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MAR 14 2003



## DEPARTMENT OF PERMITTING SERVICES

Robert C. Hubbard  
DirectorDouglas M. Duncan  
County Executive

March 11, 2003

Mr. Scott Roser  
Macris, Hendricks & Glascock, P.A.  
9220 Wightman, Suite 120  
Montgomery Village, MD 20886-1279Re: Stormwater Management **CONCEPT**  
**RECONFIRMATION** Fitzgerald  
Automotive  
SWM Concept #: 200790

Dear Mr. Roser:

Your request for a stormwater management reconfirmation for the above site has been evaluated. The existing on-site stormwater management concept is hereby conditionally reconfirmed to allow for construction of the proposed building and to modify the existing stormwater management facility to remove portions of it from the proposed transitway right of way (including setback areas). The conditions to be met are as follows:

1. The roof drains from the proposed canopy for the vehicle display area must drain to the stormwater management facilities.
2. The existing Stormfilters must be disassembled according to the manufacturer recommendations. The design engineer must certify that the re-assembled Stormfilters are structurally sound and function according to the manufacturer specifications. Otherwise, they will have to be replaced.
3. The total amount of pipe storage in need of relocation will be determined at the sediment control design stage. New CMP elbows, tees, manifolds and pipe are required to reconfigure the system as you have proposed. Any damage to the existing facilities must be repaired to the satisfaction of MCDPS or be replaced.



If you have any questions regarding these actions, please feel free to contact Blair Lough at 240-777-6335.

Sincerely,



Richard R. Brush, Manager  
Water Resources Planning Section  
Division of Land Development Services

RRB:dm

cc: SM File #: 200790

MONTGOMERY COUNTY DEPARTMENT OF PERMITTING SERVICES  
WATER RESOURCES SECTION

255 Rockville Pike, 2nd Floor, Rockville, Maryland 20850-4153

Date: January 27, 2003

MEMO TO: Michael Ma, Supervisor  
Development Review Committee, MNCPPC

FROM: Blair Lough  
Water Resources Section, MCDPS

SUBJECT: Stormwater Management Concept Plan/100 yr.Floodplain Review  
Site Plan # 8-03021 , Middlebrook Industrial Park It-1&2  
Project Plan # \_\_\_\_\_ ,  
Preliminary Plan # \_\_\_\_\_ , DPS File # 200790  
Subdivision Review Meeting of \_\_\_\_\_

The subject plan has been reviewed to determine if it meets the requirements of Executive Regulation 5-90 for stormwater management and Executive Regulation 108-92 AM for floodplain. The following summarizes our findings:

**SM CONCEPT PLAN PROPOSED:**

- On-site:**  Quantity  Quality  Both  
 On-site/Joint Use  Central (Regional): waived under 2.a.2.b.  
 Existing  Concept Approved
- Waiver:**  Quantity  Quality  Both  
 Approved on \_\_\_\_\_
- Exempt**  **Other**

**Type Proposed:**

- Infiltration  Retention  Surface Detention  Wetland  Sand Filter  
 Separator Sand Filter  Other

**FLOODPLAIN STATUS:** 100 Year Floodplain On-Site  Yes  No  Possibly

- Provide source of the 100Year Floodplain Delineation for DPS approval:  
 Submit drainage area map to determine if a floodplain study (> or equal to 30 acres) is required.  
 Dam Breach Analysis/100 yr.floodplain study:  Approved  Under Review :

**SUBMISSION ADEQUACY COMMENTS:**

- Adequate as submitted.  
 Provide verification of Downstream notification.

**RECOMMENDATIONS:**

- Approve  as submitted  with conditions (see comments below).  
 Incomplete; recommend not scheduling for Planning Board at this time.  
 Hold for additional information. See below  
 Comments/Recommendations: SWM concept reconfirmation is still under review; The phase 1 submittal appears fine and swm exists; However, pahse 2 & 3 as shown needs verification that all drainage areas are still conveyed to the existing swm facility.

cc: Steve Federline, Environmental Planning Division, MNCPPC  
M.H.&G.

bll DRC site plan.03/01

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
FOREST CONSERVATION RECOMMENDATIONS

