Intercounty Connector Mandatory Referral No. 06809-SHA-1 Status Report #10

Prepared 10/5/07 for discussion at the 10/11/07 roundtable

This memorandum is ICC Status Report #10 to the Planning Board under condition #16 of the ICC mandatory referral. This status report consists of three sections:

- The current status of Contract A, highlighting revisions to the RFP Plans that are currently in process,
- The status of the two technical items staff is coordinating with SHA prior to scheduling a public hearing on the transfer of remaining parkland to SHA, and,
- · Other news and events.

Section 1. Review of Activities Associated with Contract A

The Intercounty Constructors (IC) is the design-build contractor for Contract A (from I-370 to Georgia Avenue). IC has proposed several revisions to the RFP Plans reviewed as part of the mandatory referral in July 2006. To an extent, these revisions are an expected part of the design-build process and reflect the intent of the process to generate innovative technical concepts.

If a proposed revision meets all of the commitments contained in the Record of Decision (ROD) and permit conditions, it can be approved within the process described in the IC contract with SHA. If a revision does not meet all of the ROD commitments or permit conditions, the FHWA must approve and document the change. Examples of such ROD refinements include the limits of disturbance (LOD) changes supported by Planning Board actions of September 2006 (Station 174 and Station 324) and September 2007 (Lower Oak Springs Stormwater Management Pond) and the relocation of the Western Maintenance Facility from Casey 7 to Casey 6. If there are additional changes desired by any party that substantially (more than 0.25 acres or moving closer to and within 50' of an adjacent private property) affects the LOD adjacent to parkland, these decisions will be brought to the Planning Board.

We are becoming more fully engaged with the IC team via our participation in the Environmental Management Team. As the design build process continues, we will be asked to review a wide range of design and construction-related plans and documents, typically with a one-week review time. These documents will include elements that we have already expressed interest in, such as landscaping and fencing, as well as elements that we do not typically comment on as part of mandatory referral, such as pavement design or maintenance of traffic. To manage the information flow, we must retain our focus on three areas, in order of priority:

- Protecting the resources in parklands adjacent to ICC construction and the Upper Rock Creek and Upper Paint Branch Special Protection Areas (SPA)
- Evaluating impacts of any proposed design or construction changes that would require a ROD refinement or contractual modification, and
- Considering opportunities to influence those design elements that the Planning Board included in their July 2006 mandatory referral correspondence.

As Chairman Hanson indicated in his September 7 letter to the County Council on budget priorities, the ICC implementation process will require additional staff efforts. At this time, we are managing this effort in part by slowing the review process on the park property stewardship elements such as the Llewellyn Property playing fields and Lake Frank Trail projects. Since those projects are as important to us as the roadway design details, we look forward to support from the County Council in supporting our staffing request.

Metro Access Roadway Interchange

The RFP Plan for the Metro Access Roadway interchange includes a three-level interchange, with one ramp going "below grade" beneath the ICC/I-370 mainline and another ramp in a flyover configuration above the ICC/I-370 mainline. This configuration replaced the "trumpet" style loop ramp configuration that was envisioned in the 1997 Draft EIS. It improved traffic operations and, by going vertical, maximized the amount of developable property on the adjacent Piedmont Crossing site to the northwest.

IC has developed a loop ramp concept that reduces the visual impacts of the RFP plan concept and reduces impacts to wetlands and streams. In this new concept, the ramping configuration on the south side of the ICC has been revised to address the traffic operations concerns that led to the three-level interchange. To minimize impacts on wetlands and adjacent communities, the proposed revision would extend farther north, and require different property from Piedmont Crossing than originally proposed. Staff believes this technical concept has merit, but we have two concerns:

- First, it is not yet clear to what extent Amity Drive Extended, a master planned primary residential roadway needed for Metrorail station connectivity, would be affected by the proposed interchange.
- Second, staff is now developing a conceptual plan to use a portion of the Piedmont Crossing site for a local park with at least one playing field (and preferably two), and these concept plans may conflict with the interchange.

The Piedmont Crossing preliminary plan was approved in December, 2004, with two approved alignments for Amity Drive Extended. The northern alignment was proposed to accommodate residential development on either side of it. A southern alignment, roughly 200' to the south of the northern alignment, was developed (and approved) to fit an elementary school site on the Piedmont Crossing property between Amity Drive and

the "Washington Grove meadow", a property subsequently dedicated to M-NCPPC as a Legacy Open Space heritage resource.

