Akin Gump
STRAUSS HAUER & FELD LLP

SUSAN H. LENT
+1 202.887.4558/fax: +1 202.887.4288
slent@akingump.com

November 6, 2020

Jack Dinne
U.S. Army Corps of Engineers
Baltimore District
2 Hopkins Plaza
Baltimore, MD 21201

Steve Hurt
Maryland Department of the Environment
Wetlands and Waterways Program
1800 Washington Blvd., Suite 430
Baltimore, MD 21230

Re: Public Notice PN 20-42 – MDOT SHA I-495 I-270 Managed Lanes Study
USACE Application Number NAB-2018-02152
MDE Tracking Numbers 20-NT-0114 / 202060659 / AI 168251

Dear Messrs. Dinne and Hurt:

On behalf of our client, the Maryland-National Capital Park and Planning Commission ("M-NCPPC" or "the Commission"), we submit these comments on the Maryland Department of Transportation State Highway Administration's ("MDOT SHA") joint federal/state permit application ("JPA") to the U.S. Army Corps of Engineers ("Corps") and the Maryland Department of Environment ("MDE") for the alternation of a floodplain waterway tidal or nontidal wetland in connection with the I-495 and I-270 Managed Lanes Study (the "Project"). As discussed below, the Commission objects to these permits because MDOT SHA has failed to consider less environmentally damaging practicable alternatives for the Project that would have fewer impacts on parkland and aquatic resources.

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.[1] 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 ten of those parks that were acquired with federal funds under the Capper-Crampton Act ("CCA").[2] MDOT SHA and the Federal Highway Administration ("FHWA") (collectively the "Lead Agencies") engaged M-NCPPC as a Cooperating Agency under the National Environmental Policy Act ("NEPA") to provide input on the Project alternatives 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 provide comments regarding matters under its jurisdiction. As important, M-NCPPC must also object to the granting of permits for activities that are likely to impact parkland and waterways when there are practicable alternatives that would have no or fewer impacts.[3]

B. Project Background

The stated purpose of the Project is to provide 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:

---

[1] 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).

[2] 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).

[3] For the sake of argument only, this letter assumes that the Lead Agencies have properly propounded a Purpose and Need Statement, set of Alternatives Retained for Detailed Study ("ARDS") and Draft Environmental Impact Statement ("DEIS") for the Project that are lawful and compliant under NEPA. For multiple reasons to be discussed further in the context of the Commission's comments on the DEIS, however, the Commission respectfully disputes any such assumption and, accordingly, expressly reserves its rights under NEPA and any related statutes.

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.[4]

The Lead Agencies initially screened sixteen Project alternatives. They retained six Build Alternatives for detailed study and then substituted one of the Build Alternatives with a modified version of a retained Build Alternative. The Lead Agencies studied the six Build Alternatives in the Draft Environmental Impact Statement ("DEIS"), but have not identified a Preferred Alternative. They do not plan to identify a preferred alternative until they release the Final Environmental Impact Statement ("FEIS").[5]

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 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.

At the August 20, 2020 public hearing on the JPA, Casey Anderson, Chair of the Commission, raised concerns that MDOT SHA failed to consider the MD 200 Diversion Alternative and transit alternatives in the DEIS despite the fact that those alternatives are reasonable and would

[4] JPA Public Notice at pp. 3-4; DEIS at pp. 1-1, 1-4.

[5] DEIS at p. ES-4.

have fewer environmental impacts than the alternatives studied in the DEIS. He also noted that MDOT SHA understated the limits of disturbance for the alternatives it studied.

II. Discussion

A. The Corps and MDE should deny the requested permits because MDOT SHA has failed to substantively consider practicable alternatives that have fewer environmental impacts.

Section 404 of the Clean Water Act prohibits the discharge of dredged or fill material if: (1) a practicable alternative exists that is less damaging to the aquatic environment; or (2) the nation's waters would be significantly degraded by the discharge.[6] To obtain a section 404 permit, the applicant must show that (1) it has taken all reasonable steps to avoid impacts to wetlands, streams and other aquatic resources; (2) impacts that cannot be avoided have been minimized; and (3) compensation (i.e., mitigation) will be provided for any remaining unavoidable impacts. Regulations implementing section 404 require the Corps to ensure that the proposed fill material will not cause any significantly adverse effects to human health or welfare; aquatic life, and aquatic ecosystems; or recreational, aesthetic or economic values.[7]

The Section 404(b)(1) Guidelines require that the Corps determine that: (1) the project being undertaken is the least environmentally damaging practicable alternative; (2) the project will not cause or contribute to the violation of Federal and State laws governing protection of the natural and built environment; (3) the project will not cause a degradation of the waters of the United States; and (4) all appropriate and practicable steps have been taken to minimize the adverse impacts of the project to wetlands and other waters of the United States.[8]

The Guidelines prohibit the issuance of permits where there "is a practicable alternative to the proposed discharge that would have a less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant environmental consequences."[9] To be

[6] 33 U.S.C. § 1344.

