

## **4.0 Section 4(f)**

This chapter provides an overview of Section 4(f) regulations and procedures; potential Section 4(f) resources in the study area; Section 4(f) uses within the study area; as well as a net benefit analysis for Swann Park.

### **4.1 SECTION 4(F) EVALUATION, REGULATIONS, AND PROCEDURES**

#### **4.1.1 Applicability of Section 4(f) Regulations**

Section 4(f) of the USDOT Act of 1966, originally set forth in Title 49 U.S.C., established the requirement for consideration of publicly-owned park and recreational lands, publicly-owned wildlife and waterfowl refuges, and historic sites in transportation projects that receive funding from or require approval by the USDOT. Section 4(f) is now codified in 49 U.S.C. 303 and 23 U.S.C. 138 and is implemented by FHWA through 23 CFR Part 774. As a USDOT agency, FHWA cannot approve a transportation project that uses Section 4(f) property unless one of the following is true:

- There is no feasible and prudent avoidance alternative to the use of land from the property, and the action includes all possible planning to minimize harm to the property resulting from such use (23 CFR 774.3(a)).
- The use of the property, including any measure(s) to minimize harm (such as any avoidance, minimization, mitigation, or enhancement measures) committed to by the applicant would have a de minimis use, as defined in 23 CFR 774.17, on the property (23 CFR 774.3(b)).

#### **Section 4(f) Use**

On March 12, 2008, FHWA issued a Final Rule on Section 4(f), which clarifies the Section 4(f) approval process, simplifies its regulatory requirements, and moves the Section 4(f) regulation to 23 CFR 774. Section 4(f) properties should be identified as early as practicable in the planning and project development process in order that complete avoidance of the protected resources can be given full and fair consideration (see 23 CFR 774.9(a)). Historic sites are identified as part of Section 106 of the National Historic Preservation Act (NHPA) process and its implementing regulations (36 CFR Part 800). Once Section 4(f) properties have been identified in a project's study area, it is necessary to determine if any of them would be used by an alternative or alternatives being carried forward for detailed study. A use of Section 4(f) property is defined in 23 CFR 774.17 and discussed further in Section 4.3. A use occurs under any of the following circumstances:

- Land is permanently incorporated into a transportation facility.
- There is a temporary occupancy of land that is adverse in terms of the Section 4(f) statute's preservationist purposes.
- There is a constructive use of a Section 4(f) property.

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A Section 4(f) use denotes an adverse impact to, or occupancy of, a Section 4(f) property. The FHWA Section 4(f) Toolkit website describes the three main types of Section 4(f) use as follows:

- **Permanent Incorporation/Permanent Easement Use:** Permanent incorporation involves a right-of-way acquisition of Section 4(f) land as part of a transportation project. The Section 4(f) property is directly purchased (fee simple) by the transportation agency and the property sustains a permanent impact. Permanent easement occurs when the transportation agency acquires a permanent easement on the Section 4(f) property for transportation or related purposes. Examples of permanent easement use include maintenance access, utility access, and placement of and/or maintenance of drainage features such as stream outfall structures.
- **Temporary Occupancy Use:** Temporary occupancies may be considered a Section 4(f) use if the land is subject to temporary or permanent adverse changes, such as contour alterations, removal of mature trees and other vegetation, or disruption of facilities or activities on the property. Temporary occupancy is not a Section 4(f) use if all of the following conditions exist:
  - The land use is of short duration (defined as less than the time needed for the construction of the project).
  - There is no change in ownership of the land.
  - The scope of the work must be minor.
  - There are no temporary or permanent adverse changes to the activities, features, or attributes of the property.
  - The land must be fully restored to a condition at least as good as prior to the project.
  - There must be documented agreement from the official(s) with jurisdiction over the property with the above conditions.
- **Constructive Use:** A constructive use occurs when the project's proximity impacts are so severe that the protected features that qualify a property under Section 4(f) are substantially impaired. The project does not physically incorporate or occupy the Section 4(f) property, but it is close enough to it to substantially impair the function, integrity, use, access, value, or setting of the resource. Constructive use could include actions that would restrict access and/or cause noise, vibration, or visual/aesthetics impacts.

When no feasible and prudent alternatives avoid Section 4(f) resources while fulfilling the proposed project's purpose and need, there are three methods available to analyze and document the use for FHWA approval:

1. Preparing a *de minimis* impact determination
2. Applying a programmatic Section 4(f) evaluation, which includes:
  - Section 4(f) Statement and Determination for Independent Bikeway or Walkway Construction Projects
  - Programmatic Section 4(f) Evaluation and Approval for FHWA Projects that Necessitate the Use of Historic Bridges
  - Final Nationwide Section 4(f) Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Historic Sites
  - Final Nationwide Section 4(f) Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, Wildlife and Waterfowl Refuges
3. Preparing an individual Section 4(f) evaluation

### ***De Minimis Impact***

A *de minimis* impact determination involves the use of Section 4(f) property that is generally minor in nature. A *de minimis* impact is one that, after taking into account avoidance, minimization, mitigation, and enhancement measures, results in no adverse effect to the activities, features, or attributes that qualify a park, recreation area, or refuge for protection under Section 4(f). For historic properties, a *de minimis* impact is one that results in a Section 106 determination of no adverse effect or no historic properties affected. A *de minimis* impact determination requires agency coordination with the officials having jurisdiction over the Section 4(f) property and opportunities for public involvement. A *de minimis* impact determination may not be made when there is a constructive use.

### **Net Benefit**

For federally assisted transportation projects on existing or new alignments that plan to use Section 4(f) resources, a nationwide programmatic Section 4(f) evaluation is available for instances where the use of the Section 4(f) property would result in a net benefit to the Section 4(f) property. A “net benefit” can be achieved if the project’s minimization and mitigation efforts result in enhancement of the Section 4(f) property, as compared with the No Build and avoidance alternatives, the property’s current condition, features, and attributes, given the following applicability criteria:

1. The proposed transportation project uses a Section 4(f) resource (e.g., park, recreation area, wildlife or waterfowl refuge, or historic site).
2. The proposed project includes all appropriate measures to minimize harm and subsequent mitigation necessary to preserve and enhance features and values that originally qualified the property for Section 4(f) for protection.
3. The project does not require the major alteration of the characteristics that qualify a historic property for the National Register of Historic Places (NRHP), such that the property would no longer be considered eligible for listing. For archeological properties, the project does not require disturbance or removal of resources that are determined important for in-place preservation (36 CFR Part 800).
4. For historic properties, an agreement on mitigation measures among SHPO, FHWA, and the Applicant must be incorporated into the project.
5. Official(s) with jurisdiction over the Section 4(f) property have a written agreement that states the assessment of impacts; proposed measures to minimize harm; and necessary mitigation measures; and agree that such measures will result in a net benefit to the Section 4(f) property.
6. The Administration determines the project facts match those set forth in the Applicability, Alternatives, Findings, Mitigation and Measures to Minimize Harm, Coordination, and Public Involvement sections of the programmatic evaluation.

### **Other Relevant Regulations**

Additional regulations relevant to Section 4(f) include Section 106 of the National Historic Preservation Act of 1966, the Land and Water Conservation Fund Act of 1965, and the Maryland Outdoor Recreation Land Loan Act of 1969:

- Section 106 of the National Historic Preservation Act of 1966, as amended, requires federal agencies to consider the impacts of federally funded and/or permitted projects on historic properties (including architectural properties and archeological sites) that are either listed in the NRHP or eligible for listing (36 CFR 800). Section 106 regulations stipulate that the Criteria of

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Adverse Effect must be applied to NRHP-eligible or listed resources within a project's Area of Potential Effects (APE). The Criteria of Adverse Effect is described in 36 CFR 800.5 as follows:

*An adverse effect is found when an undertaking may alter, directly or indirectly, the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Consideration shall be given to all qualifying characteristics of a historic property, including those that may have been identified subsequent to the original evaluation of the property's eligibility for the National Register. Adverse effects may include reasonable foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative (36 CFR 800.5).*

Under the Section 106 regulations, there are three possible determinations of effect:

1. No Historic Properties Affected – No listed or eligible historic properties are within the APE;
  2. No Adverse Effect – Historic properties are located within the APE, but the project impacts would not negatively affect the property's character-defining attributes that make it eligible for listing in the NRHP; and,
  3. Adverse Effect – An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the NRHP in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association (36 CFR 800.5(a)(1)).
- The Land and Water Conservation Fund Act of 1965 (16 USC 460) was established to provide funds for the following purposes:
    1. Federal assistance to the states in planning, acquisition, and development of needed land and water areas and facilities; and
    2. Federal acquisition and development of certain lands and other areas.
  - Section 6(f) of the Land and Water Conservation Fund Act requires that the Secretary of the U.S. Department of the Interior (USDOI) approve any acquisition or conversion of lands purchased or developed with assistance under this act to a use other than public, outdoor recreation use. Under Section 6(f), the USDOI must ensure the replacement of Section 6(f) lands acquired for transportation projects, and that the replacement lands are of equal value, location, and usefulness prior to approval. If the Recommended Preferred Alternative is found to impact parklands purchased or developed with Section 6(f) funds, coordination with the USDOI would occur as part of the Section 4(f) evaluation.
  - Established under the Department of Natural Resources, the Maryland Outdoor Recreation Land Loan Act of 1969, which established Program Open Space (POS), was created for the purpose of expediting the acquisition of outdoor recreation and open space areas and providing recreation facilities before land is devoted to other purposes. The Annotated Code of Maryland §5-906(e)(7) and (8) states the following:

*Land acquired or developed under a State grant from POS may not be converted without written approval of the Secretary of the Maryland Department of Natural Resources and the Secretary of the Department of Budget and Management and the Secretary of the Department of Planning from outdoor public recreation or open space use to any other use. Any conversion in land use may be approved only after the local governing body replaces the land with land of at least equivalent area and of equal recreation or open space value, and for any conversion of land acquired or developed under a State grant from Program Open Space ...the appraised monetary value of the land proposed for acquisition shall be equal to or greater than the appraised monetary value of the land to be converted, under the proposed new use of the converted land.*

## 4.2 POTENTIAL SECTION 4(F) RESOURCES

### 4.2.1 Methodology Used for the Identification of Section 4(f) Resources

Potential Section 4(f) resources were identified based on the requirements of 23 CFR Part 774 and guidance provided in the FHWA’s *Section 4(f) Policy Paper* (FHWA 2012). Figure 4-1 shows potential Section 4(f) resources within the study area. The study area was determined by first establishing a preliminary LOD that encompassed the three initial Build Alternatives under consideration, then adding a 100-foot buffer to it. The boundary was overlaid onto GIS aerial data. MDTA reviewed existing mapping, conducted field investigations, searched property records, and reviewed the Baltimore City Department of Recreation and Parks (BCRP) website to identify properties that are protected by Section 4(f).

