

# Akin Gump

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Re: I-495 & I-270 Managed Lanes Study – Draft Environmental Impact Statement

Dear Mses. Choplin and Mar:

On behalf of our client, the Maryland-National Capital Park and Planning Commission (“M-NCPPC” or “the Commission”), we submit the following comments regarding the Draft Environmental Impact Statement (“DEIS”) prepared by the Maryland Department of Transportation State Highway Administration (“MDOT SHA”) and Federal Highway Administration’s (“FHWA”) (collectively “the “Lead Agencies”) for the I-495 & I-270 Managed Lanes Study (the “Project”). The Commission has a number of key concerns with the Lead Agencies’ Purpose and Need statement, the impacts to the natural and built environment the Lead Agencies identified, the alternatives they evaluated, and the mitigation they considered. The Commission’s objections center on the Lead Agencies’ failure to consider reasonable alternatives with fewer impacts to the environment, with a focus on the parkland and streams under the express jurisdiction of the M-NCPPC.

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## **I. Introduction**

### **A. Maryland-National Capital Park and Planning Commission**

The Maryland General Assembly created the M-NCPPC in 1927 to plan for the orderly development, acquisition and maintenance of parkland and open space, and to protect natural resources in Prince George's and Montgomery Counties.<sup>1</sup> Since that time, M-NCPPC has acquired several hundred parks in the two counties. Twenty-five of those parks will be directly impacted by each of the Project's Build Alternatives, and Congress has specially designated M-NCPPC to protect 10 of those parks that were acquired with federal funds under the Capper-Crampton Act ("CCA").<sup>2</sup> The Lead Agencies engaged M-NCPPC as a Cooperating Agency to provide input on the Project based on M-NCPPC's integral role as a planning agency and steward of the natural and built environments. To fulfill its role as a Cooperating Agency, M-NCPPC must ensure that the Project is undertaken in compliance with the National Environmental Policy Act ("NEPA") and that M-NCPPC undertakes its role as a cooperating agency in accordance with its statutory mandates. As a Cooperating Agency, MNCPPC staff has taken its responsibilities seriously by fully engaging with the Lead Agencies and the Interagency Working Group ("IAWG") established by the Lead Agencies during every stage of review of the Project.

The Commission members want to reassure the Lead Agencies that its comments do not reflect a decision to oppose or support the Project. Rather, as the governing body of this Cooperating

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<sup>1</sup> The Maryland Court of Appeals has outlined M-NCPPC's regional functions as follows:

The [M-NCPPC], as its name suggests, administers parks, public recreation, and, in conjunction with the governments of Prince George's and Montgomery counties..., participates in the planning of development within the [Maryland-Washington Regional District]. Among other things, [a Maryland statute] authorizes the MNCPPC to: (1) acquire property for parks, forests, roads, and other public spaces; (2) rename streets and highways and number and renumber houses within the district to fix mistakes, remove confusion, and establish uniformity; (3) acquire, improve, and manage land for flood control purposes; (4) establish road grades in Montgomery County; and, (5) recommend amendments to the zoning laws and subdivision regulations.

*Cty. Council of Prince George's Cty. v. Zimmer Dev. Co.*, 444 Md. 490, 526–27, 120 A.3d 677, 699 (2015) (internal citations omitted).

<sup>2</sup> Act of May 29, 1930 (46 Stat. 482), as amended by the Act of August 8, 1946 (60 Stat. 960), Section 3 of the Act of July 19, 1952 (66 Stat. 781, 791), and the Act of August 21, 1958 (72 Stat. 705).

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Agency, the Commission is carrying out its responsibilities as the planning agency for Montgomery and Prince Georges Counties and as the parkland steward in these counties. The Lead Agencies are no doubt aware of the Commission's concerns regarding the environmental review process, attributable largely to their failure to undertake a comprehensive analysis of reasonable alternatives, impacts, and mitigation measures and failure to incorporate best practices in transportation, environmental protection, and land use planning. The Lead Agencies' approach is at odds with M-NCPPC's statutory obligation to make well-reasoned and informed decisions regarding parkland, cultural resources, and historical resources. Still, M-NCPPC remains committed to working collaboratively with the Lead Agencies as they continue their environmental review of the Project and apply for the required federal and state permits. The Commission's hope is that the Lead Agencies will consider changes to the Project that minimize impacts to parkland and streams and take meaningful steps to responsibly address the unavoidable impacts to parkland that would result from a selected Build Alternative.

## **B. Project Background**

The stated purpose of the Project is to develop travel demand management solution(s) that address congestion, improve trip reliability on I-495 and I-270 within the Project limits, and enhance existing and planned multimodal mobility. The stated needs for the Project are: accommodating existing traffic and long-term traffic growth; enhancing trip reliability; providing additional roadway travel choices; enhancing homeland security; and facilitating the movement of goods and the ability of businesses to provide services. The Project limits are: I-495 from south of the George Washington Memorial Parkway in Virginia, including improvements to the American Legion Bridge over the Potomac River, to west of MD 5 in Maryland and along I-270 from I-495 to north of I-370, including the east and west I-270 spurs.<sup>3</sup>

The Lead Agencies initially screened sixteen Project alternatives. They retained five Build Alternatives plus a modified version of one of those retained Build Alternatives for detailed study, for a total of six Build Alternatives studied in the DEIS. The Lead Agencies have not identified a Preferred Alternative. They do not plan to identify a preferred alternative until they release the Final Environmental Impact Statement ("FEIS").<sup>4</sup>

From Fall 2018 to Spring 2019, when the Lead Agencies were undertaking the alternatives analysis and environmental technical analysis, stakeholders, including M-NCPPC and the

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<sup>3</sup> DEIS at pp. 1-1, 1-4.

<sup>4</sup> DEIS at p. ES-4.

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National Capital Planning Commission (“NCPC”), asked the Lead Agencies to evaluate an alternative that would divert traffic to MD 200 (also known as the Intercounty Connector or ICC) between I-270 and I-95. M-NCPPC proposed this alternative as it would avoid or reduce impacts to significant, regulated resources and mitigate the need for residential relocations. MDOT SHA and FHWA briefly considered this MD 200 Diversion Alternative, which would route drivers along MD 200 instead of the top side of I-495 between I-270 and I-95. The MD 200 Diversion Alternative assumed no widening or new capacity on the top side of I-495 between I-270 and I-95, but did consider other potential less-impactful improvements to relieve congestion (known as Transportation System Management/Transportation Demand Management, or TSM/TDM, options), such as ramp metering and hard shoulder running. MDOT SHA rejected this alternative and did not retain it for detailed study on grounds that the alternative would not provide sufficient traffic relief benefits many years down the road and was not financially viable.

## **II. Discussion**

### **A. The Project’s Purpose and Need Statement presupposes managed lanes at the expense of multimodal alternatives, including transit, such that the Lead Agencies rejected reasonable alternatives from detailed study that would have fewer environmental impacts than the Build Alternatives.**

NEPA requires that lead agencies planning to undertake major projects prepare a Purpose and Need Statement that defines “the underlying purpose and need for the proposed action.”<sup>5</sup> Although lead agencies enjoy some deference in determining a project’s purpose and need, NEPA requires lead agencies to define the purpose and need broadly enough to ensure that the environmental review does not prematurely eliminate from consideration otherwise reasonable alternatives.<sup>6</sup>

The Commission argued in its letter of June 12, 2019 to the Lead Agencies commenting on the Alternatives Retained for Detailed Study (“ARDS”) that the Lead Agencies defined the Project’s Purpose and Need so narrowly as to exclude from consideration a number of reasonable

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<sup>5</sup> 40 C.F.R. § 1502.13.

<sup>6</sup> *Simmons v. U.S. Army Corps of Eng’rs*, 120 F.3d 664, 669 (7th Cir. 1997) (finding it is a violation of NEPA to “contrive a purpose so slender as to define competing ‘reasonable alternatives’ out of consideration”).

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alternatives.<sup>7</sup> Put another way, the Lead Agencies drafted the Purpose and Need Statement in a way that presupposed a managed lane variant as the locally preferred alternative.

The Lead Agencies used their narrowly drafted Purpose and Need Statement to justify dismissal of alternatives that provide transportation options to a broad segment of the population and have fewer environmental impacts than newly constructed managed lanes. The Lead Agencies left themselves with a limited set of Build Alternatives that involve widening I-270 and I-495 and charging tolls for use of the new lanes. It is well-established law that Lead Agencies may not define the objectives of their action “in terms so unreasonably narrow that only one alternative ... would accomplish the goals” of their actions, rendering the EIS a preordained formality.<sup>8</sup>

Regardless of whether the Lead Agencies drafted a Purpose and Need Statement that was too narrow, the Lead Agencies are obligated to consider reasonable alternatives that meet Purpose and Need, and, in particular, alternatives with fewer environmental impacts. In the Purpose and Need Statement, the Lead Agencies “[recognized] the need to plan and design this project in an environmentally responsible manner.”<sup>9</sup> Nevertheless, every Build Alternative retained for study in the DEIS would impose profound impacts to M-NCPPC parklands and other natural and environmental resources. Indeed, all of the Build Alternatives assume the elimination of certain resources maintained by M-NCPPC that simply are irreplaceable. Applying the test of common sense, a NEPA process that results in such serious environmental consequences should only follow a careful balancing of the environmental options and opportunities against the ultimate purpose and need of relieving congestion on an overutilized road system. But this NEPA process never attempted any balancing because it unreasonably and artificially constrained its attention to avoid the serious study of any alternative that would meet the Purpose and Need by reducing demand for car trips through inter-modal transit, the MD 200 Diversion Alternative (discussed further below), or otherwise.

In this respect, by excluding any detailed analysis, the DEIS’ analysis of the Build Alternatives falls short of NEPA’s mandate to utilize environmental analyses to inform the selection of an alternative that avoids and minimizes the impacts that any Build Alternative would create.<sup>10</sup> In

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<sup>7</sup> Letter from Elizabeth M. Hewlett and Casey M. Anderson, M-NCPPC, to Jeanette Mar and Lisa Choplin (June 12, 2019), [https://montgomeryplanningboard.org/wp-content/uploads/2019/11/I-495-I-270-Managed-Lanes-Study-Nov-15-2019-Memo-attachments\\_web.pdf](https://montgomeryplanningboard.org/wp-content/uploads/2019/11/I-495-I-270-Managed-Lanes-Study-Nov-15-2019-Memo-attachments_web.pdf).

<sup>8</sup> *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 196 (D.C. Cir. 1991).

<sup>9</sup> Purpose and Need Statement, DEIS Appendix A, at p. 17.

<sup>10</sup> See 40 C.F.R. § 1505.2 (“each agency shall...[s]tate whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not.”); *Pub.*

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other words, the Lead Agencies have failed to consider the differential impacts from its proposed alternatives in violation of NEPA's mandate to "consider fully the environmental effects" of the proposed action.<sup>11</sup> Instead, the weight of environmental impact against other criteria must be appropriately balanced due to the highly developed nature of the Study Area, where the remaining environmental resources are finite and, in many cases, irreplaceable. Any reduction in environmental impact must be weighed heavily in narrowing the Alternatives to be studied and eventual selection of the Preferred Alternative.

The Purpose and Need Statement focused on managed lane solutions to accommodate travel demand within the Maryland I-495 and I-270 study area. Rather, a broader, more holistic approach that considers multi-modal improvements and encourages more efficient development would be more consistent with regional federal policies such as the NCPC's Comprehensive Plan in addition to the local and regional planning policies contained in the functional and master

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*Employees for Envtl. Responsibility v. Beaudreu*, 25 F. Supp. 3d 67, 130 (D.D.C. 2014) (U.S. Fish & Wildlife Service did not make an independent determination about whether a feathering operational adjustment was a reasonable and prudent measure necessary or appropriate to minimize a wind project's impact on listed species); *Cowpasture River Pres. Ass'n v. Forest Serv.*, 911 F.3d 150, 176, 183 (4th Cir. 2018) (U.S. Forest Service "abdicated its responsibility to preserve national forest resources" in part by reversing its decision on whether mitigation measures would effectively minimize environmental impacts to groundwater and surface waters).

<sup>11</sup> *Theodore Roosevelt Conservation P'ship v. Salazar*, 616 F.3d 497, 503 (2010) (D.C. Cir. 2010); *see also Matthews v. United States Dep't of Transp.*, 527 F. Supp. 1055, 1057 (W.D.N.C. 1981) (agencies cannot "eliminate from discussion or consideration a whole range of alternatives, merely because they would achieve only some of the purpose of a multipurpose project"). Although "the range of alternatives an agency must consider and discuss under NEPA" is within the agency's discretion, the agency's choice of alternatives should be "evaluated in light of its reasonably identified and defined objectives." *Ctr. for Food Safety v. Salazar*, 898 F. Supp. 2d 130, 146 (D.D.C. 2012).

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plans of Prince George’s and Montgomery Counties.<sup>12,13</sup> Under these circumstances, the exclusion from study of multi-modal transit or any other alternative that is more favorable in avoiding environmental impacts constitutes a gross failure to comply with NEPA’s mandate.

The Lead Agencies’ protestations that toll revenue is the only way to fund mobility improvements in the Project area also ring hollow. There are uncertainties associated with the Project’s financing, such as interest rates, construction costs, and now demand for toll lanes given the shifts in travel patterns caused by the COVID-19 pandemic. As a result, the managed lane alternatives likely may require public funding to supplement shortfalls in toll revenues. In light of the uncertainty as to whether the Project could be paid for through a public-private

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<sup>12</sup> For example, Prince George’s County’s most recent transportation planning policy—the 2009 Master Plan of Transportation (“MPOT”)—focuses on three elements of transit in the Capital Beltway region: promoting Transit-Oriented Development at existing transit stations; making use of the Woodrow Wilson Bridge transit compatibility; and extending the Purple Line. Specifically, the MPOT identifies a “Future Fixed Guideway Transit” along portions of the beltway from Woodrow Wilson Bridge to the National Harbor area and a “Purple Line Extension Evaluation Corridor” in the text as well as accompanying mapping. The MPOT also recommends that the transit system play a more geographically comprehensive role in ensuring quality access and mobility options for all residents and workers throughout the county. See M-NCPPC, Approved Countywide Master Plan of Transportation (Nov. 2009), [http://mncppcapps.org/planning/publications/BookDetail.cfm?item\\_id=238&category\\_id=1&name=&pricemin=&pricemax=&author=&Pubs\\_year=&price=&](http://mncppcapps.org/planning/publications/BookDetail.cfm?item_id=238&category_id=1&name=&pricemin=&pricemax=&author=&Pubs_year=&price=&). Additionally, the county’s Plan 2035 seeks to prioritize the Purple Line Extension from New Carrollton to the Woodrow Wilson Bridge as well as a proposed route that traverses the beltway. M-NCPPC, Plan Prince George’s 2035 Approved General Plan (May 2014), [http://mncppcapps.org/planning/publications/BookDetail.cfm?item\\_id=279&Category\\_id=1](http://mncppcapps.org/planning/publications/BookDetail.cfm?item_id=279&Category_id=1).

<sup>13</sup> In Montgomery County, the Corridor Cities Transitway project (“CCT”) was a component of the I-270/US 15 Multimodal Corridor Study (2002) and that study’s subsequent DEIS. MDOT, Multi-Modal Corridor Study Draft Environmental Impact Statement and Section 4(f) Evaluation (May 2002), <https://www.i270multimodalstudy.com/environmental-studies/deis.html>. In this document, the CCT accompanied highway improvement proposals as part of a *packaged* solution for corridor mobility, in order to improve mobility for the upper portion of the corridor. The CCT and the I-270 highway improvement proposals co-existed in a subsequent Alternatives Analysis/Environmental Assessment (“AA/EA”). MDOT, Multi-Modal Corridor Study Alternatives Analysis/Environmental Assessment (May 2009), <https://www.i270multimodalstudy.com/environmental-studies/aaea.html>. The projects were decoupled in 2010, at which time the State determined the CCT had “independent utility” from the highway improvements and produced a Supplemental EA for the CCT only. MDOT, Multi-Modal Corridor Study Supplemental Environmental Assessment (Nov. 2010), <https://www.cctmaryland.com/index.php/supplemental-environmental-assessment-sea-document>. The decoupling allowed the CCT to advance independently and not be held back by the highway improvements. Some design work for the CCT has been completed, and MDOT released another EA in 2017 reflecting the same. MDOT, Multi-Modal Corridor Study Environmental Assessment (Aug. 2017), <https://www.cctmaryland.com/index.php/about-the-project/studies-reports>. In addition to the CCT, various Planning Department studies and master plans, including the Countywide Transit Corridors Functional Master Plan, White Flint 2 Sector Plan, Shady Grove Minor Master Plan Amendment, and MARC Rail Communities Plan, discuss enhancements to MARC (commuter rail).



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partnership (“P3”), the Lead Agencies should not have rejected alternatives like the MD 200 Diversion Alternative or transit options based on the fact that they may require additional public funds. Restricting alternatives only to managed lanes is not reasonable in the DEIS stage. Rather, the Lead Agencies should have considered alternatives that have fewer environmental impacts.

To be clear, the Commission is not advocating that the Lead Agencies designate a transit alternative as the locally preferred alternative. Rather, the Commission’s position is that the Lead Agencies should have considered the MD 200 Diversion Alternative and multimodal options and evaluated them against the managed lane alternatives as part of the NEPA process, so that the relative environmental impacts of the managed lanes alternatives can be fully understood.

**B. MDOT SHA and FHWA failed to study in detail the MD 200 Diversion Alternative.**

Lead agencies must consider “a reasonable range of alternatives that are technically and economically feasible” and “meet the purpose and need for the proposed action.”<sup>14</sup> Where there are a large number of possible alternatives, Lead Agencies need not study every reasonable alternative, but a “reasonable number of examples, covering the full spectrum of alternatives, must be analyzed and compared in the EIS.”<sup>15</sup>

As noted above, the Lead Agencies stated in the DEIS that they did not study the MD 200 Diversion Alternative because it did not meet the Project’s purpose and need of accommodating long-term traffic growth, enhancing trip reliability, or improving movement of goods and services.<sup>16</sup> More specifically, the Lead Agencies concluded that the alternative did not fare as well as other alternatives on metrics such as system-wide delay, corridor travel time and speed, level of service, travel time index, vehicle throughput, and effect on local roadway networks.<sup>17</sup> However, declining to study the MD 200 Diversion Alternative simply because the Lead Agencies projected it to have fewer traffic benefits and net lower revenues to the private concessionaire undertaking the Project than other alternatives is not reasonable in light of the

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<sup>14</sup> 40 C.F.R. § 1508.1(z).

<sup>15</sup> Council on Environmental Quality, Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations, 46 Fed. Reg. 18026 (Mar. 16, 1981) (hereinafter “40 NEPA Questions”), at Question 1b (emphasis added).

<sup>16</sup> DEIS at p. 2-21.

<sup>17</sup> DEIS at p. 2-21 to 2-22. The DEIS also states that “the top side of 1-495 would perform worse than the No Build Alternative in the morning peak period” under the MD 200 Diversion Alternative, but does not explain why. DEIS at p. 2-22.



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environmental impacts of the Build Alternatives being considered.<sup>18</sup> Furthermore, the MD 200 Diversion Alternative represents a crucial point on the “full spectrum of alternatives” that the Lead Agencies must evaluate. The alternative incorporates the best elements of the No-Build Alternative—which has no environmental impacts but no traffic benefits—and elements of any of the Build Alternatives—which have traffic benefits but substantial environmental impacts.

It also is noteworthy that in discussing the MD 200 Diversion Alternative in the DEIS the Lead Agencies paired it with managed lanes on I-95. It is not clear why the Lead Agencies did not consider the MD 200 Diversion alternative on its own, since adding the I-95 managed lanes to the alternative was not justified based on origin/destination data and would cause additional environmental impacts that gave grounds for MDOT SHA to reject the proposed alternative. When the Lead Agencies considered the MD 200 Diversion Alternative in 2019, they studied the alternative on its own and acknowledged it met Purpose and Need. Therefore, it should have carried the alternative forward on its own and studied it in detail in the DEIS.

