



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

**Intercounty Connector**  
**Mandatory Referral No. 06809-SHA-1**  
**Status Report #15**

**Prepared 7/22/08 for the 7/24/08 Roundtable Discussion**

This memorandum provides an update on notable activities that have occurred since Status Report #14 on May 21, including:

- Our Ecological Project Monitor position status
- Conservation easements
- Vernal pool construction
- Contract A interim terminus modification at Georgia Avenue
- Contract C ramp redesign at US 29
- Park property replacement schedules

**Ecological Project Monitor Update**

Our 1989 MOU with SHA includes a provision for the state to provide an Ecological Project Monitor during the ICC construction process to monitor park resources. Kyle Spendiff, who served in this role during the past year, has resigned from the position and SHA is currently recruiting for Kyle's replacement.

In the interim, SHA is providing some additional file transfer support services, although the interim arrangement has caused us some delays. We are therefore pursuing a more efficient means for file transfer protocols so that our two contract employees, Andrea Stone (planning) and Steven Reid (parks) will have direct electronic access to the State's file management system in the near future. This access will provide useful redundancy even after the Ecological Project Monitor position is filled.

**Conservation Easements**

We are coordinating with SHA regarding the status of conservation easements on properties affected by ICC construction. Conservation easements may be required by the Planning Board as a condition of development approval and are recorded in Montgomery County land records. Most of the easements that may be affected by the ICC project were created to meet County Forest Conservation Law requirements. Some were created prior to the passage of the law to protect environmentally sensitive areas, such as stream buffers.

Generally, our coordination is in preparation for potential changes to the ICC Limits of Disturbance that a design-builder may propose that may affect a conservation easement. Since the current ICC planning began in 2003, MNCPPC and SHA staff has coordinated on the review of newly created conservation easements so that known conflicts were avoided. In some cases, however, changes are now needed to reconcile the prior ICC

planning decisions with prior easement recordation. SHA and M-NCPPC staffs are researching the status of approximately five acres of conservation easement areas that may still be affected by the ICC project.

For example, on the portion of the Cross Creek Club subdivision north of the ICC (adjacent to the Prince George's County line), the ICC plans propose the location of two SWM facilities within an easement area that was created with the subdivision approval. This conservation easement was recorded in the land records prior to the acquisition of the land by SHA, although the building lots approved by the subdivision were never recorded. While the value of the natural resources in this conservation easement was identified and commented on during the early ICC planning process, the easement itself was not.

Staff is working with SHA to pinpoint other conservation easement areas where the ICC will be proposing land disturbance activities. Once the specific areas of conflict have been confirmed, staff will present these areas to the Planning Board for its information and input on how staff should proceed in the review of these conflict areas.

The ideal situation would be for SHA to avoid or minimize conflicts with easements. However, SHA has indicated that changes to avoid conflicts with these easement areas most likely cannot occur. If permanent disturbance of a part or entirety of a conservation easement area is unavoidable, then SHA would have to extinguish part or all of the affected easement area and provide appropriate mitigation. For each conservation easement area that is proposed for revision, if the revision is at least 5,000 square feet, the action will be brought to the Planning Board as an independent agenda item. If SHA proposes changes to a conservation easement that are less than 5,000 square feet, the Forest Conservation Regulations allow for the Planning Director or the Director's designee (i.e., Planning Department staff) to process these proposed changes; for these types of changes, staff can process them administratively, although staff may still refer the final decision to the Planning Board.

### **Vernal Pool Construction**

The ICC ROD states that SHA will consider the construction of replacement vernal (or seasonal) pools, including the potential for locations outside of the Limits of Disturbance (LOD). The locations initially proposed by the design-builder for vernal pool construction in Contract A were not suitable to maintain viable amphibian populations. Staff presented our concerns to the Interagency Working Group (IAWG) and outlined the primary conditions needed for successful breeding and survival.

We have agreed with SHA on two alternative methods for vernal pool construction.

1. SHA will construct vernal pools in association with Environmental Stewardship (ES) projects where such projects provide appropriate opportunity.

2. For stream valleys where appropriate ES projects are not available, SHA has agreed to fund the construction of vernal pools by the Parks Department. We will need to enter into an agreement for reimbursement of all expenses.

We are working to both identify candidate vernal pool sites for each stream valley and to develop the reimbursement agreement described above.