TO: Plan Enforcement Staff, Development Review Division

SUBJECT: Project Name Middlebrook Industrial Park, Lots 1&2/A  
Date Recd 11/20/01 NRI/FSD # 4-02143E

The above-referenced plan has been reviewed by the Environmental Planning Division to determine the requirements of Chapter 22A of the Montgomery County Code (Forest Conservation Law). A determination has been made that the plan qualifies for the following exemption:

EXEMPTION:

**Grandfathering Provision** - Lot(s) covered by a preliminary plan of subdivision or site plan that did not receive a sediment control permit and for which the plan was:  
 Approved before July 1, 1984 and has less than 40,000 sq. ft. of forest cover.  
 Approved or extended between July 1, 1984 and July 1, 1991.

*Note: Activity must not result in disturbance of any forest in a stream buffer or on property subject to SPA WQP requirements. Plans approved before July 1, 1991 that are revised and will result in cutting of >5,000 additional square feet of forest and development or redevelopment which requires resubdivision are not exempt.*

**This property is not subject to a Tree Save Plan.**

- Tree protection measures are required; sediment control permit should not be released until MNCPPC staff has approved the Tree Save Plan.
- MNCPPC inspector must be contacted for pre-construction inspection of tree protection measures and authorization to begin any tree clearing.

**This property is not within a Special Protection Area\*.**

\* Properties within a Special Protection Area (SPA) must submit a Preliminary Water Quality Plan. Contact Leo Galanko at MCDEP for information regarding the requirements (301-217-6323).

Comments \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: CAC  
Cathy Conlon, Environmental Planning Division

Date: 1/22/02

cc: Don Rohrbaugh, SSI for the applicant (Fax 301-947-7704)



**MONTGOMERY COUNTY DEPARTMENT OF ENVIRONMENTAL PROTECTION  
WATERSHED MANAGEMENT DIVISION**

Rockville Center - 255 Rockville Pike, Suite 120 - Rockville, Maryland 20850-4166  
Telephone No. 240-777-7780 - FAX No. 240-777-7715

**SUBDIVISION PLAN REVIEW: MNCPPC Development Review Committee (DRC)  
Comprehensive Water Supply and Sewerage Systems Plan Issues**

MNCPPC File Number: **8-03021**

DRC Meeting Date: **01/27/2003**

Subdivision Plan Name: **MIDDLEBROOK INDUSTRIAL PARK**

Proposed Development: **commercial: auto sales & service (12,296 sq.ft.); offices (55,936 sq.ft.)\***

Watershed: **Great Seneca Creek**

Zoning: **I-1**

Planning Area: **Germantown**

Site Area: **2.93 acres**

Location: **Middlebrook Rd. & Aramanth Dr.**

Engineer: **Macris, Hendricks & Glascock 301-670-0840**

**Water Supply and Sewerage Systems** (as specified on the subject subdivision plan or plan application)

**Proposed Water Supply:**

**Proposed Wastewater Disposal:**

Community (public) WATER system

Community (public) SEWER system

**Existing Service Area Categories:** Water: **W - 1**

Sewer: **S - 1**

Water/Sewer Plan Map Amendment: **-----**

**Water Supply Comments:**

**Sewerage System Comments:**

Yes; the water supply system is consistent with the existing water service area category

Yes; the sewerage system is consistent with the existing sewer service area category

**\*Additional Comments:**

The plan proposes a three-phase development of the site. The first phase will be an auto sales trailer\*\*; the second phase the auto sales and service facility; the third phase the office building and a parking garage.

\*\*The phased plans show water and sewer service connections only starting with the second phase of development. Will the phase one trailer have any sanitary facilities? If so, how will water supply and wastewater disposal be handled, and for how long?

The phase three office building appears to build its water and sewer connections/hookups off of those to be built for the auto showroom. This needs to be addressed with WSSC staff who may require either separate connections to the existing mains for each structure or connections to on-site main extensions.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

April 23, 2003

## MEMORANDUM

TO: Robert Kronenberg, Site Plan Reviewer  
Development Review Division

FROM: Sue Edwards, I-270 Corridor Team Leader *Sue*  
Community Based Planning Division

SUBJECT: Middlebrook Industrial Park, Lots 1 & 2 (Site Plan #8-03021)

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**STAFF RECOMMENDATION:** Approval with condition that property be acquired in advance of need for future transit station.