The Lead Agencies’ conclusory rejection of the MD 200 Diversion Alternative is problematic for three reasons. First, implicit in MDOT SHA’s traffic metrics ratings relative to the Build Alternatives is the fact that the MD 200 Diversion Alternative would result in improvements in those metrics over a no-build scenario. Furthermore, when questioned during a Commission meeting on November 20, 2019, MDOT SHA’s P3 director acknowledged that an alternative such as the MD 200 Diversion Alternative that would address Purpose and Need better than the no-build alternative, though perhaps not as much as other alternatives, would still meet Purpose and Need.<sup>19</sup>

Second, the Lead Agencies also noted, as a basis for rejecting the MD 200 Diversion Alternative, that it would require a public subsidy of approximately \$310 million. The Build Alternatives also could require subsidies under a number of construction cost and interest rate scenarios, making rejection of the MD 200 Diversion Alternative on this basis unreasonable.<sup>20</sup> Several courts have found that a lead agency must consider an alternative that is reasonable even if it is not feasible

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<sup>18</sup> The traffic/travel analysis was also flawed because the DEIS did not approach the ICC as “the managed lanes” for the top side of 495. There was no discussion of the reduced impact to I-495 as a result of affirmatively encouraging use of the ICC. For other alternatives, the review was both on the managed lanes and the general purpose lanes.

<sup>19</sup> See Transcript of Nov. 20, 2019 Commission meeting, at pp. 21-22.

<sup>20</sup> DEIS at p. 2-22, 2-48 to 2-49.

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under current conditions.<sup>21</sup> In one particularly relevant case, the Ninth Circuit ruled that an agency's failure to consider reasonable alternatives solely because of a lack of available funds constituted a violation of Council on Environmental Quality ("CEQ") regulations.<sup>22</sup> The Forest Service considered only one alternative to prevent forest fires since funding for other alternatives was not readily available. The court ruled that the Forest Service should have considered other alternatives since funding could become available through a special congressional appropriation, re-prioritizing other funding, or altering a fuel treatment program.<sup>23</sup>

**C. Right-of-Way acquisition in furtherance of any of the Build Alternatives runs afoul of the Capper-Cramton Act.**

The CCA, enacted in 1930, authorized federal funding for M-NCPPC to acquire land in Maryland for the development of a comprehensive park, parkway, and playground system in the National Capital area. Congress has charged M-NCPPC with representing the State in protecting and stewarding CCA-acquired property in Maryland, in accordance with plans approved by the NCPC.<sup>24</sup>

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<sup>21</sup> *Nat'l Wildlife Fed'n v. Nat'l Marine Fisheries Serv.*, 184 F. Supp. 3d 861, 943 (D. Or. 2016) (Fisheries Service must consider breaching, bypassing, or removing dams to protect endangered species as part of NEPA analysis, even though these alternatives may have required congressional action to approve funding and would not be reasonably certain to occur). *But see Colo. Env'tl. Coal. v. Salazar*, 875 F. Supp. 2d 1233, 1247 n.9 (D. Colo. 2012) (an action that requires "outright reversal of a prior Congressional directive" did not require consideration under NEPA).

<sup>22</sup> *Ctr. for Biological Diversity v. Rey*, 526 F.3d 1228, 1233 (9th Cir. 2008); *rev'd on other grounds*, 577 F.3d 1015, 1018 (9th Cir. 2009).

<sup>23</sup> *Id.*

<sup>24</sup> The Maryland Court of Appeals recently described M-NCPPC's role with respect to the CCA as follows:

MNCPPC is responsible for protecting lands under the Capper-Cramton Act, which was enacted by Congress in 1930 to "protect land on both sides of the Potomac River as an integrated park and parkway system known as the George Washington Memorial Parkway." Land Use § 15-302(3) provides MNCPPC with the authority to act as the representative of this State in fulfilling the mandate of the Capper-Cramton Act in Maryland. The Act enables MNCPPC to enter into agreements with the National Capital Park and Planning Commission ("NCPPC") for extending and developing protected lands in Maryland. Therefore, the Capper-Cramton Act provided for cooperation between NCPPC and MNCPPC, enabling MNCPPC to act as administrator over preserved lands.

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Property acquired under the CCA and managed by M-NCPPC's constituent departments is governed by the "Basic Agreement" entered into in 1931 between M-NCPPC and NCPC. Section 5 of the Basic Agreement states as follows:

It is further understood and agreed, in accordance with the [CCA and Maryland enabling legislation] that the title to all lands acquired under the provisions of this Basic Agreement or any Supplementary Agreement shall vest in the State of Maryland, and that *no part of any land purchased for park or recreational purposes with the funds provided by the [NCPC], in whole or in part, shall at any time be conveyed, sold, leased, exchanged, or in any manner used or developed for other than park purposes* by the [M-NCPPC], and the development and administration of said lands shall be under the [M-NCPPC] but the development thereof shall be in accordance with plans approved by the [NCPC], or the necessary approval of the Congress of the United States.

(emphasis added).

In February 1951, NCPC and M-NCPPC entered into the first Amendatory Agreement to the Basic Agreement, which, among other things, increased funding for parkland acquisition, amended the General Park Plans, and limited M-NCPPC's ability to issue bonds. The Amendatory Agreement also restated and clarified the Basic Agreement's restriction on the disposition and use of parkland acquired pursuant to the CCA. The Amendatory Agreement stated that where M-NCPPC uses NCPC funds to acquire parcels included in the General Park Plans and threatened by encroaching subdivision development that would greatly increase the expenses incurred in acquiring such parcels, such parcels "must ... be acquired under the Capper-Crampton program ... so as to eliminate any possibility that any such unit may in the future be rendered incomplete by the sale, disposition or use of any such parcels by the [M-NCPPC] for other than park purposes ... to the end that all such parcels shall be subjected to the limitations and restrictions contained in said Capper-Crampton Act and in said Basic Agreement." Thus, both Maryland and federal law—as implemented by the aforementioned agreements—explicitly limit disposition of M-NCPPC-administered parkland for purposes inconsistent with their use as parkland.

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Furthermore, it is a longstanding principal that a government agency cannot “override the expressed will of Congress, or convey away public lands in disregard or defiance thereof.”<sup>25</sup> Indeed, using lands for purposes other than those provided by law is actionable.<sup>26</sup> Relevant to the matter at hand, the Maryland Court of Appeals ruled that a subdivision plat in which land was dedicated to public use as part of a large regional park by M-NCPPC could not be abandoned where the developer seeking abandonment could not show that abandonment would not damage the public interest.<sup>27</sup>

Section 17-205 of the Maryland Land Use Article vests solely in M-NCPPC the authority to “transfer any land that it holds under this title and determines is not needed for park purposes or other purposes authorized under this title.” The Land Use Article authorizes M-NCPPC to transfer park property—acquired under the CCA or otherwise—only after M-NCPPC makes a determination that the property is no longer “needed for park purposes.” Similarly, section 17-206(b)(1) of the Land Use Code authorizes M-NCPPC to exchange playground or recreational land held or acquired by M-NCPPC for other public land that it determines is more suitable for playground and recreational purposes, “[e]xcept for parkland acquired under an agreement with the [NCPC].”

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<sup>25</sup> *Am. Sch. of Magnetic Healing v. McAnnulty*, 187 U.S. 94, 108 (1902) (citing *Burfenning v. Chi., S. P., M. & O. R. Co.*, 163 U.S. 321 (1896)).

<sup>26</sup> *See, e.g., Sportsmen’s Wildlife Def. Fund v. Romer*, 73 F. Supp. 2d 1262, 1274 (D. Colo. 1999) (placing rock quarry, signs, and motion detectors on public lands constituted misuse under 50 C.F.R. § 80.14(b)(2) and the Pittman-Robertson Act, since the land was purchased with federal funds for wildlife purchases).

<sup>27</sup> *Md.-Nat’l Capital Park & Planning Comm’n v. McCaw*, 246 Md. 662, 686-87 (1967).

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Section 6.4.4 of the DEIS includes a table identifying the ten CCA park properties that the Build Alternatives will impact:

**Table 6-6: Summary of Minimization of Impacts to Parks Acquired with Capper-Cramton Funding Implemented Between June 2019 and May 2020**

Park Property Acquired with Capper-Cramton Funding	June 2019 Impacts in acres	May 2020 Impacts in acres	Change in Impacts in acres
George Washington Memorial Parkway	17.6	12.5	- 5.1
Chesapeake and Ohio Canal National Historical Park	15.1	15.4	+ 0.3
Clara Barton Parkway	1.8	1.8	No Change
Cabin John Stream Valley Park, Unit 2	0.1	< 0.1	Negligible
Rock Creek Stream Valley Park, Unit 3	4.9 4.6 (Alt 9M)	3.3 2.5 (Alt 9M)	- 1.6 - 2.1 (Alt 9M)
Rock Creek Stream Valley Park, Unit 2	9.6 9.5 (Alt 9M)	0.4 0.2 (Alt 9M)	- 9.2 - 9.3 (Alt 9M)
Locust Hill Neighborhood Park (previously part of Rock Creek Park)	0.3 0.3 (Alt 9M)	0.3 0.2 (Alt 9M)	No Change - 0.1
Sligo Creek Parkway	5.0 4.1 (Alt 9M)	4.1 3.3 (Alt 9M)	- 0.9 - 0.8 (Alt 9M)
Northwest Branch Stream Valley Park, Unit 3	3.2	3.0	- 0.2
Cabin John Regional Park	5.4 (Alt 8, 9, 9M) 6.9 (Alt 10) 5.2 (Alt 13B) 6.7 (Alt 13C)	5.7 (Alts 8,9, 9M) 7.2 (Alt 10) 4.5 (Alt 13B) 5.2 (Alt 13C)	+ 0.3 (Alts 8, 9, 9M) + 0.3 (Alt 10) - 0.7 (Alt 13B) - 1.5 (Alt 13C)

MDOT SHA has failed to recognize that M-NCPPC (and NCPC) must approve the use of these CCA properties for the Project, and only after finding the land is no longer needed as parkland. Similarly, only M-NCPPC can ask the Department of Interior to change a use or deed restriction, for example, to Cherry Hill Park, separate and apart from NEPA’s environmental review requirements. As discussed in more detail below, the MD 200 Diversion Alternative would avoid parkland, unlike the Build Alternatives that the Lead Agencies evaluated in the DEIS. M-NCPPC cannot meet its statutory obligations to protect parkland generally and CCA-covered land specifically without ensuring there are no other reasonable alternatives that avoid parkland. Simply rejecting the MD 200 Diversion Alternative out of hand because of traffic projections 40 years into the future is not reasonable in light of the impacts of the alternatives retained for design. Assuming there is no means of avoiding the taking of parkland to undertake the Project, then, at a minimum, the Lead Agencies should provide clarity regarding parkland impacts and possible avoidance and propose mitigation before asking M-NCPPC to approve a change in use of parkland under M-NCPPC’s control.

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**D. The Project's Limits of Disturbance are underestimated.**

Section 2.7.4 of the DEIS describes the Limits of Disturbance (“LOD”) for the Build Alternatives, and Appendix B describes efforts by the Lead Agencies to minimize the LOD for each of the Build Alternatives. The LOD specified in the DEIS is narrower than what MDOT SHA and FHWA depicted in earlier maps. For example, MDOT SHA and FHWA previously stated that the Project would require the relocation of parts of Rock Creek and depicted a substantially larger LOD at Rock Creek Park between Rockville Pike and Stoneybrook Drive. Avoidance and minimization measures have been applied along parkland resources to include the use of retaining walls, alignment shifts, elimination of stormwater management facilities along the edge of roadway, and adjustments to typical roadside ditch design. While avoidance and minimization efforts have reduced direct impacts to parkland, the stormwater burden in these areas has increased and severe shortfalls in the onsite regulatory stormwater management requirements are anticipated.

Because MDOT SHA does not plan to finalize the Project’s design until after it completes the NEPA review and awards a contract to a firm to undertake the project, there is significant risk that the LOD will need to be much larger than what is reflected in the DEIS. For example, stream impacts identified on the Impact Plates in the Lead Agencies’ Joint Permit Application severely underestimate the true impacts that will result from the relocation of drainage channels, stabilization of existing outfalls that would receive additional storm drainage, and grading that eliminates all existing buffer plantings and bank stabilizing features where it extends right to the edge of waterways surrounding the Project. The Commission appreciates MDOT SHA’s past and future commitment to reduce to the maximum extent possible the LOD and construction impacts to the most critical resources within the project area. However, the LOD must be expanded in many areas to allow for work to restore, stabilize, transition, and protect natural resources, as well as for construction access, staging, grading, and materials storage. An important aspect of avoidance and minimization is minimizing the roadway footprint while still keeping a larger LOD to address environmental issues and/or adequately restore disturbed areas to ensure that they will appropriately handle the increased drainage pressures that will result from advancing one of the Build Alternatives. Ongoing design of the Project must ensure stable tie-ins for outfalls, protection and restoration of stream banks, and improvements to resources based on Project impacts. M-NCPPC has preliminarily identified numerous locations where the LOD does not appear adequate for construction of these outfalls, necessary perennial stream stabilization, modern drainage techniques, and roadway infrastructure.



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Other changes to the LOD may also be necessary. For example, the Project’s engineering and design phases may necessitate changes in access points or to enhance safety, which can increase the LOD. Additionally, the LOD also may not accurately reflect impacts to cultural and historic resources, because the inventory of those resources is incomplete.

**E. MDOT SHA has failed to consider the Project’s impacts from phasing.**

The Lead Agencies state in the DEIS that the Project will be built in phases if they select a Build Alternative.<sup>28</sup> Yet the Lead Agencies do not consider the impacts of phased construction. “The potentially significant impacts from phasing . . . must be adequately studied” during the NEPA process, particularly for projects such as this one that may span many years from start to finish.<sup>29</sup> In addition, when the planning of future phases progresses beyond the “speculative” or “mere proposal” stage, lead agencies should consider impacts from phasing.<sup>30</sup>

Here, MDOT SHA’s approach to phasing the Project does not adequately account for local transportation issues, changing travel demands, changes expected to occur over time within a particular census of natural resources, and the explicable constraints on I-495 and I-270 in Montgomery County. It also fails to account for Prince George’s County’s land use and transportation plans, such as the development of the University of Maryland Capital Region Medical Center off of I-495. As MDOT SHA’s planning process moves towards completion, so must the Lead Agencies’ consideration of the phased Project’s impacts from diverting traffic to the Inter-County Connector, which should include the completion of the I-270 Managed Lanes expansion and south on I-495 through the bottleneck over the American Legion Bridge before the project expands to address the constrained areas along the top side of I-495.

**F. The DEIS fails to satisfy the burden imposed on projects that impact parkland and other protected areas, including those protected by the CCA.**

Section 4(f) of the Department of Transportation Act and the law’s implementing regulations require avoidance, minimization, and mitigation (in that order) of highway project impacts to parkland.<sup>31</sup> As FHWA acknowledges, it may not approve a transportation project that uses any Section 4(f) property, unless FHWA determines that: (1) there is no feasible and prudent

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<sup>28</sup> DEIS at p. 2-47 to 2-48.

<sup>29</sup> *Davis v. Mineta*, 302 F.3d at 1123-24, *abrogated on other grounds by Dine Citizens Against Ruining Our Env’t v. Jewell*, 839 F.3d 1276 (10th Cir. 2016).

<sup>30</sup> *See, e.g., O’Reilly v. U.S. Army Corps of Eng’rs*, 477 F.3d 225, 237 (5th Cir. 2007).

<sup>31</sup> 23 U.S.C. § 138; 49 U.S.C. § 303; 23 C.F.R. Part 774.



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avoidance alternative to the use of the property and the action includes all possible planning to minimize harm to the property resulting from such use; or (2) the use of the property, including any measures to minimize harm committed by the applicant, will have a de minimis impact on the use of the property.<sup>32</sup> If the avoidance analysis determines that there is no feasible and prudent avoidance alternative, then FHWA may approve the alternative that causes the least overall environmental harm.<sup>33</sup> The appropriate time to identify avoidance and mitigation measures is before eliminating reasonable alternatives that have fewer environmental impacts than the retained alternatives. NEPA requires—and courts have recognized—that agencies must take a “hard look” at impacts to sensitive resources throughout the environmental review process, even prior to rejecting alternatives.<sup>34</sup>

The Lead Agencies noted in their Draft Section 4(f) Evaluation included in the DEIS that the MD 200 Diversion Alternative would avoid all impacts to thirteen Section 4(f) properties, including four CCA properties.<sup>35</sup> However, the Lead Agencies rejected the MD 200 Diversion Alternative as not meeting Purpose and Need, thereby retaining for detailed study only Build Alternatives that impact Section 4(f) properties. As discussed above, the Lead Agencies should not have rejected the MD 200 Diversion Alternative since the Lead Agencies previously had found that the alternative met Purpose and Need. In light of the potential traffic relief benefits from the MD 200 Diversion Alternative and the fact that it would not impact Section 4(f) properties, the Lead Agencies should have advanced the alternative for additional review and analysis along with the Alternatives Retained for Detailed Study and weighed its pros and cons when compared to the other Build Alternatives.

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<sup>32</sup> DEIS Appendix F, at p. 3 (citing 23 C.F.R. § 774.3(a), (b)).

<sup>33</sup> 23 C.F.R. § 774.3(c)

<sup>34</sup> See *Davis v. Mineta*, 302 F.3d at 1120 (NEPA review failed to take a “hard look” by rejecting avoidance alternatives and failing to consider transportation systems management, mass transit, and various build alternatives by simply concluding that they were unfeasible); see also *Ass’n Working for Aurora’s Residential Env’t v. Colo. Dep’t of Transp.*, 153 F.3d 1131 (10th Cir. 1998) (“§4(f) requires the problems encountered by proposed alternatives to be truly unusual or to reach extraordinary magnitudes if parkland is taken.” (internal quotation marks and citation omitted)); *Ass’n Concerned About Tomorrow, Inc. (ACT) v. Dole*, 610 F. Supp. 1101, 1113 (N.D. Tex. 1985) (requiring supplementation of a NEPA analysis when a road would have traversed public parkland containing relatively unique vegetation); *Klein v. U.S. Dep’t of Energy*, 753 F.3d 576, 584 (6th Cir. 2014) (NEPA review must consider the unique characteristics of a region); *Ohio Valley Envtl. Coal. v. U.S. Army Corps of Eng’rs*, 479 F. Supp. 2d 607, 634 n.33 (S.D. W. Va. 2007) (same), *rev’d and remanded on different grounds sub nom. Ohio Valley Envtl. Coal. v. Aracoma Coal Co.*, 556 F.3d 177 (4th Cir. 2009).

<sup>35</sup> DEIS Appendix F, at p. 256.

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**G. The DEIS is inconsistent with Section 106 of the National Historic Preservation Act.**

Section 106 of the National Historic Preservation Act (“NHPA”) requires lead agencies to take into account the effects of undertakings on Historic Properties and give the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings.<sup>36</sup> Historic Properties include prehistoric or historic districts, sites, buildings, structures, objects, sacred sites, and traditional cultural places that are included in, or eligible for inclusion in, the National Register of Historic Places (“NRHP”).<sup>37</sup>

First, the Lead Agencies must consult with the State Historic Preservation Officer (“SHPO”) and the Advisory Council on Historic Preservation (“ACHP”). Then, the Lead Agencies must identify properties that may be affected by the Project and determine their listing or eligibility for listing on the NRHP. The Lead Agencies must also define the Area of Potential Effect (“APE”)/Permit Area for the Project, describe the horizontal and vertical (depth of ground disturbance) area of direct and indirect effects, and include a discussion on viewshed for the built environment.<sup>38</sup> In consultation with the SHPO and ACHP, the Lead Agencies must assess the effects of any permits on Historic Properties to establish if they are adverse. The Lead Agencies must resolve adverse effects by developing and evaluating alternatives that could avoid, minimize, or mitigate these impacts on historic resources.

The Lead Agencies have not finished identifying archaeological sites and historic cemeteries as required under Section 106 and is delaying that action for some properties. Additionally, MDOT SHA’s decision to consider M-NCPPC park units discretely rather than as a unit fails to take into account the historic significance of the park system. MDOT SHA’s failure to identify the historic properties that the Project may impact runs counter to CEQ and Advisory Council on Historic Preservation guidance and negatively impacts the ability of the Lead Agencies to gain a full understanding of the Project’s impacts and the mitigation that will be needed.

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<sup>36</sup> 54 U.S.C. § 306108.

<sup>37</sup> *See id.* § 300308.

<sup>38</sup> A historic or cultural resource’s viewshed is the surrounding area that can be seen visually from the resource. *See, e.g.*, Section 4(f) Policy Paper, U.S. Dept. of Transportation, Fed. Highway Admin. Office of Planning, Environment and Realty 35 (July 20, 2012), *available at* <https://www.environment.fhwa.dot.gov/legislation/section4f/4fpolicy.pdf> (offering “example of an adverse effect where there is no Section 4(f) use might be construction of a new highway within the immediate view shed of a historic farmstead that results in an adverse effect finding under Section 106 for the diminishment of the setting” because it is a “visual intrusion”).