[7] 40 C.F.R. § 230.10(c).

[8] *Id.*

[9] *Id.* § 230.10(a); 33 C.F.R. § 320.4(a)(2)(ii).

"practicable," an alternative must be "available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes."[10]

For projects that are not water-dependent, it is presumed that there are practicable alternatives to locating the project in an area that will impact aquatic resources.[11] In such circumstances, the permit applicant must rebut the presumption by "clearly demonstrat[ing]" that a practicable alternative is not available.[12]

Maryland law spells out similar preconditions for nontidal wetland permits. MDE may not issue a nontidal wetland permit for a regulated activity unless it finds that the applicant has demonstrated that the regulated activity:

> (1) (i) Is water dependent and requires access to the nontidal wetland as a central element of its basic function; or (ii) Is not water dependent and has no practicable alternative;
>
> (2) Will minimize alteration or impairment of the nontidal wetland, including existing topography, vegetation, fish and wildlife resources, and hydrological conditions;
>
> (3) Will not cause or contribute to a degradation of groundwaters or surface waters; and
>
> (4) Is consistent with any comprehensive management plan that may be developed in accordance with § 5-908 of this subtitle.[13]

Furthermore, MDOT SHA must show that "practicable alternatives have been analyzed and that the regulated activity has no practicable alternative."[14] In assessing whether a practicable alternative to a proposed project exists, MDE considers:

---

[10] 40 C.F.R. § 230.10(a)(2).

[11] *Id.* § 230.10(a)(3); Guidelines for Specification of Disposal Sites for Dredged or Fill Material, 45 Fed. Reg. 85,336, 85,339 (Dec. 24, 1980).

[12] 40 C.F.R. § 230.10(a)(3).

[13] Md. Code, Environment § 5-907(a).

[14] *Id.* § 5-907(b).

> (1) whether the basic project purpose cannot be reasonably accomplished utilizing one or more other sites in the same general area that would avoid or result in less adverse impact on nontidal wetlands;
>
> (2) whether a reduction in the size, scope, configuration, or density of the project as proposed and all alternative designs that would result in less adverse impact on the nontidal wetland would not accomplish the basic purpose of the project;
>
> (3) in cases where the applicant has rejected alternatives to the project as proposed due to constraints such as inadequate zoning, infrastructure, or parcel size, whether the applicant has made reasonable attempts to remove or accommodate these constraints; and
>
> (4) the economic value of the proposed regulated activity in meeting a demonstrated public need in the area and the ecological and economic value associated with the nontidal wetland.[15]

As an initial matter, the Project is not water-dependent, and MDOT SHA has failed to rebut the presumption that there is a practicable alternative with fewer impacts. The preamble to the Corps' Section 404 Guidelines describes non-water-dependent discharges as "those associated with activities which do not require access or proximity to or siting within the special aquatic site to fulfill their basic purpose."[16] The preamble offers the example of a project that requires the deposit of "fill to create a restaurant site," because "restaurants do not need to be in wetlands to fulfill their basic purpose of feeding people."[17] The preamble further notes regarding the restaurant that "it is reasonable to assume there will generally be a practicable site available upland or in a less vulnerable part of the aquatic ecosystem."[18] Furthermore, "the mere fact that an alternative may cost somewhat more does not necessarily mean it is not practicable."[19] The

[15] *Id.*

[16] Guidelines for Specification of Disposal Sites for Dredged or Fill Material, 45 Fed. Reg. 85,336, 85,339 (Dec. 24, 1980).