This memo presents the findings of the Community Based Planning team concerning master plan consistency, transit station location, alternative station locations, access and community impacts for the subject property.

### VICINITY DESCRIPTION

Frontage of the subject property occurs on Middlebrook Road which was improved in recent years to three lanes in each direction with a concrete median. The existing intersection of Middlebrook Road and Waring Station Road is controlled by traffic signal. Adjoining uses to the subject property include the newly constructed Criswell Honda display lot, showroom, and service department. Between the Criswell site and I-270, additional auto storage occurs while construction proceeds with two buildings for outdoor motor sports sales and service (see Figure 1).

The Gunner's Lake Village residential community lies across Middlebrook Road to the south and comprises the neighborhoods of Middlebrook Commons and Gunner's View. The area immediately north of the site on Middlebrook Road is designated as Middlebrook Tech Park; the land northwest of the site accessed by an extension of Waring Station Road is the Department of Energy (DOE). In the past year, the secondary entrance to the DOE site has been closed off by

security fencing and Jersey barriers.

## MASTER PLAN RECOMMENDATIONS

The subject property is located in analysis area EC-5 of the 1989 Germantown Master Plan. The Master Plan describes this area as being "located in the northwest quadrant of Middlebrook Road and I-270. It contains 40 acres and is zoned I-1 in accordance with the recommendations of the 1974 Germantown Master Plan. This area is located south of the existing Department of Energy facility and across Middlebrook Road from a single-family detached subdivision [sic townhouses] (page 48)".

"This Analysis Area contains five recorded lots and an approved preliminary plan of subdivision in the I-1 Zone. Because of these development approvals, this Master Plan recommends retaining the I-1 zoning classification. In order to assure that excessive traffic congestion is not created, development in this area should be limited to a total of 700,000 square feet of building area, including existing and future construction (2,800 employees) at an overall floor area ratio of 0.4 (page 48)".

## TRANSIT RECOMMENDATIONS

The Master Plan contained reference to the Corridor Cities Easement as a proposed right of way 70 feet wide extending from the Shady Grove Metro station north through the corridor cities of Gaithersburg, Germantown and Clarksburg (see Figure 2 from Master Plan).

The Master Plan addresses future studies that would analyze potential alignments by means of the following text:

"It is important to assure that the right-of-way for future transit service be protected. The Corridor Cities Transit Easement Study began in spring 1988. It will identify and review alternatives in land use patterns, various transit types and specific alignments, ridership estimates, environmental impacts, **station** and storage yard **locations, and site analysis associated with the transit easement** (page 126, emphasis added).

A continuation of this study, Final Report: Shady Grove-Clarksburg Study 2, was issued by the Montgomery County Department of Public Works and Transportation in 1996. This document identified the Middlebrook future transit station shown on Figure 3. The facilities associated with the station include: 2 bus bays; 50 surface parking spaces; 50 spaces within a three-story parking structure; 8 kiss-and-ride spaces. The total acreage required by these facilities is estimated to be 1.3 acres.

In establishing the need for the station, the Final Report responded to Issue #S-3 as follows:

**“Since the station on the Montouri Property is not recommended, is there a need and a potential for a station between Metropolitan Grove and the Germantown Town Center?”**

...The [Final Report] Review Team directed the [project] consultants to examine the positive and negative impact of locating a station on Middlebrook Road. It was found that the Middlebrook Road station could offer better relationships with bus routes, residential properties, and employees. A station has been recommended for this area (Final Report, page 37)”.

The Montouri property is the location of the large church off Waring Station Road visible from I-270 north.

## **COMMUNITY CONCERNS**

The Germantown Citizens Association and the Germantown Alliance have testified in opposition to the two previous automobile sales and service uses at this location. The applicant has met with both groups to discuss the elements of this application.

## **ANALYSIS**

The location of the Middlebrook Road transit station has been used for concept level planning by the Department of Public Works and Transportation, the State Highway Administration for the Draft Environmental Impact statement for proposed improvements to I-270, and by the Department of Park and Planning in site plans for adjacent properties which have developed as automobile sales and service uses. The Maryland Transit Authority recently responded to the applicant (Attachment A) that acquisition of the subject property was underway with the Maryland-National Capital Park and Planning Commission and that the Final Environmental Impact Statement (expected in 2005) would make a more definitive determination of alignment and station location.

