



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**Intercounty Connector
Mandatory Referral No. 06809-SHA-1
Status Report #13**

Prepared 2/28/08 for discussion at the 2/28/08 roundtable

In each of the last three status reports (#9, #10, and #11), we have identified two areas where closure is needed prior to a staff recommendation to transfer the remaining park property to SHA:

- 1) Reforestation requirements for park property
- 2) Development of a public review process for environmental impacts within Special Protection Areas, and

The focus of this status report is to provide closure for the Planning Board on the areas of discussion on which we believe concurrence has been achieved. Our public hearing regarding the transfer of remaining parkland property to SHA is scheduled for March 6.

Both elements above were addressed in the February 21 public hearing on the environmental impacts within the Upper Rock Creek Special Protection Area and are summarized below.

In addition, we have asked SHA for their commitment to pursue the recommendations of the joint interagency task force on non-native species control described as a third discussion topic below.

1. Reforestation requirements for park property

We have agreed with SHA on the key elements for reforestation on M-NCPPC property. These elements retain the five-year monitoring period in SPAs that we discussed in Status Report #11. This proposal would apply both to reforestation on existing parkland as well as on SHA property that will become park property in the future as described in the ICC Record of Decision.

As directed by Chairman Hanson on February 21, we will work with SHA on both the invasives species management and the details of the Lake Frank Trail environmental stewardship project so that the five-year maintenance period can be retained without the removal of a stewardship project.

2. Special Protection Area Review

There are two elements of our follow-up coordination from the February 21 public hearing on the Upper Rock Creek Special Protection Area review.

- A. The Chairman's correspondence to MDE and DNR should highlight the Planning Board's areas of greatest interest. Attachment A contains our draft Chairman's correspondence for review by the Planning Board. It also clarifies staff comments regarding the bridge length at the North Branch tributary (Station 327).
- B. During the Planning Board's roundtable discussion, SHA will provide a response to each of the twelve points in the February 21 public hearing staff memo as contained in Attachment B.

3. Non-Native Invasives Species Control on Parkland Adjacent to the ICC

During status report #12 we reviewed our coordination relating to invasive species control along the ICC roadway where it creates a new forest edge adjacent to park property. This issue was discussed as Condition #8 of the July 2006 mandatory referral review. SHA is required to control invasive species within their right-of-way, but not on adjacent park property. Both M-NCPPC and SHA have indicated a desire to consider some level of partnership in addressing invasive species outside of the roadway right-of-way. The area where further research is needed is in the long-term value of either broadly applied (our July 2006 comment recommended a linear swath of treatment for all park property adjacent) or narrowly targeted control approaches for invasive species.

We have agreed that we would set up a task force to include MDE, DNR, DEP, County Council staff, the state Department of Agriculture, and the academic community to help define an appropriate invasive control strategy that would be supportable by both the County Council and the State of Maryland. We expect that findings from this task force would be available during autumn 2008. We are interested in ensuring SHA's commitment to implementing the recommendations of this task force.

Attachment A

**Environmental Review of the Intercounty Connector Segment
Within and Draining to the Upper Rock Creek Special Protection Area**

Draft Chairman's Correspondence to MDE/DNR

Mr. James Tracy, Chief,
Federal and State Review
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, Maryland 21230

Ms. Marian Honeczy, State Forest Conservation Program Coordinator
Maryland Department of Natural Resources
Maryland Forest Service
580 Taylor Avenue, E-1
Annapolis, Maryland 21401

Dear Mr. Tracy and Ms. Honeczy:

On Thursday, February 21, 2008, the Montgomery County Planning Board held a public hearing to consider proposed environmental protection measures for the Intercounty Connector (ICC) segment which passes through the Upper Rock Creek Special Protection Area and its contributing watershed.

After careful consideration, the Board voted unanimously (3-0) to endorse the findings and recommendations of the attached staff report dated February 12, 2008, and to forward them to your agency for consideration in permit review for the ICC.

In discussion, the Board focused on several specific recommendations. In regard to reforestation, the M-NCPPC Department of Parks will identify as quickly as possible additional opportunities for reforestation on parkland. SHA would then commit to plant the additional acreage made available, with a goal of achieving one for one forest replacement, or a total of 87.5 acres of reforestation, within the Upper Rock Creek SPA

watershed. This commitment is consistent with priorities in both state and local forest conservation law, and Special Protection Area guidelines.

In reviewing the reforestation proposal, Attachment B, the Planning Board expressed a strong desire for SHA agreement on the elements of the proposal that would not require reductions in any stewardship projects.

Further, the staff report points to a need for increased coordination on SWM early and often in the design process. This should be continued as soon as possible for the Upper Rock Creek SPA, and early in the stormwater design process for the Upper Paint Branch SPA, to better integrate local SPA design criteria into water quality, recharge, and channel protection measures. The coordination should be direct among SHA, its Design/Builder, the Maryland Department of the Environment (MDE), and the Montgomery County Department of Permitting Services (DPS).