[17] *Id.*

[18] *Id.*

[19] *Id.*

presumption "should have the effect of forcing a hard look at the feasibility of using environmentally preferable sites."[20]

The Lead Agencies are fully aware of this high bar: "The alternatives test is applied more rigorously (i.e., alternatives are presumed to exist) for projects that are proposed to be in special aquatic sites when the project is not water dependent."[21] Yet while the JPA indicates that the Project is not water-dependent,[22] the Lead Agencies make no attempt to rebut the presumption that practicable alternatives with fewer impacts to aquatic resources are available, even while admitting that the MD 200 Diversion Alternative is "in a less vulnerable part of the aquatic ecosystem."[23]

More broadly, the Lead Agencies studied six Build Alternatives in the DEIS, all of which would have substantial direct impacts to streams, wetlands, and floodplains. While Alternative 9-M would have the smallest footprint of the Build Alternatives and, therefore, would impact the least amount of wetland acreage and linear feet of stream, the impacts are still significant.

The Lead Agencies should have studied the MD 200 Diversion Alternative to the same extent as they are studying the Alternatives Retained for Detailed Study, which, as they acknowledged in the DEIS, "would avoid environmental resources and property relocations within" the topside of I-495.[24] This area is the most environmentally sensitive area in the Study, and includes stream valley parks acquired under the CCA, which M-NCPPC is required to protect in perpetuity.

The Lead Agencies dismissed the MD 200 Diversion Alternative after inexplicably pairing it with improvements to I-95 and then noting that the alternative would cause some environmental impacts (i.e., to Paint Branch, Paint Branch Park, Little Paint Branch, and Little Paint Branch Park). Not only are these impacts not "significant", compared to the impacts along the topside of I-495 under the Build Alternatives, but the proposed pairing was not necessary since the MD 200 Diversion Alternative alone would satisfy the Project's purpose and need and would have significantly fewer, if any environmental impacts. The Corps and MDE should not advance the requested permits in light of the impacts on the Build Alternatives unless and until MDOT SHA

[20] *Id.*

[21] DEIS, Appendix B, at p. 95.

[22] JPA, Response to Question 6.

[23] *See id.*

[24] DEIS, at p. 2-22.

clearly rebuts the presumption that there are alternatives available which would have fewer impacts on aquatic resources.

Likewise, Alternative 15, a dedicated bus managed lane network, would have fewer impacts on aquatic resources than the Build Alternatives and the Lead Agencies should have considered it. The LOD for the bus lane would be relatively small because the alternative would use the existing roadway (as opposed to the other transit alternatives) and add only one lane in each direction. And, as the DEIS acknowledges, "[a] dedicated managed bus lane would result in higher operating speeds than a bus traveling in a [general purpose] lane." Despite these recognized benefits, the lead agencies concluded the alternative did not meet other aspects of Purpose and Need and elected not to retain it for further study. Eliminating this alternative from detailed study was not reasonable without fully evaluating funding options in light of the fact that it would cause substantially less harm to aquatic resources.

B. Work performed under the requested permits would require use of the Commission's CCA properties, which MDOT SHA cannot authorize.

As discussed above, work performed under the requested permits and authorizations would necessitate use of certain CCA properties administered by M-NCPPC.[25] MDOT SHA does not have the authority to provide any assurance in its agreement with the public private partnership ("P3") contractor that M-NCPPC's CCA properties will be available for the Project. In fact, as NCPC indicated very clearly in its comments to the DEIS, NCPC supports the M-NCPPC's objections to the lack of impact assessments and analysis in the DEIS. NCPC stated it will not be in a position to issue its own Record of Decision for the use of CCA properties without a complete and comprehensive analysis of avoidance techniques employed, minimization efforts

[25] 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.

Town of Forest Heights v. Maryland-Nat'l Capital Park & Planning Comm'n, 463 Md. 469, 518–19, 205 A.3d 1067, 1096 (2019) (internal citations omitted).

attempted, appropriate mitigation to impacts (that would have to be known and addressed), etc., in the submission from M-NCPPC.

C. The JPA and supporting documents fail to adequately address required mitigation of environmental impacts.

First, the DEIS's Indirect and Cumulative Effects Technical Report states that the Corps and MDE will not issue their permits until a detailed compensatory mitigation package, including final mitigation design, is developed and approved.[26] The P3 contractor selected by MDOT SHA will be responsible for developing the Final Mitigation Plan as part of its final design of the project. MDOT SHA has not selected the contractor and has stated that it does not intend to do so until after it issues the Record of Decision concluding the NEPA review. The Corps and MDE should pause their JPA review until after MDOT SHA and FHWA complete the NEPA process and produce a compensatory mitigation package. Additionally, the Commission should have input regarding the impacts and mitigation associated with M-NCPPC properties. In the event the Corps and MDE determine to approve permits before the final compensatory mitigation package becomes available, they should require that at least 10% of the total project cost be set aside for the design and construction of mitigation projects, and held until the impacted Phase is designed and constructed, in order to ensure adequate mitigation.