In February, 2007, the Montgomery County Board of Education indicated that they did not intend to acquire the Piedmont Crossing property for a school site. Staff is now pursuing the concept of using the school site (including the southern Amity Drive alignment) as a local park; recognizing that the Piedmont Crossing property, if not used as a school site, provides a better park location than the portion of Casey 6 identified in the Sector Plan. The Sector Plan indicates that the Casey 6 site should accommodate at least one playing field, but the large environmental buffer on that site may make development of even one playing field problematic. The Piedmont Crossing property is a much better park site as it might accommodate two fields, is closer to residential development, and is nearly surrounded by existing and proposed parkland. If and when the Piedmont Crossing property can be successfully established as a park site, then the future park reservation recommended for the Casey 6 property could be released and the property developed as a commercial site.

In summary, the changes proposed by both M-NCPPC staff and IC could result in what would be seen as a net benefit to the adjacent communities by both depressing the I-370 / ICC interchange below grade and developing Piedmont Crossing as a park with playing field(s), as opposed to a residential development, and the potential for additional ICC-related reforestation to improve the Washington Grove meadow buffer. The degree to which different parks, interchange, and reforestation concepts can all fit on the property, however, is not yet certain.

The next steps in the decision making process include examination of the potential to preserve the southern Amity Drive Extended alignment (preferred by staff) or the northern alignment and the development of park concept plans. Staff suggests that our priorities are to:

- Connect Amity Drive Extended,
- Facilitate the relocation of the ICC/I-370 interchange flyover to a below-grade ramp,
- Facilitate the development of the remainder of the Piedmont Crossing property as a park, preferably with two playing fields, or at least one large rectangular playing field, and
- Seek additional reforestation and buffering opportunities for the Washington Grove meadow.

We will be working with SHA on means to achieve these priorities.

Station 174 Bottomless Arch Culvert

Station 174 is located in the Mill Creek Stream Valley. The RFP Plans call for two 12' x 12' culverts at this location; one to carry a tributary for Mill Creek beneath the ICC and a second, lighted, culvert to provide both pedestrian, small mammal, and amphibian

passage and to serve as a flood relief culvert. IC has proposed to replace both culverts with a single, lighted, bottomless arch culvert approximately 42 feet wide at its base with a ceiling height of approximately 15 feet. Staff is currently reviewing this proposal to assure that the amphibian passage, springs, and wetlands are adequately protected.

Winchester Property at Woodlawn

As described in Status Report #9, SHA has acquired the entire Winchester Property (the site of the Woodlawn Preliminary Plan). Some of this property adjacent to Rock Creek Stream Valley Park was identified as parkland dedication in the Planning Board's preliminary plan approval. A meadow between the ICC alignment and the current northern boundary of Rock Creek SVP would be an opportune location for three independent uses:

- ICC construction staging in the short term
- Deposit site for material to be dredged from Lake Needwood in the mid term
- Reforestation in the long term

We are pursuing the degree to which either timeframes or physical boundaries can be established to accommodate all three uses on this site.

Georgia Avenue interchange

There are two revisions conceived in the vicinity of the Georgia Avenue interchange. First, IC proposes to raise the vertical profile of the ICC slightly as it passes beneath Georgia Avenue, up to a maximum of eight feet (three feet more than the variance allowed by the contract performance specifications). This revision will facilitate drainage of the ICC and reduce the amount of impact on a small tributary in the interchange's southeast quadrant. While the change would raise the Georgia Avenue bridge elevation about eight feet as well, it would result in a smoother vertical curve along Georgia Avenue. The current alignment of Georgia Avenue includes a level section between two grades and the revised plan would result in a continuous, but flatter, vertical grade. This change would not affect the alignment of any of the ramp termini or grading. Staff supports this revision.