## **STAFF RECOMMENDATION**

Protection of this site for a future transit station by means of advance land acquisition is critical to meeting the land use recommendations for the I-270 Employment Corridor in Germantown and Clarksburg. State, local, and federal elected officials, including the municipalities of Gaithersburg and Rockville are unified in endorsing the CCT project need, alignment, and supporting facilities.

Alternative station sites were examined in 1987-88 during the Master Plan and again in 1994-95 while preparing the alignment study that recommended this



location. The forthcoming update of Germantown Master Plan commencing in July 2003 provides the opportunity to revisit land use recommendations, access and site issues for the Middlebrook station and the surrounding vicinity.

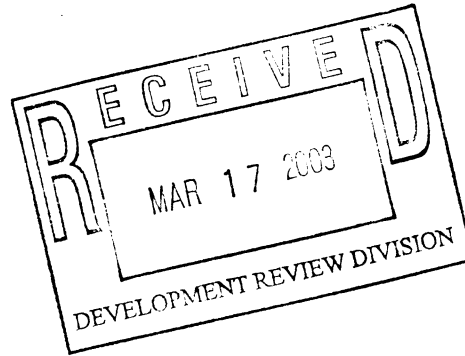
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March 14, 2003

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**ROBERT R. HARRIS**  
301-215-6607  
rharris@hklaw.com

The Honorable Derick Berlage  
Chairman  
Montgomery County Planning Board  
The Maryland-National Capital Park & Planning Commission  
8787 Georgia Avenue  
Silver Spring, MD 20910

**PLANNING BOARD EXECUTIVE  
SESSION DISCUSSION MARCH 20, 2003**

Re: Corridor Cities Transitway  
Lots 1 and 2, Block A,  
Middlebrook Industrial Park

Dear Chairman Berlage:

We represent Kensington Realty, Inc., the owner of Lots 1 and 2 in Middlebrook Industrial Park, along Middlebrook Road in Germantown. We understand the Planning Board will be discussing with staff during the Executive Session of the March 20, 2003 Planning Board meeting, the possibility of purchasing these properties for a potential future transitway station. The purpose of this letter is to register our strong opposition to the potential condemnation or purchase of this property by Montgomery County.

By way of background, these two lots total 2.93 acres and are zoned I-1 (light industrial). The owner is part of the Fitzgerald Automotive Team which operates automobile dealerships in the region. They purchased these properties with the intention of using them for an automobile dealership and a possible office building. Neighboring properties have been developed similarly. The properties are already record lots, are zoned to allow automobile dealership uses,

The Honorable Derick Berlage

March 14, 2003

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have excellent road frontage and have no compatibility issues with neighboring properties, all difficult commodities to find today making them nearly irreplaceable for the intended use.

Since purchasing the property, our client has graded and paved both lots, has installed underground storm water management facilities, lighting and landscaping and is using them for automobile storage while awaiting approvals for dealership use. Earlier this year, we submitted a Site Plan (Site Plan No. 8-03021) to develop the properties in three additional stages consisting of (1) a temporary building for auto sales; (2) an automobile dealership building; and (3) an office building. (The Zoning Ordinance requires Site Plan approval for automobile dealerships but allows other uses including office buildings, storage, retail uses, etc. as a matter of right).

At the Development Review Committee meeting on January 27, 2003, Staff indicated a potential interest in the entire property for use as a station for the Corridor Cities Transitway. The possibility of running the Transitway across the front of the property without a station using the remainder was also discussed. As you may be aware, the Germantown Master Plan recommends construction of a Corridor Cities Transitway through Germantown and identifies a series of potential alignments. One option crosses the front of this property. In addition, it suggests the possibility of 4 transit stations, each approximately 10 acres in size to provide for the station, parking (1,000 spaces), bus bays and kiss and ride areas. A south Germantown station is called for in Planning Area GL-2, along Waring Station Road between Middlebrook Road and Clopper Road. It recommends no station on our client's property.