Finally, the Board had extensive discussion regarding the staff recommendation to consider a longer span for Bridge #21 over the tributary of North Branch to protect an additional 0.5 acre of wetland, avoid a sewer re-alignment close to the stream, and minimize loss of a natural stream meander. If reviewed today as a new project in the Upper Rock Creek SPA, a different design spanning the full wetland would be recommended. However, given the history of prior approval of this bridge crossing, the Board supports a collaborative effort between SHA/ IC and appropriate local and MDE staff to further explore bridge design options which would result in value-added protection to the wetland resource.

If you have further questions in regard to these recommendations, please contact Candy Bunnag in M-NCPPC –Environmental Planning at 301/495-4543. If there are questions regarding the findings or recommendations related to stormwater management, or sediment and erosion control, please contact Mark Etheridge, Montgomery County DPS at 240/777-6338.

Sincerely,
Royce Hanson,
Chairman, PB

Cc: Neil Pedersen, SHA Administrator
Melinda Peters, Director, Office of the ICC
Robert Shreeve, SHA
Dan O'Leary, SHA

Mark Etheridge, DPS
Keith Van Ness, DEP

Bcc: Dan Hardy
Jorge A. Valladares

Attachment B

Environmental Review of the Intercounty Connector Segment Within and Draining to the Upper Rock Creek Special Protection Area

Comments #1 through #12 from Staff Memorandum for 2/21/08 Hearing

Overall SPA Comments

1. Staff supports the inclusion of mitigation and stewardship projects within the larger watershed draining to the Upper Rock Creek SPA. These projects include water quality treatment in existing subdivisions with older stormwater management controls and stream restoration within the watershed draining to the SPA. The projects lie within the watershed east of North Branch of Upper Rock Creek to just west of Georgia Avenue draining to the SPA. Staff supports this inclusion of the larger SPA watershed, as it provides further opportunities that directly benefit SPA waters, consistent with ROD Commitment #116.

Stormwater Management/Sediment and Erosion Control

2. Input from DPS with respect to the adequacy of both SPA stormwater management and sediment and erosion control should occur during the design stage, through direct coordination and discussion with MDE and SHA.
3. DPS has noted that the project does not meet minimum SPA water quality requirements and is not in accord with the previously proposed stormwater concept. SHA should set up a meeting that includes MDE and County DPS to address the technical comments identified in DPS letter dated February 12th, 2008 (Attachment A) prior to MDE final approval of stormwater management plans.
4. All outfalls from stormwater management facilities should be designed to ensure non-erosive conditions inside and outside the limits of disturbance (LOD) and/or ICC right-of-way. This may require field adjustments to meet field conditions. A process providing for minor revisions to the impacts authorized by the MDE permit should be established to allow such beneficial adjustments to prevent erosive conditions downstream.
5. Design the bike path with porous asphalt or comparable semi-porous materials.

SPA Environmental Buffers

6. All plans should identify the County's SPA environmental and wetland buffers as sensitive areas, with notes recommending avoidance and minimization measures. This

approach is consistent with the intent of ROD Commitments #91, #92, and #100, and the SPA process, to avoid or minimize adverse impacts to environmentally-sensitive areas. Where disturbance is unavoidable, the use of best management practices for working in “nontidal wetlands, the nontidal wetland buffer, waters of the State, and 100-year floodplain” should also be applied to all County environmental buffers in the SPA in the same manner as would be applied to buffers and sensitive resources defined by state and federal authorities.

7. Staff has pursued lengthening the proposed bridge (Bridge #21) over the tributary of North Branch to avoid filling the wetland. However, the Federal and State permits and Table IV-68 in the Final Environmental Impact Statement set the designed bridge length as sufficient to protect the resource. If SPA requirements were fully applied, the bridge should be lengthened to avoid filling of 0.5 acre of a 1.1-acre forested wetland in the North Branch stream valley, consistent with the intent of Commitments #20 and #54 in the ROD.

8. Clearing and grading activities within the ROW, including grubbing the ROW, installing perimeter sediment and erosion control measures, and installation of the haul road, should not occur between April and August, in order to meet the intent of ROD Commitment #93 to avoid impact to interior forest habitat during specific times of the year: “Impacts to interior forest habitat and their buffers should be avoided during construction, when possible, from April to August, which is the breeding season for most forest interior dwelling species (FIDS).”

Reforestation

9. Staff recommends that SHA use Attachment B to guide reforestation activities on M-NCPPC parkland, on land to be conveyed to M-NCPPC, and on any properties within or draining to the SPA, consistent with the intent of Commitment #158.

10. Continued coordination shall occur with the MNCPPC Department of Parks to examine additional opportunities for reforestation in the Upper Rock Creek SPA watershed to achieve a total of 87.5 acres of reforestation (47.5 acres more than currently proposed).

11. Reforestation areas shall be planted at the earliest possible opportunity, consistent with the SPA objectives in the Planning Board’s Environmental Guidelines. Accelerated reforestation is consistent with SHA commitments for stewardship projects to provide mitigation during or before impacts occur, rather than after completion of the project.

Water Quality Monitoring

12. Revise the water quality monitoring program to specifically address how each Performance Goal will be measured and analyzed, as recommended in Montgomery County Department of Environmental Protection’s correspondence dated February 11, 2008 (Attachment C).