A second revision is being considered at the intersection of Georgia Avenue (MD 97) and Norbeck Road (MD 28). The Planning Board supported the state's proposed grade separated interchange at this location in 2003 and the interchange was formally added to the Olney Master Plan in 2005. SHA is committed to improvements along MD 28 that might go farther toward facilitating the ultimate master planned interchange and the master planned widening of Norbeck Road to four lanes east of Georgia Avenue. SHA has indicated in their draft FY 09-14 Consolidated Transportation Program to implement these intersection improvements commensurate with the opening of the Contract A segment of the ICC. Staff will follow the intersection improvement project on a separate track from the ICC and schedule an independent mandatory referral review when plans are ready.

Section 2. Technical Items for Resolution Prior to Future Public Hearings

SHA is interested in completing the transfer of property required for Contracts B and C in November. There are two technical elements for which agreements need to be reached prior to that transfer:

- Development of a detailed process for expediting the staff review and public hearing on Special Protection Area water quality proposals, and
- Development of specifications for reforestation on existing and future park properties.

Special Protection Area Water Quality Proposals

As described in the July 2006 mandatory referral review, the ICC design-build process warrants a customized review of water quality proposals in the Upper Rock Creek and Upper Paint Branch Special Protection Areas (SPA). On this project, the Maryland Department of the Environment (MDE) is responsible for approving stormwater management plans and the ICC ROD contains several commitments regarding the type and extent of stormwater management required in SPAs.

Staff presented the conceptual framework for the SPA environmental review and public hearing process as part of Status Report #5 in February 2007. We have begun coordinating with IC to determine how this review and public hearing can best be scheduled to reflect the latest available concept plans while providing timely Planning Board comments, incorporating public testimony, to MDE. We are discussing how to merge the County's requirements for minimizing impacts as established in our laws, regulations, and guidelines, with both our over-the-shoulder review process and the SPA public hearing process.

We have experienced some difficulty in bringing these discussions to closure with SHA, particularly regarding the availability and suitability of data reflecting County requirements, as compared to the state and federal requirements that the water quality permitting decisions will be based upon. We anticipate bringing this issue to closure for the next status report in early November. Based on the tentative schedule from IC, we expect to hold the SPA water quality proposal public hearing in December. This schedule should be confirmed during the month of October.

Reforestation on Existing and Future Parkland

Staff is coordinating with SHA on specifications for reforestation material types, planting densities, and maintenance/warranty considerations, including deer protection strategies. Reforestation opportunities within the ICC mainline are guided by the performance specifications reviewed at time of mandatory referral. There are three different additional types of reforestation, as indicated below:

- On temporary construction easements (TCE) these specifications were established during the Contract A parkland transfer discussions in March 2007.
- On active parkland, such as where reforestation may occur associated with an Environmental Stewardship project – this process is established through a 2006 agreement with SHA similar to our PDCO process.
- On property that will be transferred to M-NCPPC as replacement parkland, such as the Casey at Hoyles Mill and Peach Orchard/Allnut properties. On these properties, where long term forest succession in a conservation mode is paramount, the planting types, densities, and maintenance may not be the same as adjacent to communities where a more immediate landscaping benefit is valued. Details regarding warranty and maintenance information will also influence the dates at which these reforested properties can and should be transferred to the Commission as replacement properties free and clear of additional mitigation requirements.

Section 3. Other News and Events

The following activities have occurred since Status Report #9 in September.

County Council Briefing

Chairman Hanson and staff participated with SHA in a September 28 briefing to the County Council regarding the State's plan to mitigate environmental impacts of the ICC.

Box Turtle Relocation

Construction for Contract A is anticipated to begin during winter months, which has meant an adjustment to the proposed plan to relocate eastern box turtles from the roadway right-of-way. Working with local volunteers, SHA and IC team are searching areas that are known habitats for the box turtles before the turtles dig into the ground for winter hibernation. This activity began the last week of September. The team is tagging each turtle with a transponder and releasing them where they were found. Before construction starts, SHA's contractor, Intercounty Constructors, will retrieve the turtles and move them to another hibernation site away from construction activity.

Health Effects of Residences Located Proximate to Freeways

On two occasions, the County Council has expressed concern that the ICC will introduce adverse localized air quality effects, citing medical journal studies identifying a link between residential proximity to a freeway and impaired lung function. In spring 2007, the Council requested information regarding the number of residences within 0.5 KM or 1.5 KM of the ICC. Per the correspondence in Attachment One, staff has completed this analysis, as summarized in Table 1.