Second, based on a review of the functional value rankings of the most significant environmental resources within the study area, M-NCPPC opposes the proposed on-site stream mitigation strategy which would provide a 0.5:1 credit ratio for impacts to stream resources classified as having "medium" function value.[27] As an initial matter, such streams are classified 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 should not be able to cause the degradation and then cite the degradation it caused as a basis for having to undertake less mitigation.

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 Project is in an urbanized area, characterized by extensive impervious drainage areas, so these ecosystems have high functional values that MDOT SHA should account

[26] DEIS Appendix O, Indirect and Cumulative Effects Technical Report, at p. 59.

[27] *See* JPA Part 13: Draft Compensatory Mitigation Plan, at p. 16.

for and appropriately mitigate. Two specific examples of streams 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 should therefore require full off-site mitigation.

Finally, without conceding that MDOT SHA can take or otherwise use parkland under the jurisdiction of M-NCPPC to implement a Build Alternative, in the event the Corps or MDE requires MDOT SHA to fund mitigation credits or a mitigation bank, the benefit of such mitigation should accrue to Montgomery and Prince Georges Counties directly and specifically. Since the Build Alternatives would take parkland acquired under the CCA or subject to restrictive easements and required to be protected and used as parkland in perpetuity, any mitigation should result in the creation of new parkland with substantially similar ecosystem and recreational values in those counties.

The Commission also has a number of specific technical comments contained in Appendix A.[28]

D. The limits of disturbance in the DEIS and incorporated into the JPA do not adequately address the likely impacts of the project on aquatic resources.

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 substantially 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 movement of parts of Rock Creek and depicted a substantially larger LOD at Rock Creek Park between Rockville Pike and Stony Brook Drive.

[28] The Commission also notes that 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 MWCOG Fish Barrier Assessment led by Phong Trieu, Senior Environmental Programs Planner. This information, when taken into account, will significantly limit the estimated 5,258 linear-feet of potential credit that has been identified for this project, which currently extends well into the Upper Paint Branch Special Protection Area, near Briggs Chaney Road. *See* JPA Appendix K, Site AN-6.

Because MDOT SHA does not plan to finalize the Project 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 be much larger than what is reflected in the DEIS. For example, stream impacts identified on the Impact Plates in the JPA severely underestimate the true impacts that will result from the location of drainage channels and waterways surrounding the Project. The Commission appreciates MDOT SHA's past and future commitments to reduce to the maximum extent possible the LOD and construction impacts to the most critical resources within the project area. However, the LOD is likely to increase in many areas to allow for work to restore, stabilize, 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, and roadway infrastructure.

Changes in access points also may increase the LOD. The LOD depicted by the Lead Agencies also may not accurately reflect impacts to cultural and historic resources, because the inventory of those resources is incomplete. Finally, the LOD may change based on the final design of the Project.

E. The JPA and supporting documents are inconsistent with Section 106 of the National Historic Preservation Act.

Section 106 of the National Historic Preservation Act ("NHPA") requires the Corps to take into account the effects of its undertakings on Historic Properties and give the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings.[29] Prior to the issuance or authorization of any permit under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act, the Corps must consider the effect permits may have on Historic Properties.[30] Historic Properties include prehistoric or historic districts, sites, buildings,

[29] 54 U.S.C. § 306108.

[30] *See id.*

structures, objects, sacred sites, and traditional cultural places that are included in, or eligible for inclusion in, the National Register of Historic Places ("NRHP").[31]

First, the Corps must consult with the State Historic Preservation Officer ("SHPO") and the Advisory Council on Historic Preservation ("ACHP"). Then, the Corps must identify properties that may be affected by the Project and determine their listing or eligibility for listing on the NRHP. The Corps 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. In consultation with the SHPO and ACHP, the Corps must assess the effects of any permits on Historic Properties to establish if they are adverse. The Corps also must resolve adverse effects by developing and evaluating alternatives to avoid, minimize, or mitigate these impacts.