As part of the Section 106 evaluation, an APE was defined in consultation with Maryland Historical Trust (MHT), the State’s Historic Preservation Office. MDTA’s correspondence with MHT is included in Appendix K, Agency Correspondence. MDTA is in the process of assessing NRHP eligibility of cultural resources within the APE. All historic resources determined NRHP-eligible would be considered as potential Section 4(f) resources.

Once Section 4(f) resources were identified, MDTA reviewed the proposed construction activity related to each build alternative in proximity of each Section 4(f) resource to determine the potential uses for each property. Pending further consultation with BCRP and MHT, MDTA will refine and quantify the potential uses of Section 4(f) resources.

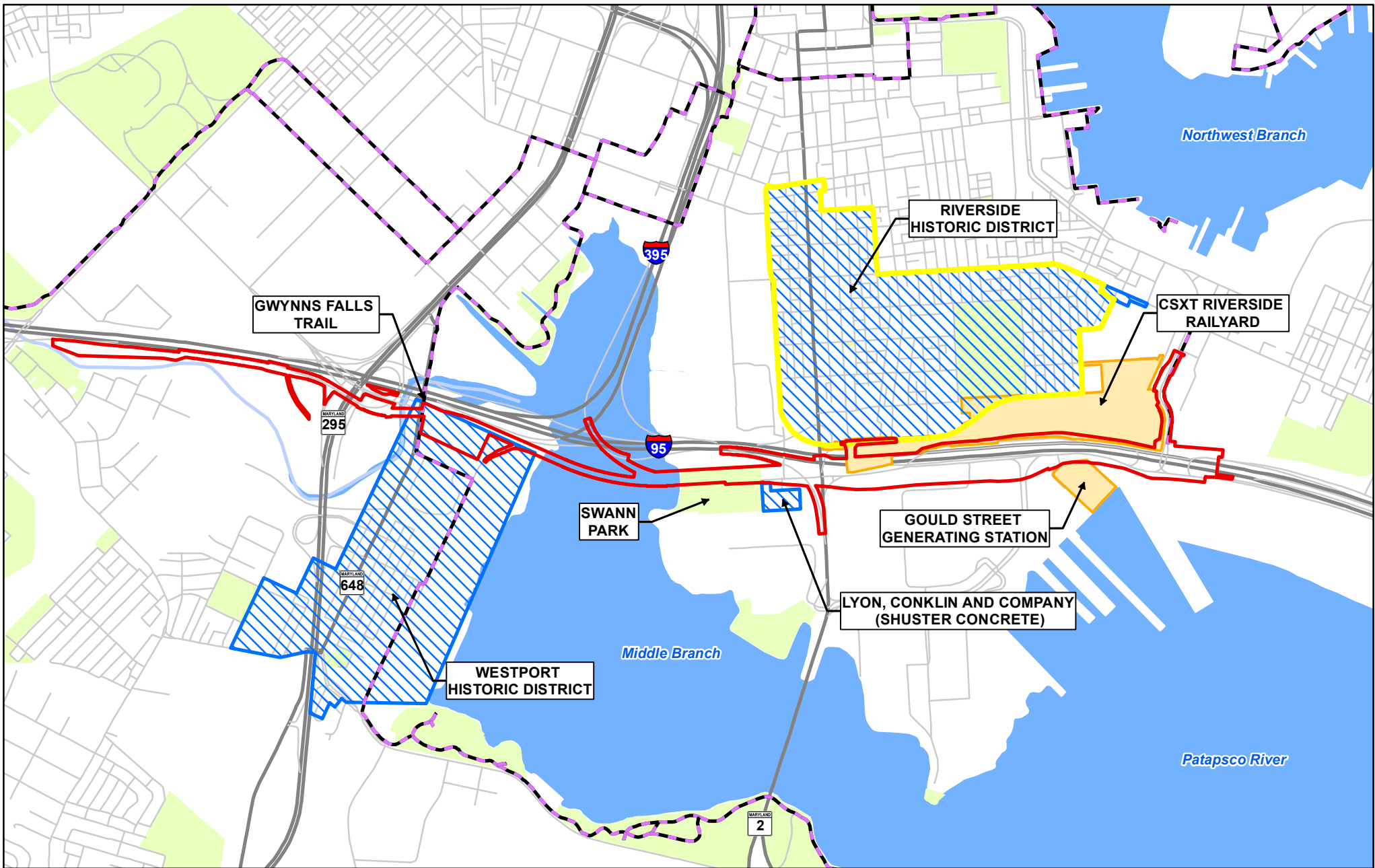
### 4.2.2 Section 4(f) Resources

#### Public Parklands and Recreational Properties

Table 4-1 identifies the public parklands and recreational properties within the study area, along with their characteristics. These properties are discussed in more detail in Section 4.3.

**Table 4-1: Section 4(f) Parklands and Recreational Properties in this Evaluation**

Property Name	Classification	Address	Official(s) with Jurisdiction	Features and Attributes	Status
<b>Gwynns Falls Trail</b>	Recreational Trail	Annapolis Road; Route 1 / Washington Boulevard	Baltimore City Recreation and Parks Department	hiking, biking	Potential expansion
<b>Swann Park</b>	Park	201 W McComas Street / Port Covington Peninsula	Baltimore City Recreation and Parks Department	baseball field, softball field, football/soccer field, walking paths, equipment shed	Approved plan for relocation and expansion



**LEGEND**

STUDY AREA	HISTORIC PROPERTY
MULTI-USE TRAIL	MARYLAND INVENTORY OF HISTORIC PROPERTY
MAJOR ROADWAY	NATIONAL REGISTER OF HISTORIC PLACE
ROADWAY	
PARK	

**FIGURE 4-1**

**SECTION 4(F) RESOURCES**

1 inch = 1,500 feet

**I-95 ACCESS IMPROVEMENTS**

**MARYLAND TRANSPORTATION AUTHORITY**

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**Wildlife and Waterfowl Refuges**

Due to the industrial and developed nature of property found within the study area, there are no sites considered wildlife and waterfowl refuges within its boundary.

**Historic Properties**

Architectural and archeological resources were analyzed as part of the I-95 Access Improvement’s Section 106 process. Appendix G, Cultural Resources, gives more in-depth background information and history for these resources.

Table 4-2 identifies the state and federally listed historic properties, as well as potentially historic properties greater than 45 years in age, within the study area. These are also shown on Figure 4-1. These resources include two resources listed on the Maryland Inventory of Historic Properties (MIHP) that have not been evaluated for NRHP eligibility. These properties are discussed in additional detail in Section 4.3. One NRHP-listed property within the study area, the Sinclair Scott Company Building, was previously demolished and, therefore, not further discussed.

**Table 4-2: Architectural Resources**

<b>MIHP</b>	<b>Resource Name</b>	<b>Address</b>	<b>NRHP Eligibility</b>
B-1055	Lyon, Conklin and Company (Schuster Concrete)	2101 Race Street	Eligible <sup>1</sup>
B-1342	Westport Historic District	n/a	Eligible
B-5139	Riverside Historic District	n/a	Listed
B-5267	Riverside Railyard	n/a	Not Eligible <sup>1</sup>
Not Listed	Gould Street Generating Station	2199 Gould Street	Eligible <sup>1</sup>

<sup>1</sup>NRHP Eligibility Status is pending concurrence from the Maryland Historical Trust.

**Archeological Resources**

Previously conducted archeological surveys were identified during the analysis. One archeological survey was identified near the project study area. Stephen Austin of the Baltimore Center for Urban Archaeology completed investigations at the site of the proposed Port Covington Commons Business Park in 1990 (BC69). Archeological investigations demonstrated that the Port Covington Rail Terminal was constructed on fill, with potential for archeological sites at a subsurface depth of 8-10 feet.

MDTA received concurrence from MHT to conduct geoarcheology and underwater archeology surveys as part of the Section 106 process. Please refer to Appendix K, Agency Correspondence, for copies of MDTA’s letter to MHT and MHT’s concurrence. Any NRHP-eligible archeological sites identified during those surveys will be considered in the final Section 4(f) analysis.



### **4.3 SECTION 4(F) USES**

Currently there are seven potential Section 4(f) resources identified within the Recommended Preferred Alternative's LOD. The following sections describe the properties and the potential for the Recommended Preferred Alternative to result in a Section 4(f) use of the property.

#### **4.3.1 Gwynns Falls Trail**

**Property Description:** The Gwynns Falls Trail currently spans 22 continuous miles, offering a recreation corridor in an urban setting, with access to a scenic, historic greenway stream valley (BCRP 2017). The Gwynns Falls Trail, as shown on Figure 4-2, connects over 30 neighborhoods in west and southwest Baltimore with parklands, unique urban environmental features, cultural resources, and historic landmarks (GwynnsFallsTrail.org 2017). From the Inner Harbor, the trail extends west to the edge of Baltimore City and south along the Middle Branch to the Patapsco River. Land use adjacent to this trail segment includes transportation right-of-way, open space, and industrial uses (City of Baltimore 2008).

Baltimore City Department of Recreation and Parks owns and operates the trail. Additional entities, such as the Gwynns Falls Trail Council and Parks and People Foundation, are stewards of the trail and promote the use and improvement of the trail. An extension to the Gwynns Falls Trail is proposed in the area of US 1/Washington Boulevard and the existing I-95 overpass, as identified on Baltimore City's GIS mapping (City of Baltimore 2006).

**Potential Section 4(f) Use:** The Recommended Preferred Alternative would be constructed above the Gwynns Falls Trail, at the location shown on Figure 4-1. To access locations east of the trail, it may be necessary for construction vehicles to cross over the trail. It is possible to maintain trail traffic throughout the duration of construction with the implementation of protective measures to shield trail users from overhead construction activities. Should construction cause a temporary blockage along the trail, trail traffic will be maintained through the use of temporary detours. The elevated structure constructed above the Gwynns Falls Trail will resemble adjacent I-95 roadways.

The Recommended Preferred Alternative would not have a permanent incorporated or constructive use of the Gwynns Falls Trail segment. There would be a temporary occupancy use so minimal that it would not constitute a Section 4(f) use because construction of the Recommended Preferred Alternative in this location is anticipated for a short duration, does not require change of ownership, is minor in scope, would not disrupt public use of the trail during construction, and allows for restoration to an equal or better condition as prior to the project. Coordination with BCRP is ongoing, as concurrence is needed for a *de minimis* determination for the Gwynns Falls Trail.