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The Build Alternatives would negatively impact parkland administered by M-NCPPC that has historic value, including Rock Creek Stream Valley Park, Sligo Creek Stream Valley Park and Sligo Creek Parkway, Cabin John Stream Valley Park, and Northwest Branch Stream Valley Park. Rock Creek Park and Sligo Creek Parkway are designated as historic resources in the National Register of Historic Places, and the other aforementioned parks have historic value as well—they were part of the park master plan developed around 1930 by M-NCPPC landscape architect Roland Rogers and represent an interconnected cultural landscape. These parks are part of the same cultural landscape system that M-NCPPC created to preserve the watersheds of the Anacostia and the Potomac Rivers and will be negatively impacted if any of the Build Alternatives are selected. It also bears repeating that, beyond the fact that these parks are historic resources, they were acquired with federal funds made available under the CCA and the 1931 Agreement, which prohibits the conveyance, sale, lease, exchange, or use or development of such lands for other than park purposes.

**H. The DEIS fails to consider the non-auto driver mode share metric.**

Non-Auto Driver Mode Share (“NADMS”) (meaning percentage of commuters who travel to their worksite by means other than a single-occupant vehicle) is a performance metric incorporated into many Montgomery County planning documents. The metric correlates with air-quality impacts, and is thus an important proxy for comparing alternatives with respect to impacts. The DEIS does not directly address how the project will impact this metric or how its negative impacts to Montgomery County’s planning goals will be mitigated. The metric’s exclusion is also a direct consequence of the narrowly drawn Purpose and Need Statement that precluded serious consideration of transit.

The DEIS should explicitly consider this metric because more single-occupant vehicles on the roads will result in more air emissions. Furthermore, transit-related mitigation funded through toll revenue should be made available and applied to help develop non-auto programs that will offset any adverse impacts to NADMS goals. M-NCPPC, as the regional planning agency for both Montgomery and Prince George’s Counties, must look to local land use planning documents and best practices in transportation and land use planning to drive the discussion.

**III. Other Comments**

**A. Social Equity/Environmental Justice**

Title VI of the Civil Rights Act requires federal agencies to ensure that there is no discrimination on the basis of race, sex, national origin, etc. with respect to any program or activity receiving

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federal financial assistance.<sup>39</sup> Executive Order 12898 requires federal agencies to identify and address disproportionate adverse health or environmental effects of their programs on minority and low-income populations.<sup>40</sup> Section 4.21 of the DEIS discusses these issues.

The Lead Agencies do not sufficiently address impacts to low-income and minority populations as required under NEPA and other authorities.<sup>41</sup> First, the Lead Agencies state that they will consider Title VI impacts to communities when they select a Preferred Alternative in the FEIS.<sup>42</sup> However, this approach acknowledges what is already evident—that the Lead Agencies are eliminating alternatives that have fewer impacts on minority and low-income populations, and ultimately will be left with an alternative that can generate the most toll revenues without regard to environmental justice impacts.

While the Lead Agencies acknowledge that the Build Alternatives they are considering will require the taking of minority and low-income residences and businesses, they suggest that this effect is counterweighed by the fact that everyone will benefit if highway congestion is alleviated. The Lead Agencies state that “while travel speed and trip reliability benefits offered by the tolled lanes could be a less feasible choice for [environmental justice] populations due to cost burdens, under any of the managed lanes alternatives, all existing GP lanes would remain toll-free and would undergo some travel time improvements.”<sup>43</sup> By failing to consider design or operational strategies that would eliminate or reduce the number of homes, businesses and community amenities affected by the Project and/or allow equitable access to the managed lanes, the Lead Agencies have created another layer of inequity. Suggesting that minority and low income persons will benefit from using general purpose lanes, which will inevitably have more congestion than the managed lanes, is a direct acknowledgement of inequality. Rather, MDOT SHA could consider options like adding or modifying access locations that would serve environmental justice communities based on specific origin/destination analyses and/or developing a toll subsidy program. More detailed information is needed as part of the

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<sup>39</sup> 42 U.S.C. § 2000d.

<sup>40</sup> Executive Order 12898 (Feb. 11, 1994).

<sup>41</sup> See 40 C.F.R. § 1508.1(g) (defining “effects or impacts” to include social effects); Executive Order 12898 (Feb. 11, 1994); USDOT Order 5610.2(a) (May 2, 2012); FHWA Order 6640.23A (June 14, 2012); FHWA Memorandum Guidance on Environmental Justice and NEPA (2011).

<sup>42</sup> DEIS Appendix E, at p. 70.

<sup>43</sup> DEIS Appendix E, at p. 108.

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Environmental Justice evaluation to help determine the appropriate mitigation to address the inequities to these environmental justice communities.

## **B. Alternative Modes of Travel**

As discussed above, the DEIS does not adequately address alternative modes of travel. First, the DEIS did not discuss or analyze whether or how to bring transit across the Woodrow Wilson Bridge, which was designed and built to accommodate light rail at significant cost to the State of Maryland. Second, there is no indication or commitment by the Lead Agencies to design the improvements to the American Legion Bridge to structurally accommodate light rail, whether now or in the future (as was done with the Woodrow Wilson Bridge), which is particularly alarming given the 50-year term proposed for the Project's private partner. Third, the Build Alternatives should include consistent bike and pedestrian crossing in their designs for better connectivity to transit and to break down the barriers to the local communities created by I-495 and I-270. While the Lead Agencies have made representations that it will include some crossings in the Project, the firm selected to design, build and operate the Project likely will have discretion as to if and how it includes the crossings in the final design.

## **C. Stormwater impacts**

The DEIS states that the Lead Agencies will provide stormwater treatment for 12.5 percent of existing roadways, based on MDOT SHA requirements (50 percent)<sup>44</sup> and the amount of roadway that will be reconstructed (25 percent). This level of treatment is inadequate. Runoff from decades of highway use has caused significant degradation to downstream waterways and local infrastructure. Repairing the storm drains is not mitigation, it is deferred maintenance. The Lead Agencies classified some streams in the Commission's parks as less than "high" quality primarily because of degradation caused by lack of stormwater and environmental treatment from existing runoff from I-495, as well as inadequate and inconsistent maintenance of the current outfalls. MDOT SHA cannot use the degradation it caused to suggest that less mitigation is needed. Furthermore, the stream features listed as medium quality should be treated in the same way as the high quality resources are treated in relation to the on-site mitigation approach (0:1 on-site mitigation credit). The highly urbanized nature of the Project area must be accounted for and the ecosystem functions that these resources (which have extremely high functional value considering the surrounding land use and extensive impervious drainage areas) must be

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<sup>44</sup> Maryland Stormwater Management Guidelines for State and Federal Projects (Apr. 15, 2010), <https://mde.state.md.us/programs/Water/StormwaterManagementProgram/Documents/www.mde.state.md.us/assets/document/State%20and%20Federal%20SWM%20Guidelines%20final.pdf>.

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appropriately mitigated. Two specific examples listed as “medium” quality are the Cabin John Creek mainstem and Sligo Creek mainstem, which are critically important to sustaining ecological function within their respective urbanized landscapes. Channels with a medium and high functional value are anticipated to be degraded as a result of construction and will have significantly lower function and value following construction and would therefore require full off-site mitigation where impacts cannot be avoided.

\* \* \*

The Commission appreciates MDOT SHA’s and FHWA’s consideration of the above comments and looks forward to continuing to work collaboratively to ensure that the Project’s impacts to Commission parkland, stream, and wetland resources are avoided, minimized, and mitigated to the largest extent possible. The Commission also incorporates by reference into this Comment letter the additional, technical comments attached hereto as Appendix A.

Sincerely,



Anthony T. Pierce  
Susan H. Lent  
John B. Lyman

Encl: Appendix A

cc: Jack Dinne, U.S. Army Corps of Engineers  
Steve Hurt, MDE  
Casey Anderson, M-NCPPC  
Betty Hewlett, M-NCPPC  
Adrian Gardner, M-NCPPC

## Appendix A

Comment No.	M-NCPPC Department	Reference	Technical Comment
1.	Montgomery Parks	DEIS-General	Noise abatement measures in the form of noise walls are essential around natural resource areas in order for these spaces to serve the functions of conservation and preservation for which they are intended. Exposure to natural spaces with minimal anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention. Parks expects a clear commitment from MDOT SHA to implement noise walls in all Montgomery Parks' priority locations, and for this commitment to be reflected in the FEIS.
2.	Montgomery Parks	DEIS-General	The finalization of an LOD without consideration of Park-owned property more closely in terms of both stable outfall design and on-site stormwater opportunities is not acceptable. In our detailed review, Parks has identified several locations in which the current LOD does not reflect existing conditions in terms of stable stream and outfall transitions and onsite stormwater opportunities. In the FEIS and ROD, MDOT SHA needs to clearly define the process for LOD modifications moving forward. Specifically, how the P3 will be permitted to expand the LOD as needed during detailed and final design to accommodate these features.
3.	Prince George's Planning	DEIS-General	There was no mention of the Prince George's County Green Infrastructure functional master plan designations. Was it considered? Possible mitigation? Here is a link to the Prince George's County, Countywide Green Approved Infrastructure Plan for inclusion in the FEIS: <a href="http://www.mncppc.org/1266/Approved-Green-Infrastructure-Master-Plan">http://www.mncppc.org/1266/Approved-Green-Infrastructure-Master-Plan</a> .
4.	Prince George's Planning	DEIS-General	The new Zoning Ordinance in Prince George's County is scheduled to be implemented via a countywide map amendment process that will begin in November 2020 and conclude by June 2021. Information may be found here: <a href="http://zoningpgc.pgplanning.com/">http://zoningpgc.pgplanning.com/</a> .
5.	Prince George's Planning	DEIS-General	While the reduced MSAT and GHG emissions are expected to decrease based on the improved fuels and vehicle technologies, how does the increased use of the highway play into this factor? Higher numbers of cars, even if they are more efficient would potentially have a negative impact that could negate the better technology.
6.	Prince George's Planning	DEIS-General	Table 2.7-2 in the NETR does not identify the impacts of the Forest Conservation Act in Prince George's County. Is it because our layer is incomplete?
7.	Prince George's Planning	DEIS-General	While SHA verified no impacts to the solar array near Manchester Park but what about impacts to the existing private mitigation bank in the area?



<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
8.	Prince George's Planning	DEIS-General	Specifically in Appendix E, page 23 there is no mention of Plan2035 – the comprehensive plan for guiding future development within Prince George's County. Some references to this document in the DEIS is necessary.
9.	Prince George's Planning	DEIS-General	While we don't want to encourage segmentation, it is hard for the average citizen to read and understand the document as it is currently written. Is there a way to relay the information in a manner that clearly identifies information for both counties? The DEIS and Technical reports are voluminous and hard for the average citizen to understand how the project impacts their local area.
10.	Prince George's Planning	DEIS-General	MNCPPC, Department of Parks and Recreation will require forest restoration to the extent practical. Please note that the Maryland Reforestation Law is inadequate for urban areas and does not take into account the lack of forest areas for mitigation in heavily urbanized areas. MNCPPC does not consent to tree mitigation outside of the immediate project impact area. MNCPPC requests an accommodation within the spirit of this law to add the Street Trees Program as reforestation mitigation and as mitigation for impacts to EJ areas.
11.	Prince George's Planning	DEIS-General	While not segmentation, identification of the impacts to the Prince George's County Department of Parks and Recreation. Perhaps a line to identify MoCo (495 and I-270) and Prince George's parks (Table 2-1p 23 of App F – draft 4(f).
12.	Prince George's Planning	DEIS-General	Cherry Hill Park is deed restricted for recreational use only. Any other use requires approval by the Secretary of the Interior. If M-NCPPC were in favor of converting a portion (south of the northernmost 100') of Cherry Hill Road Park to stormwater management in support of the managed lanes project / I-495 widening, we would need to apply to the Department of Interior's National Park Service to amend our 1976-1978 applications, and Department of the Interior would have to agree in writing. We disagree that Department of the Interior's review of the managed lanes project under Section 4(f) would constitute Department of the Interior's approval of use of a portion of Cherry Hill Road Park for stormwater management, as we would not have submitted the required amendments to our 1976-1978 applications and because the 4(f) review is likely done under a different part of Department of the Interior than National Park Service.
13.	Prince George's Planning	DEIS-General	Carsondale (PG:73-36) Agree with NRHP eligibility under Criterion A and that the community will be adversely affected by construction. Although there will be no impacts to contributing dwellings, the LOD includes portions of rear yards, some secondary structures. Agree with the report's conclusions that there will be multiple impacts to contributing resources that will result in a cumulative diminishment of the community's integrity of setting and design. Historic Preservation staff concurs that Carsondale is eligible for listing in the NRHP and that adverse impacts will occur.

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
14.	Prince George's Planning	DEIS-General	Area AN-6 – Paint Branch Fish Passage – South Farm BARC. The area has high potential to contain archeological resources based on prior sites recorded close to the proposed LOD. Historic Preservation staff concurs that this area has a high probability of containing archeological resources and recommends a Phase I survey.
15.	Prince George's Planning	DEIS-General	Area AN-7 – Paint Branch – South Farm. This area has a high potential to contain archeological resources. Historic Preservation staff concurs that archeological site 18PR113 should be evaluated by conducting Phase II investigations and that areas not previously surveyed should be investigated.
16.	Prince George's Planning	DEIS-General	Area PA-1 – Back Branch – Agree that high potential area along the Chesapeake Beach Railway, 18PR605, should be further investigated.
17.	Prince George's Planning	DEIS-General	Historic Preservation staff have major concerns about the impacts of I-495/I-270 expansion project on the Greenbelt National Historic Landmark (PG:67-04-00). There will be major impacts from the construction proposed at the Greenbelt Road (MD 193) interchange, the Southway interchange, and to the Walker Family Cemetery at the north end of the Golden Triangle subdivision. Other significant properties that will be impacted include the Greenbelt National Guard Armory (PG:67-36), Greenbelt Park (PG:67-69), the Baltimore-Washington Parkway (PG:69-20) and the Beltsville Agricultural Research Center (PG:62-14). This includes visual impacts, increased pollution, and noise. An estimated 69.3 acres of Greenbelt Park will be affected by construction.
18.	Prince George's Planning	DEIS-General	Historic Preservation staff has major concerns about impacts to the Glenarden National Register Historic District (PG:72-26 & PG:73-26). The proposed widening will have significant impacts on existing structures and the gap between the two sections of the district will be further widened.
19.	Prince George's Planning	DEIS-General	The updated maps indicate that the LOD for Option 10 will go through the center of a slave cemetery near the New Carrollton Metro Station that has not yet been documented. This site needs to be further investigated to determine the extent of the burials and to be formally documented. All efforts should be taken to avoid impacts to this site and any burials.
20.	Prince George's Planning	DEIS-General	Document details and analysis need to be shown by County and/or by Phase/Segment. Information is too dense for the average reader to determine impacts by local area.

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
21.	Prince George's Planning	DEIS-General	DEIS lacks Stormwater Management analysis. Assumptions based on replacement of in-kind facilities built prior to urbanization is unrealistic and inadequate.
22.	Prince George's Planning	DEIS-General	Please provide updated traffic analysis that models a telework option for former commuters.
23.	Prince George's Planning	DEIS-General	MNCPPC requests that MDOT include all permit requirements and mitigation projects and costs in the bid documents for the P-3 Construction Project Developer. Request procedure for change orders during construction to avoid costly project issues like the Purple Line is experiencing.
24.	Prince George's Planning	DEIS-General	Mitigation triggers need to be implemented. For example, By the 15 mile xx linear feet of stream restoration needs be completed and 10% of the forest mitigation will be completed. The mitigation strategy should reflect thoughtfully phased development instead of disturbing all 25 miles of Beltway in our County at once.
25.	Prince George's Planning	DEIS-General	Limits of Disturbance Adjustments – MNCPPC needs to be positioned to be able to request and review changes to the LOD as the project progresses to ensure minimization of impacts to resources and the use of best construction methods to be implemented.
26.	Prince George's Planning	DEIS-General	Lack of data on impacts to arterial roads and local roads.
27.	Prince George's Planning	DEIS-General	Prince George's County Non-Auto Driver Mode Share Goals (NADMS)

Comment No.	M-NCPPC Department	Reference	Technical Comment
28.	Prince George's Planning	DEIS-General	Will there be a COVID assumption incorporated into the modeling for both the impacts from teleworking and the impacts of reduced use of public transit?
29.	Prince George's Planning	DEIS-General	Incorporate Social Justice concerns into analysis and mitigation requirements.
30.	Prince George's Planning	DEIS-General	Utilize Street Trees Program as part of mitigation of impacts of Environmental Justice communities. Potential to increase tree canopy in Equity Emphasis Areas
31.	Prince George's Planning	DEIS-General	Environmental Justice should include a consideration of whether the projected transportation benefits address Environmental Justice concerns. I-495 and I-270 are regional interstate facilities serving as major freeways within Montgomery and Prince George's Counties. There is a need to conduct a detailed Environmental Justice evaluation on the transportation benefits of the Alternatives. While managed lanes can provide benefits for both the managed lanes and the general purpose lanes, there is no evaluation in the DEIS on who is benefitting and to what extent. There is a need to assess whether any of the Alternatives address equity/environmental justice concerns.
32.	Prince George's Planning	DEIS General	<p>Currently, within the Community Effects Analysis Area, the minority population percentage for Prince George's County was 86%.</p> <ul style="list-style-type: none"> <li>• Tables within the Environmental Justice section of the EIS must be broken down by individual County impacts.</li> <li>• The Community Effects Analysis data must be broken down by County, Minority Population, Low-Income Population, and population areas of Limited English Proficiency in the Executive Summary.</li> <li>• Project document must demonstrate specifically how this project benefits the communities within Prince George's County that have minority or low-income populations.</li> <li>• Project document must demonstrate specifically how this project does not disproportionately affect the health or environment of minority or low-income populations. Currently, the analysis appears to indicate that only relocations were considered as impact factors. Was impact to local roads considered in the analysis? Was improved access to Environmental Justice populations for either interchanges or increased public transit options</li> </ul>

Comment No.	M-NCPPC Department	Reference	Technical Comment
			<p>analyzed?</p> <ul style="list-style-type: none"> <li>• Project document must include specific efforts/outcomes/comment resolutions to show the Environmental Justice communities were proactively provided meaningful opportunities for public participation in project development and decision-making.</li> <li>• Environmental Justice mapping in the Community Effects and Environmental Justice Analysis is extremely difficult to read due to size and level of detail. Please provide more localized detail mapping in the document.</li> </ul>
33.	Prince George's Planning	DEIS- General	Has an Environmental Justice specific analysis been performed on the public involvement efforts noted in the of the Community Effects Assessment and Environmental Justice Analysis to determine the percentages of minority, low-income, and limited English Proficiency populations participation in the public involvement efforts?
34.	Prince George's Planning	DEIS-General	The DEIS (FEIS and ROD) must contain a plan on how MDOT and the concessionaire will meet avoidance, minimization and mitigation requirements, including regulatory (404), parkland mitigation and parkland enhancements.
35.	Prince George's Planning	DEIS-General	MNCPPC requests to be a party to the planning and design of the Permittee Responsible Mitigation project.
36.	Prince George's Planning	DEIS-General	The ratio for mitigation should be increased the further away from the project the mitigation gets.
37.	Prince George's Planning	DEIS-General	Utilize Street Tree Program to increase Tree Canopy as Reforestation mitigation. Reforestation Law does not take into account heavily urbanized areas. MNCPPC prefers to add tree mitigation within the project impact area. Can we expand the mitigation to include County ROW? Tree Canopy as SWM has previously been approved for SWM credit over impervious area. County Resolution? Use Tree Canopy as a % of the mitigation in Urban Areas? Utilize MD Roadside Tree Law?

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
38.	Prince George's Planning	DEIS-General	What is the status of the Site Search Report for Tree Planting opportunities?
39.	Prince George's Planning	DEIS-General	Mitigation should have a nexus to both the impact and use of the resources.
40.	Prince George's Planning	DEIS-General	Parkland impacted by the project must be replaced at an equal or greater natural, cultural and/or recreational value at a qualitative level, and therefore parkland replacement mitigation may exceed acreage impacted by the project.
41.	Prince George's Planning	DEIS-General	Mitigation for this project must be meaningful and create non-automobile connection. Preferred mitigation is to complete all of the trail crossings that connect the Beltway communities on both sides of the Beltway.
42.	Prince George's Planning	DEIS-General	For mitigation projects, a specific list of mitigation projects linked to impacts should be agreed upon in the Contract between P-3 and the Developer. We request 30% construction drawings prior to FEIS/ROD in order to review for impacts and mitigation. This may be provided in connection with a Mandatory Referral review at 30% design.
43.	Prince George's Planning	DEIS-General	Mitigation projects should be clearly shown. Please show proposed impact and associated mitigation projects by County.  Consideration of continuous bicycle and pedestrian facilities along and across the project boundaries helps with connectivity.
44.	Prince George's Planning	JPA	The Joint Permit Application fails to follow MDE Nontidal Wetlands and Waterways Checklist Guidelines for a complete permit application.