The JPA notes that while the Lead Agencies will need to further evaluate the impacts of the Project on historic properties, they made a preliminary determination that Build Alternatives **will have an adverse effect on historic properties**.[32] The JPA also indicates that the Lead Agencies' final eligibility and effect determination must be developed in coordination with the State Historic Preservation Office as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the identified permit area.[33]

The Lead Agencies admittedly have not finished identifying archaeological sites and historic cemeteries as required under Section 106 and are delaying that review for some properties. Additionally, the Lead Agencies' 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. The Lead Agencies' failure to identify the historic properties that the Project may impact runs counter to Council on Environmental Quality ("CEQ") and the Advisory Council on Historic Preservation's 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.

The MDOT SHA action that the Corps and MDE permits would authorize would negatively impact parkland administered by M-NCPPC that has historic value, including Rock Creek

[31] *See id.* § 300308.

[32] JPA Public Notice, at p. 6.

[33] *Id.*

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.

F. MDE should review MDOT SHA's Clean Water Act Section 401 Water Quality Certification application sooner in the JPA process, and require MDOT SHA to submit further supporting information.

Section 401 of the Clean Water Act requires that before an applicant may engage in an activity that results in the discharge of a pollutant into the waters of the United States, the applicant must obtain a certification that the discharge will comply with applicable effluent limitations and water quality standards.[34] A Section 404 permit from the Corps is one such action for which a water quality certification is required. MDE is the Section 401 certifying agency in Maryland.

The Corps and MDE have stated in the Public Notice accompanying the JPA that MDOT SHA "expects to apply for a 401 certification from MDE concurrent with publication of the Final Environmental Impact Statement (FEIS) and comments from the public will be requested via a separate public notice."[35] This is contrary to law and established practice. Under Section 401 of the Clean Water Act, MDOT SHA is required to request a Water Quality Certification from MDE before the Corps may issue an individual permit for any activity that may result in a discharge to waters of the United States.[36] As MDOT SHA points out in the Avoidance, Minimization, and Impacts Report prepared as part of the JPA process: "Under the [One Federal

[34] 33 U.S.C. § 1341; Md. Code, Environment Title 9, Subtitle 3; Code of Md. Regs. Title 26, Subtitle 8, Chapter 2.

[35] JPA Public Notice, at p. 6.

[36] 33 U.S.C. § 1341(a)(1).

Decision] Federal Agency Memorandum of Understanding (MOU) for Major Infrastructure Projects, signed in 2018, the wetlands and waterways permit application and authorization process **must** be completed concurrently with the NEPA process, requiring permitting decisions to be made based on preliminary design."[37] Furthermore, delaying the application until publication of the Final EIS would increase the likelihood that the certification review's outcome is predetermined.

The JPA and its supporting documents also do not follow MDE's Nontidal Wetlands and Waterways Checklist Guidelines for a complete permit application in several respects.[38] First, it does not identify the impacts to waterways and wetlands as temporary or permanent in most instances. Second, the maps and impact plates accompanying the JPA do not include key details such as property boundaries; adjacent property owners; distances to property lines, rights-of-way, and easements; plan views showing existing and proposed conditions and structures. Third, the JPA and impact plates do not describe construction access or methodology, offer a proposed construction schedule, or describe stabilization for temporary impacts. These omissions hinder evaluation and consideration of the Project's impacts required for a Section 401 permit.

G. The Coastal Zone Management Act consistency determination should be made sooner in the process.

Section 307 of the Coastal Zone Management Act requires federal actions that have reasonably foreseeable effects on coastal uses or resources to be consistent with the enforceable policies of a participant's approved coastal management program.[39] MDE provides consistency determinations for federal actions in Maryland. In the JPA, MDOT SHA indicates that they expect to apply for consistency approval from MDE concurrent with publication of the FEIS. Delaying the application until publication of the Final EIS would increase the likelihood that the consistency review's outcome is predetermined. Furthermore, the consistency application must be provided to MDE "at the earliest practicable time in the planning or reassessment of the activity," and at least 90 days before final approval of the Federal agency activity unless both the

[37] AMR at p. 5 (emphasis added); MOU Implementing One Federal Decision Under Executive Order 13807, https://www.transportation.gov/sites/dot.gov/files/docs/policy-initiatives/320416/mou-one-federal-decision-m-18-13-part-2-1.pdf.

[38] Wetlands and Waterways Program: Checklist for Floodplain, Waterway or Nontidal Wetland Applications, https://mde.maryland.gov/programs/Water/WetlandsandWaterways/Documents/www.mde.state.md.us/assets/document/WWP_ChecklistFinal6-22.pdf.

