



Request for Public Comment

Section 4(f) of the U.S. Department of Transportation Act - *De minimis* Finding

*MD 16 Reconstruction (MD 355 to Brannocks Neck Road),
Church Creek, MD*

PROJECT DESCRIPTION

The Maryland Department of Transportation State Highway Administration (MDOT SHA) is proposing geometric improvements at the intersection of MD 16 and MD 335. The reconstruction would include removing medians and acceleration/deceleration lanes, resurfacing, drainage improvements, along with the addition of parking at the post office. This project would result in minor impacts to the 371-acre Chesapeake Forest Lands property (DNR), which is publicly owned recreation land protected under Section 4(f) of the U.S. Department of Transportation Act of 1966. Section 4(f) stipulates that the Federal Highway Administration (FHWA) cannot approve the use of land from publicly owned parks, recreational areas, wildlife and waterfowl refuges, or significant historical sites unless there is no feasible and prudent avoidance alternative to the use and the action includes all possible planning to minimize harm to the property, unless FHWA determines that the use of the property will have a *de minimis* (minor) impact.

QUESTIONS AND ANSWERS ABOUT THE PROJECT

Why is this work necessary and what improvements are proposed?

The purpose of the MD 16 Urban Reconstruction project is to improve drainage, rehabilitate existing pavement (milling and paving), and provide geometric improvements at the intersection of MD 16 and MD 335 (removing medians and acceleration/deceleration lanes, while adding parking at the post office). The limits of the project along MD 16 extend from MD 335 to Brannocks Neck Road, and on MD 335 from MD 16 to approximately 1,500 feet south of the MD 335/MD 16 intersection.

The proposed project includes the replacement of two drainage culverts which receive flow from the adjacent Chesapeake Forest Lands Property (DNR) and the MD 16 roadside ditch. The southern culvert carries drainage under MD 16, while the northern culvert carries drainage along MD 16 and under the access road to DNR property. Both culverts are undersized and in need of repair (see **attached map**).

The southern culvert will require a small extension, a new endwall, and a perpetual easement from DNR to allow access for future maintenance. This work will result in the removal of a tree located less than three feet away from the construction. The tree is already heavily pruned by utilities maintenance, and additional disturbance to the root system would undermine the integrity of the tree and create a fall hazard. Additionally, the tree compromises the sight distance requirements for safe egress from the driveway, so replanting after construction in this location is not feasible from a safety perspective.

Why are comments being requested?

Section 4(f) 23 CFR 774.3 allows the Federal Highway Administration (FHWA) to determine that certain transportation uses of Section 4(f) land will have no adverse effect on protected resources. With respect to publicly owned parks and recreation areas, a finding of *de minimis* impact may occur if a transportation project does not "adversely affect the activities, features and attributes" of the Section 4(f) resource. When this is the case, the finding of FHWA requires written concurrence from the official(s) with jurisdiction over the resource. In addition, public notice and opportunity for public review and comment on the finding is required.

What are the impacts to protected Section 4(f) resources?

The replacement and future maintenance of the southern drainage culvert will require a perpetual easement of 580.5 square feet / 0.01 acre from the Chesapeake Forest Lands Property (DNR) (see **attached map**). Although the perpetual easement required from this DNR property is considered a "use" as defined by Section 4(f), there will be no negative impact on activities, features, and attributes that qualify the recreation area for protection under Section 4(f).

In addition to the replacement and future maintenance of the southern drainage structure, there is a potential for the need to place a temporary brace for stabilization of an adjacent utility pole while work is being conducted in this location. The brace would require temporary use of approximately 197.6 square feet (less than 0.01 acre) on DNR property to construct the bracing system, similar to the system shown in Figure 1.

In a second location, further north on MD 16 where the access road for this property is located, MDOT SHA will require a temporary easement of 548.6 square feet / 0.01 acre for the replacement of the culvert under the driveway/access road. The ditches in this location will also need to be regraded to reestablish positive flow. Access to the property will remain available throughout construction.

MDOT SHA, through this announcement, is notifying the public that it will request that the FHWA make a *de minimis* (or minor) impact finding, in accordance with Section 4(f). The Maryland Department of Natural Resources, as officials with jurisdiction, were informed of MDOT SHA's intent to seek a *de minimis* finding. With this notice, the public is requested to provide comments on this finding.

How do I comment?

Please provide comments by Tuesday,

July 3rd to Harold Akioye, MDOT SHA Project Manager, 410-545-0347, toll-free

(866) 462-0020, or via email at hakioye@sha.state.md.us; or Rebecca Chojnacki, MDOT SHA Environmental Manager at (410) 545-8543 toll-free (866) 527-0502, or via email at rchojnacki@sha.state.md.us.

You may also visit MDOT SHA online at www.roads.maryland.gov.



Figure 1: Example of Temporary Pole Brace