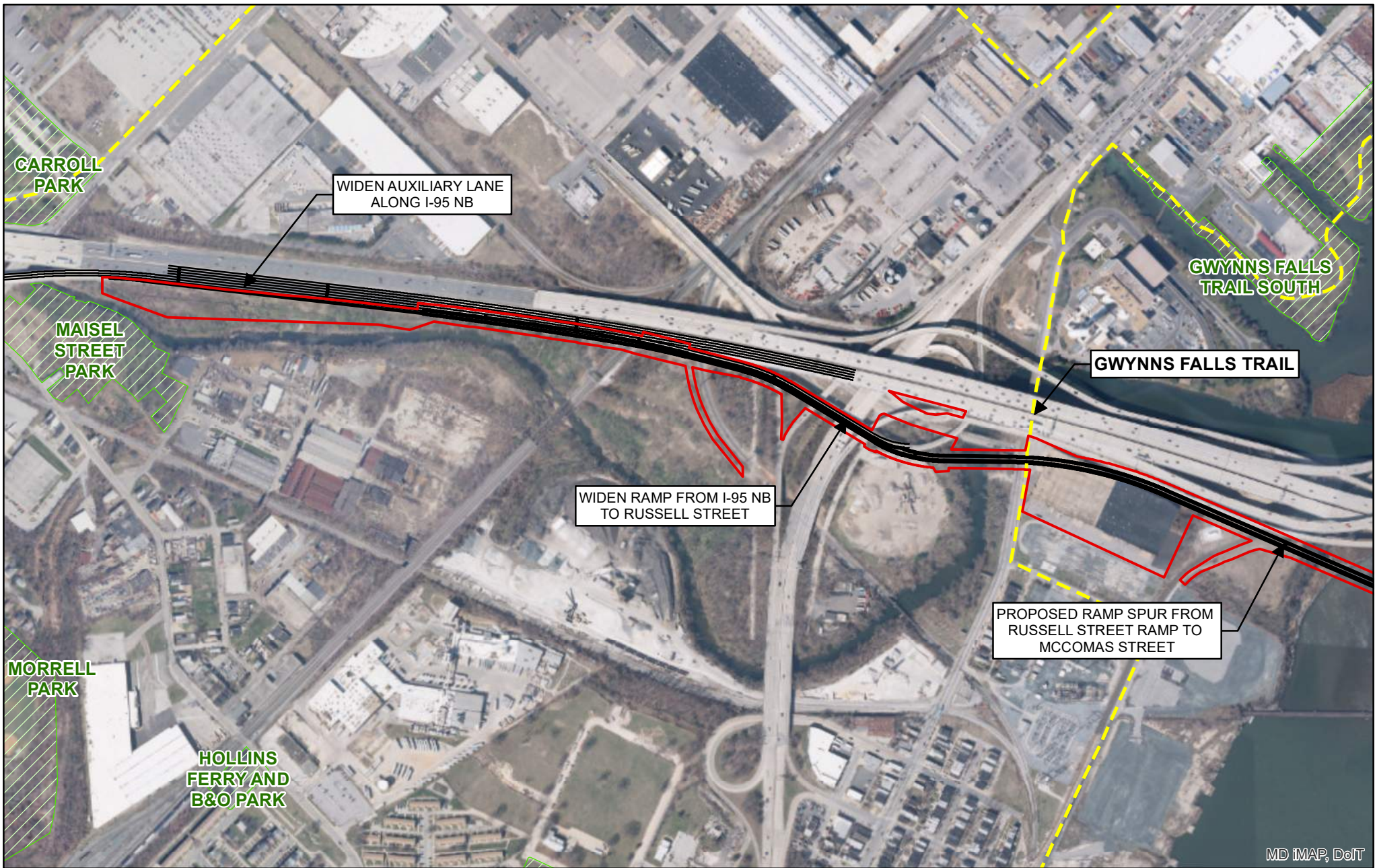
#### **4.3.2 Swann Park**

**Property Description:** Swann Park, as shown on Figure 4-3, is located at the western terminus of McComas Street, east of the Middle Branch, and south of I-95. The park encompasses approximately 11 acres and contains a baseball field, softball field, football/soccer field, walking paths, and an equipment shed

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(Baltimore Sun 2010). The park hosts games and practices for area high schools and recreational leagues. Baltimore City Department of Recreation and Parks owns and operates the park.

Swann Park is slated to be relocated as part of the Baltimore City-approved 2016 *Port Covington Master Plan*. The 2016 *Port Covington Master Plan* identifies a relocation of the park to the south. It shows that the existing location of Swann Park has a new network of roads, walkways, and pedestrian ways. Relocated Swann Park, or a newly named park, would be approximately 26 acres, extending along the majority of the peninsula's western waterfront. Please refer to Appendix H, Section 4(f), for further details. The developer's expected timeline for the opening of the relocated park is 2027, prior to the removal of existing Swann Park.



**Legend**

- STUDY AREA
- RECOMMENDED PREFERRED ALTERNATIVE
- MULTI-USE TRAIL
- PARK

**FIGURE 4-2**

**GWYNNS FALLS TRAIL**

1 inch = 600 feet

0 145 290 580 Feet

**I-95 ACCESS IMPROVEMENTS**

**MARYLAND TRANSPORTATION AUTHORITY**

**CITY OF BALTIMORE**

**Potential Section 4(f) Use:** The Recommended Preferred Alternative would affect the northern portion of existing Swann Park. This would require piers in the northern end of existing Swann Park, potentially prior to the completion of the Relocated Swann Park. Construction of the realignment of McComas Street and the ramp spur from I-395 SB to McComas Street would require a swath of approximately 200 feet of property throughout the length of the park totaling 3.7 acres, which would adversely impact all of the existing ball fields, access to the park, and the parking lot. During construction, there would be no access to the park. Therefore, the Recommended Preferred Alternative would result in a permanent incorporation use.

### **4.3.3 Westport Historic District**

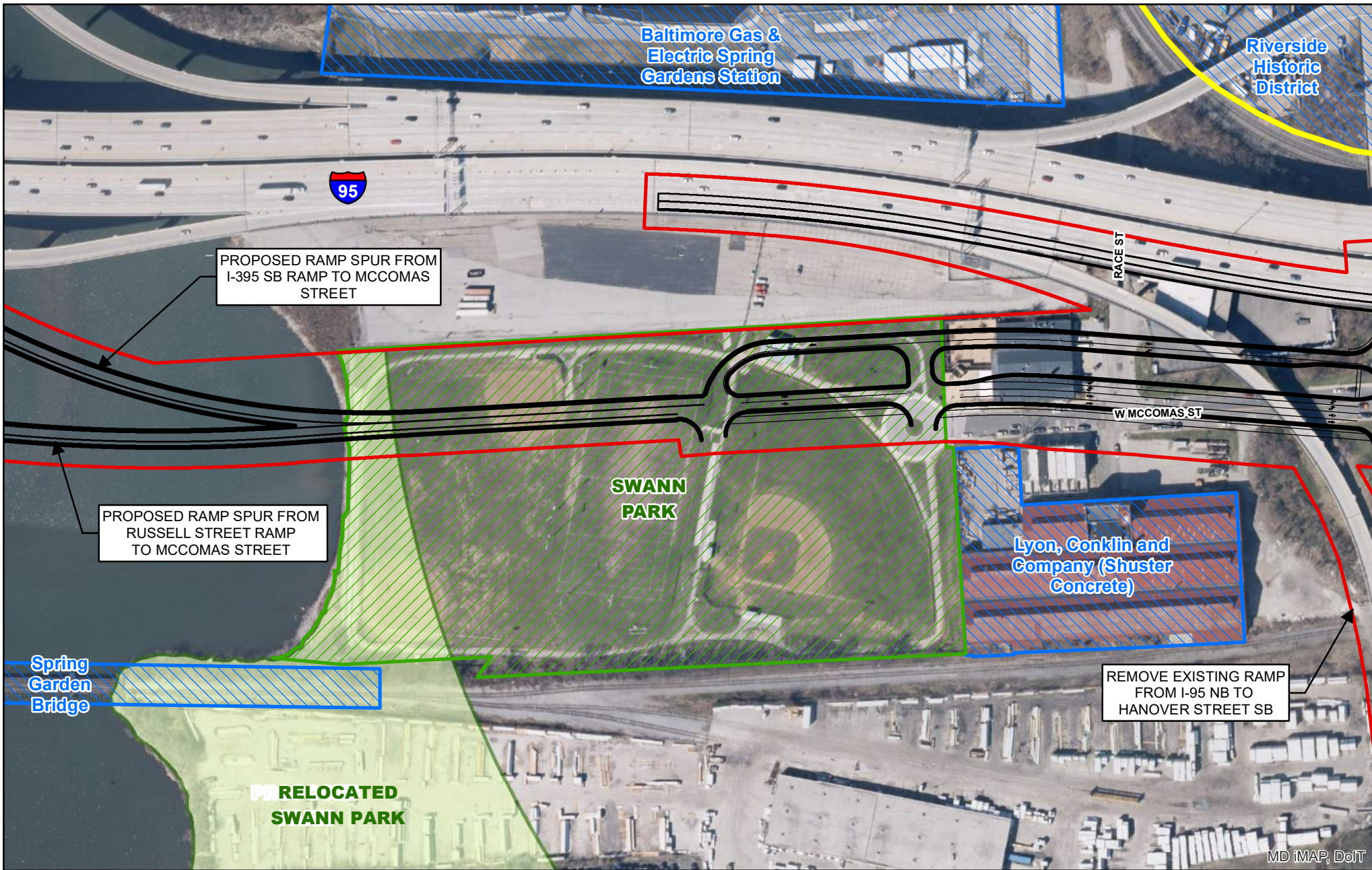
**Property Description:** The Westport Historic District, as shown on Figure 4-4, (MIHP# B-1342) is located south of I-95 and west of the Middle Branch. The district is listed on the MIHP (MHT 2008), and eligible for listing on the NRHP. The district is significant because it relates to the expansion and growth of Baltimore's industrial heritage throughout the early to mid-twentieth century. Maryland Avenue, also known as Annapolis Road, is a historic road that travels through the district. This road was an early link between Baltimore and Annapolis. The district contains a variety of building types including rowhouses, low-rise commercial establishments, automobile-related structures, a firehouse, a school, and a former public library. Many of the industrial and manufacturing facilities, especially those along the Middle Branch waterfront have been razed.

While some of the buildings remain in fair to good condition, much of the architectural fabric of the neighborhood is deteriorated and many buildings have since been abandoned. Alterations to buildings are typical of those found in Baltimore's older rowhouse neighborhoods and along automobile-related commercial corridors. The two-story commercial buildings were likely constructed as storefronts with residences located above. During the late nineteenth century, the end units of the rowhouses were designed with storefronts for corner stores.