[39] 16 U.S.C. § 1456(c).

Federal agency and the State agency agree to an alternative notification schedule.[40] Here, the federal agency activity is any permit the Corps issues. Furthermore, as the lead agencies acknowledge: "Under the [One Federal Decision] Federal Agency Memorandum of Understanding (MOU) for Major Infrastructure Projects, signed in 2018, the wetlands and waterways permit application and authorization process must be completed concurrently with the NEPA process, requiring permitting decisions to be made based on preliminary design."[41] Thus, MDE should require MDOT SHA to request the consistency determination sooner.

* * *

The Commission appreciates the Corps' and MDE'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,

Susan H Lent

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

Encl: Appendix A

cc: Lisa Choplin, MDOT SHA
Jeanette Mar, FHWA
Casey Anderson, M-NCPPC
Betty Hewlett, M-NCPPC
Adrian Gardner, M-NCPPC

[40] 15 C.F.R. § 930.36(b).

[41] AMR at p. 5; MOU Implementing One Federal Decision Under Executive Order 13807, https://www.transportation.gov/sites/dot.gov/files/docs/policy-initiatives/320416/mou-one-federal-decision-m-18-13-part-2-1.pdf.

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: http://www.mncppc.org/1266/Approved-Green-Infrastructure-Master-Plan.
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 20200 and conclude by June 2021. Information may be found here: http://zoningpgc.pgplanning.com/.
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?

Comment No.	M-NCPPC Department	Reference	Technical Comment
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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
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	Currently, within the Community Effects Analysis Area, the minority population percentage for Prince George's County was 86%. • Tables within the Environmental Justice section of the EIS must be broken down by individual County impacts. • 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. • Project document must demonstrate specifically how this project benefits the communities within Prince George's County that have minority or low-income populations. • Project document must demonstrate specifically how this project does not disproportionally 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

Comment No.	M-NCPPC Department	Reference	Technical Comment
			analyzed? • 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. • 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.
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?

Comment No.	M-NCPPC Department	Reference	Technical Comment
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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
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	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. 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.
57.	Montgomery Planning	DEIS-General	Please provide more-detailed volume information for the managed lanes by providing a breakdown of HOV3+, transit, and tolled traffic for each road segment.
58.	Montgomery Planning	DEIS-General	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.
59.	Montgomery Planning	DEIS-General	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.
60.	Montgomery Planning	DEIS-General	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

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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
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 Surburbanization 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?

Comment No.	M-NCPPC Department	Reference	Technical Comment
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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
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?

Comment No.	M-NCPPC Department	Reference	Technical Comment
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?

Comment No.	M-NCPPC Department	Reference	Technical Comment
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	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. 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

Comment No.	M-NCPPC Department	Reference	Technical Comment
			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
109.	Prince George's Planning	DEIS- Pages 2-37 - 2-39 Section 2.7.2	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. 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. 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
110.	Prince George's Planning	DEIS- Page 2-38 Section 2.7.2	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. 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.
111.	Prince George's Planning	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.
112.	Prince George's Planning	DEIS- Pages 2-40	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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
		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	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 1-270. 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 1-495. In fact, it acts to the detriment of diverting traffic by encouraging travel beyond MD 200 to 1-495 East. I-95 now acts as a bottleneck to filter traffic onto 1-495 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). lnrix 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.
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	<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. 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.
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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
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 approached 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	The proposed increase in new impervious across all the affected watersheds is extraordinary. 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.
137.	Montgomery Parks	DEIS: Pages 2-37 - 2-39 Section 2.7.2	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. 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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
138.	Montgomery Parks	DEIS- Pages 2-37 - 2-39 Section 2.7.2	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 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. 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. 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. 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. 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.
139.	Montgomery Parks	DEIS: Pages 2-37 - 2-39	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

Comment No.	M-NCPPC Department	Reference	Technical Comment
		Section 2.7.2	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. 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. 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.
140.	Montgomery Parks	DEIS: Page 2-38 Section 2.7.2	Based on our field investigations, many existing culverts (most CMP with concrete outfalls) are failing (both in size classes <36" and >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. 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.
141.	Montgomery Planning	DEIS - Page 2-38 Section 2.7.2	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. 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.
142.	Montgomery General	DEIS - Pages 2-38 Section 2.7.2	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.

