we would meet the anti-sprawl objectives and requirements of the Smart Growth legislation:

(1) Under local ordinance, the County is to adopt through appropriate enforceable action restrictions that will prevent this bypass from allowing sprawl development. Any capacity a bypass might add to the road network cannot be used to allow development outside the current boundaries of the town of Brookeville.

(2) Permanent easement to be held by an entity such as the Maryland Environmental Trust must border the entire roadway to ensure no future access, widening or connection to the bypass is possible.

(3) If for any reason these controls fail, Montgomery County will reimburse the State for the full cost of the bypass.

(4) Montgomery County, the Maryland Department of Transportation and Howard County government will work out a safe traffic calming point north of the bypass which limits traffic capacity to the current capacity of MD 97 through Brookeville.

Mr. Isiah Leggett
Page Two

These four actions will enhance our anti-sprawl effort while allowing the bypass under the Smart Growth law. I realize it will take some time for the County Council to consider these points and implement such ideas. With your leadership, I am confident success will be achieved rapidly. At that point, I could put the bypass back into the Consolidated Transportation Program as it was last year and support a waiver of the funding prohibition. Until these four conditions are assured, I cannot consider funding even the planning monies for the bypass.

Let me reaffirm my commitment to implementing our Smart Growth initiatives. Our children and grandchildren deserve to inherit a State where rural areas and open space are preserved, the environment is healthy, and thriving communities enjoy their quality of life. This is my vision for Maryland

Ike, your willingness to work cooperatively to achieve our shared policy goal of limiting sprawl, and your practical suggestions on how to achieve our goal is very much appreciated. I look forward to your reply.

Sincerely,



Parris N. Glendening
Governor



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

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

MARYLAND DEPARTMENT OF TRANSPORTATION

July 29, 2003

Mr. John Bernstein, Director
Maryland Environmental Trust
100 Community Place
Crownsville MD 21032

Dear Mr. Bernstein:

Thank you for your March 18, 2002 letter suggesting changes to the Letter of Commitment and Memorandum of Understanding (MOU) relative to the Smart Growth criteria for the MD 97 Brookeville Project. We appreciate your suggestions and support in the development of a MOU.

It is the expectation of the State Highway Administration (SHA), under present conditions to cooperate with the Maryland Environmental Trust (MET) to assign or co-hold the easement with another land trust that is not an instrumentality of the State, in order to ensure the permanency of the easement. This will be subject to the approval of the Board of Public Works.

Upon the allocation of funds to move forward with preliminary engineering, acquisition of right-of-way and construction, the State Highway Administration will determine the exact location and acreage of the permanent easement. The proposed easement can be accommodated within the right-of-way required to support the roadway. The SHA anticipates addressing access onto the easement with a temporary crossing clause for roadway maintenance purposes.

If this Letter of Commitment is acceptable, please sign, keep a copy and return the original to Ms. Carmeletta T. Harris. If you would like to discuss the details of this project or this Letter of Commitment, please feel free to contact me or Ms. Harris, Project Manager, at 410-545-8522, toll free at 1-800-548-5026 or via email at charris@sha.state.md.us.

Very truly yours,

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

CONCURRENCE:

John Bernstein
Director
Maryland Environmental Trust

Date

My telephone number/toll-free number is _____
Maryland Relay Service for Impaired Hearing or Speech 1.800.201.7165 Statewide Toll Free
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.marylandroads.com

Mr. John Bernstein
Page Two

cc: Mr. Nicholas Blendy, Environmental Manager, State Highway Administration
Ms. Janet Handy, Deputy Counsel, Office of Counsel, State Highway Administration
Ms. Carmeletta T. Harris, Project Manager, State Highway Administration
Mr. James Highsaw, Program Manager, Maryland Environmental Trust
Mr. David Whitaker, Transportation Planning Unit Manager, Maryland Department of
Planning
Mr. J. Richard Zuzmyak, Transportation Projects Coordinator, Office of Smart Growth