**Potential Section 4(f) Use:** The Recommended Preferred Alternative would result in construction of an elevated I-95 NB spur ramp from Russell Street on the northern edge of the Westport Historic District. The ramp would be at approximately the same elevation as the I-95 main line, and would be supported by bridge piers. Approximately eight concrete bridge piers, similar in appearance to existing piers supporting I-95, would be constructed within the historic district. No contributing structures to the historic district would be demolished or altered by construction of the Recommended Preferred Alternative.

Although the I-95 NB spur ramp would be visible from other properties within the historic district, it would be located adjacent to and visually blend in with the existing elevated main line of I-95 and placed adjacent to vacant lots that do not contribute to the historic significance of the district. Construction of the spur ramp would result in negligible noise and air pollutant emissions within the historic district. The Recommended Preferred Alternative would not introduce visual, atmospheric, or audible elements to the Westport Historic District that would diminish the integrity of significant historic features.

As part of the Section 106 process, MDTA is recommending that the Recommended Preferred Alternative has no adverse effect to the Westport Historic District. Should MHT concur with this recommendation, MDTA anticipates that FHWA would make a *de minimis* impact determination as part of the Section 4(f) process.



**Legend**

- STUDY AREA
- RECOMMENDED PREFERRED ALTERNATIVE
- RELOCATED SWANN PARK
- NATIONAL REGISTER OF HISTORIC PLACE
- PARK
- MARYLAND INVENTORY OF HISTORIC PROPERTY

**FIGURE 4-3**

**SWANN PARK AND LYON, CONKLIN AND COMPANY**

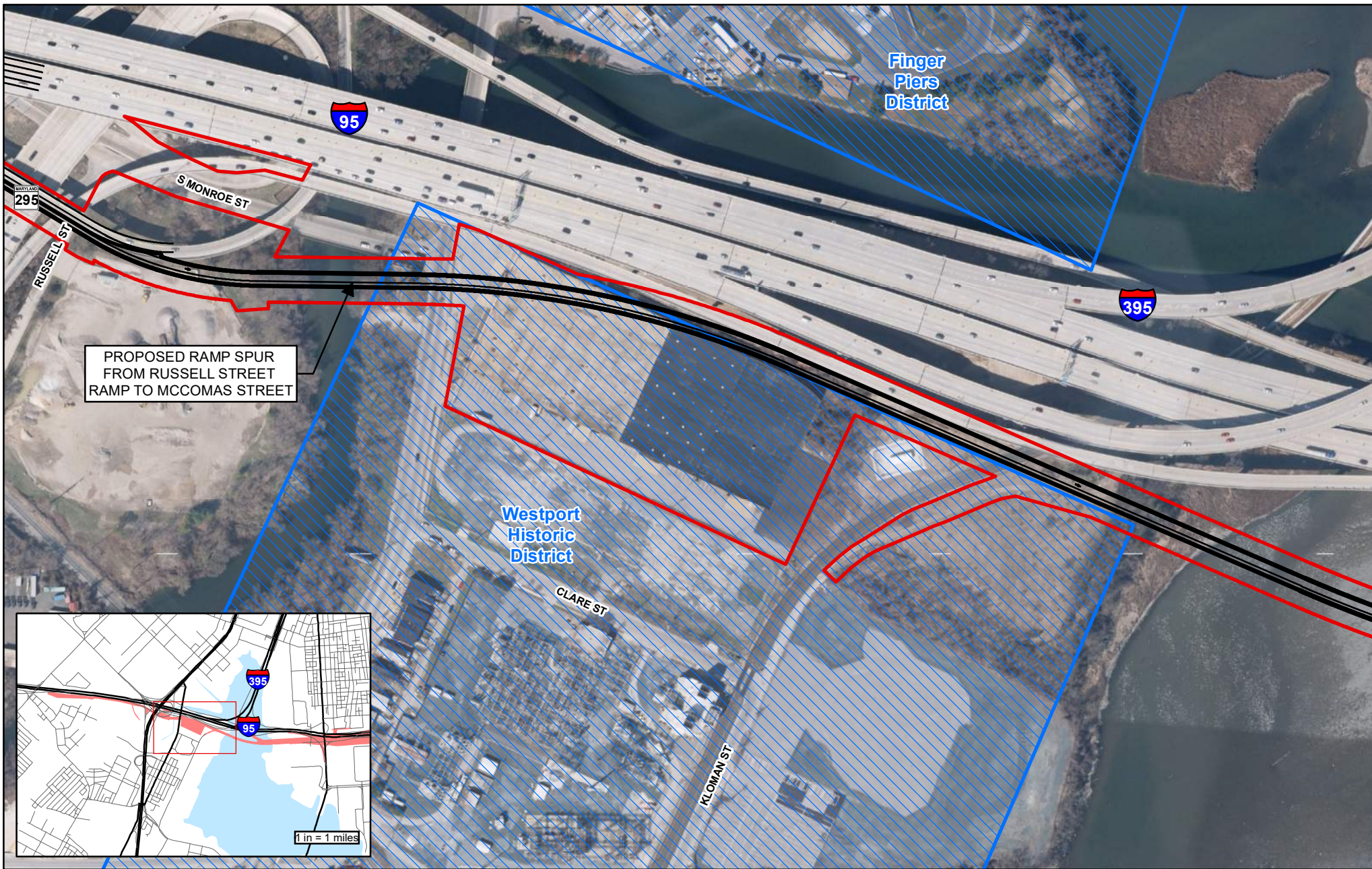
1 inch = 200 feet

0 50 100 200 Feet

**I-95 ACCESS IMPROVEMENTS**

**MARYLAND TRANSPORTATION AUTHORITY**

**CITY OF BALTIMORE**



**Legend**

- STUDY AREA
- MARYLAND INVENTORY OF HISTORIC PROPERTY
- RECOMMENDED PREFERRED ALIGNMENT

**FIGURE 4-4**

**WESTPORT HISTORIC DISTRICT**

1 inch = 250 feet

0 125 250 Feet

**I-95 ACCESS IMPROVEMENTS**

**MARYLAND TRANSPORTATION AUTHORITY**

**CITY OF BALTIMORE**

#### **4.3.4 Riverside Historic District**

**Property Description:** The Riverside Historic District (B-5139), listed on the NRHP, is a 52-block area located north of I-95 and the CSXT Railyard, between Race Street on the west and Weber Street on the east, as shown on Figure 4-5. The district is significant for its association with the development of transportation and industry in Baltimore and for its architecture, which is representative of the full range of domestic and ecclesiastical building types characteristic of Baltimore neighborhoods during the period from the mid-nineteenth century through the first decade of the twentieth century (NPS 2008).

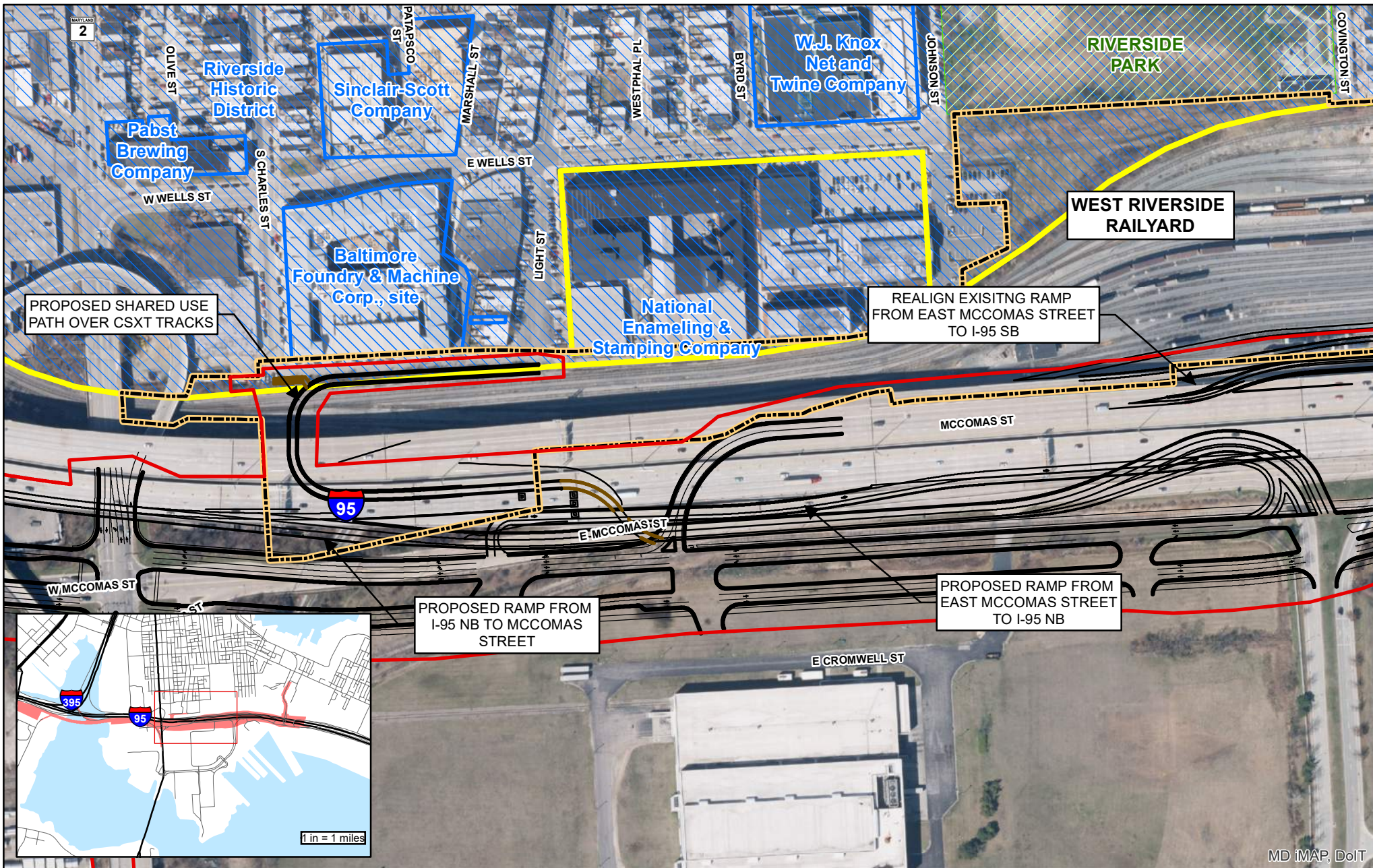
**Potential Section 4(f) Use:** The Recommended Preferred Alternative would include a new, shared-use pedestrian and bicycle bridge/path, connecting Riverside Park to the Port Covington development. The trail would begin within the Riverside Historic District at the south end of Light Street, travel westward along East Winder Street for 400 feet, and at grade on the south side of the 1901 South Charles Street apartments. Approximately 100 feet east of South Charles Street, an elevated pedestrian pathway turns 90 degrees to the south. A staircase at the Charles Street intersection connects to the elevated path. A path height of 24 feet allows crossing above the CSX railroad tracks and below the I-95 deck, turning another 90 degrees to the east before returning to grade and connecting to a sidewalk along the north side of the realigned McComas Street.