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
45.	Prince George's Planning	JPA	The JPA and impact plates do not detail if the impacts are Permanent or Temporary. Are all impacts to wetlands and waterways assumed to be Permanent?
	Prince George's Planning	JPA	The JPA and impact plates do not identify the property boundaries and adjacent property owners.
46.	Prince George's Planning	JPA	The JPA and impact plates do not show the distance of all proposed structures to all contiguous property lines and any appropriate County or State property line building restriction setbacks, rights-of-way and/or easements.
47.	Prince George's Planning	JPA	The JPA and impact plates do not show a plan view depicting existing and proposed conditions and structures. All plan view sketches should include, but are not limited to: north arrow; existing and proposed contours and/or grades; limit of surface water areas; ebb and flow direction of all water bodies (e.g., streams, tidal waters); applicant name and address; all horizontal dimensions of all proposed structures and impacts, existing conditions of the project site which includes all existing structures at or near the project site including neighbors; existing areas of wetland vegetation or mapped wetlands and buffers; the project boundary and a boundary demarcating the limits of disturbance. A section view showing existing and proposed conditions and structures.
48.	Prince George's Planning	JPA	The JPA and impact plates do not show description of construction access and methodology and a proposed construction schedule, with an estimated completion date.
49.	Prince George's Planning	JPA	The JPA and impact plates do not show a description of stabilization for temporary impacts.



<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
50.	Prince George's Planning	JPA	The design of the JPA and impact plates submitted for this project makes it extremely difficult to accurately review the quantity and type of impacts for each location. Please revise the impact plate section to include the relevant impacts on the adjacent/or previous page so one may view the list of impacts that are shown on the Plate with the actual Plate itself. Currently, one has to search for the plate, the impact quantities, the Wetlands and Waterways Features Table, the Impact ID Designation Key, and the Wetland Delineation Data Sheets in multiple separate locations.
51.	Prince George's Planning	JPA	The JPA fails to address or display stormwater management design including retrofitting or replacement of existing culverts and bridges, existing stormwater management flooding issues, Erosion and Sediment Controls, construction access, staging, grading, and materials storage. We understand that all of these items are assumed to be contained within the LOD, but these should all be shown on the impact plates.
52.	Prince George's Planning	DEIS-General	The LOD appears to be unrealistic in some locations.
53.	Prince George's Planning	DEIS-General	The Indirect and Cumulative Effects Report (pg. 59) states that a permit cannot be issued until a detailed compensatory mitigation package, including final mitigation design, is developed and approved by both USACE and MDE. For this project, the Contractor who will be constructing the project will be developing and providing final design for the mitigation component as the Final Mitigation Plan Development. The Contractor has not yet been selected, the mitigation has not been agreed upon yet, and there is not even a preliminary mitigation design. MNCPPC requests that USACE and MDE pause this Joint Permit Application review until a compensatory mitigation package has been developed by the Contractor with MNCPPC input and has been reviewed and approved by MNCPPC for impacts and mitigation associated with MNCPPC properties.
54.	Prince George's Planning	DEIS-General	In lieu of a final compensatory mitigation package provided by the Contractor, MNCPPC requests the Contractor's contract documents stipulate a 10% of total project cost set aside for the design and construction of all mitigation projects and commitments during Phase I of project construction.
55.	Prince George's Planning	DEIS-General	MNCPPC requests that all MDE required and USACE required mitigation sites and privately-owned mitigation bank credits be located within the MNCPPC jurisdictions.

Comment No.	M-NCPPC Department	Reference	Technical Comment
56.	Montgomery Planning	DEIS-General	<p>The DEIS should reflect the phasing of the project. For a project of this scope that is being implemented in phases with a significant time delay between each phase, Therefore, the NEPA process should be reflective of the approved phasing for development as approved for implementation by a P3.</p> <p>The RPA and its impacts for later phases will be more appropriately determined based on the outcome from earlier phases of development. For example, the outcome of Phase 1 -the Western Corridor may provide relief of the ALB bottleneck more reliably than theoretic modelling for the next Phase of the project.</p>
57.	Montgomery Planning	DEIS-General	<p>Please provide more-detailed volume information for the managed lanes by providing a breakdown of HOV3+, transit, and tolled traffic for each road segment.</p>
58.	Montgomery Planning	DEIS-General	<p>The use of a simplistic 45-mph average speed to determine the 1,600 to 1,700 vehicles per hour per lane in the managed lanes was not validated to ensure that the managed lane vehicles would achieve the travel time savings that they are willing to pay. Without this validation, how can we have any faith that the modeled traffic assignments are reasonable? This is supposed to represent a typical average day condition.</p>
59.	Montgomery Planning	DEIS-General	<p>The removal of the collector-distributor (CD) lane system along I-270 was included as part of all the proposed Build Alternatives allowed for the proposed lanes to occupy existing paved areas rather than having to further expand the limits of disturbance and potentially increase environmental impacts. This change was made midstream during the Alternative Evaluation stage. M-NCPPC has previously commented that the inclusion of the conversion of I-270 from a local/express system as part of all Alternatives actually hides the incremental benefits of the actions proposed. A separate analysis should have been prepared of Alternative 1 with the local/express system removed to provide this comparison. Not doing this fairly simple analysis leads to the concern that the majority of the transportation benefits on I-270 are due more to the reconfiguration than due to the managed lanes.</p>
60.	Montgomery Planning	DEIS-General	<p>We recognize that simplistic assumptions are sometimes needed, particularly when there are many unknowns; however, we still feel that this critical part of the managed lane system (HOV use) deserves more analysis than presented in the DEIS. How have managed lanes in other jurisdictions fared regarding HOV usage when converting a highway with an HOV lane to a managed lane? There must be some examples in Virginia or Texas? It is pretty clear that the future HOV to be selected will be HOV 3+ given the need for consistent interoperability with the VDOT managed lanes. Why not just assume that? Changing HOV use from 2+ to 3+ can significantly reduce HOV demand, depending on congestion. If anything, this is a conservative assumption, and it would have allowed the analysis to provide meaningful data on how HOV travel would be impacted. So right now, we have no idea whether managed lanes will in fact increase or decrease HOV travel with HOV 3+ cars or shifts to public transit. Please assume HOV3+ and re-run the evaluations by modeling</p>

Comment No.	M-NCPPC Department	Reference	Technical Comment
			HOV mode choice and present these results.
61.	Prince George's Planning	DEIS- pg.5, section 1.2.2	The report states: "The land must be returned to a condition that is at least as good as existed prior to the project..." and the Department of Parks and Recreation intends to have site restoration and mitigation for all temporary usage areas. The Department of Parks and Recreation requires land to returned to the Department's satisfaction. The restoration and mitigation will need to be approved by the Department of Parks and Recreation. A temporary use can, and often does, result in permanent impacts and the Department of Parks and Recreation will review and only permit temporary use after an agreement about proper restoration and mitigation is reached.
62.	Prince George's Planning	DEIS-pg.6	Total wetland impacts acreage seems too low. Please verify.
63.	Prince George's Planning	DEIS- Pg. 6 Table 2-1	Please show impacts by County.
64.	Prince George's Planning	DEIS- Pg. 6 2.1.2	"An assessment of temporary construction impacts will occur in later phases of design". We find this unacceptable as the definition of temporary construction impacts is too open-ended and broad. Please provide specific details at 30% plans level for review."
65.	Prince George's Planning	DEIS-Pg. 7	Please add a paragraph discussing County specific mitigation requirements for parkland beneath the NPS section.

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
66.	Prince George's Planning	DEIS-Pg.8	Criteria for elimination of mitigation sites is too strict.
67.	Prince George's Planning	DEIS- Pg. 10-11	Forest Conservation areas – criteria for woodland replacement is too strict. Consider replacing trees on the Public ROW. Plant trees in EJ Communities for air quality and noise quality abatement, heat island abatement and for social justice. If the State reviews and finds trees are being removed rather than forest then the tree removal should be mitigated in Public ROW using the Street Trees Program and next generation shade trees in parks in close proximity to the Beltway. Prince George's County is prepared to provide GIS inventory of locations for tree planting.-
68.	Prince George's Planning	DEIS- Pg. 11 Table 2.2	Please provide impacts to trees on public land and private land.
69.	Prince George's Planning	DEIS- Pg. 12	MNCPPC Prince George's will also require replacement of trees on MNCPPC-owned parkland.
70.	Prince George's Planning	DEIS-Pg. 12	Please add a paragraph discussing the Street Tree Program in Prince George's County.
71.	Prince George's Planning	DEIS-Pg. 13	The presence of Federal and State listed species have not been confirmed within the study boundary. Please confirm the presence Federal and State listed RTE species prior to the FEIS/ROD and submit the report to MNCPPC for review.
72.	Prince George's Planning	DEIS-Pg. 14	Please provide survey results for the Butterfly Scorpion Weed to MNCPPC.

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
73.	Prince George's Planning	DEIS Pg. 14	Confirmed location NLEB and IB will receive buffer. Don't we need to plant Loblolly Pine as mitigation? provide the results of the bat survey from the 2020 season
74.	Prince George's Planning	DEIS- Pg. 16 section 2.4.1	MNCPPC administers 2200 acres SVPs. This statement is low. 18,000 acres in PG alone. Please clarify that it is 2200ac of Capper-Crampton SVP PG and MC.
75.	Prince George's Planning	DEIS Pg.ES-16 Chapter 5	Please retain the word "significant" when related to parkland so that they qualify for Section 4(f) protection.
76.	Prince George's Planning	DEIS- Pg. 17-18 section 2.4.2 Table 2.3	Publicly owned parks of build alternatives table should reflect the owner of the parkland. Add comment to denote land acquisition program such as Capper-Crampton Act, Program Open Space, etc.
77.	Prince George's Planning	DEIS- Pg. 18	Refer to Appendix F – please include a summary of information here instead of referring away to different section.
78.	Prince George's Planning	DEIS- Pg. 19	Clarify where the Suburbanization Historic Context Addendum 1961-1980 is provided. Is this a State or Federal document?
79.	Prince George's Planning	DEIS- Pg. 19	Traffic data baseline year is set to 2017. This baseline is nearly 4 years old. What is the year by year percentage of increase assumption?

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
80.	Prince George's Planning	DEIS Pg-19	Please include a Year 2020 traffic analysis into the data to reflect the current change in driving patterns due to an increase in teleworking.
81.	Prince George's Planning	DEIS- Pg. 20-22	Figure 2-1-2-3 mapping is difficult to read in hard copy form. Please change to Landscape orientation and enlarge.
82.	Prince George's Planning	DEIS- Pg. 26 Table 2.6	Every alternative shows TBD. Please provide specific details on noise abatement and sound barrier location.
83.	Prince George's Planning	DEIS- Pg. 33-34	Air Quality and Trees could be used inside ROW to reduce pollutants.
84.	Prince George's Planning	DEIS- Pg. 35	Properties Relocations- is this number final or does MDOT anticipate increases in Relocation?
85.	Prince George's Planning	DEIS- Pg. 36 and Pg.11	Tree Mitigation Cost- would be \$45m to offset the tree impacts from this project based on \$3000 an acre based on Tree Mitigation Bank
86.	Prince George's Planning	DEIS- Pg. 40	Prince George's County population has grown by over 35% since the highway was completed and is predicted to grow an additional 16%. How can existing culverts accommodate that level of growth and runoff from impervious surface? Please review all SWM facilities to accommodate current conditions.

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
87.	Prince George's Planning	DEIS- Pg. 45 Table 3-10	Are the traffic model forecasts assuming all of the proposed projects listed in Table 3-10 will be built in the same timeframe as the Managed Lanes Project to alleviate congestion?
88.	Prince George's Planning	DEIS- P45-46 Figure 2-29	Figure 2-29 Volume Validation shows a +/- at 20%-45%. This seems exceptionally high range to base a traffic model on. A 45% difference between estimated and observed counts and screenline seems too large to be accurately used for volume assumptions. Please explain.
89.	Prince George's Planning	DEIS- Pg. 48 Figure 2-29-2-33	HOV Lane Data- what is the percentage of use of increase year over year for Non Tolled HOV lanes?
90.	Prince George's Planning	DEIS- Pg. 50	New capacity through the Managed Lanes project could increase demand for growth in the area which will create increased secondary demand on schools, parks, local roads, etc. How is this expanded demand accounted for and mitigated by this project?
91.	Prince George's Planning	DEIS-Pg. 50	The Alternatives seem to primarily address the unmet need for expanded traffic/transit from previous growth. Do all of the alternatives address the forecasted anticipated growth?
92.	Prince George's Planning	DEIS Pg.51	Please include the discussion of Indirect Community Impacts by County here instead of referring the reader to the Technical Report in the Appendix.
93.	Prince George's Planning	DEIS-Pg. 52	Do the Screened Alternatives Cumulative Impacts take into account partial takes of private property or just full residential locations? Have you included in your cost estimates that some partial takings may result in full takings due to removal of access or other essential facilities?

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94.	Prince George's Planning	DEIS-Pg. 52	The analysis states that this proposed project will impact 24%-28% of the Environmental Justice Community with residential relocations and impact 25% of Environmental Justice Community businesses. What avoidance, minimization and mitigation measures have been taken to reduce this significant impact to the Environmental Justice community?
95.	Prince George's Planning	DEIS-Pg. 54	The statement "The impacts to parkland would primarily be narrow strips of ROW taken...and would not have the effect of bisecting existing facilities in most instances..." is incorrect. Please revise with the correct parkland impacts and discuss the cumulative effect of the loss of <u>any</u> parkland in a heavily urbanized area.
96.	Prince George's Planning	DEIS-Pg. 76	MWCOG model assumes Land Use as "mostly built out today and will be even more so by 2040". How can the model assume no additional build out for the next 20 years? What is the year by year increase in land use change in each County?
97.	Prince George's Planning	DEIS- Pg.76	Cherry Hill Road Park – mentions impacts from construction vehicles - will access be provided through the park or from I-495 only?
98.	Prince George's Planning	DEIS Pg. 77	How will the Stormwater Management Vault be maintained?
99.	Prince George's Planning	DEIS- Pg. 100	Impacts to Henry P Johnson Park from existing and future noise must be mitigated.
100.	Prince George's Planning	DEIS- Page 2-5 and page 102 Section: Alts Tech Report	How will incidences and congestion be measured on parallel roads via the IAPA memo? How will they be mitigated during the construction and operation of the ML?
101.	Prince George's Planning	DEIS- Page 2-6 Section 2.2.5	The costs of construction will be covered over a 50 period with the bonds that the concessionaire will take out. How much will these cost the residents of Maryland? Does this include the costs for removing underground infrastructure? Who pays for that and how is that fiscally viable?



<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
102.	Prince George's Planning	DEIS- Page 2-6 Section 2.2.5	Will the process of securing a municipal bond and financing of this project be made public and transparent? Based on the challenges of the Purple Line, is the market open to accepting bonds backed by the State of MD? Again, how will underground infrastructure under the Beltway be moved and who bears that cost? The residents of the Prince George's and Montgomery County were told that there is no cost for this project, now we understand this isn't the case.
103.	Prince George's Planning	DEIS- Page 2-6 Section 2.2.5	While MDOT initially had high hopes for the P3 concessionaire for the Purple Line, it has become a financial nightmare. How can this project avoid the pitfalls of the Purple Line by allowing this P3 concessionaire to walk away from the project? The state and local jurisdictions cannot afford this additional project cost and will be considerably impacted.
104.	Prince George's Planning	DEIS- Page 2-7 Section 2.3	The breakdown of the segments mentioned as a part of Visualize 2045 make more sense as three projects which is why the logical terminii keeps coming up. The promise that another NEPA process for MD 5 to WWB will be proposed with no details or information about how, when and whether appropriate coordination will be required by the P3 Concessionaire, while I-270 moves forward, is unjust.
105.	Prince George's Planning	DEIS- Page 2-21 Footnote 14	While we understand that the metric, System-Wide Delay Savings was one of the traffic metrics used to evaluate the Screened Alternatives, as it better captures the impacts to all road users (not just commuters), including freight, transit, and recreational travel, Average Annual Hours savings per commute is easier for the public to understand and also provide more transparency in assessing the Screened Alternatives.
106.	Prince George's Planning	DEIS-Page 2-21 Footnote 14	While we understand that the metric, System-Wide Delay Savings was one of the traffic metrics used to evaluate the Screened Alternatives, as it better captures the impacts to all road users (not just commuters), including freight, transit, and recreational travel, Average Annual Hours savings per commute is easier for the public to understand and also provide more transparency in assessing the Screened Alternatives
107.	Prince George's Planning	DEIS- Page 2-33 Section 2.7.1	Full access to the UM Prince George's Hospital Trauma Center, is of paramount importance to Prince George's County. Emergency vehicles should not have to choose which exit to use. Full access deserves additional detailed study once the improvements are further defined and the design has advanced.
108.	Prince George's Planning	DEIS- Pages 2-37 - 2-39 Section 2.7.2	<p>The storm water management approach that MDOT SHA presents in the DEIS is insufficient and ignores decades of degradation that the existing highways have inflicted on our local land. Specifically, the surface water resources in the study area have been negatively affected by the vast amount of untreated runoff from the highway system for decades. This project represents a significant opportunity to provide real improvement in the amount of existing impervious surfaces in this watershed that receive stormwater treatment. MNCPPC is supportive of incorporating SWM in additional areas on Parkland where feasible.</p> <p>It is critical that stormwater management be assessed in more detail at this early stage of the project and opportunities to accommodate it on-site be identified prior to FEIS development for inclusion in the FEIS. This</p>

Comment No.	M-NCPPC Department	Reference	Technical Comment
			<p>includes stormwater treatment opportunities both within the LOD as currently shown and in areas adjacent to the highway that would require LOD adjustments but could provide on-site SWM. M-NCPPC has provided the MDOT SHA project team additional potential stormwater management locations on adjacent Parkland and we anticipate working collaboratively with MDOT SHA prior to the P3 involvement in the design to identify and capitalize upon all reasonable stormwater opportunities in the corridor. Off-site stormwater management should only be explored where all options of on-site treatment have truly been exhausted</p>
109.	Prince George's Planning	DEIS- Pages 2-37 - 2-39 Section 2.7.2	<p>Utilizing offsite mitigation for stormwater management requirements should be avoided whenever possible. The watersheds and water resources adjacent to the beltway are severely impacted from the existing beltway and would be further impacted with widening. More innovative techniques to treat stormwater at the source need to be explored at this stage in design, prior to FEIS. Where possible stormwater management requirements should be exceeded to compensate for areas where stormwater opportunities are more limited.</p> <p>MDOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to provide Parks with the locations where SWM requirements cannot be met onsite and Parks will evaluate if there is available space on the adjacent Parkland to meet the SWM need to help protect downstream waters. In addition, Parks will work collaboratively to locate off-site SWM when all on-site locations have been exhausted.</p> <p>MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources</p>
110.	Prince George's Planning	DEIS- Page 2-38 Section 2.7.2	<p>It is critical that SWM needs be further assessed at this early stage of the project and the LOD be enlarged to accommodate the designs. Deferring further analysis until the Full SWM design is completed at a later stage will not allow SHA to adequately address SWM needs and aquatic resource protection and enhancement.</p> <p>In table 2-5, the smallest number of acres requiring offsite treatment (for a build alternative) is 321 acres. That is a staggering number and every effort must be made to reduce this number by increasing SWM on site. Moving forward to FEIS with the numbers of acres proposed for offsite SWM treatment is not responsible or acceptable.</p>
111.	Prince George's Planning	DEIS- Page 2-39 Section 2.7.3	<p>Short-term impacts on parkland will require mitigation and restoration to MNCPPC standards. Temporary or short-term impacts can and often do, create permanent impacts to the site; mitigation and site restoration will be required.</p>
112.	Prince George's Planning	DEIS- Pages 2-40	<p>When the preferred alternative is chosen, and the detailed stormwater analysis is completed, the LOD will need to be altered to potentially accommodate additional areas of adjacent (on-site) stormwater management. What is the specific process that will be established in order to allow for these LOD changes? This process needs to be agreed upon early and documented in the FEIS, ROD, and P3 agreement.</p>