Since then, there have been informal studies looking at the alternative alignments, but no formal alignment nor any particular station locations have been set. Recently, the Maryland Department of Transportation has initiated environmental impact studies of the entire Corridor Cities Transitway. Those studies are not expected to be completed until December, 2003 or later. Additionally, Governor Ehrlich has requested funding to evaluate the Corridor Cities Transitway including the possibility that it would not be a rail line but would only be a busway.

We believe it is inappropriate to prohibit our client from developing its property further or for the County to acquire it by condemnation. Given the undecided nature of the Transitway, the absence of a Master Plan recommendation for a station here, and the fact that our client is using the property for a business purpose today and intends to begin automobile sales there as soon as its Site Plan is approved, our client opposes any mandatory sale of the property to the County.

It may be useful for you to have additional information both on the prematurity of an acquisition of this property and, even more importantly, the inappropriateness of it for a station. In terms of prematurity, we note that the environmental impact studies will take at least a year, and a proposed Master Plan for the Germantown Area to begin this summer will take at least two years. Both will have significant impact on fixing a transitway alignment, the mode of transit, the location of stations and timing. Prejudging that this property is required for a station when it was not planned that way in any previous Master Plan is inappropriate. We have no basis for believing this will be a station site. Similarly, even assuming the site were considered for a transit station after those studies are completed in several years, there is no funding in place for construction of the transitway. Moreover, discussions to date have assumed that any construction of it will proceed in phases with the first phase only to the Metropolitan Grove area or somewhere south of Germantown. The bottom line is that any transitway is many years away from beginning construction through the Germantown area and no one knows if a station will even be located here.

Even more importantly, in terms of the impropriety of designating this site as a station location and the condemnation of our client's property at this time, we note the following:

1. No such station is identified in the Germantown Master Plan.
2. The property owner has relied on the Master Plan first in acquiring the property for development and then proceeding with past construction. Plans are now proceeding for the automobile dealership facilities and a transit station would completely displace these uses.
3. The more recent thought of studying this site for a potential transit station is not based upon a sufficient level of information to support condemnation.
4. Specific problems with this site for a transit station are:
  - The site is small (2.93 acres compared with the 10 acres identified in the earlier Master Plan as desirable for stations) and has slopes enabling the construction of only a small station with limited parking.
  - Vehicular access (both cars and buses) is inferior for a transit station.

- There is no signal at Middlebrook Road and Amaranth Drive.
  - There is no median break at Middlebrook Road and Amaranth Drive; only right in and right out movements are and will be permitted because of site distance issues, the curve and hill on Middlebrook Road and intersection spacing with Waring Station Road to the West.
  - Automobiles and buses coming from the north and west could not access the station without going well beyond I-270, making a U-turn and then coming back to the station.
  - Traffic leaving the station and headed south and east on Middlebrook Road would need to cross several lanes of traffic immediately in order to enter the left turn lane at Waring Station Road and then make a U-turn.
- In addition to the conflict with this site, a station and transit alignment here would eliminate an existing office building and parking on an adjoining site.
  - There are better alternatives; a site at the extension of Waring Station Road, perhaps on the corner of the Department of Energy, would allow full intersection movements at Middlebrook Road, more parking and would better serve the Department of Energy.

In summary, our client must register its complete opposition to the sale of this property. Our client's intention is to continue proceeding with its Site Plan approval and to proceed with the next phase of development within the next several months, followed later by the other phases. In the interest of cooperation, however, our client is prepared to offer the County a reservation of a strip of land along the frontage of its property to accommodate the transitway itself (not a station) as reflected in the pending Site Plan. Although our client is not obligated to place even that property in reservation because it already consists of record lots and does not have to go through the subdivision process, our client is prepared to place the area shown on the Site Plan in reservation if the subject Site Plan is approved. This would protect the frontage of the property for a possible transitway but would allow our client to develop the

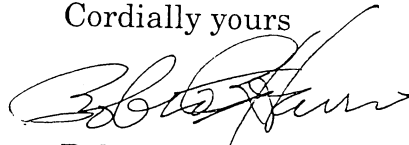
The Honorable Derick Berlage

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remainder of it for the contemplated uses. We recognize that it would not allow construction of the station but, we believe, for the reasons stated above, that no station will ever be constructed on the property anyway. We understand the importance of the transitway to the County and hope that the Planning Board understands the importance of this property to our client. The transitway itself can be accommodated here but the station cannot. We ask that you consider these thoughts in your deliberations.