Neither the at-grade or elevated portions of the pedestrian pathway would physically alter elements that contribute to the historical or architectural significance of the historic district. The pathway would represent a new visual element within the Riverside Historic District, although it is minor in scale, adjacent to the much more visually dominant I-95 bridge deck, and not visible from any properties within the district that contribute to its historic significance.

As part of the Section 106 process, MDTA is recommending that the Recommended Preferred Alternative has no adverse effect to the Riverside Historic District. Should MHT concur with this recommendation, MDTA would seek MHT's concurrence on a finding of a *de minimis* use for the Section 4(f) process. MDTA anticipates that FHWA would make a *de minimis* impact determination as part of the Section 4(f) process.

#### **4.3.5 Lyon, Conklin and Company (Schuster Concrete)**

**Property Description:** The Lyon, Conklin and Company, formerly known as Schuster Concrete and shown on Figure 4-3, is located south of I-95 and west of Hanover Street at 2101 Race Street (see Figure 4-3). This building occupies most of a 2.5-acre parcel on the west side of Port Covington. Construction of this property occurred in 1922 (MHT 1983). When constructed, the plant was one of multiple late nineteenth and early twentieth century industrial complexes on Port Covington, with the rail and freight infrastructure in place to support industry. Many of these complexes, such as the Allied Chemical Plant to the north and the rail terminal to the east, have been removed. Advertisements by the Maryland Metal Building Company from industry trade literature proclaimed the building was a "Baltimore First" because it was the largest sectional metal building in the United States (Industrial Development and Manufacturers Record 1921). Interstate 95 passes the Lyon, Conklin and Company Building to the north, on a visually prominent overpass where the chemical plant once stood. A row of seven early twentieth century rowhouses occupy lots northeast of the building.



**Legend**

- STUDY AREA
- RECOMMENDED PREFERRED ALIGNMENT
- IMPACTED SECTION 4(F) PROPERTY
- NATIONAL REGISTER OF HISTORIC PLACE
- MARYLAND INVENTORY OF HISTORIC PROPERTY
- PARK

**FIGURE 4-5**  
**RIVERSIDE HISTORIC DISTRICT AND WEST RIVERSIDE RAILYARD**

1 inch = 250 feet

0 125 250 Feet

**I-95 ACCESS IMPROVEMENTS**  
**MARYLAND TRANSPORTATION AUTHORITY**  
**CITY OF BALTIMORE**



**Potential Section 4(f) Use:** Construction of the Recommended Preferred Alternative would involve the realignment of McComas Street, north of the Lyon, Conklin and Company property. The realigned McComas Street would require a new access point to the property. Temporary impacts would occur during construction, in relation to access changes from newly realigned McComas Street, which would likely move access from north of the property to west of the property. Construction activities would occur around the property, however, no portion of the property would be disturbed in relation to the I-95 Access Improvements. This building will ultimately be repurposed into the development to occur on the Port Covington peninsula.

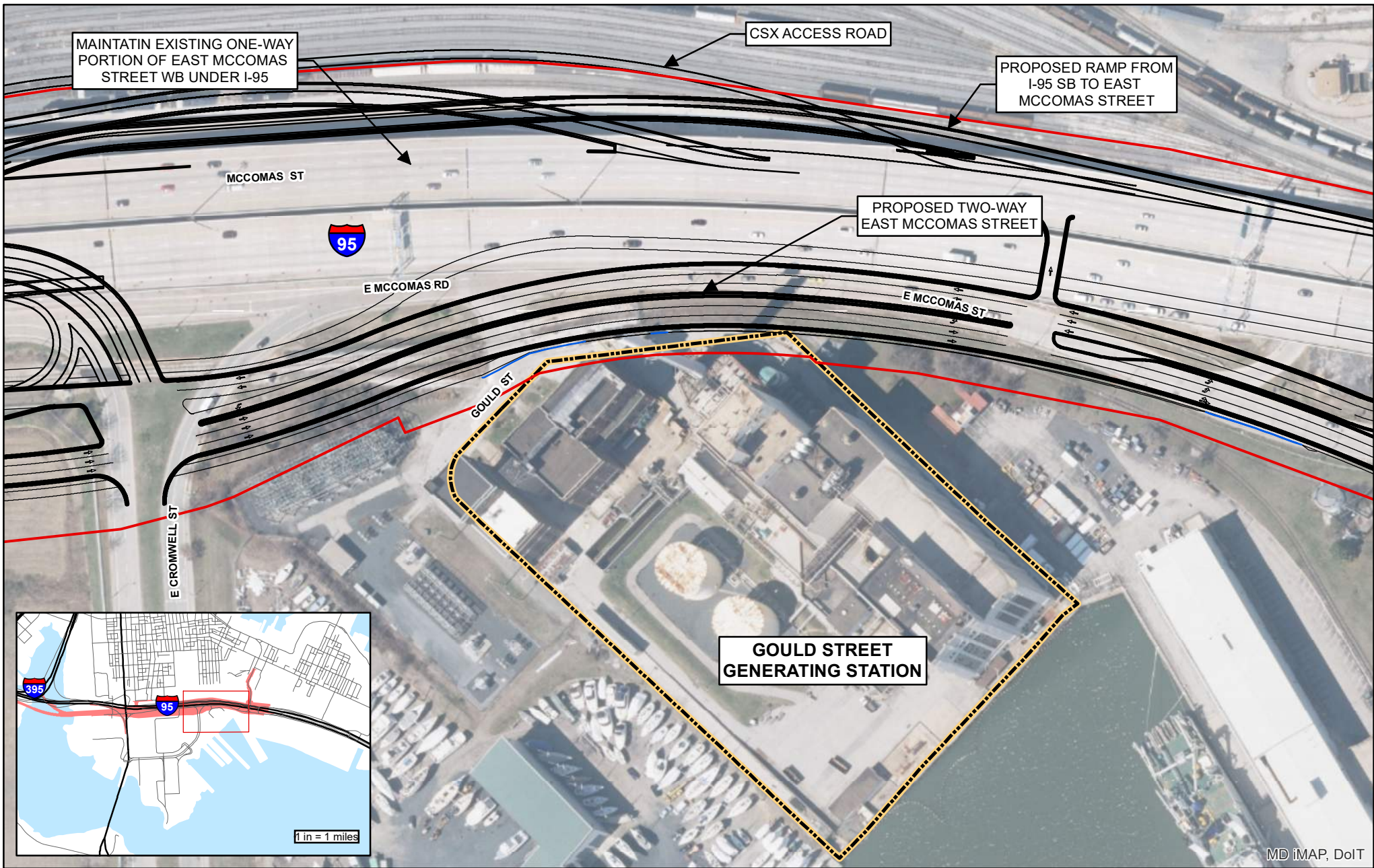
This property is within the architectural APE and necessitates a DOE. Results of the DOE indicate the property is eligible for listing on the NRHP, and should be considered a Section 4(f) resource. MDTA recommends that the construction of the Recommended Preferred Alternative would have no adverse effect on the property. Should MHT agree with this recommendation, MDTA would seek MHT's concurrence on a finding of a *de minimis* use for the Section 4(f) process. MDTA anticipates that FHWA would make a *de minimis* impact determination as part of the Section 4(f) process.

### **4.3.6 Gould Street Generating Station**

**Property Description:** The Gould Street Generating Station, shown on Figure 4-6, is an electrical generating power plant located south of I-95 and McComas Street on Gould Street. It is a multi-building complex constructed by Baltimore Electric Company in 1905. Coal was delivered by rail and conveyed to the plant. By 1908, the Westport Plant produced enough power for the Gould Street location to be operated in reserve (Lione 2002; Turowski et al. 1983; Lowe 1928). During the 1920's, demand for gas and electricity skyrocketed in Baltimore, and the Gould Street Generating Station reopened in 1927 in a new and modern power plant oriented to the Middle Branch of the Patapsco River. The obsolete structure constructed in 1905 became the new plant's coal pulverizing facility.

At the time of its construction, the 1927 power plant was the first of Baltimore power plants to burn pulverized coal (King 1950). The Consolidated Gas Electric Light and Power Company underwent system-wide expansion in the years following World War II to serve post-war industrial expansion, and the company invested in power plant expansion between 1948 and 1953. At Gould Street, Consolidated funded a 100,000 kilowatt generating unit (Unit 3) which was constructed in 1952 on the rear of the 1927 power plant. In 1955, Consolidated Gas Electric Light and Power Company rebranded to Baltimore Gas and Electric.

In 1972, all three turbine-generator units were converted from burning coal to No. 6 oil (Maryland Public Service Commission 2007). In 1977, Units 1 and 2 were decommissioned, and the smokestacks later removed in 1996. In 2000, following deregulation of the energy industry in Maryland, all of Baltimore Gas and Electric's power generating stations were transferred to Constellation Generation Group, which has a nationwide focus on power generation. The plant was shut down for five years in 2003, reopening in 2008 after being converted to run on natural gas. After a 2012 merger with Constellation Generation Group, Exelon Power now operates the Gould Street Generating Station to assist with peak periods and load balancing (Exelon ND).



MD IMAP, DoIT



**Legend**

- STUDY AREA
- RECOMMENDED PREFERRED ALIGNMENT
- IMPACTED SECTION 4(F) PROPERTY

**FIGURE 4-6**  
**GOULD STREET GENERATING STATION**

1 inch = 150 feet

0      75      150 Feet

**I-95 ACCESS IMPROVEMENTS**  
**MARYLAND TRANSPORTATION AUTHORITY**  
**CITY OF BALTIMORE**

**Potential Section 4(f) Use:** The Recommended Preferred Alternative would realign McComas Street to the south of its current alignment, along the front elevation of the Generating Station. Construction would result in temporary construction impacts and would be considered a temporary occupancy use. No permanent right-of-way acquisition or physical alteration of the Generating Station is anticipated. Sidewalks and grading are also part of the design. Vertical grades are proposed to minimize grading activities and match the existing grade as closely as possible.