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
		Section 2.7.4 DEIS	
113.	Prince George's Planning	DEIS- Pages 4-83 - 4-86 Section 4.12.4	MDOT SHA needs to employ the use of on-site environmental monitors during construction to provide extra assurances that ESC measures are fully implemented and functioning as designed. This commitment needs to be noted in the FEIS and in the ROD.
114.	Prince George's Planning	DEIS- Page 4-97 Section 4.15.4	Further coordination and commitment for parkland mitigation must be codified in the ROD. Actual and actionable commitments will be required by M-NCPPC.
115.	Prince George's Planning	DEIS- Page 4-101 Section 4.16.4	Parks requests a commitment to provide invasive species treatment on parkland to mitigate for increased habitat fragmentation.
116.	Prince George's Planning	DEIS - Page 4-105 Section 4.17.4	SHA should commit to providing an actual improvement to the affected forests outside the LOD by agreeing to develop an invasive management plan and implement the control of invasive species as directed by Parks.
117.	Prince George's Planning	DEIS- Page 4-109 Section 4.18.4	Natural culvert bottoms should be installed, where appropriate, as part of all culvert repair and replacement efforts. M-NCPPC will discuss the incorporation of natural bottom culverts as mitigation, but the intent must be included in the roadway design plans.
118.	Montgomery Planning	DEIS- Page 2-2, 2-21, 2-22	The analysis of the MD 200 Diversion Alternative as an avoidance technique for impacts to the top side of 495 was flawed. The request to include it did not consider the rationale. No analysis was done that looked for means to motivate drivers to use the ICC as opposed to 495 when the travel route makes sense. Through consideration of TSM/TDM approaches such as dynamic signage and consideration of changes in operations (speed limits) on the ICC, whether it would draw some of the traffic off of 495 and open that segment with reduced vehicles would address the question whether there is a need to increase capacity with the Build Alternatives, and if so whether Alternative 9M is enough.
119.	Montgomery Planning	Page 2-5 and page 102 Section: Alts Tech Report	The local roadway network evaluation is entirely inadequate to address concerns of local traffic changes, and we firmly believe that this information is needed at the DEIS/Alternatives Analysis stage, not at the IAPA/FEIS stage. Local traffic impact might be a critical factor in selecting which Alternative works for concerned citizens and localities, and the deferral of the detailed evaluation. While the managed lanes may in fact reduce local traffic overall, that statistic is more as important as locations where the managed lanes will increase traffic and add to existing congestion. This is a particular concern where direct access locations at

Comment No.	M-NCPPC Department	Reference	Technical Comment
			interchanges are proposed, including the managed lane only interchanges. Any mitigation needed to offset project-related impacts must be the responsibility of the P3 to address.
120.	Montgomery Planning	DEIS: Page 2-16 Section 2.5.2	We disagree with project elements (conversion of existing 3 hour HOV lanes into 24/7 tolled lanes where HOV MAY drive for free or get a discount) that provide improved capacity for paying customers at the expense of existing drivers in general-purpose lanes while providing worse traffic operating conditions in those GP lanes than under No-Build conditions. This is unfair to existing commuters who have waited for years for meaningful road or transit projects from MDOT, and who now have extremely long and congested daily commutes. There is so much peak spreading today, particularly from longer-distance commutes in Frederick County and points further west, that I-270 is jammed in Urbanna and Clarksburg at 5AM, 3PM before the evening rush hour, and still jammed at 7PM. Meanwhile, Upcounty Montgomery County residents pay the price for this lack of long-term planning that has not expanded in a meaningful way rail transit, bus transit or addressed existing highway bottlenecks..
121.	Montgomery Planning	DEIS- Page 2-16 Section 2.5.3	<p>MD 200 Diversion Alternative should be moved forward as an ARD and studied in more detail, including analyses with and without the I-95 segment. It is irrelevant whether the managed lanes is a “closed” system as established by the terminus at Exit 5 in Prince George’s County. The O/D data indicates only a 5% usage between Prince George's and north of I-270. The data indicates significant potential for use (20%) between the ALB and north I-95, which does not support managed lanes on I-95 between MD 200 and I-495. In fact, it acts to the detriment of diverting traffic by encouraging travel beyond MD 200 to I-495 East. I-95 now acts as a bottleneck to filter traffic onto I-495 and does this quite well. The MD 200 Diversion Alternative without this I-95 section would likely have very different results, which cannot be discerned with the information provided in the DEIS. Without the I-95 segment, the reduction in environmental impact provides a greater benefit for the MD 200 Alternative under 4(f).</p> <p>Inrix data today suggests that peak period travel in the southbound direction between I-95 at MD 200 and the American Legion Bridge is in fact faster on a regular basis using MD 200. Missing from this evaluation was a comparison of the existing TTJ, PTI, and average travel time between the I-95/MD 200 interchange and the American Legion Bridge by direction and by peak period and projected travel times in 2040.</p>
122.	Montgomery Planning	DEIS- Page 2-21 Section 2.54	The DEIS does not indicate whether a composite of Alternatives would be considered at different segments of the Study Area. Due to the size and scope of the project (48 miles), different segments of the effected highways, as well as impact to the surrounding road network does not lend the project to a single solution. There are multiple environmental, cultural and transportation impacts and solutions along the route, and therefore the selection of a single alternative may not be the better solution.
123.	Montgomery Planning	DEIS- Page ES-7 Page 2-35,	Regardless of whether heavy or light rail are considered as possible Alternatives for this project, structural accommodation for future rail across the ALB is the forward thinking design. The ALB will be not be replaced again for 50+ years, and this is the opportunity to build for the future. Besides, every other Alternative was analyzed for 2045, so why not the ALB? A design can be developed to minimize additional environmental

Comment No.	M-NCPPC Department	Reference	Technical Comment
			impact.
124.	Montgomery Planning	DEIS- Page 2-36	We object to MDOT SHA’s refusal to consider equity as part of their project design. This includes income-level toll scaling, and other measures. They are essentially justifying an inequitable transportation project by design, and the lack of concern that income-based toll scaling may be needed, is proof of this disregard. In the current transportation paradigm, projects MUST be designed with equity in mind and as part of the Alternative selection process. Deferring EJ issues to the Preferred Alternative is too late, particularly if EJ impacts are severe.
125.	Montgomery Planning	Page 2-39 Section 2.8 Section 6.2.3, Alts Tech Report	<p><u>Lack of Financial Viability.</u> Each of the alternatives would require a significant state subsidy, which is contrary to all of the representations throughout the process that no taxpayer dollars would be required for the project. In fact, each of the alternatives would require some subsidy without description of the funding source.</p> <p>Section 6.2 presents a range of economic outcomes based on two metrics, interest rates and capital costs. The full cash flow tables are available in Section 6.2.3 in the Alternatives Technical Report (Appendix B of the DEIS). Because the cost estimates are preliminary and subject to change with market conditions , and based on the Purple Line experience, the contingency built into the estimates should extend to include risks due to potential delays for construction, land acquisition , and cost of litigation.</p>
126.	Montgomery Planning	DEIS- Page 2-41	MDOT SHA has failed to consider local input and support for Master Plan goals within Montgomery County Master Plans and Transportation Demand Management Districts. How does the managed lanes project impact major activity centers and their non-auto driver mode share (NADMS) goals as specified in various adopted master plans and the new TMD regulations? NAMDS is a primary performance metric in many of Montgomery County master plans, and now per the TMD regulations, they apply countywide. We really have no information in the DEIS whether the managed lanes will help or hinder the NADMS goals in many of our master plans, because this has not been evaluated during the DEIS.
127.	Montgomery Planning	DEIS- Pages ES-12 Section ES, DEIS & Env Justice Section  Page 4-13 thru 4-19 Section 4.5	On Table ES-2, for the metric Annual Average Hours of Savings per Commuter, does not distinguish which populations benefit. It is not appropriate to state that everyone is benefiting without an adequate analysis of the impact to EJ Communities. Determination of impacts to the EJ Communities at the FEIS will not address the systemic racism that occurs when marginalized communities are not asked to assist with the decisions at the outset, but only asked to fix the problem after it occurs. Disproportional benefits must be included as part of the EJ analysis. The vast majority of the travel time benefits will be provided to non-EJ populations, based on the design of the facility and the basic idea of managed lanes (travel time benefits for drivers willing and able to afford the tolls). Focused corridor-based public transit investment, adding or modifying access locations, and developing a toll subsidy program, should be addressed as part of the recommendation for the RPA.

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
128.	Montgomery Parks	DEIS- ES 5 – Chapter 5	Add language stating that all M-NCPPC Parks are significant.
129.	Montgomery Parks	DEIS-Page 10 Section 1.2.7 App F Draft Section 4(f) Evaluation	Parkland impacts can only be considered de minimis if there is sufficient mitigation approved by MNCPPC. Parks with impacted resources will require reconfiguration to make the park whole and mitigation for the loss of parkland will be in addition to the onsite work.
130.	Montgomery Parks	DEIS-Page 10 Section 2.2 App Q Conceptual Mitigation Plan	MNCPPC Montgomery Parks will require tree replacement for trees removed on parkland, this will be above and beyond any regulatory requirements.
131.	Montgomery Parks	DEIS-Page 15 Section 2.4.1 App Q Conceptual Mitigation Plan	The resources identified in the project area are finite resources that provide essential natural resource value in an already heavily developed landscape. Once the avoidance and minimization process is applied to all natural resources on parkland, there may be areas that are too heavily impacted to continue to have meaningful ecological function; in these areas it may be appropriate to investigate adding SWM or other project needs. SHA must coordinate with Parks during preliminary design to adequately reduce impacts to forests. Relying on incentives to the concessionaire will not be sufficient to provide the required avoidance and minimization on parkland. In addition to Forest Conservation obligations, tree impacts on parkland will also be subject to mitigation for the actual loss of trees and the appropriate number of plantings necessary to make the park whole.
132.	Montgomery Parks	DEIS- Page 15 Section 2.4.1 App Q Conceptual Mitigation Plan	All parkland must be considered of the highest value for the avoidance and minimization process, as is mandated by the Policy for Parks. As discussed in other comments, MNCPPC does not concur that all reasonable measures to mitigate or minimize harm have been fully developed. As an Official with Jurisdiction, MNCPPC will require further coordination to minimize and mitigate impact as is described in the other comments
133.	Montgomery Parks	Page 94 Section 6.1.6 App B Alternatives Technical Report	As MNCPPC stated during the review of the ARDS, the approach of not considering environmental impacts as a differentiator between the preliminary screened alternatives is a flawed approach directly in conflict with the intent of the NEPA process. A major component of the NEPA process is to identify environmental impacts and to utilize the differences, as small as they may be, to select an alternative that avoids and minimizes potential impacts.

Comment No.	M-NCPPC Department	Reference	Technical Comment
134.	Montgomery General	Page 1-14 Section 1.8.2 Section 4f	Environmental responsibility must include language that requires - in the following order avoidance, then minimization of impact, then mitigation at equal or greater natural, cultural or recreational value.
135.	Montgomery General	DEIS page 2-37 section 2.7.2	MDOT SHA should add specific language in the FEIS that commits to utilizing innovative drainage techniques (such as water quality inlets, trash racks, and grit collectors, etc.) in all viable locations to take every opportunity to reduce the transfer of trash and pollutants from the MDOT SHA roadway into adjacent aquatic resources. There is currently no formal commitment from MDOT SHA to use these techniques in the final design.
136.	Montgomery Parks	DEIS Page 2-37 and 2-38 Section 2.7.2	<p>The proposed increase in new impervious across all the affected watersheds is extraordinary.</p> <p>There are 631 acres of impervious surfaces within SHA's ROW in Montgomery County – the overwhelming majority of which has no stormwater management treatment. That is equal to the TOTAL amount of impervious area in all of parks throughout the Montgomery County, treated or not. The amount of these untreated impervious surfaces is, without a doubt, the major contributing factor to the impaired water quality in our area. The streams and their stream valleys that I-495 and I-270 bifurcates in Montgomery County (i.e. Northwest Branch, Long Branch, Sligo Creek, Rock Creek, and Cabin John Creek) are almost entirely owned by Parks so this untreated infrastructure directly impacts and degrades our parkland. If MDOT SHA does not take this opportunity to address the source of these issues as part of this project, the onus will fall on local jurisdictions to do so in the future. In order to protect both our resources and our infrastructure, this will come at a high cost to local taxpayers.</p>
137.	Montgomery Parks	DEIS: Pages 2-37 - 2-39 Section 2.7.2	<p>The storm water management approach that MDOT SHA presents in the DEIS is insufficient and ignores decades of degradation that the existing highways have inflicted on our local land. Specifically, the surface water resources in the study area have been negatively affected by the vast amount of untreated runoff from the highway system for decades. This project represents a significant opportunity to provide real improvement in the amount of existing impervious surfaces in this watershed that receive stormwater treatment. MNCPPC is supportive of incorporating SWM in additional areas on Parkland where feasible.</p> <p>It is critical that stormwater management be assessed in more detail at this early stage of the project and opportunities to accommodate it on-site be identified prior to FEIS development for inclusion in the FEIS. This includes stormwater treatment opportunities both within the LOD as currently shown and in areas adjacent to the highway that would require LOD adjustments but could provide on-site SWM. M-NCPPC has provided the MDOT SHA project team additional potential stormwater management locations on adjacent Parkland and we anticipate working collaboratively with MDOT SHA prior to the P3 involvement in the design to identify and capitalize upon all reasonable stormwater opportunities in the corridor. Off-site stormwater management should only be explored where all options of on-site treatment have truly been exhausted.</p>

Comment No.	M-NCPPC Department	Reference	Technical Comment
138.	Montgomery Parks	DEIS- Pages 2-37 - 2-39 Section 2.7.2	<p>MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project’s minimum regulatory stormwater requirements to actually address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region’s greatest natural resources</p> <p>It is critical that SWM needs be further assessed at this early stage of the project and the LOD be enlarged to accommodate the designs. Deferring further analysis of the SWM design until the highway design is at a later stage will not allow MDOT SHA to adequately address the SWM needs and aquatic resource protection and enhancement.</p> <p>MDOT SHA’s “effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties” is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.</p> <p>MDOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to provide Parks with the locations where SWM requirements cannot be met onsite and Parks will evaluate if there is available space on the adjacent Parkland to meet the SWM need to help protect downstream waters. In addition, Parks will work collaboratively to locate off-site SWM, but only when all on-site locations have been proven to be exhausted.</p> <p>It is important to note that the new impervious areas are not the only consideration. The highways within this project area (I-495 and I-270) traverse some of the most urbanized areas of Montgomery County. There are 631 acres of impervious surfaces within SHA’s ROW in Montgomery County – the overwhelming majority of which has no stormwater management treatment. That is equal to the TOTAL amount of impervious area in all of parks throughout the Montgomery County, treated or not. The amount of these untreated impervious surfaces is, without a doubt, the major contributing factor to the impaired water quality in our area. The streams and their stream valleys that I-495 and I-270 bifurcates in Montgomery County (i.e. Northwest Branch, Long Branch, Sligo Creek, Rock Creek, and Cabin John Creek) are almost entirely owned by Parks so this untreated infrastructure directly impacts and degrades our parkland. If MDOT SHA does not take this opportunity to address the source of these issues as part of this project, the onus will fall on local jurisdictions to do so in the future. In order to protect both our resources and our infrastructure, this will come at a high cost to local taxpayers.</p> <p>MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project’s regulatory stormwater requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region’s greatest natural resources.</p>
139.	Montgomery Parks	DEIS: Pages 2-37 - 2-39	<p>Utilizing offsite mitigation for stormwater management requirements should be avoided whenever possible. The watersheds and water resources adjacent to the beltway are severely impacted from the existing beltway</p>



Comment No.	M-NCPPC Department	Reference	Technical Comment
		Section 2.7.2	<p>and would be further impacted with widening. More innovative techniques to treat stormwater at the source need to be explored at this stage in design, prior to FEIS. Where possible stormwater management requirements should be exceeded to compensate for areas where stormwater opportunities are more limited.</p> <p>MDOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to provide Parks with the locations where SWM requirements cannot be met onsite and Parks will evaluate if there is available space on the adjacent Parkland to meet the SWM need to help protect downstream waters. In addition, Parks will work collaboratively to locate off-site SWM when all on-site locations have been exhausted.</p> <p>MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.</p>
140.	Montgomery Parks	DEIS: Page 2-38 Section 2.7.2	<p>Based on our field investigations, many existing culverts (most CMP with concrete outfalls) are failing (both in size classes &lt;36" and &gt;36"). When failing culverts are identified in the project footprint, they should be replaced with natural bottom culverts (where appropriate in perennial systems to promote aquatic passage) and stable environmentally enhanced outfalls to protect downstream resources. Understand that this comment from M-NCPPC is unrelated to any separate regulatory requirements regarding aquatic organism passage. MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit in the FEIS and ROD to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.</p> <p>Natural culvert bottoms should be installed, where appropriate, as part of all culvert repair and replacement efforts. M-NCPPC will discuss the incorporation of natural bottom culverts as an element of a Park mitigation package, but the intent must be included in the roadway design plans reflected in the FEIS and ROD.</p>
141.	Montgomery Planning	DEIS - Page 2-38 Section 2.7.2	<p>SWM needs be further assessed at this early stage of the project and the LOD be enlarged to accommodate the designs. Deferring further analysis until the Full SWM design is completed at a later stage will not allow SHA to adequately address SWM needs and aquatic resource protection and enhancement.</p> <p>In table 2-5, the smallest number of acres requiring offsite treatment (for a build alternative) is 321 acres. That is a staggering number and every effort must be made to reduce this number by increasing SWM on site. Moving forward to FEIS with the numbers of acres proposed for offsite SWM treatment is not responsible or acceptable.</p>
142.	Montgomery General	DEIS - Pages 2-38 Section 2.7.2	<p>M-NCPPC has provided the MDOT SHA project team additional potential stormwater management locations on adjacent Parkland and we anticipate working collaboratively with MDOT SHA to identify and capitalize upon all reasonable stormwater opportunities in the corridor. Any SWM requirement deficits should first be met within the existing highway network and secondly within the impacted watershed.</p>

Comment No.	M-NCPPC Department	Reference	Technical Comment
			MDOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to provide Parks with the locations where SWM requirements cannot be met onsite and Parks will evaluate if there is available space on the adjacent Parkland to meet the SWM need to help protect downstream waters. In addition, Parks will work collaboratively to locate off-site SWM when all on-site locations have been exhausted.
143.	Montgomery Parks	DEIS-Pages 2-39 Section 2.7.2	<p>More information on the stormwater treatment levels and adequacy of available SWM as shown needs to be provided now, while many design decisions are being made and an LOD is getting set. Specifically, a drainage area breakdown to all the POIs including total drainage area, impervious area, required treatment and treatment provided should be provided to all stakeholders.</p> <p>Additionally, what are the innovative approaches that may reduce the amount of offsite treatment? These need to be identified in the FEIS and ROD. Why would these approaches not be considered now? Is it possible that further analysis and design could actually increase the need for offsite SWM?</p>
144.	Montgomery Parks	DEIS- Page 2-39 Section 2.7.3	Short-term impacts on parkland will require mitigation and restoration to MNCPPC standards. Temporary or short-term impacts can and often do, create permanent impacts to the site; mitigation and site restoration will be required.
145.	Montgomery Parks	DEIS page 2-40 section 2.7.4	<p>The current LOD, as currently proposed by MDOT SHA, is unrealistic to depend on for impacts to parkland as it is a preliminary planning tool.</p> <p>A workable process for modifying the LOD that actually prioritizes land owner's interest and protecting resources, must be agreed upon between M-NCPPC and MDOT SHA and codified in the FEIS and ROD.</p>
146.	Montgomery Parks	DEIS Page 4-3 Section 4	<p>The current LOD has been minimized to decrease the footprint, but not necessarily to reduce or address actual impacts . For example, there are numerous existing degraded stormwater outfalls from the beltway that should be included in the project, and therefore the LOD so that they can be restored. The inclusion of these elements within the LOD would require an expansion of the LOD, but would result in an improved environmental condition. To date, MDOT SHA has been focused on minimizing the LOD to show the lowest impact to resources on paper, but not necessarily to achieve the lowest impact in the real world.</p> <p>We will want to see this reflected in our ongoing coordination with the project team, as well as formally in the FEIS, the ROD, and in the P3 agreement.</p>
147.	Montgomery Parks	DEIS- Page 4-34, 4-63, 4-66 Sections 4.6.3, 4.9	Noise abatement measures in the form of noise walls are essential around natural resource areas in order for these spaces to serve the functions of conservation and preservation for which they are intended. Exposure to natural spaces with minimal anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention. Parks expects a clear commitment from MDOT SHA to implement noise walls in all Montgomery Parks' priority locations in the FEIS.