Table 1. Number of Dwelling Units (DU) Located Proximate to County Freeways

Freeway	Length (Miles)	Number of DU within 0.5 KM	Number of DU within 1.5 KM
I-370/ICC	16	12,000	29,000
I-270	24	39,000	50,000
I-495	14	11,000	36,000

As indicated in Table 1, the density of residential development near the ICC is generally about the same or a little lower than that near the other freeways in the County. The correlation between residence/freeway proximity and health effects requires further study. Staff proposes to consider this further during our review of sustainability measures in FY 08. In the meantime, however, we will continue to implement master plan recommendations regarding both careful introduction of the ICC into the communities through which it has been planned, as well as the careful development of residential properties adjacent to existing freeways, such as recommended in the Shady Grove Sector Plan.

Compensatory Mitigation and Environmental Stewardship (CM/ES) Activities

Staff provided the Planning Board with an update on the ICC-related activities affecting the park CIP on October 4.

Staff is participating in the State's mandatory referral development process for six best-management-practice sites in the Upper Paint Branch SPA (sites PB 122-129). The state is planning a community meeting tentatively scheduled for October 25. The mandatory referral for these projects will likely be scheduled in December.

Schedule and Next Steps

Attachment Two summarizes the Planning Board's ICC briefing schedule since 2003.



OFFICE OF THE CHAIRMAN

February 7, 2007

The Honorable Marilyn Praisner
The Honorable Philip Andrews
The Honorable Duchy Trachtenberg
The Honorable Mark Elrich
Montgomery County Council
Rockville, Maryland 20850

Dear Council Members:

In your letter of February 1, 2007, you requested certain information about the numbers of residents living within 500 meters of the ICC, and requested that the Planning Board not transfer any additional land required for the ICC right-of-way until such time as the implications of a research article published in the *Lancet* can be discussed with the Council.

Before the Board agrees to postpone any decisions regarding the transfer of land to the State for the ICC project until the implications of the Lancet article can be analyzed and discussed with the Council, we request clear direction from the Council and Executive. Such action would involve a significant change in county policy from decisions reached by the Planning Board and the County Council in 2005 and 2006 regarding the Intercounty Connector.

As you know, the Board tabled some land transfers until it can be satisfied that every effort has been made to ensure proper water quality measures are taken in the Special Protection Areas of Upper Rock Creek and Paint Branch, and to place the ICC's western maintenance facility on Casey 6 instead of Casey 7 to implement better the Shady Grove Master Plan. Both issues were raised in the mandatory referral process. The agencies and builder involved have been engaged in intensive discussions to resolve both issues, which should soon enable the Board to remove the motion to transfer the land from the table, perhaps as early as this week.

The implications of the Lancet article and many other studies of the effects of exposure to air pollutants for residents living near highly trafficked roadways is of considerable interest as we develop the new growth policy for the county and a Master Plan for the Environment and Energy, as well as future area master plans. The Lancet study's prediction model diagrammed in the study figure indicates that the 3% predicted reduction in forced expiratory volume (FEV₁) for children living within 500 meters of a freeway is nearly identical to that of children living within 500 to 1,000 meters of a freeway, as well as those

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living within 1,000 to 1,500 meters of a freeway. These results indeed require further investigation. Adverse health consequences are also associated with the location of schools near busy highways, as pointed out by one of the commentators on the article; a point you made in your letter. There are several other public health issues associated with development patterns. Prominent among them is the issue of obesity. All of these issues involve trade-offs with other objectives that are best addressed in a broad growth policy or master plan context.

With regard to air quality issues related to the ICC, the microscale air quality analysis conducted in 2004 for the Intercounty Connector environmental impact statement predicted that localized carbon monoxide concentrations would increase at residential receptors along the highway, but not to levels that would exceed the State and National Ambient Air Quality Standards (S/NAAQS), the operating standards for such decisions.

We will develop the information you have requested on the numbers of residential units within both 0.5 and 1.5 kilometers on either side of our entire master planned network of freeways and controlled access highways in the county. The most efficient way to produce this information will be to prepare it in conjunction with the new county growth policy recommendations. This will avoid need for an adjustment in the work program, slowing production of the growth policy. As soon as the data are produced, we will transmit them to you and be prepared to discuss their implications in the work sessions on growth policy.