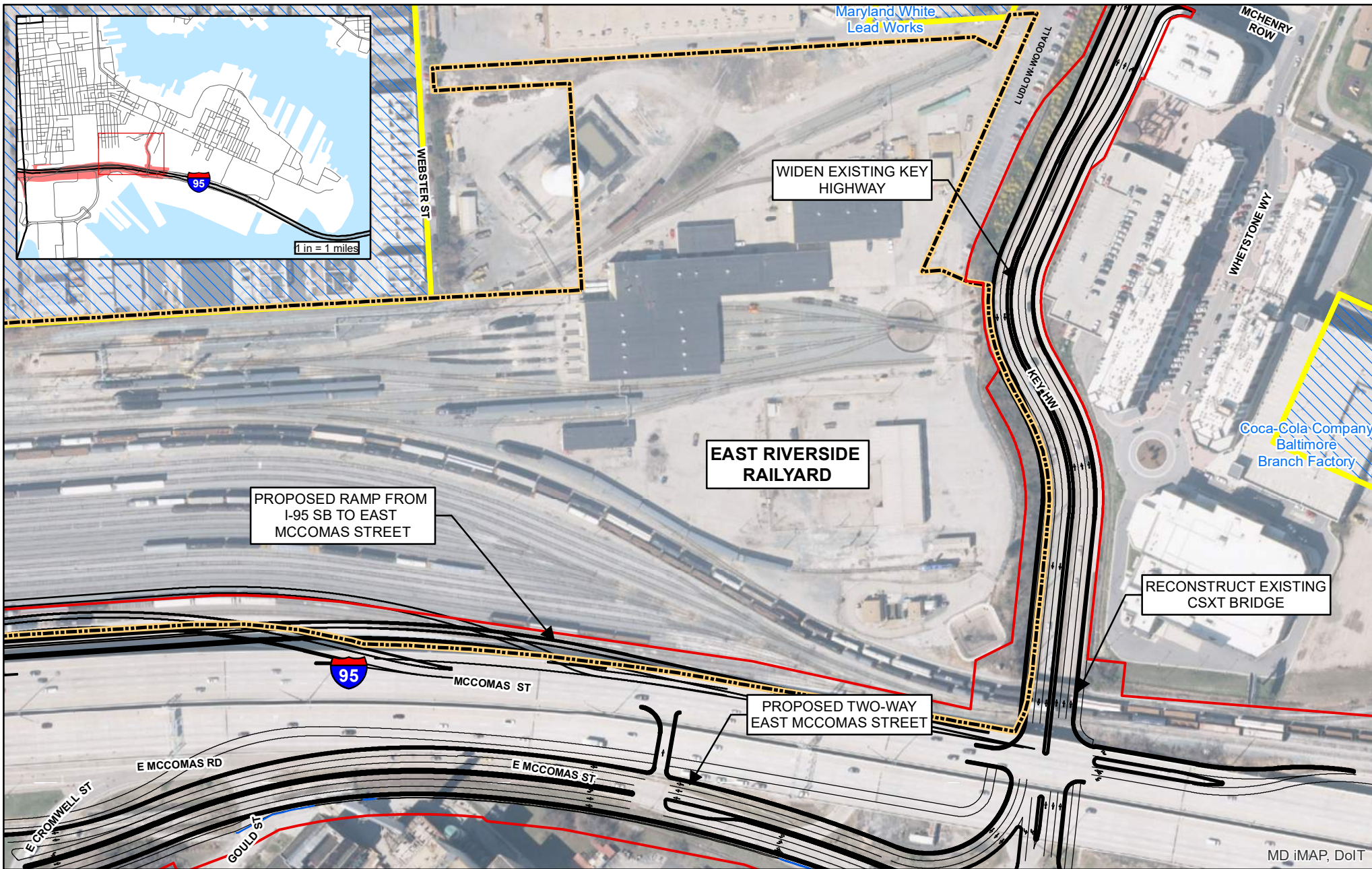
The DOE for this property will determine if the Gould Street Generating Station property is eligible for listing on the NRHP, and therefore considered a Section 4(f) resource. If determined NRHP-eligible, the acquisition of land may be considered an adverse effect, and could be considered a Section 4(f) use as a permanent incorporation and permanent easement. More likely, MDTA would seek MHT's concurrence on a finding of a *de minimis* use for the Section 4(f) process. MDTA anticipates that FHWA would make a *de minimis* impact determination as part of the Section 4(f) process.

### **4.3.7 CSXT Riverside Railyard**

**Property Description:** The CSXT Riverside Railyard is located north of I-95 and east of Key Highway, as shown on Figure 4-5 (western segment) and Figure 4-7 (eastern segment). The property consists of multiple buildings and a Maryland Transit Administration MARC Commuter Rail Facility. The CSXT Riverside Railyard was constructed by the B&O Railroad around 1875. Construction of the facility allowed the B&O to better serve expanding freight traffic in Locust Point (Baltimore and Ohio Railroad Company 1871). By 1905, the CSXT Riverside Railyard was too small to accommodate the size and number of locomotives in use. The roundhouses and other facilities were torn down and new facilities were constructed.

**Potential Section 4(f) Use:** The Recommended Preferred Alternative would widen Key Highway east of the CSXT Riverside Railyard from two to three NB lanes. Key Highway would continue to have two SB lanes. Widening Key Highway would require land along the southeastern portion of the CSXT Riverside Railyard for road construction and ROW and would be considered a permanent incorporation use. The required property is a vegetated area that slopes down to the existing road.

The DOE for this property will determine if the CSXT Riverside Railyard is eligible for listing on the NRHP, and if it would therefore be considered a Section 4(f) resource. If determined NRHP-eligible, the acquisition of land may be considered an adverse effect, and could be considered a Section 4(f) use as a permanent incorporation and permanent easement. If determined ineligible, this property would not be considered a Section 4(f) resource.



**Legend**

- STUDY AREA
- RECOMMENDED PREFERRED ALIGNMENT
- IMPACTED SECTION 4(F) PROPERTY
- NATIONAL REGISTER OF HISTORIC PLACE
- MARYLAND INVENTORY OF HISTORIC PROPERTY

**FIGURE 4-7 EAST RIVERSIDE RAILYARD**

1 inch = 200 feet

0 100 200 Feet

**I-95 ACCESS IMPROVEMENTS**  
**MARYLAND TRANSPORTATION AUTHORITY**  
**CITY OF BALTIMORE**

#### **4.4 NET BENEFIT ANALYSIS FOR SWANN PARK**

The FHWA applicability criteria for a nationwide programmatic Section 4(f) net benefit evaluation is discussed in Section 4.1. This section identifies three alternatives that would avoid or reduce impacts to the existing and Relocated Swann Park properties, and discusses the initial findings that the No Build and build alternatives are not feasible and prudent, with the exception of the Recommended Preferred Alternative. It also discusses potential measures to minimize harm and incorporate mitigation elements into the Recommended Preferred Alternative.

##### **4.4.1 Minimization Options**

The Recommended Preferred Alternative would result in a permanent incorporation Section 4(f) use for existing Swann Park. Therefore, MDTA studied the following alternatives to avoid the use of the Section 4(f) property:

1. The No Build Alternative
2. Improve the transportation facility in a manner that addresses the project's purpose and need without use of the Section 4(f) property
3. Relocate the proposed project to a new location

While avoiding both the existing Swann Park and Relocated Swann Park, the No Build Alternative is not a prudent alternative as it does not meet the purpose and need for the project. It would not improve the transportation need as described in Chapter 1, Purpose and Need.

It is not feasible to improve the transportation facility in a manner that addresses the purpose and need without use of a Section 4(f) property, as there are multiple Section 4(f) properties located on the northern boundary of the peninsula, immediately adjacent to the existing major roadways (e.g., McComas Street). Any modifications along McComas Street would impact other Section 4(f) resources.

Because this project's purpose and need improves access to a redeveloped peninsula, it is not feasible to relocate the proposed project away from local access roadways or from the I-95 corridor. The peninsula can only be accessed by land from the north, and the current roadway network lacks full access to and from I-95. Therefore, a build alternative in proximity to the I-95 corridor is required to meet the project's purpose and need.

Because the Recommended Preferred Alternative would have a permanent incorporation use of the existing Swann Park, MDTA studied and designed four options to avoid or minimize the use of both the existing Swann Park and Relocated Swann Park properties. These are shown on Figure 4-9 and described below, in order from north to south. Because each option would satisfy the purpose and need of the I-95 Access Improvements project, MDTA conducted an engineering feasibility and preliminary environmental analysis to determine the feasibility and prudence for each. Assessment of these options favored reduced impacts to the Relocated Swann Park, as the new park location is already approved by Baltimore City. Table 4-4 summarizes the comparison of the options with the Recommended Preferred Alternative.

**Option 1** is located north of the Recommended Preferred Alternative and is immediately adjacent to existing I-95 NB. Option 1 would minimize the potential impact to the existing Swann Park. It would adversely impact its parking lot, as well as approximately 0.1 acres of the northeast corner. Although Option 1 would minimize impacts to the Section 4(f) use, it is not a feasible alternative. It would require piers for structural support on the property at 2000 Race Street, which is located immediately north of existing Swann Park. This property has a known presence of chromium ore processing residue, in addition to herbicide and pesticide wastes. A multi-layered cap of clay and asphalt was previously placed on the property to limit exposure to contamination and the infiltration of water into the underlying contaminated soils. With the known contaminants at the 2000 Race Street property, and the potential risks and liability considerations associated with construction, Option 1 is not prudent or feasible.

**Option 2 (Recommended Preferred Alternative)** is described in Chapter 2, Proposed Project and Alternatives Considered, and its Section 4(f) use of Swann Park is discussed in Section 4.3. This alternative shifts the proposed ramp immediately to the south of the Race Street property and would not affect the engineering cap on the property. After crossing over the Middle Branch, two I-95 ramps would intersect west of the shoreline of existing Swann Park and continue through the northern one-third of the park and along McComas Street. This would require piers in the northern end of existing Swann Park, potentially prior to the completion of the Relocated Swann Park. It would impact 3.7 acres of existing Swann Park, in addition to 0.3 acres of the Relocated Swann Park. It would affect the northernmost tip of the relocated park, leaving the vast majority of the relocated park undisturbed.