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	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. 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?
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	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. 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.
146.	Montgomery Parks	DEIS Page 4-3 Section 4	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. 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.
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	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." 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. 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.
151.	Montgomery Parks	DEIS-Page 4-84 - 4-85 Section 4.12.4	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. 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.
152.	Montgomery Parks	DEIS-Page 4-86 Section 4.12.4	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. 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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
			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.
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	The proposed increase in new impervious across all the affected watersheds is extraordinary. 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. 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.
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	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 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. Biodiversity Areas (BDAs) are defined as areas of parkland containing one or more of the following: ● Large areas of contiguous, high quality forest, marsh or swamp that show little evidence of past land-use disturbance ● Rare, threatened, endangered or watch-list species ● The best examples of unique plant communities found in Montgomery County ● Areas of exceptional scenic beauty 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. Best Natural Areas (BNAs) are defined as areas of parkland which contain one or more of the following: ● 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 ● Rare, threatened, endangered or watch-list species ● The best examples of unique plant communities found in Montgomery County in the ten Major Terrestrial Natural Communities ● High quality wetlands, including those of Special State Concern at noted in COMAR Title 26 ● Aquatic communities rated as good or excellent in the Countywide Stream Protection Strategy ● Special Trout Management Areas as noted in COMAR Title 08 ● Areas of exceptional scenic beauty The Northwest Branch Stream Valley Best Natural Area is the only BNA delineated immediately adjacent to the proposed project impacts. Mapping of these critical natural resource areas can be found in Chapter 5 of the 2017 Park, Recreation, and Open Space (PROS) Plan.

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. MWCOG 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.	Montogmery 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	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. 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.
184.	Montgomery Parks	DEIS-	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. 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.
185.	Montgomery Parks	DEIS-App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	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. 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.
186.	Montgomery Parks	DEIS-App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	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. 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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
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	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. 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.
191.	Montgomery Parks	DEIS, App. E Page 75 Section 2.1.23 Draft Section 4(f) Eval	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. 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

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

Comment No.	M-NCPPC Department	Reference	Technical Comment
			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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
		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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
218.	Montgomery Parks	**DEIS, App. F Page 46** **Section 2.1.9 Draft Section** **4(f) Eval**	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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
		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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
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	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. 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. 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.
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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
253.	Montgomery Parks	DEIS, App. F Page 65 Section 2.1.17 Draft Section 4(f) Eval	STA 700+OO – 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

Comment No.	M-NCPPC Department	Reference	Technical Comment
		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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
		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 **the area is not suitable for SWM**. 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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
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

Comment No.	M-NCPPC Department	Reference	Technical Comment
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	Locust Hill STA 468+50 R - Potential SWM location. There is a small clearing, Parks suggests investigating SWM in this 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
284.	Montgomery Parks	DEIS- App. F Page 149 Section 3.1 Draft Section 4(f) Eval	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. 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.
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 MWCOG 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.

Comment No.	M-NCPPC Department	Reference	Technical Comment
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	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 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*. Biodiversity Areas (BDAs) are defined as areas of parkland containing one or more of the following: ● Large areas of contiguous, high quality forest, marsh or swamp that show little evidence of past land-use disturbance ● Rare, threatened, endangered or watch-list species ● The best examples of unique plant communities found in Montgomery County ● Areas of exceptional scenic beauty 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. Best Natural Areas (BNAs) are defined as areas of parkland which contain one or more of the following: ● 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

Comment No.	M-NCPPC Department	Reference	Technical Comment
			● Rare, threatened, endangered or watch-list species ● The best examples of unique plant communities found in Montgomery County in the ten Major Terrestrial Natural Communities ● High quality wetlands, including those of Special State Concern at noted in COMAR Title 26 ● Aquatic communities rated as good or excellent in the Countywide Stream Protection Strategy ● Special Trout Management Areas as noted in COMAR Title 08 ● Areas of exceptional scenic beauty The Northwest Branch Stream Valley Best Natural Area is the only BNA delineated immediately adjacent to the proposed project impacts. Mapping of these critical natural resource areas can be found in Chapter 5 of the *2017 Park, Recreation, and Open Space (PROS) Plan.*
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?

Comment No.	M-NCPPC Department	Reference	Technical Comment
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 – 12OO- LOD bisects the wetland. Please expand the LOD to account for full wetland impact and wetland buffer impact in Cherry Hill Park.

Comment No.	M-NCPPC Department	Reference	Technical Comment
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?

Comment No.	M-NCPPC Department	Reference	Technical Comment
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.