I note that you plan to ask the Health Department for comment. It might be useful for the Director to inquire whether the National Institute of Environmental Health might be persuaded to fund a county project through an appropriate research institution. We would be interested in receiving a copy of any comments from the Health Department.

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Royce Hanson Chairman

ATTACHMENT TWO

Intercounty Connector Planning Board Briefing Schedule

As of October 5, 2007

PART I. ICC STUDY

Prior SHA Activities

- Scoping Public Open Houses June 2003
- Alternatives Public Workshops November 13, 15, and 19, 2003

County Council Activities

Comment on ARDS per November Public Workshops - December 1, 2003

Study Briefing # 1 - January 22, 2004 (2.0 hours-no public testimony) - COMPLETED

Topics:

- · Review ICC Study Background and Schedule
- Review Draft Alternates Retained for Detailed Study (ARDS)
- Review County Council Comments on ARDS
- Review 1989 Memorandum of Understanding (MOU) with SHA re: parkland impacts
- · Review M-NCPPC staff involvement in SHA study

Interim SHA Activities

ARDS selection - February 2004

"Property Owner" topics	"Planning / Zoning Authority" topics	
 Staff proposal defining how "equal quality" parkland will be assessed per MOU (Hench) Means by which park owner statements can influence Section 4(f) impacts analysis (SHA) 	Review proposed briefing schedule (Valladares) Confirmation that Planning Board process dovetails with SHA process (SHA) Update on selected ARDS package (SHA), response to Council / Board comments	

Interim SHA Activities

- Draft Environmental Stewardship materials March 2004
- Expert Land Use Panel Analysis Findings June 2004
- Draft Travel Demand Analysis materials April 2004
- · Draft Cultural Resources Effects materials May 2004
- Preliminary Draft Socioeconomic and Land Use Technical Report 10 May 2004.
- · Preliminary Draft Noise Quality Technical Report 10 May 2004.
- Draft Section 4(f) Evaluation materials May 2004

Study Briefing #3 - June 3, 2004 (2 hours	- no public testimony) - COMPLETED
"Property Owner" topics	"Planning / Zoning Authority" topics
 Review of SHA Draft Section 4(f) Impacts report Staff proposal for candidate replacement parklands that would satisfy MOU (Hench) Staff proposal for Section 4(f) impacts analysis 	Review proposed briefing schedule (Valladares) Review SHA's interim draft technical report findings Review Environmental Stewardship process and findings Staff proposal for policy guidance on balancing natural / cultural / community resource protection and enhancement

Interim SHA Activities

- Public Informational Update Meetings June 2004
- Draft Natural Environmental Technical Report June 2004
- Draft Air Quality Technical Report June 2004

"Property Owner" topics	"Planning / Zoning Authority" topics
Planning Board comment to SHA on staff proposals for MOU and candidate replacement parkland	Review proposed briefing schedule (Valladares) Planning Board comment to SHA on staff proposals for policy guidance on balancing natural / cultural / community resource protection and enhancement Review SHA's interim technical report findings Review Environmental Stewardship process and findings

Interim SHA Activities

- DEIS Publication November 22, 2004
- Joint Location, Design and Corps of Engineers Section 404 Public Hearings -January 4, 5 & 8, 2005

"Property Owner" topics	"Planning / Zoning Authority" topics
 Review draft 4(f) findings Staff proposal on parkland mitigation concepts for inclusion in FEIS (both Corridor 1 and Corridor 2) Park staffing impacts FY 05 & 06 Operating and CIP Budget/Work Program impacts 	 Review DEIS summary of findings Air Quality Conformity/COG Review SHA Public Hearings Present menu of options for Preferred Alternative Planning Board comment on additional supplementary information requested of staff for Briefing #6. Review proposed briefing schedule

Interim SHA Activities

Joint Location & Design / Section 404 Public Hearing - January 29, 2005

Study Briefing # 6 – February 3, 2005 (4.5 hours) – COMPLETED Include Public Testimony on Staff Preferred Alternative Recommendations		
"Property Owner" topics "Planning / Zoning Authority"		
As necessary	 Planning Board recommendations on Preferred Alternative. Review proposed briefing schedule 	