Comment No.	M-NCPPC Department	Reference	Technical Comment
			See comments from Appendix D regarding noise barriers shown on Environmental Resource Maps for specific noise walls comments.
148.	Montgomery Parks	DEIS- Pages 4-83 - 4-86 Section 4.12.4	MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources. In sensitive watersheds, this equates to going above the minimal regulatory ESC practices with additional BMP's to protect downstream resources during construction. MDOTS SHA needs to commit to these additional BMP's during construction in sensitive watersheds in the FEIS.
149.	Montgomery Parks	DEIS- Pages 4-83 - 4-86 Section 4.12.4	MDOT SHA needs to employ the use of on-site environmental monitors during construction to provide extra assurances that ESC measures are fully implemented and functioning as designed. This commitment needs to be noted in the FEIS and in the ROD.
150.	Montgomery Parks	DEIS- Page 4-83 - 4-87 Section 4.12.4 DEIS	<p>M-NCPPC appreciates the response from SHA that "MDOT SHA will continue to coordinate with M-NCPPC and the regulatory agencies to refine the LOD at Section 4(f) properties for the Preferred Alternative."</p> <p>As noted in other comments, a process for LOD changes must be created and documented (in the FEIS, ROD, and P3 agreement) for the advanced design changes so that sound design and innovation can be employed and not hindered by administrative bureaucracy.</p> <p>Parks has submitted numerous detailed comments concerning the LOD. Parks appreciates both past and future efforts to reduce the LOD and construction impacts. However, Parks does expect the LOD to increase in some areas to allow room for appropriate work to occur to restore, stabilize, and protect various natural resources. An important aspect of avoidance and minimization is minimizing the roadway footprint while still potentially keeping a larger LOD to address environmental issues and/or adequately restore disturbed areas.</p>
151.	Montgomery Parks	DEIS-Page 4-84 - 4-85 Section 4.12.4	<p>Parks requests details on retaining wall installation when being installed on or near a stream bank, Rock creek is an example. Due to the likelihood of needing an LOD expansion into sensitive resources, M-NCPPC requests further analysis of these areas before the FEIS and ROD.</p> <p>As noted in other comments, a process for LOD changes must be created for the advanced design changes so that sound design and innovation can be employed and not hindered by administrative bureaucracy.</p>
152.	Montgomery Parks	DEIS-Page 4-86 Section 4.12.4	<p>Parks supports avoidance and minimization but requests adequate LOD to ensure stable tie in for outfalls, protection and restoration of stream banks, and to improve resources on-site that are impacted by the project.</p> <p>LOD is not currently adequate for tie-ins for stabilization of eroding outfalls. Based on the limited information available, M-NCPPC believes that there are numerous locations where the LOD is not adequate for construction.</p>

Comment No.	M-NCPPC Department	Reference	Technical Comment
			<p>LOD flexibility and changes are essential to ensure adequate environmental protection and cost-effective construction. The current LOD is based on standard roadway sections and modeling, and with better information from field investigations and further design, the LOD will need to be adjusted. The current LOD is preliminary and it should not be locked in at this point for the remainder of the project. The issue is that the P3 process may not provide the flexibility to adequately modify the LOD; This has been an issue with the Purple Line Project. As M-NCPPC has learned with many other projects, including the Purple Line, creating a “right sized” LOD based on sufficient design is crucial to a successful project, both in terms of limiting resource impacts and providing for cost effective construction. Even after diligent review of the current LOD, as the project progresses into detailed design and then construction, new information will dictate the need for LOD adjustments. M-NCPPC and MDOT SHA have a good track record of working collaboratively on projects, however the P3 aspect of this project has the potential to reduce flexibility due to contractual and legal terms. M-NCPPC is expecting a process for making LOD adjustments to be codified in the FIES, ROD, and P3 agreements.</p>
153.	Montgomery Parks	DEIS-Page 4-97 Section 4.15.4	Further coordination and commitment for parkland mitigation must be codified in the ROD. Actual and actionable commitments will be required by M-NCPPC.
154.	Montgomery Parks	Page 4-101 Section 4.16.4 DEIS	Parks will provide tree species, locations, and planting requirements for forest mitigation as outlined in the memo sent to MDOT SHA.
155.	Montgomery Parks	Page 4-101 Section 4.16.4 DEIS	Parks requests a commitment to provide invasive species treatment on parkland to mitigate for increased habitat fragmentation.
156.	Montgomery Parks	Page 4-101 Section 4.16.4 DEIS	Parks will require that access and hauls roads comply with Park Standards to protect existing resources. These measures are not mitigation but are part of operating on parkland.
157.	Montgomery Parks	DEIS- Page 4-101 Section 4.16.4	M-NCPPC appreciates the commitment from MDOT SHA to implement the maximum forest mitigation plantings within the affected watersheds. Parks expects to work collaboratively on locations on Parkland for trees removed from parkland.
158.	Montgomery Parks	DEIS -Page 4-105 Section 4.17.4	SHA should commit to providing an actual improvement to the affected forests outside the LOD by agreeing to develop an invasive management plan and implement the control of invasive species as directed by Parks.

Comment No.	M-NCPPC Department	Reference	Technical Comment
159.	Montgomery Parks	DEIS - page 4-108 Section 4.18.3 Table 4-29	<p>The proposed increase in new impervious across all the affected watersheds is extraordinary.</p> <p>There are 631 acres of impervious surfaces within SHA’s ROW in Montgomery County – the overwhelming majority of which has no stormwater management treatment. That is equal to the TOTAL amount of impervious area in all of parks throughout the Montgomery County, treated or not. The amount of these untreated impervious surfaces is, without a doubt, the major contributing factor to the impaired water quality in our area. The streams and their stream valleys that I-495 and I-270 bifurcates in Montgomery County (i.e. Northwest Branch, Long Branch, Sligo Creek, Rock Creek, and Cabin John Creek) are almost entirely owned by Parks so this untreated infrastructure directly impacts and degrades our parkland. If MDOT SHA does not take this opportunity to address the source of these issues as part of this project, the onus will fall on local jurisdictions to do so in the future. In order to protect both our resources and our infrastructure, this will come at a high cost to local taxpayers.</p> <p>MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project’s regulatory stormwater requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region’s greatest natural resources.</p>
160.	Montgomery Parks	DEIS-Page 4-109 Section 4.18.4	Natural culvert bottoms should be installed, where appropriate, as part of all culvert repair and replacement efforts. M-NCPPC will discuss the incorporation of natural bottom culverts as mitigation, but the intent must be included in the roadway design plans.
161.	Montgomery Parks	DEIS-Page 4-109 Section 4.18.4	More emphasis needs to be put on the protection and restoration of aquatic habitat within identified sensitive aquatic resources. This is made more critical given the proposed longer culvert lengths. Culverts should holistically be installed/rehabilitated/replaced with an environmentally sensitive culvert design strategy. M-NCPPC looks forward to continued collaboration “in the future as part of the design and construction coordination.
162.	Montgomery Parks	DEIS-Page 4-109 Section 4.18.4	Fish relocation from dewatered work areas on parkland will be required; this is not considered minimization or mitigation; it is a requirement.
163.	Montgomery Parks	4.20 Unique and Sensitive Areas pg. 4-119	Add Northwest Branch Stream Valley Best natural area and Rock Creek Pooks Hills Biodiversity Area and Cabin John Campground Biodiversity to this list. Collectively, Best Natural Areas, Biodiversity Areas and Environmentally Sensitive Areas within parkland are considered Priority Natural Resource Areas that are the focus of the Department of Parks’ efforts to manage and preserve natural resources.

Comment No.	M-NCPPC Department	Reference	Technical Comment
164.	Montgomery Parks	4.20 Unique and Sensitive Areas pg. 4-119	<p>This section is meant to capture unique and sensitive areas with ecological resources designated by state and local municipalities that do not fall within the regulations of other environmental resources such as waterways and forests. The best quality and most unique ecological communities within the Montgomery County Park system</p> <p>have been identified and categorized as Biodiversity Areas or Best Natural Areas, identified and described in the Montgomery County Planning Board adopted 2017 Park, Recreation, and Open Space (PROS) Plan.</p> <p>Biodiversity Areas (BDAs) are defined as areas of parkland containing one or more of the following:</p> <ul style="list-style-type: none"> <li>● Large areas of contiguous, high quality forest, marsh or swamp that show little evidence of past land-use disturbance</li> <li>● Rare, threatened, endangered or watch-list species</li> <li>● The best examples of unique plant communities found in Montgomery County</li> <li>● Areas of exceptional scenic beauty</li> </ul> <p>Rock Creek and Cabin John have BDA's delineated immediately adjacent to the proposed project impacts: Pooks Hill Biodiversity Area in Rock Creek; Forest Glen Biodiversity Area in Rock Creek; Cabin John Camp Ground Biodiversity Area.</p> <p>Best Natural Areas (BNAs) are defined as areas of parkland which contain one or more of the following:</p> <ul style="list-style-type: none"> <li>● Large areas of contiguous, high quality forest, marsh or swamp that are generally more than 100 acres and show little evidence of past land-use disturbance</li> <li>● Rare, threatened, endangered or watch-list species</li> <li>● The best examples of unique plant communities found in Montgomery County in the ten Major Terrestrial Natural Communities</li> <li>● High quality wetlands, including those of Special State Concern at noted in COMAR Title 26</li> <li>● Aquatic communities rated as good or excellent in the Countywide Stream Protection Strategy</li> <li>● Special Trout Management Areas as noted in COMAR Title 08</li> <li>● Areas of exceptional scenic beauty</li> </ul> <p>The Northwest Branch Stream Valley Best Natural Area is the only BNA delineated immediately adjacent to the proposed project impacts.</p> <p>Mapping of these critical natural resource areas can be found in Chapter 5 of the 2017 Park, Recreation, and Open Space (PROS) Plan.</p>

Comment No.	M-NCPPC Department	Reference	Technical Comment
165.	Montgomery Parks	DEIS-Page 5-9 Table 5-2	Reference to NCPC should be included. The Capper-Cramton Act of 1930 was enacted to create a comprehensive regional park, parkway, and playground system by providing federal funding to assist with the acquisition, establishment, and development of the George Washington Memorial Parkway and certain stream valley parks in Virginia and Maryland, including much of the parkland that is within the LOD for highway development (Rock Creek, Sligo Creek, and Northwest Branch). The Act prohibits, in whole or in part, conveyance, sale, lease, exchange or use of the parklands for "other than park purposes; and requires Capper-Cramton lands to be developed in accordance with plans approved by the NCPC." M-NCPPC will need a complete understanding and satisfactory commitment from MDOT SHA regarding parkland impacts and mitigation before approval from NCPC is sought for change in use or ownership of any Capper-Cramton parkland.
166.	Montgomery Parks	DEIS- Page 5-12 Table 5-3	Reference to NCPC should be included. The Capper-Cramton Act of 1930 was enacted to create a comprehensive regional park, parkway, and playground system by providing federal funding to assist with the acquisition, establishment, and development of the George Washington Memorial Parkway and certain stream valley parks in Virginia and Maryland, including much of the parkland that is within the LOD for highway development (Rock Creek, Sligo Creek, and Northwest Branch). The Act prohibits, in whole or in part, conveyance, sale, lease, exchange or use of the parklands for "other than park purposes; and requires Capper-Cramton lands to be developed in accordance with plans approved by the NCPC." M-NCPPC will need a complete understanding and satisfactory commitment from MDOT SHA regarding parkland impacts and mitigation before approval from NCPC is sought for change in use or ownership of any Capper-Cramton parkland.
167.	Prince George's Planning	DEIS- App. A Alternatives Technical Report pg. 103	How are the mitigation costs incorporated into the financial viability analysis if they are unknown at this point? It is a percentage of the total project cost?
168.	Prince George's Planning	DEIS- App. B Traffic Analysis Report pg. 81	We question whether +/-20% is an acceptable range? That seems like an especially large margin when we are discussing peak traffic volumes.
169.	Prince George's Planning	DEIS- App. F Page 5 Section 1.2.2 App. F	The report states: "The land must be returned to a condition that is at least as good as existed prior to the project..." and Parks intends to have site restoration and mitigation for all temporary usage areas. The restoration and mitigation will need to be approved by Parks. A temporary use can, and often does, result in permanent impacts and Parks will review and only permit temporary use after an agreement about proper

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Draft Section 4(f) Eval	restoration and mitigation is reached. As a landowner M-NCPPC will determine the restoration of temporary use areas.
170.	Prince George's Planning	Appendix N	MNCPPC staff is requesting a copy of Appendix N – Draft 404(b)(1) Evaluation for review and comment.
171.	Montgomery Planning	App. A Page 115	We object to MDOT SHA's negative portrayal of reversible managed lanes as a concept. This has subjectively biased this evaluation. The rating of "low" for Alternative 13B as having a "low" ease of use due to the reversible lane system appears to overlook that a reversible lane system is very successfully in operation in the Commonwealth of Virginia on I-95 and I-395 and works quite well in a constrained environment when traffic flows are directionally peaked. This type of concept has merit precisely when space is constrained, and you are not able to widen outside the ROW. A lot of time has been spent to "bash" a concept in successful practice by VDOT for many years within the Greater Washington DC metropolitan area. While off-peak capacity and throughput are reduced, much of the negative discussion on page 115 is counter-productive and leads the reader to conclude that the final solution is already decided. This concept does have value, and the discussion should reflect that.
172.	Montgomery Planning	App. B Page 65 Section 3.3 Traffic Tech Report	Please document how you determined that peak spreading would reduce and how this would vary by alternative. How does this peak spreading affect transit and HOV usage? On 1-270, there is significant traffic flow outside of the peak period, and general-purpose traffic relies on the use of the existing HOV lane (when HOV usage is not enforced) to travel on 1-270. With the elimination of this off-peak benefit, to what extent will some of this traffic shift back to the peak period? In order to determine this accurately, you would need to understand the elasticity of travel patterns, and to what extent typical driver behavior has been shaped by congestion. So, if the American Legion Bridge will continue to be congested in the general-purpose lanes even with the managed lanes in place, is the price offered in the managed lanes enough enticement to shift when drivers start their commute? The FEIS should include considerably more evaluation of the off-peak hours and a more refined evaluation of peak spreading.
173.	Montgomery Planning	App. B Page 74 Section 4.1. C Traffic Tech Report	The FEIS should include considerably more evaluation of latent demand and induced demand. The section on latent demand and induced demand in the DEIS is not clear and extremely vague. The first sentence notes that both latent demand and induced demand have been accounted for. Then, no data is provided to document either demand case. The last part of this paragraph seems to indicate that further evaluations on induced demand has not been conducted but will be conducted when a Preferred Alternative is selected. Please modify this paragraph to correctly state what has been done, provide a summary of that work and conclusions, and note future efforts for the Preferred Alternative with the reason that this work cannot be performed for this DEIS. MWCOCG not having a procedure is not a valid excuse to not to perform this evaluation. These concepts are well known, and this DEIS should have spent considerable time looking into this issue. A good technical



Comment No.	M-NCPPC Department	Reference	Technical Comment
			reference that should be considered for use in estimating generated traffic and induced demand has been prepared by the Victoria Transport Policy Institute.
174.	Montgomery Planning	App. B Page 107 Section 5.3 Traffic Tech Report	More evaluation of likely transit and HOV use should be prepared in the FEIS with projections, not simplistic assumptions. The DEIS does not account for trips using bus service. Although transit buses will be permitted to use the managed lanes, specific transit routes are currently undetermined and therefore, appropriate bus throughput cannot be assessed at this time." As part of a DEIS, the team should have done very basic data collection to inventory existing bus routes and ridecheck data for these routes. On I-270, this would include MTA buses and some RideOn buses. This is unacceptable, when you are reporting and projecting Person Throughput and data sources are available, and I assume, the model can even be used to estimate future bus ridership. More documentation is needed in this DEIS to support what existing buses and bus ridership currently use I-495 and I-270 and how this is projected to change with the project Alternatives. Without an accurate assessment of existing and future transit ridership, how can you possibly assess modal shift?
175.	Montgomery Parks	DEIS- General Comment App D Environmental Resource Maps	The current LOD has been minimized to decrease the footprint, but not necessarily to reduce or address actual impacts. LOD is not currently adequate for tie-ins for stabilization of eroding outfalls and stream stabilization. LOD on all maps needs to allow for future designs to appropriately tie into existing Park features; this is especially true of stream channels and outfalls. MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.
176.	Montgomery Parks	DEIS- General Comment App D Environmental Resource Maps	LOD will need to be updated for the FEIS to reflect the potential for additional SWM facilities. Parks has noted numerous locations where additional SWM might be possible and expects further coordination to finalize these locations
177.	Montgomery Parks	DEIS-General Comment App D Environmental Resource Maps	Noise abatement measures in the form of noise walls are essential around natural resource areas in order for these spaces to serve the functions of conservation and preservation for which they are intended. Exposure to natural spaces with minimal anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention. Parks expects a clear commitment from MDOT SHA to implement noise walls in all Montgomery Parks' priority locations.
178.	Montgomery Parks	DEIS-App D Environmental	Cabin John and Rock Creek Stream Valley Parks both provide unique, high quality natural refuge in otherwise urbanized areas. Noise abatement measures in the form of noise walls are essential around natural resource

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Resource Maps, Map 60, Map 64, Map 65	areas in order for these spaces to serve the functions of conservation and preservation for which they are intended. Noise pollution created from anthropogenic activities has been cited as an increasing source of disruption to habitat suitability for wildlife. In addition, noise walls around natural resource areas provide auxiliary benefits of reducing human-wildlife interactions on the highway which is beneficial for human health and safety, traffic flow, and wildlife. These parks should be given particular consideration when it comes to noise abatement measures and noise walls should be considered essential to the parks' functions in providing valuable, natural refuge for both park patrons and wildlife inhabitants. Parks will require a clear commitment from MDOT SHA to implement noise abatement measures in the form of noise walls along the entire corridor adjacent to parkland at these priority locations.
179.	Montgomery Parks	DEIS-App D Environmental Resource Maps, Map 64, Map 65	Rock Creek Trail is one of the most popular trails in the DC Metro area and provides high-value natural and recreational services to the community in an otherwise urbanized environment. Noise walls adjacent to this valuable trail system and adjacent local parks are essential to providing the highest quality services to trail patrons and the surrounding human and wildlife communities. Parks will require a clear commitment from MDOT SHA to implement noise abatement measures in the form of noise walls along the entire corridor adjacent to parkland at these priority locations.
180.	Montgomery Parks	DEIS- App D Environmental Resource Maps, Map 69	Sligo Creek Golf Course offers a unique, park-like golfing experience that is highly valued by its patrons. One of the highest values of this facility is the ability to provide a relaxing recreational experience and protection from noise pollution is key in achieving that function. Noise walls should be implemented at this location to optimize the experience of the course patrons and the surrounding community. Parks will require a clear commitment from MDOT SHA to implement noise abatement measures in the form of noise walls along the entire corridor adjacent to parkland at this priority location.
181.	Montgomery Parks	DEIS- App D Environmental Resource Maps, Map 114 and 115	Noise walls should be considered essential around Cabin John and the Robert C McDonell campground, where quiet and serenity serve a significant public need. Exposure to natural spaces with minimal anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention, and is part of the intended objectives of campground function and appeal. Parks requires noise walls be implemented adjacent to Cabin John and the Robert C McDonell campground and anticipates a clear commitment from MDOT SHA to implement noise abatement measures in the form of noise walls along the entire corridor adjacent to parkland at these priority locations.
182.	Montgomery Parks	DEIS- App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 795+00 – all drainage from road should be assessed to implement the most sustainable drainage solutions, simply replacing structures in kind or in the same location is not sufficient due to the steep slopes. Parks would like to evaluate the potential for combining flows from multiple outfalls, incorporating longer pipe lengths, and other measures to reduce long term erosion. All concrete flumes should be removed. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.