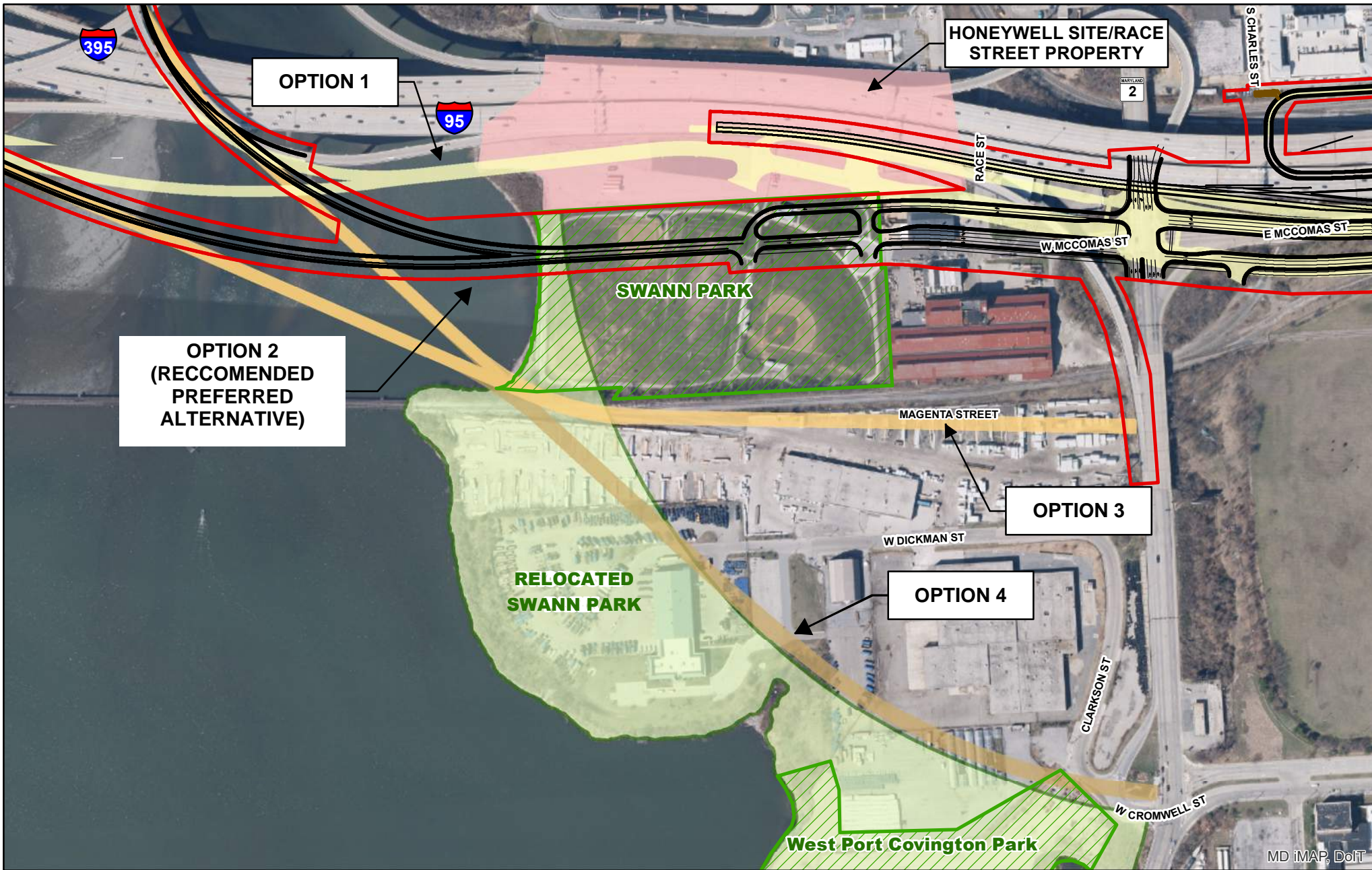
**Option 3** is generally located south of the existing Swann Park. Under this option, the ramps cross the Middle Branch and converge at the shoreline near the southeast corner of the existing Swann Park, and continue along the Port Covington peninsula. Although the ramps generally avoid the existing Swann Park, this alternative includes the realignment of McComas Street, which would impact the northern portion of the existing Swann Park. The realignment of McComas Street cannot be shifted north due to the contamination at the 2000 Race Street property, and the associated liability considerations associated with construction in that area. Therefore, Option 3 would impact 3.1 acres of existing Swann Park. In addition, it would impact 0.9 acres of the northern section of the Relocated Swann Park, which would include loss of property and a ramp that would eliminate the top portion of the Relocated Swann Park. Furthermore, this option is not consistent with the approved 2016 *Port Covington Master Plan* and would adversely affect the planned development, including a multi-modal pedestrian/bicycle trail.

**Option 4** differs from Option 3 east of the converging I-95 ramps. From that junction, the ramp continues southeast along the peninsula eventually tying into West Cromwell Street. While these options avoid the contaminated Race Street property, they cause the greatest amount of impact to the Relocated Swann Park. Although the ramps avoid the existing Swann Park, this option requires the realignment of McComas Street, which would impact the northern portion of the existing Swann Park. The realignment of McComas Street cannot be shifted north due to the contamination at the 2000 Race Street property, and the associated liability considerations with construction in that area. Therefore, Option 4 would impact 3.0 acres of the existing Swann Park, in addition to 3.1 acres of the Relocated Swann Park. It would impact the northeast section and the eastern edge of the Relocated Swann Park, including loss of property and a ramp that would eliminate the top portion of the Relocated Swann Park. Furthermore, this option is not

## **I-95 Access Improvements from Caton Avenue to the Fort McHenry Tunnel Environmental Assessment**

consistent with the approved 2016 *Port Covington Master Plan* and would adversely affect the planned development, including a multi-modal pedestrian/bicycle trail.

Through comparison of the four feasible options, the Recommended Preferred Alternative would have the least amount of impacts on the Relocated Swann Park, which is an approved upgrade to existing Swann Park by Baltimore City. Additionally, it avoids the known environmental hazard of the 2000 Race Street property. This option presents the opportunity to substantially improve a Section 4(f) property.



Legend	
<span style="border: 1px solid red; display: inline-block; width: 15px; height: 10px;"></span>	STUDY AREA
<span style="border-bottom: 2px solid black; display: inline-block; width: 20px;"></span>	RECOMMENDED PREFERRED ALTERNATIVE (BUILD ALTERNATIVE 2)
<span style="background-color: #FFC0CB; display: inline-block; width: 15px; height: 10px;"></span>	HONEYWELL SITE/RACE STREET PROPERTY
<span style="background-color: #FFFF00; display: inline-block; width: 15px; height: 10px;"></span>	BUILD ALTERNATIVE 1
<span style="background-color: #FFA500; display: inline-block; width: 15px; height: 10px;"></span>	BUILD ALTERNATIVE 3
<span style="background-color: #A0522D; display: inline-block; width: 15px; height: 10px;"></span>	BUILD ALTERNATIVE 4
<span style="border: 1px solid green; background-color: #90EE90; display: inline-block; width: 15px; height: 10px;"></span>	PARK
<span style="border: 1px solid green; background-color: #90EE90; display: inline-block; width: 15px; height: 10px;"></span>	RELOCATED SWANN PARK

**FIGURE 4-8**  
**MINIMIZATION OPTIONS**

1 inch = 350 feet

**I-95 ACCESS IMPROVEMENTS**  
**MARYLAND TRANSPORTATION AUTHORITY**  
**CITY OF BALTIMORE**



Table 4-3: Build Option Comparisons

	Option1	Option 2 (Recommended Preferred Alternative)	Option 3	Option 4
Race Street Site Impact?	Yes	No	No	No
Existing Swann Park Impacted (Area)	0.1 Acres	3.7 Acres	3.1 Acres	3.0 Acres
Relocated Swann Park Impacted (Area)	0 Acres	0.3 Acres	0.9 Acres	3.1 Acres
Approximate Cost Difference to Recommended Preferred Alternative	-\$8.5M	----	\$0.8M	\$5.5M
Pros	<ul style="list-style-type: none"> <li>Consistent with the 2016 <i>Port Covington Master Plan</i> and maximizes development south of McComas Street</li> <li>No change to proposed traffic operations at existing intersections along McComas Street</li> </ul>	<ul style="list-style-type: none"> <li>Of the feasible options, impacts the least amount of Relocated Swann Park</li> <li>Potentially reduces the projected traffic volume at the Hanover Street &amp; McComas Street intersection</li> <li>Barge access may be provided from the Race Street Property, possibly reducing the vertical clearance requirements for a pedestrian/bicycle path across the Middle Branch in place of the existing Swing Bridge</li> </ul>	<ul style="list-style-type: none"> <li>Provides a more direct access from I-395 to the Hanover Street Bridge</li> <li>Reduces the traffic volume on McComas Street</li> <li>Barge access may be provided from the Race Street Property, possibly reducing the vertical clearance requirements for a pedestrian/bicycle path across the Middle Branch in place of the existing Swing Bridge</li> </ul>	<ul style="list-style-type: none"> <li>Provides a more direct access from I-395 to the Hanover Street Bridge</li> <li>Reduces the traffic volume on McComas Street by diverting some site traffic to Cromwell Street</li> <li>Barge access may be provided from the Race Street Property, possibly reducing the vertical clearance requirements for a pedestrian/bicycle path across the Middle Branch in place of the existing Swing Bridge</li> </ul>

Table 4-3: Build Option Comparisons

	Option1	Option 2 (Recommended Preferred Alternative)	Option 3	Option 4
Cons	<ul style="list-style-type: none"> <li>• Environmental liability concerns with the Race Street property – not a prudent or feasible option (disqualified from consideration)</li> <li>• Swing Bridge may need to be maintained to provide barge access to I-95 &amp; its ramps over the Middle Branch</li> </ul>	<ul style="list-style-type: none"> <li>• Inconsistent with the 2016 <i>Port Covington Master Plan</i> and minimizes development south of McComas Street</li> <li>• Impacts both existing and Relocated Swann Park, with the greatest impacts to existing Swann Park over other alternatives</li> <li>• Increases the projected traffic volume at the Hanover Street &amp; Magenta Street intersection</li> <li>• Likely results in additional traffic within the street grid east of Hanover Street</li> </ul>	<ul style="list-style-type: none"> <li>• Inconsistent with the 2016 <i>Port Covington Master Plan</i> and minimizes development south of McComas Street</li> <li>• Impacts both existing and Relocated Swann Park</li> <li>• Increases the traffic volume on Cromwell Street and at its intersection with Hanover Street</li> <li>• Traffic enters the street grid on a street proposed to be a primary pedestrian/bicycle route with lower vehicular volumes</li> <li>• Future pedestrian/bicycle path across Middle Branch will be bridged by the merged ramps</li> <li>• Increased cost over the Recommended Preferred Alternative</li> </ul>	<ul style="list-style-type: none"> <li>• Inconsistent with the 2016 <i>Port Covington Master Plan</i> and minimizes development south of McComas Street</li> <li>• Impacts both existing and Relocated Swann Park with the greatest impact to Relocated Swann Park over other alternatives</li> <li>• Increases the traffic volume on Cromwell Street and at its intersection with Hanover Street</li> <li>• Traffic enters the street grid and must turn left on Cromwell Street, increasing the number of intersection conflicts and queuing</li> <li>• Future pedestrian/bicycle path across Middle Branch will be bridged by the merged ramps</li> <li>• Most expensive option</li> </ul>

#### **4.4.2 Net Benefit Evaluation**

To demonstrate there are no feasible options for avoiding Section 4(f) property, the programmatic evaluation analysis must address alternatives that avoid the Section 4(f) property. Other than the No Build Alternative, avoidance of Swann Park cannot be accomplished while meeting the project purpose and need.