Interim Activities

- Conceptual Mitigation Package to IAWG March 2005
- Preliminary FEIS preparation May 2005
- Identification of State Preferred Alternative July 11, 2005

Include Public Testimony on Parkland Mitigation Package		
"Property Owner" topics	"Planning / Zoning Authority" topics	
 Planning Board comments to SHA on staff proposals for parkland mitigation and compensation concepts for SHA/MdTA Preferred Alternative. 	Review proposed briefing schedule	

Parkland Replacement	
"Property Owner" topics	"Planning / Zoning Authority" topics
Recommendations on appropriate Parkland Replacement Mitigation.	Review proposed briefing schedule

Interim Activities

- FEIS Publication January 3, 2006
- FHWA Record of Decision May 29, 2006
- COE issues 404(C) permit June 13, 2006
- MDE issues non-tidal wetlands, waterway construction and 401 permits June 23, 2006

PART II. ICC PROJECT

MCPB Resolution 06-61- July 6, 2006 – COMPLETED Include Public Testimony on ALARF Property Transfer Fourteen ALARF parcels needed in their entirety for the ICC

ICC Project Mandatory Referral - July 13, 2006 - COMPLETED MR 06809-SHA-1 - Public Testimony

ICC Project Mandatory Referral-July 20, 2006 - COMPLETED Mandatory Referral MR 06809-SHA-1 - Discussion

- Staff recommendations summarized in 15 summary comments, with 77 comments in Attachment B
- Planning Board added 16th condition to continue monthly status report briefings

Status Report # 1-September 21, 2006 - COMPLETED

Most elements of briefing deferred from September 14, 2006 roundtable

Project Briefing # 1-September 28, 2006 - COMPLETED
Include Public Testimony on Revising Limits of Disturbance at Station 174 and
Station 324

Interim Activities

 SHA response to Planning Board's mandatory referral MR 06809-SHA-1 correspondence

Status Report # 2-October 26, 2006 - COMPLETED

Interim Activities

SHA completes final Contract A RFP Addendum

MCPB Resolution – December 7, 2006 - TABLED
Include Public Testimony on ALARF Property Transfer
Remaining portions of ALARF parcels needed for the ICC

Status Report #3 – December 7, 2006 - COMPLETED

SHA response to mandatory referral conditions

Status Report #4 – February 1, 2007 - COMPLETED
Presentation of Special Protection Area (SPA) water quality commitments

Status Report #5 - February 8, 2007 - COMPLETED

Discussion of technical items from tabled December 7, 2006 session

MCPB Resolution – February 15, 2007 - COMPLETED Resumption of tabled 12/7/06 agenda item
Remaining portions of ALARF parcels needed for the ICC

Status Report #6 - March 8, 2007 - COMPLETED
Parkland property transfer schedule, EMT staffing, and CM/ES project status

MCPB Resolution – March 8, 2007 - COMPLETED
Include Public Testimony on Park Property Transfer
Transfer of parkland from M-NCPPC to SHA for Contract A

Status Report #7 – May 10, 2007 - COMPLETED

Trolley Museum and Llewellyn Property park development update

Status Report #8 – July 12, 2007 - COMPLETED
Status of mainline contracts and mandatory referral action items

Project Briefing # 2 and Status Report # 9 - September 6, 2007 - COMPLETED Include Public Testimony on Revising Limits of Disturbance at Oak Springs Pond

Status Report #10 – October 11, 2007 Contract A proposed revisions to RFP plans

Status Report #11 – October 25, 2007
Status of mainline contracts and mandatory referral action items

MCPB Resolution – November, 2007
Include Public Testimony on Park Property Transfer
Transfer of parkland from M-NCPPC to SHA for Contracts B and C
Includes schedule for replacement property transfers from SHA to M-NCPPC

Upper Rock Creek SPA Water Quality Proposal – December, 2007 Include Public Testimony

Continuing status reports as warranted by events or associated with related Planning Board actions

PART III. ICC MITIGATION/STEWARDSHIP PROJECTS

Project NW-128 - July 13, 2006 - COMPLETED Mandatory Referral MR 06903-SHA-1 on wetlands creation site

Future mandatory referral reviews to be scheduled beginning in late 2007.