Comment No.	M-NCPPC Department	Reference	Technical Comment
183.	Montgomery Parks	DEIS- App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	<p>Northwest Branch STA 807+00 - Increase LOD to tie in new pipe into the existing degraded channel. Create step pools in the existing channel. Extend LOD to end of SHA stream polygon or approximately 250ft down channel from existing LOD.</p> <p>SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.</p>
184.	Montgomery Parks	DEIS-	<p>Northwest Branch STA 800+00 R- restore and enhance all outfalls on the southside of the beltway, remove concrete flumes, incorporate step pools, considering piping to outfall at lower elevations.</p> <p>Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.</p>
185.	Montgomery Parks	DEIS-App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	<p>Northwest Branch STA 801+00 L - Outfall on the North side of the Beltway and east of NWB is degraded, include entire outfall to NWB in LOD.</p> <p>SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.</p> <p>Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.</p>
186.	Montgomery Parks	DEIS-App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	<p>Northwest Branch STA 795+00 R 200ft – Outfall channel within proposed access road area is degraded, integrate enhanced outfall into site stabilization after bridge reconstruction.</p> <p>SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.</p>

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187.	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 795+00 R – Temporary use often creates a permanent impact and will need to be mitigated for as a permanent impact.
188.	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 797+00 The trail must be restored to park standards after construction. The trail should remain open as much as possible during construction. A detour shall be provided any time the trail needs to be closed.
189.	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 795+00 L - Outfall degraded. Concrete flume then minor erosion down steep channel. Investigate redirecting this runoff. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.
190.	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	<p>Northwest Branch STA 794+95 R - Multiple failed concrete outfalls. Holistic approach to drainage and outfall on this portion of the alignment is needed. Consider piping outfall to lower elevation then outfall for all flow in area. This location needs immediate attention from SHA.</p> <p>SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.</p> <p>Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.</p>
191.	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	<p>Northwest Branch STA 794+00 L - Potential channel restoration. Extend LOD all the way to tributary to stabilize. Consider piping this water elsewhere. Severely eroded Outfall, not sure if water is supposed to be coming to this spot or is inadvertently coming down slope.</p> <p>SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. Any proposed work that changes flows to the existing outfalls will require</p>

Comment No.	M-NCPPC Department	Reference	Technical Comment
			stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.
192.	Montgomery Parks	DEIS, App. E Page 75  Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 792+00 L - Outfall degraded, if this outfall stays in this location, expand LOD 150 down channel to build enhanced outfall.  SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. Any proposed work that changes flows to the existing outfalls will require stabilizing existing outfalls or constructing new environmentally friendly outfalls. This park is a Best Natural Area and special consideration and protection is required.
193.	Montgomery Parks	DEIS, App. E Page 75  Section 2.1.23 Draft Section 4(f) Eval	Brookview STA 823+00 – Investigate Potential SWM location with Parks. Due to the high impact on aquatic resources from this project all SWM opportunities near the project must be considered.
194.	Montgomery Parks	DEIS, App. F Page 5  Section 1.2.2 App. F Draft Section 4(f) Eval	The report states “The land must be returned to a condition that is at least as good as existed prior to the project...” and Parks intends to have site restoration and mitigation for all temporary usage areas. The restoration and mitigation will need to be approved by Parks. A temporary use can, and often does, result in permanent impacts and Parks will review and only permit temporary use after an agreement about proper restoration and mitigation is reached. As a land owner M-NCPPC will determine the restoration of temporary use areas.
195.	Montgomery Parks	DEIS, App. F Page 10  Section 1.2.7 Draft Section 4(f) Eval	Parks will require additional avoidance and minimization efforts and specific parkland mitigation at a greater or equal value for each property before agreeing to any de minimis impact. This statement applies for all parkland affected by the project.
196.	Montgomery Parks	DEIS, App. F Page 11  Section 1.2.8 Draft Section 4(f) Eval	M-NCPPC, as the designated applicant to NCPC for any proposed changes to parks funded by the Capper-Cramton Act, will need a complete understanding and commitment from SHA regarding parkland impacts and mitigation before approval from NCPC is sought for the affected parks. This will include, but is not limited to, extensive impact minimization, adequate stormwater management controls, on-site restoration, on-site

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
			mitigation, off- site mitigation, and parkland dedication. At the appropriate time Parks would expect SHA to provide necessary information for any potential submission to NCPC.
197.	Montgomery Parks	DEIS- App. F Page 18  Section 2, Draft Section 4(f) Eval	Parks expects further development of mitigation plans for parkland before the FEIS and ROD. In addition, a process for modifying the LOD and mitigation plans must be produced as part of the ROD and FEIS to ensure park resources are adequately protected during advanced design.
198.	Montgomery Parks	DEIS- App. F Page 38  Section 2.1.5 Draft Section 4(f) Eval	Cabin John SVU STA 220+00 L – from River Road to STA 215+00 consider stream improvements and stabilization. All outfalls should have stable tie-in to Cabin John Creek and consist of plunge pools and step pools.
199.	Montgomery Parks	DEIS-App. F Page 38  Section 2.1.5 Draft Section 4(f) Eval	Cabin John SVU STA 200+00 R- M-NCPPC appreciates that statement that the stream improvements where Cabin John creek flows under highway “may be considered during final design,” however incorporation of these improvements should occur before final design as this area is clearly within the LOD of the project and should be designed in coordination with the roadway design.
200.	Montgomery Parks	DEIS-App. F Page 38  Section 2.1.5 Draft Section 4(f) Eval	Cabin John SVU STA 200+00 R- Ensure fish passage under Cabin John Parkway for Booze Creek. MCDEP is currently completing a stream restoration upstream of Cabin John Parkway and ensuring safe fish passage is critical at this location.
201.	Montgomery Parks	DEIS- App. F Page 38  Section 2.1.5 Draft Section 4(f) Eval	Cabin John SVU STA 200+00 R- restrict LOD to ROW along south side of Cabin John Parkway. Parks looks forward to dressing needed LOD changes as part of the FEIS development.

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
202.	Montgomery Parks	DEIS- App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 491+50 L - Currently outfall is stable. LOD provided is in Rock Creek for culvert replacement. Include bank stabilization of Rock Creek on right bank and stable outfall transition. Repaired and replaced culvert should have a natural channel bottom and promote fish passage.  MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
203.	Montgomery Parks	DEIS- App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 489+00 L - Outfall not shown on SHA maps. Will need to be labeled, addressed a stable transition into Rock Creek accommodated in the design and LOD.
204.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 493+50 L - Expand LOD to include enhancing outfall to Rock Creek.  MDOT SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
205.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 485+00 L - The right bank of Rock Creek will need to be stabilize and improved from 482+00 to 493+00. LOD expansion to include this work is required. If retaining wall is replaced, additional LOD and stream and bank restoration will be required.  MDOT SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
206.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Elmhirst STA 490+00 R - Restore trail after project. Keep trail open or provide detour during construction.  The work required in this area is not mitigation, but simply the cost of doing business and making the existing resources whole again after being impacted.
207.	Montgomery Parks	DEIS, App. F Page 46	Elmhirst STA 489+50 - M-NCPPC previously asked for MDOT SHA to provide justification for the need for a new pipe and impacts to stream. New culvert should have a natural channel bottom and promote fish passage.

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
		Section 2.1.9 Draft Section 4(f) Eval	MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.
208.	Montgomery Parks	DEIS, App. F Page 46  Section 2.1.9 Draft Section 4(f) Eval	Elmhirst STA 489+50 R - Include stream restoration with in-stream structures and stream stabilization.
209.	Montgomery Parks	DEIS, App. F Page 46  Section 2.1.9 Draft Section 4(f) Eval	Elmhirst STA 489+50 R 300ft - Expand LOD for stream and trail work. Coordinate LOD and design with Parks. This work is required to make the resources whole.
210.	Montgomery Parks	DEIS, App. F Page 46  Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 485+00 L - Address trash being washed down from roadway, clean up during construction and add trash racks to all inlets. M-NCPPC appreciates the response that MDOT SHA will coordinate with M-NCPPC on this issue. Commitment from MDOT SHA to provide maximum water quality protections at all inlets is requested.
211.	Montgomery Parks	DEIS, App. F Page 46  Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 485+00 L - Stabilize bank in this reach due to close proximity to highway. If MDOT SHA does not want to include the bank stabilization in this location, extensive documentation of how the bank and stream will not be impacted by the proposed work is required.
212.	Montgomery Parks	DEIS, App. F Page 46  Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 484+50 L - Need to stabilize existing outfall tie in to Rock Creek.  MDOT SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.



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213.	Montgomery Parks	DEIS, App. F Page 46  Section 2.1.9 Draft Section  4(f) Eval	Rock Creek STA 483+00 L 200ft - In conjunction with outfall add riffle over WSSC crossing and stream structure at bend, stabilize bank.
214.	Montgomery Parks	DEIS, App. F Page 46  Section 2.1.9 Draft Section  4(f) Eval	Rock Creek STA 483+00 - Daylight outfall earlier, do not pipe directly into Rock Creek. Expand LOD to allow for the day lighting of this outfall pipe. This pipe is already shown to be fixed by the project, Parks is requesting a common sense change in LOD to maximize the benefit of fixing this outfall. MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.
215.	Montgomery Parks	DEIS, App. F Page 46  Section 2.1.9 Draft Section  4(f) Eval	Rock Creek STA 472+00 L - Restore tributary with appropriate stream structures and stabilize bank with tie in to Rock Creek. Expand LOD to include tie in to mainstem.
216.	Montgomery Parks	DEIS, App. F Page 46  Section 2.1.9 Draft Section  4(f) Eval	Rock Creek STA 463+00 L - Previous comment: Unclear why this LOD bump out is so large here. Need justification to approve Site visit and /or details about drainage facility.  MDOT SHA response: This LOD bump out is to accommodate an augmenting existing drainage facility. This concern will be discussed as part of the ongoing coordination process and will be addressed in the Final Section 4(f) evaluation.  M-NCPPC requests a site visit to discuss this LOD before the FEIS.
217.	Montgomery Parks	DEIS, App. F Page 46  Section 2.1.9 Draft Section  4(f) Eval	Rock Creek STA 462+00 L -Stabilize outfall with plunge pool and fix degraded area. Catch trash and road grit. Limit LOD in high quality area. M-NCPPC requests a site visit to discuss this LOD before the FEIS.

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
218.	Montgomery Parks	<b>DEIS, App. F Page 46</b> <b>Section 2.1.9 Draft Section 4(f) Eval</b>	Rock Creek STA 458+00 L- Outfall degraded. Concrete flume with significant road grit and trash. Remove concrete, stabilize and install grit separator. M-NCPPC requests a site visit to discuss this LOD before the FEIS. MDOT SHA needs to put much more emphasis on the protection and restoration of downstream aquatic habitat and must commit to going above and beyond the project's regulatory requirements to address the decades of water quality impacts these highways have inflicted on the receiving waters of some of the region's greatest natural resources.
219.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 466+00 L - Potentially cut back pipes and day light culvert, install structure to stabilize and tie in to Rock Creek. Expand LOD to include stream tie in. M-NCPPC requests a site visit to discuss this LOD before the FEIS.
220.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock STA 495+00 L - from station 495+00 to 500+00 tighten LOD and implement measure to protect existing forest resources outside LOD, especially trees on the stream bank. Replanting and forest enhancement will be required. M-NCPPC requests a site visit to discuss this LOD before the FEIS
221.	Montgomery Parks	DEIS. App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 500+00 L- Justify LOD here, should tighten LOD to the ROW. M-NCPPC requests a site visit to discuss this LOD before the FEIS
222.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 500+00 L - Clogged outfall. Restore with plunge pool and remove adjacent phragmites australis. This work must be included as part of the roadway project. Adding more drainage to already degraded outfalls without improving the function is inadequate.
223.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9	Rock Creek STA 505+00 L - Add plunge pool, include channel tie in into the existing floodplain. Expand LOD for work. MDOT SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Draft Section 4(f) Eval	natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
224.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 510+10 - expand LOD from outfall to Rock Creek and include outfall/stream restoration. Floodplain drainage into outfall/tributary should be restored to reduce incision and enhance floodplain hydrology.
225.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 517+50 L – expand LOD from culvert/outfall to confluence with Rock Creek. Incorporate stream and bank restoration.  SHA’s effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
226.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 529+00 L - Potential SWM location. If grade works stage and stockpile then add SWM to drain into Tributary. Expand LOD. Control existing invasive plants as part of site restoration. MNCPPC understands the topography may not be suitable, but we encourage all creative solutions to SWM treatment.
227.	Montgomery Parks	DEIS, App. F Page 46 Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 537+50 L - protect existing high quality wetland between toe of slope and Rock Creek.
228.	Montgomery Parks	DEIS, App. F Page 46	Rock Creek STA 558+00 L - failed CMP culvert. M-NCPPC appreciates the LOD extending 45’ beyond outfall. Parks requests a site visit to review LOD before FEIS.

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Section 2.1.9 Draft Section 4(f) Eval	
229.	Montgomery Parks	DEIS, App. F Page 46  Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 563+50 R - Potential SWM location, linear facility.  MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.
230.	Montgomery Parks	DEIS, App. F Page 46  Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 566+50 L - Facility Impacted. 565+00L to 599+00L include Rock Creek and 30 ft to the N/W of Rock Creek in LOD to incorporate stream improvements and bank stabilization. This area has 8-10 ft high vertical banks and is degraded from the existing transportation facility. Parks requests a site visit to review LOD before FEIS.
	Montgomery Parks	DEIS, App. F Page 46  Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 568+25 R - Highly value resource. Construct new pipe/channel/headwall to ensure that existing wetland water elevations are maintained or enhanced.
231.	Montgomery Parks	DEIS, App. F Page 46  Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 575+50 L - from STA 565+00 to 590+00 Rock Creek needs to be in the LOD to allow for required stabilization and improvements. The reality of having the proposed LOD so close to the bank as currently shown will impact this high value resource. Parks expects the LOD in this area to include Rock Creek and that the design will include stream restoration to enhance aquatic habitat, improve water quality, and provide bank stability. As stated to the project team previously, Parks' preference in this area would be to shift any necessary impacts resulting from widening to the south where environmental resources are of a lower quality.
232.	Montgomery Parks	DEIS, App. F Page 46	Rock Creek STA 578+00 L 200 ft - Potential stream restoration. Address incised tributary, raise stream bed to promote floodplain activity.

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
		Section 2.1.9 Draft Section 4(f) Eval	
233.	Montgomery Parks	DEIS, App. F Page 46  Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 580+80 L - Outfall degraded. Address outfall drainage channel. This outfall and channel need to be included within the LOD. MNCPPC requests a field visit before the FEIS.
234.	Montgomery Parks	DEIS, App. F Page 46  Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 585+30 L - Potential floodplain tree planting area.
235.	Montgomery Parks	DEIS, App. F Page 46  Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 587+00 L 300ft - address incision in tributary on left bank of Rock Creek. Raise tributary bed.  SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
236.	Montgomery Parks	DEIS, App. F Page 46  Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 587+00 - Incorporate improvements to Rock Creek under the beltway. Expand LOD to include Rock Creek stream to Jones Mill Road Bridge.  Rock Creek will be directly impacted by the construction of roadway infrastructure, part of the project must include improvements to the creek in this area.
237.	Montgomery Parks	DEIS, App. F Page 46  Section 2.1.9 Draft Section 4(f) Eval	Rock Creek STA 590+00 - Facility impacted, keep trail open during construction, improve trail under beltway per appropriate standards for bicycle and pedestrian safety. Previous MDOT SHA reply to this comment stated this area might be considered for mitigation. The work required in this area is not mitigation, but simply the cost of doing business and making the existing resources whole again after being impacted.

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
238.	Montgomery Parks	DEIS, App. F Page 58 Section 2.1.15 Draft Section 4(f) Eval	Noise abatement measures in the form of noise walls are essential around parkland in order for these spaces to serve the functions of conservation and recreation for which they are intended. Exposure to natural spaces protected from anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention. Parks expects a clear commitment from MDOT SHA to implement noise walls in this Montgomery Parks' priority location. In addition, park improvements, such as renovated basketball court, playground, and other improvements in order to make the park functional again given the roadway impacts must be included at this location.
239.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 689+00 L - Potential SWM location, north of Beltway, east of Sligo Creek Parkway. There are two outfalls that flow into this area. Parks suggests investigating this area for SWM.  DOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to seriously consider SWM locations proposed by Parks to meet the SWM need to help protect downstream waters.
240.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 689+00 L - Outfall degraded. The outfall that flows onto parkland should flow into a SWM facility (referenced above) and should have a proper plunge pool.  MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
241.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 691+00 L - Existing outfall channel from Beltway and Sienna School parking lot should be converted into enhanced outfall/SWM facility. STA 689+00 to STA 692+00.  MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.
242.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 688+50 R – Replace existing concrete flume with enhanced outfall with step pools.  SHA's effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources

Comment No.	M-NCPPC Department	Reference	Technical Comment
243.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 687+00 L – Investigate use of parkland north of Beltway, west of Sligo Creek Parkway, and south of Forest Glen Road for Potential SWM location.  MDOT SHA’s “effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties” is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.
244.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 686+00 L - Outfall degraded. Extend LOD to include 30 feet beyond bank of existing drainage outfall. Construct enhanced outfall or linear SWM facility. STA 686+00 to 687+00.  MDOT SHA has stated that waivers might be used to meet SWM requirements. SHA needs to seriously consider SWM locations proposed by Parks to meet the SWM need to help protect downstream waters.
245.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 685+50 L - Fix existing erosion gully over culvert. This is within the ROW.  SHA’s effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
246.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 684+00 L - Potential stream restoration. SHA needs to install grade control structures upstream of culvert to help maintain flow through culvert. Right side of culvert has filled in and should be cleared out by SHA.  SHA’s effort to avoid and minimize impacts to Section 4(f) properties is not always in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources
247.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 684+00 L - Potential SWM location, there is an existing SWM facility, but it does not appear to be a formal facility that is maintained by any agency. This area could be used for a SWM facility built by SHA.  MDOT SHA’s “effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties” is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
248.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 682+50 L - Outfall degraded. Install enhanced outfall to transition water down the slope to trail culvert. MNCPPC appreciates the commitment from MDOT SHA stating that "This outfall channel is located within the LOD. If discharges to the outfall are increased, the channel will be stabilized."
249.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 683+00 - Provide trail detour or maintain trail to be open during all phases of construction.
250.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 684+00 R - Install instream grade control below culvert, ensure fish passage through culvert.
251.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	<p>Sligo Creek STA 687+00 R- previous M-NCPPC comment: The SWM Facility will be impacted by the proposed road work, the Flow splitter is being impacted and Will need to be reconstructed. Other work to enhance the existing SWM facility should be investigated.</p> <p>MDOT SHA response: A retaining wall is used in this location to minimize impacts. Impacts to the flow splitter appear to be temporary to allow for construction. MDOT SHA will continue to coordinate with M-NCPPC and may consider expanding this SWM facility.</p> <p>MDOT SHA should consider any and all SWM improvements that can be included in the project and this locations represents a good location to look at expanding SWM capacity.</p>
252.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	Sligo Creek STA 685+00 R- M-NCPPC requests a site visit before the FEIS for this location to review potential impacts to the stream and existing SWM facility.



<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
253.	Montgomery Parks	DEIS, App. F Page 65  Section 2.1.17 Draft Section  4(f) Eval	STA 700+00 – M-NCPPC requires coordination with the Montgomery County Revenue Authority to review proposed impacts and improvements to the Sligo Creek Golf Course.
254.	Montgomery Parks	DEIS, App. F Page 70  Figure 2-14 Draft Section  4(f) Eval	STA 699+00 L - Parks will require a clear commitment from MDOT SHA in the FEIS to implement noise abatement measures in the form of noise walls along the full length of the alignment at this priority location. Sligo Creek Golf Course offers a unique, park-like golfing experience that is highly valued by its patrons. One of the highest values of this facility is the ability to provide a relaxing recreational experience and protection from noise pollution is key in achieving that function. Noise walls should be implemented at this location to optimize the experience of the course patrons and the surrounding community
255.	Montgomery Parks	DEIS, App. F Page 70  Figure 2-14 Draft Section  4(f) Eval	STA 707+00 L - Parks is supportive of further investigation of Potential SWM location on Sligo Creek Golf Course, to include repairs to adjacent parkland from the existing untreated highway runoff. Work will require an expanded LOD for further stabilization of the existing outfall stream channel and appropriate stable connections from the channel to any new stormwater infrastructure.
256.	Montgomery Parks	DEIS, App. F Page 70  Figure 2-14 Draft Section  4(f) Eval	STA 707+00 L – Park improvements to South Four Corners Neighborhood Park will be required.
257.	Montgomery Parks	DEIS, App. F Page 70  Figure 2-14 Draft Section 4(f) Eval	STA 699+00 L - Parks will require a clear commitment from MDOT SHA in the FEIS to implement noise abatement measures in the form of noise walls along the full length of the alignment at this priority location. Sligo Creek Golf Course offers a unique, park-like golfing experience that is highly valued by its patrons. One of the highest values of this facility is the ability to provide a relaxing recreational experience and protection from noise pollution is key in achieving that function. Noise walls should be implemented at this location to optimize the experience of the course patrons and the surrounding community.
258.	Montgomery Parks	DEIS, App. F Page 70  Figure 2-14	STA 707+00 L - Parks is willing to investigate Potential SWM location on parkland  MDOT SHA’s “effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties” is not in alignment with the vision of Section 4(f) which is designed to

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
		Draft Section 4(f) Eval	reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.
259.	Montgomery Parks	DEIS, App. F Page 70 Figure 2-14 Draft Section 4(f) Eval	STA 707+00 L – Park improvements to South Four Corners Neighborhood Park will be required.
260.	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 743+50 R - Potential SWM location on parkland. Parks would like to investigate constructing a SWM facility adjacent to the sound wall. This area is the headwaters of Long Branch and all measure to improve water quality should be implemented.  MDOT SHA’s “effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties” is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. In this instance, this area is the headwaters of Long Branch Stream, so incorporating as much environmental improvement and SWM is of critical importance.
261.	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 745+00 R - Outfall degraded, incorporate plunge pool and level spreader to maintain braided surface flow of stream system. This area is the headwaters of Long Branch and all measures to improve water quality should be implemented. Although outfall is currently stable, the proposed roadway work will impact his outfall and increase flows to this outfall, necessitating improvements.
262.	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 744+00 R – Construct rectangular playing field on parkland to park standard as part of park reconstruction.
263.	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section	Indian Springs STA 753+50 R - Ensure no impacts to tennis court.