**Do Nothing/No Build:** The No Build Alternative would avoid existing Swann Park, but it is not feasible and prudent because it would not meet the project's purpose and need. Additionally, the No Build Alternative would negate an opportunity to benefit a Section 4(f) property, the Relocated Swann Park. Plans for the redevelopment of Port Covington are an improvement over the current Section 4(f) resource: access to the Middle Branch of the Patapsco River will be provided through trails and waterfront parkland; shoreline habitat will be restored and maximized; and sustainable, resilient infrastructure will be incorporated into the design, including stormwater management, flood resiliency, and scale-specific lighting.

**Improve the transportation facility in a manner that addresses the project's purpose and need without use of the Section 4(f) property:** It is not feasible and prudent to avoid Section 4(f) property by using engineering design or transportation system management techniques, such as minor location shifts, changes in engineering design standards, use of retaining walls and/or other structures and traffic diversions or other traffic management measures if implementing such measures would result in any of the following:

- a) Substantial adverse community impacts to adjacent homes, businesses or other improved properties; or
- b) Substantially increased transportation facility or structure cost; or
- c) Unique engineering, traffic, maintenance or safety problems; or
- d) Substantial adverse social, economic or environmental impacts; or
- e) A substantial missed opportunity to benefit a Section 4(f) property; or
- f) Identified transportation needs not being met; and
- g) Impacts, costs or problems would be truly unusual, unique or of extraordinary magnitude when compared with the proposed use of Section 4(f) property after taking into account measures to minimize harm and mitigate for adverse uses, and enhance the functions and value of the Section 4(f) property.

Option 1 would impact the Race Street property which has a known presence of chromium ore processing residue, in addition to herbicide and pesticide waste (criterion d). Construction within this property would also require unique engineering, traffic, maintenance and safety problems as this area is a known environmental hazard (criterion c). Because of these unique design challenges involved in constructing in proximity of a known environmental hazard, transportation facility and structure costs would be substantially higher than the No Build and the other build alternatives (criterion b). As a result, constructing in proximity of a known environmental hazard would have impacts, costs, or problems that would truly be unusual and of extraordinary magnitude (criterion g) as compared to the use of existing Swann Park.

Options 2, 3, and 4 would include the realignment of McComas Street, which would impact the northern portion of the existing Swann Park. Additionally, Options 3 and 4 would impact 0.9 and 3.1 acres, respectively, of the Relocated Swann Park. This would result in a loss of property and a change of land use for the Relocated Swann Park, which would negatively impact residents that utilize the park's resources (criterion a). Options 3 and 4 would also result in an increase of traffic volume on Cromwell Street and its intersection with Hanover Street (criterion c). Option 3 would result in traffic entering the street grid on a street proposed to be a primary pedestrian/bicycle route that may increase safety concerns (criterion c). Option 4 would also result in traffic entering the street grid and then must turn left on Cromwell Street, increasing the number of intersection conflicts and queuing which may increase traffic and safety concerns (criterion c). Both of these build alternatives would result in a higher cost than compared to the Recommended Preferred Alternative (criterion b).

### **Build the transportation facility at a location that does not require use of the Section 4(f) property:**

Because the purpose and need of the I-95 Access Improvement project involves improved access to a redeveloped peninsula, it is not feasible to relocate the proposed project to a new location away from local access roadways or from the I-95 corridor. The peninsula can only be accessed by land from the north, and the current roadway network lacks full access to and from I-95. Normal maintenance of existing roads would not increase capacity for movement in and out of the peninsula.

An alternative that relocates the proposed project and completely avoids use of Section 4(f) resources is not feasible due to the location of I-95, in relation to the peninsula containing Port Covington and the presence of multiple potential Section 4(f) resources within and near the study area.

### **4.4.3 Minimization**

In the absence of feasible options, MDTA has incorporated localized engineering design methods along the Recommended Preferred Alternative to minimize harm. MDTA considered design refinements, such as alignment shifts, to reduce impacts to Section 4(f) properties. Additional measures to minimize harm at impacted properties include choice of grading methods; alignment shifts, placement of retaining walls, landscaping, and noise barriers; and controlled lighting. These measures will be further considered as design progresses.

### **4.4.4 Mitigation, Enhancement, and Beneficial Measures**

Amenities of the existing Swann Park include 11 acres with walking paths, ball fields, and an equipment shed. The park hosts games and practices for area high schools and recreational leagues. Relocation of this park is part of the Baltimore City-approved 2016 *Port Covington Master Plan*. Relocated Swann Park, or a newly named park, would be approximately 26 acres, extending along the majority of the peninsula's western waterfront. In addition to more space for recreation, the new placement expands shoreline access, adds multi-use pathways for non-vehicular traffic, enhances ecology, and incorporates sustainability into upgraded infrastructure.

Relocated Swann Park will feature publicly-accessible waterfront area, inviting signage, multiple sports fields, other recreational amenities, and potentially a music venue, stables, and park operations building.

Resilient infrastructure is also a component of this new site, to be designed with flood resilience, smart lighting systems, and other innovative strategies for sustainability. Multi-modal connectivity will provide access throughout the Port Covington peninsula for non-vehicular traffic. Shared-use paths will expand access to the peninsula, especially the waterfront.

Plans for Port Covington also incorporate ecological enhancements in the form of a restored estuary, as well as greater quantity and quality of parkland. Presently, the waterfront of the Middle Branch of the Patapsco River along the Port Covington peninsula is an approximately 3-mile stretch of degraded shoreline; natural resources are limited, soils are contaminated, and habitat is in poor condition. Peninsula redevelopment plans aim to improve the shoreline habitat and water quality, and increase access to the water through the trail and park network. Landscaping in the Relocated Swann Park will incorporate a diverse combination of native vegetation. Habitat and shoreline restoration and enhancement, innovative water management, environmental management, sustainability, and community engagement are components of this revitalization effort.

Coordination with the BCRP is ongoing and will continue as the project moves forward. The project team will work to incorporate mitigation measures into the project design, with an emphasis on measures that will enhance and be beneficial to the greatest extent possible. The BCRP will have input on the mitigation measures and enhancements that will be incorporated into the project design, and MDTA will seek concurrence from BCRP on design measures affecting their property before final design approval.

### **4.4.5 Conclusion**

Evaluation of minimization options for the Section 4(f) property demonstrate the lack of feasible and prudent options for the I-95 Access Improvements project. None of the minimization options assessed for this programmatic evaluation—Do Nothing/No Build, improvement of existing infrastructure without the use of the Section 4(f) land, and complete avoidance of the property—adequately meet the project purpose and need. Also, normal maintenance to existing access roadways would not resolve access deficiencies addressed by the I-95 Access Improvements project. Minimization of harm to the Section 4(f) property will occur through project design elements; and, opportunities for mitigation, enhancement, and the addition of beneficial measures will improve the relocated park property, resulting in a net benefit to Swann Park.

## **4.5 AGENCY COORDINATION**

All agency correspondence related to this NEPA review is documented in Appendix K, Agency Correspondence.

### **4.5.1 Federal Highway Administration (FHWA)**

MDTA and BCDOT requested FHWA's guidance in a formal letter dated July 12, 2017. This letter explained the purpose and need for the I-95 Access Improvements project, intent for the approved relocation of Swann Park, and options associated with the Recommended Preferred Alternative. Specifically, the MDTA and BCDOT asked FHWA in what manner to consider the Section 4(f) classification of Swann Park, whether in its existing location or in its proposed location. Attachments to this letter include Baltimore City's approved 2016 *Port Covington Master Plan*, which includes the proposed relocation of Swann Park south

from its current position; Sagamore Development Corporation's Proposed Redevelopment Schedule; and Section 4(f) Option Maps and Comparison Table. MDTA and BCDOT had a conference call with FHWA on August 3, 2017 and met with them on September 14, 2017 to discuss the approach to the Swann Park matter. At the September 14 meeting, FHWA told MDTA and BCDOT that a net benefit analysis would be appropriate.

### **4.5.2 Maryland Historical Trust**

The MHT is the State Historic Preservation Office. During Section 106 initiation, MHT was contacted to determine the eligibility of known historic resources and to evaluate the reasonableness of the APE for additional historic architectural and archeological sites. MHT concurred with both the MDTA delineated architectural and archeological APE, and with the plan to conduct a Phase I investigative geoarcheological survey and an underwater archeological survey. MHT also concurred with MDTA's assessment that the DOE process should be completed for properties within the architectural APE that exceed 45 years of age.

The DOE process is ongoing and will determine which, if any, of the properties listed above are eligible for inclusion on the NRHP. Properties not found eligible for listing on the National Register will no longer be considered Section 4(f) resources and will be removed from consideration of Section 4(f) use.

Following the completion of National Register eligibility determinations and archeological investigations, MDTA will assess project effects to each resource and request concurrence from MHT and other Section 106 stakeholders on the effects determination on each resource. These determinations are to consider the effects of the Recommended Preferred Alternative on each of the newly-eligible and previously-listed historic properties. Results of this coordination will be incorporated into the Section 4(f) evaluation.

### **4.5.3 Baltimore City Department of Recreation and Parks**

As part of this Section 4(f) analysis, FHWA and MDTA sent an inquiry letter to the BCRP on May 3, 2017, to introduce the project and present the Recommended Preferred Alternative Alignment. The BCRP was also asked to provide input to the following requests:

- Identify any park or recreational properties under the jurisdiction of the BCRP that are within approximately 500 feet of the Recommended Preferred Alignment.
- Provide information regarding the activities, features, and attributes of the identified park and recreational properties.
- Provide information for any of the identified properties that have been funded by the Land and Water Conservation Fund Act or the Maryland Outdoor Recreation Land Loan Act (POS).
- Provide the location of any planned park and/or recreational lands within or near the study area.

Follow-up correspondence on July 18, 2017, resulted in a response from BCRP Department on July 28, 2017. In addition to the public parks and recreational facilities identified in Section 4.2, they identified Carroll Park and Maisel Street Park within 500 feet of the Recommended Preferred Alternative Alignment. These nearby parks would not be impacted by the Recommended Preferred Alternative; therefore, they are not discussed in further detail in this Section 4(f) evaluation.

## **I-95 Access Improvements from Caton Avenue to the Fort McHenry Tunnel Environmental Assessment**

Coordination with BCRP is ongoing. Future communications include a letter to seek agreement in the determination of a net benefit to Swann Park and concurrence on the determination of *de minimis* for the Gwynns Falls Trail.