Cordially yours

A handwritten signature in black ink, appearing to read "Robert R. Harris", written in a cursive style.

Robert R. Harris

cc: Planning Board Members  
Jack Fitzgerald  
Sue Edwards  
Ron Welke  
Michelle Rosenfeld, Esquire  
Robert Kronenberg

**MARYLAND TRANSIT ADMINISTRATION****MARYLAND DEPARTMENT OF TRANSPORTATION**

Robert L. Ehrlich, Jr., Governor • Robert L. Flanagan, Secretary • Robert L. Smith, Administrator

April 18, 2003

Mr. Perry Berman  
5087 Columbia Road  
Columbia MD 21044-5505

Dear Mr. Berman:

I am writing to share the status of our ongoing work to minimize potential impacts associated with the Corridor Cities Transitway (CCT) alignment which is under study as part of the I-270/US 15 Multi-Modal Corridor Study. This work relates to your client's property at Middlebrook Road and Amaranth Drive near the proposed Middlebrook Road station.

At your request, we attempted to determine whether the alignment could be shifted into excess State Highway Administration right-of-way. After careful study, we are unable to determine the exact right-of-way needs beyond what was previously identified in the Draft Environmental Impact Statement. Updated mapping obtained from the development site engineers is not detailed enough to accomplish this task. Though there will be later opportunities for alignment revisions, at this time we cannot rule out the possibility of impacts to the auto dealership, parking areas, and the stormwater management pond.

We understand that the Maryland-National Capital Park and Planning Commission is proceeding with negotiations to acquire the parcel for a future transit station. In cooperation with that effort, during the Final Environmental Impact Statement (FEIS) phase we will obtain additional mapping that will allow us to make a more definitive determination of the alignment and station location, as well as determine measures needed to minimize any impacts to adjacent site improvements. This approach does not constitute any agreement or intention on our part to shift or relinquish the CCT master plan alignment, or any determination of the location and need by the County for a future station.

We have also investigated your suggestion for a station closer to the Department of Energy (DOE). Our review of files concerning coordination between Montgomery County and DOE during the early phase of the transitway development indicates that DOE prefers a station close to their primary entrance off MD 118, but ruled out a station on their own property due to security concerns which have since been heightened. DOE representatives felt that a closer, larger station in the Germantown Town Center and a secondary station on Middlebrook Road to the south were preferable to a station on DOE property.

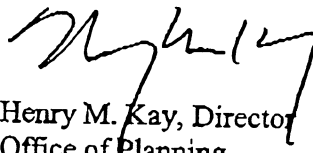
Mr. Perry Berman  
Page 2

We will continue to work with Montgomery County representatives to finalize the alignment and long-term station location so that local planning issues are properly addressed. The M-NCPPC will undertake a revision to the 1989 Germantown Master Plan in FY 04 which will include examination of land use, circulation, and transit station location for a small area of Middlebrook Road near Waring Station Road and Amaranth Drive. Strategies to maximize vehicular and pedestrian access opportunities will be investigated as well.

We anticipate identifying a preferred highway and transit alternate in late 2003. The FEIS will then be prepared, and federal approval of the document will be requested in Fall, 2004. The project will then become a candidate for subsequent funding to perform detailed engineering in order to develop the construction details.

Thank you for your interest and involvement in this study. If you have any questions, please call me at 410-767-3787 or Mr. Lorenzo Bryant, the MTA project manager, at 410-767-3754.

Sincerely,



Henry M. Kay, Director  
Office of Planning

cc: Mr. Lorenzo Bryant, Project Manager, Office of Planning, Maryland Transit Administration  
Ms. Sue Edwards, Team Leader Area 3, Community-Based Planning, M-NCPPC  
Mr. Richard Hawthorne, Chief, Transportation Planning, M-NCPPC  
Mr. Rob Klein, Transportation Planner, Montgomery Co., DPW&T  
Mr. Russell Walto, Project Manager, State Highway Administration