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
		4(f) Eval	
264.	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 747+50 R - Facility impacted, reconstruction and improvement of basketball court will be required.
265.	Montgomery Parks	DEIS, App. F Page 71 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 747+50 R - Noise abatement measures in the form of noise walls are essential around natural resource areas and local parks in order for these spaces to serve the functions of conservation and recreation for which they are intended. Exposure to natural spaces protected from undue anthropogenic influence is known to provide invaluable human health benefits, such as improved mood and memory retention. Parks expects a clear commitment from MDOT SHA to implement noise walls at this priority location.
266.	Montgomery Parks	DEIS, App. F Page 72 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 745+00 - Maximize SWM in this location in general, this is the headwaters of Long Branch.  MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. In this instance, this area is the headwaters of Long Branch Stream, so incorporating as much environmental improvement and SWM is of critical importance.
267.	Montgomery Parks	DEIS, App. F Page 72 Section 2.1.22 Draft Section 4(f) Eval	Indian Springs STA 757+00 - Extend LOD to Marshall Ave to improve channel. Channel improvements should be done in conjunction with SWM facility.  MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources. In this instance, this area is the headwaters of Long Branch Stream, so incorporating as much environmental improvement and SWM is of critical importance.
268.	Montgomery Parks	DEIS,. F Page 74 Section 2.1.23	Northwest Branch STA 807+00 R – investigate potential SWM location here, Parks would consider providing parkland for a SWM facility.

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Draft Section 4(f) Eval	MDOT SHA's "effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties" is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.
269.	Montgomery Parks	DEIS, App. F Page 74 Section 2.1.23 Draft Section 4(f) Eval	Northwest Branch STA 795+00 – Environmentally friendly slope stabilization and replanting must be coordinated with Parks for the entire LOD around NW Branch to ensure adequate protection of steep slopes. This park is a Best Natural Area and special consideration and protection is required.
270.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3685+00 R 575ft - along Tuckerman Lane outfall is degraded, outfall has filled in. If the area remains in LOD, restore outfall and channel. Please confirm if the outfall will be inspected by MDOT SHA.
271.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3683+50 R - along Tuckerman Lane outfall, incorporate plunge pool and stable tie in to Cabin John Creek.
272.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3683+00 R - along Tuckerman Ln Area designated for SWM contains thick spicebush understory and numerous large tulip poplar and sycamore trees. The area is in the floodplain of Old Farm Creek and adjacent to a wetland, therefore <b>the area is not suitable for SWM</b> . The outfalls in the area should be enhanced with plunge pools and step pools.
273.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3683+00 R - If the culvert for Old Farm Creek is lengthened or replaced, stream restoration downstream of the culvert should occur for at least 220ft. LOD should be expanded to include this section of stream.

Comment No.	M-NCPPC Department	Reference	Technical Comment
	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3684+00 R - Area designated for SWM would be difficult to access due to retaining wall, with steep slope and trees.
274.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3639+50 R - Area designated for SWM has numerous mature trees, understory of spice bush and large sycamores, resources critical to the area's designation as a Parks Biodiversity Area. SWM location will need to be revised. M-NCPPC agrees that there are limited locations for SWM. We are ready to work with MDOT SHA to revise the proposed SWM location. Based on the site visit with SHA representatives on 10/28/20 M-NCPPC recommends designing the SWM in a way that fits in with the resources at the site. This area is designated as a biodiversity area due to the high-quality forest resources. As the SWM is proposed, the impacts to the forest interior are too great to sustain. Revising the footprint of the SWM to be more linear along the highway, generally extending no further than 25' into the forest from the existing natural surface trail, would greatly reduce forest impacts and provide ample room for SWM. M-NCPPC acknowledges the existence of a wetland that the proposed SWM is trying to avoid, however, by avoiding any wetland impacts, the overall degradation to the natural environment is greater in this location due to the forest interior impacts and the relatively low quality of the existing wetland. In fact, the wetland hydrology appears to be mainly provided from an untreated highway outfall and the hydrology may be impacted by the creation of any SWM in this area. M-NCPPC recommends designing the SWM in a way that may impact a portion of the existing wetland footprint (which is PEM wetland along the leading edge next to the highway), but ultimately enhancing the wetland by providing a source of treated water as one the main hydrological inputs.
275.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3640+00 R - degraded outfall channel with headcut will need to be restored. This outfall is severely incised to the confluence with Cabin John Creek and must be restored along the entire length to be able to sustainably handle the proposed increased flows from the highway improvements. In addition, the proposed SWM work adjacent to the channel will also work in conjunction with a restored outfall channel. Raising the stream bed elevation of this channel will positively influence the hydrology of the adjacent wetland area, negating some of the possible impacts to the wetland by the M-NCPPC proposed SWM location (see comment above).
276.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3635+00 R - to 3640+00 R The natural surface trail must be re-routed through or around any proposed SWM facility in accordance with M-NCPPC trail guidelines and specifications.

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
277.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3628+00 L - suggested location for SWM, avoid mainstem stream. Degraded outfall. Although the area is limited, every effort should be made to provide onsite treatment of SWM.  Based on the site visit with SHA representatives on 10/28/20 M-NCPPC recommends designing SWM in this location as there is existing highway drainage and favorable topography. M-NCPPC can justify the small impact to the forest edge for the benefit of stormwater treatment in this important watershed.
278.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3627+00 L - restore degraded outfall from roadway. As observed during the site visit with SHA representatives on 10/28/20 M-NCPPC, there is an existing steep, severely eroded outfall (may be surface drainage) that will need to be restored.
279.	Montgomery Parks	DEIS, App. F Page 121 Section 2.2.2, Draft Section 4(f) Eval	Cabin John STA 3627+00 L – As discussed during the site visit with SHA representatives on 10/28/20 M-NCPPC does not see a need for culvert capacity augmentation at this location. Any upstream alterations to the 100 yr floodplain will occur solely on M-NCPPC property and will not affect any built infrastructure. The installation of an augmented culvert will have unjustified impacts for little to no resource benefit. The existing culvert extension should be limited as much as possible since the stream is very stable on both the upstream and downstream ends of this project. M-NCPPC will require limited stream work (cross channel grade control, stone toe, etc.) to maintain the stable nature of the stream at both ends of the culvert.
280.	Montgomery Parks	DEIS, App. F Page 123 Section 2.2.4 Draft Section 4(f) Eval	Locust Hill STA 466+50 R - Potential SWM location. Area receives runoff from outfall, degraded area with invasive plants. Treat invasive species if selected for SWM.  MDOT SHA’s “effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties” is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources.
281.	Montgomery Parks	App. F Page 123 Section 2.2.4 Draft Section 4(f) Eval	Locust Hill STA 467+00 - Tie existing stream work into outfall as directed by Parks. Current LOD is appropriate for culvert work, but would need to be larger for potential SWM facilities.  MDOT SHA’s “effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties” is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources

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282.	Montgomery Parks	DEIS, App. F Page 123  Section 2.2.4 Draft Section  4(f) Eval	Locust Hill STA 467+10 R - Significant tree. There is a large sycamore within the LOD that should be protected and preserved.
283.	Montgomery Parks	DEIS, App. F Page 123  Section 2.2.4 Draft Section  4(f) Eval	<p>Locust Hill STA 468+50 R - Potential SWM location. There is a small clearing, Parks suggests investigating SWM in this location</p> <p>MDOT SHA’s “effort to avoid and minimize impacts to Section 4(f) properties resulted in removing SWM facilities from Section 4(f) properties” is not in alignment with the vision of Section 4(f) which is designed to reduce impact and degradation to parks and natural resources. By incorporating improvements on parkland as directed by M-NCPPC there will be a net benefit to parkland and the associated natural resources</p>
284.	Montgomery Parks	DEIS- App. F Page 149  Section 3.1 Draft Section 4(f) Eval	<p>Parks requests a meeting to go through the comments that concern avoidance and minimization of parkland impacts. There are numerous instances where an LOD expansion is required to appropriately address resource impacts, protection, and restoration. Alternatively, there are locations where further avoidance and minimization need to be considered to reduce the LOO. In addition, Parks would like to discuss SWM locations on parkland that are described in our comments. We look forward to the opportunity to collaboratively address each of these issues.</p> <p>As M-NCPPC has learned with many other projects, including the Purple Line, creating a “right sized” LOD based on sufficient design is crucial to a successful project, both in terms of limiting resource impacts and providing for cost effective construction. Even after diligent review of the current LOD, as the project progresses into detailed design and then construction, new information will dictate the need for LOD adjustments. M-NCPPC and MDOT SHA have a good track record of working collaboratively on projects, however the P3 aspect of this project has the potential to reduce flexibility due to contractual and legal terms. M-NCPPC is expecting a process for making LOD adjustments to be codified in the FIES, ROD, and P3 agreements.</p>
285.	Montgomery Parks	DEIS-Appendix K – Public Phase 1 Mitigation Design Plans – AN-6 Paint Branch Fish Passage	There are documented “Full Blockages” to fish migration upstream of Floral Drive on the FDA White Oak Research Campus, as identified in an August 2020 MWCOC Fish Barrier Assessment led by Phong Trieu, Senior Environmental Programs Planner. This information, when taken into account will significantly limit the estimated 5,258 LF of potential credit that has been identified for this project, which currently extends well into the Upper Paint Branch SPA, near Briggs Chaney Road.

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
286.	Montgomery Parks	DEIS- Appx L 2.3.4 page 32	M-NCPPC appreciates the commitment to minimizing impacts. In order to effectively implement the second tier of avoidance and minimization, M-NCPPC requests that MDOT SHA produce a detailed process as part of the ROD that outlines how LOD modification will occur to ensure that actual resource protection and enhancement can be achieved.
287.	Montgomery Parks	DEIS-App L NRTR Page 38 Section 2.3.4	It is critical that SWM needs be further assessed at this early stage of the project and the LOD be enlarged to accommodate the designs. Deferring further analysis until the Full SWM design is completed at a later stage will ensure that SHA is unable to adequately address SWM needs and aquatic resource protection and enhancement. Parks does not agree that the “LOD would not need to be enlarged” because as Parks has stated some of the SWM proposed is not feasible and other opportunities will need to be considered.
288.	Montgomery Parks	DEIS,App L NRTR Page 51 Section 2.4.2	Report acknowledges that Rock Creek was already relocated for beltway construction. SHA must commit to providing a net benefit to Rock Creek by expanding the LOD as directed by Parks to provide bank stabilization, bank restoration, in stream structures, and habitat creation. Two locations where Parks expects this to occur are near Cedar Lane and Jones Mill Rd.  The LOD must be appropriate to restore and protect resources directly affected by the roadway project as part of the roadway design and construction and not as mitigation. The LOD directly on a stream bank is not considered minimized as it relates to Section 4(f) because the location of the LOD has adverse impacts not currently being accounted for.
289.	Montgomery Parks	DEIS, App L NRTR Page 83 Section 2.4.4	Report states. that waivers might be used to meet SWM requirements. SHA needs to provide Parks with the locations where SWM requirements cannot be met onsite and Parks will evaluate if there is available space on the adjacent Parkland to meet the SWM need to help protect downstream waters. In addition, Parks will work collaboratively to locate off-site SWM when all on-site locations have been exhausted.
290.	Montgomery Parks	DEIS, App L NRTR Page 145 Section 2.9.3	This project has the opportunity to correct an existing impactful situation and these culverts won't be able to be addressed in the future. All culverts should be evaluated for several factors, including stability and habitat, and the project team should identify those and plan for replacement following modern guidelines and best practices.
291.	Montgomery Parks	DEIS, App L NRTR Page 146	SHA must ensure that the extension and replacement of culverts results in improving aquatic organism passage, not a decrease. MNCPPC is the owner of the majority of aquatic resources affected by the proposed culvert extensions, additions, and replacement, and the potential degradation of aquatic habitat and decrease in safe passage is considered a detrimental impact to Park resources.



Comment No.	M-NCPPC Department	Reference	Technical Comment
		Section 2.9.3	
292.	Montgomery Parks	DEIS, App L NRTR Page 148 Section 2.9.3	Parks will require the removal of fish from dewatered work areas to limit fish mortality. The removal must be performed by staff certified through the Maryland Biological Stream Survey program. In addition, all best practices for ecological construction to limit impacts to aquatic biota must occur.
293.	Montgomery Parks	DEIS, Appendix 4, pg 125	Station 3660+00 L Based on the site visit with SHA representatives on 10/28/20 M-NCPPC recommends assessing the suitability for expanding SWM treatment on the Old Farm NCA (at the end of Tilden Ln) or designing additional SWM on the Old Farm NCA. The SWM should be kept on the highway side of the parcel with limited encroachment into the existing open space. M-NCPPC is interested in providing as many opportunities as possible for SWM and appreciates SHA's efforts in evaluating this area.
294.	Montgomery Parks	DEIS, 4.20 Unique and Sensitive Areas pg. 4-119	<p>This section is meant to capture unique and sensitive areas with ecological resources designated by state and local municipalities that do not fall within the regulations of other environmental resources such as waterways and forests. The best quality and most unique ecological communities within the Montgomery County Park system</p> <p>have been identified and categorized as Biodiversity Areas or Best Natural Areas, identified and described in the Montgomery County Planning Board adopted <i>2017 Park, Recreation, and Open Space (PROS) Plan</i>.</p> <p>Biodiversity Areas (BDAs) are defined as areas of parkland containing one or more of the following:</p> <ul style="list-style-type: none"> <li>● Large areas of contiguous, high quality forest, marsh or swamp that show little evidence of past land-use disturbance</li> <li>● Rare, threatened, endangered or watch-list species</li> <li>● The best examples of unique plant communities found in Montgomery County</li> <li>● Areas of exceptional scenic beauty</li> </ul> <p>Rock Creek and Cabin John have BDA's delineated immediately adjacent to the proposed project impacts: Pooks Hill Biodiversity Area in Rock Creek; Forest Glen Biodiversity Area in Rock Creek; Cabin John Camp Ground Biodiversity Area.</p> <p>Best Natural Areas (BNAs) are defined as areas of parkland which contain one or more of the following:</p> <ul style="list-style-type: none"> <li>● Large areas of contiguous, high quality forest, marsh or swamp that are generally more than 100 acres and show little evidence of past land-use disturbance</li> </ul>

Comment No.	M-NCPPC Department	Reference	Technical Comment
			<ul style="list-style-type: none"> <li>● Rare, threatened, endangered or watch-list species</li> <li>● The best examples of unique plant communities found in Montgomery County in the ten Major Terrestrial Natural Communities</li> <li>● High quality wetlands, including those of Special State Concern as noted in COMAR Title 26</li> <li>● Aquatic communities rated as good or excellent in the Countywide Stream Protection Strategy</li> <li>● Special Trout Management Areas as noted in COMAR Title 08</li> <li>● Areas of exceptional scenic beauty</li> </ul> <p>The Northwest Branch Stream Valley Best Natural Area is the only BNA delineated immediately adjacent to the proposed project impacts.</p> <p>Mapping of these critical natural resource areas can be found in Chapter 5 of the <i>2017 Park, Recreation, and Open Space (PROS) Plan</i>.</p>
295.	Montgomery Parks	DEIS, 4.20 Unique and Sensitive Areas pg. 4-119	Add Northwest Branch Stream Valley Best natural area and Rock Creek Pooks Hills Biodiversity Area and Cabin John Campground Biodiversity to this list. Collectively, Best Natural Areas, Biodiversity Areas and Environmentally Sensitive Areas within parkland are considered Priority Natural Resource Areas that are the focus of the Department of Parks' efforts to manage and preserve natural resources.
296.	Prince George's Planning	DEIS, General Public Involvement and Agency Involvement Technical Report	The In-Person Public Meetings held on September 1, 2020 and September 10, 2020 had limited access for Deaf/Hard of Hearing community members. Limited in person access due to Covid and no livestream allowed for telephone access only which was burdensome if one does not have a landline or has to use a Teletype to communicate.
297.	Prince George's Planning	DEIS, Conceptual Mitigation Plan Comments - General	Can the Landover Mall property be used for mitigation for Parks and Reforestation?

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
298.	Prince George's Planning	DEIS, Indirect and Cumulative Effects Report Figure 1-2	Figure does not fit on page in hard copy form. Please revise.
299.	Prince George's Planning	DEIS. Compensatory Mitigation Plan Report	MNCPPC requests to be a party to the planning and design of thEe Permittee Responsible Mitigation project
300.	Prince George's Planning	DEIS, Traffic Technical Report Comments	Insufficient Analysis of the ICC Alternative. MD 200 Diversion Alternative should be studied in more detail with various modeling assumptions including with or without the I-95 segment.
301.	Prince George's Planning	Purpose and Need Comments – General	Reiterate the MNCPPC Non-Concurrence with the ARDS of this project
302.	Prince George's Planning	DEIS-SWM	Find ARDS and PN comments on SWM locations that flood.
303.	Prince George's Planning	DEIS-Environmental Justice Technical Report Comments	Incorporate Social Justice concerns into analysis and mitigation requirements.
304.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 23	Plate 23A – 1200- LOD bisects the wetland. Please expand the LOD to account for full wetland impact and wetland buffer impact in Cherry Hill Park.

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
305.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 25	Plate 25A-12SS-PFO – LOD bisects the wetland. Please expand the LOD to account for full wetland impact and wetland buffer imp act in Cherry Hill Road State Park.
306.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 25	Plate 25A – 12QQ- LOD is unrealistic. Please expand the LOD it includes impacts to wetlands and waterways.
307.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 25	Plate 25A – 12QQ – why are the proposed Stormwater Management Facilities not shown in this location?
308.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 25	Plate 25A-12OO_1 – a foot path utilized by Cherry Hill Road State Park users is located downstream in line with Cell 4 of the 4-cell culvert. What is the plan for this culvert and how will the project design prevent the downstream erosion of this foot path?
309.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 25	Plate 25A – what is the proposed access for the proposed Stormwater Management Facility?
310.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 40	Plate 40A-Henry A Johnson Park – culvert located at Station 1425+01 appears undersized and damaged. Please provide culvert detail.
311.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 40	Plate 40A – Henry A Johnson Park – existing Noise Barrier is not providing adequate noise abatement for park users. Location has significant roadway noise during off-peak hours. Relocating the Noise Barriers to the proposed LOD will impact the quality of the park use.
312.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 40	Plate 40A – Henry A Johnson Park – 7C-PEM. There appears to be a wetland just beyond the LOD at 7C-PEM in the swale at the basketball court. Was this location field delineated? There was no wetland flagging present at the time of the field visit in August 2020.
313.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 40	Plate 40A – why is the proposed Stormwater Management Facility for this location not shown on the impact plates?

<b>Comment No.</b>	<b>M-NCPPC Department</b>	<b>Reference</b>	<b>Technical Comment</b>
314.	Prince George's Planning	JPA, Impact Plate A, Impact Plate 54	Plate 54A – Andrews Manor Park – how will construction and maintenance access be provided to this site and facilities? Currently, the only access is from the shoulder on the Capital Beltway.