### **Contract A Eastern Terminus Modification**

Contract A, from I-370 to Georgia Avenue (MD 97) will be the first section of the ICC completed, open to traffic in 2011, about a year before Contract B (east of Georgia Avenue) is open. Since the completion of the planning phase of the study, SHA has been responding to concerns that there may be temporary adverse traffic impacts at the intersection with Georgia Avenue and Norbeck Road (MD 28) due to east-west traffic turning at that location.

SHA has determined that the most effective way to address these concerns is to construct the first portion of Contract B, in the mile-long segment between Georgia Avenue and Norbeck Road, to open at the same time as Contract A. The section that will ultimately carry the eastbound lanes of the ICC will be opened as a two-way roadway with a temporary traffic signal at Norbeck Road. The access to Norbeck Road will be removed when Contract B is fully open to traffic. The East Norbeck Local Park is adjacent to the temporary ramp connection. No additional right-of-way is required to make the temporary connection; all work will be within the existing ROW for the ICC. Additional information is provided in Attachment A.

SHA had previously explored a concept for constructing a spur road connection between Georgia Avenue and Norbeck Road along the north side of the park-and-ride lot. We concur that the new proposal to extend the ICC connection directly to Norbeck Road is a more effective means to address the concerns regarding temporary traffic impacts.

### **Contract C US 29 Interchange Ramp Redesign**

The Contract C design-build team has recommended a change to the ICC interchange with US 29. The current design is a three-level interchange with two ramps at the top level. The proposed change would replace one of those ramps, from southbound US 29 to the eastbound ICC, with a loop ramp in the southwest quadrant of the interchange. This proposal would increase the amount of right-of-way needed in the southwest quadrant on SHA owned land, but would reduce the right-of-way need in the northwest quadrant and remove the ramp that is highest and closest to the Tanglewood community. The removal of this ramp means that the interchange will be about twenty feet lower and further away from the Tanglewood community. Staff supports these changes and will present the changes in more detail at the roundtable discussion.

### **Park Property Replacement Schedules**

SHA has settled on the Casey at Hoyles Mill property for \$6.4 million after reaching a settlement with the Casey property in June. The purchase price reflected the value of the 65 TDRs associated with the property.

A Montgomery County Circuit Court judge ruled that SHA must offer the Peach Orchard / Allnut site to Winchester homes for repurchase because the site is not required for the roadway alignment, but rather as part of the approved mitigation package. SHA is appealing the decision. The ruling does not change SHA's commitment to provide the property to the Commission as part of the ROD mitigation package.

SHA has settled on the Southern Asia Adventist property and the transaction will be heard by the Board of Public Works this fall after the deed is prepared. SHA is still in negotiations on the McNeill property. These two properties do not have mitigation sites and are therefore likely to be the first to be transferred to the Commission, anticipated in early 2009.

### **Summary of Prior Planning Board Actions**

Attachment B summarizes the Planning Board activities to date during the ICC planning and implementation processes.

## ATTACHMENT A



### SHA's DECISION ON INTERIM CONNECTION FOR FIRST SEGMENT OF THE ICC June 17, 2008

The first seven-mile segment of the ICC from I-370 to MD 97 (also referred to as Contract A) will be open to revenue generating traffic in the fall of 2010, approximately 12 to 15 months in advance of the balance of the ICC connecting to I-95. SHA is opening this first segment early because it will help relieve traffic congestion and provide a safer travel route for motorists currently using some of the most congested secondary roadways in the area. Coupled with the improvements along MD 28 east of MD 97 as discussed below, opening this first segment of the ICC to traffic will have immediate and measurable benefits to all people that currently use these secondary roads.

This decision is based on technical assessments of several connection options, as well as discussions with the surrounding communities and community leaders, elected officials, and other stakeholders. SHA will construct a temporary connection from the ICC to existing MD 28. This connection will include both an eastbound and westbound link to the ICC. This temporary connection will include the following:

- A temporary two-way ramp to and from the ICC to a new signalized intersection with MD 28, approximately 700 feet west of Wintergate Drive.
- Two lanes in each direction along MD 28 from west of the intersection with the temporary ramp connection to east of the Wintergate Drive intersection.

In order to ensure SHA's commitment to achieving the same or better traffic Level of Service (LOS) at the critical MD 28/MD 97 intersection with the opening of the first segment, Contract A also includes capacity and traffic signal modifications at the MD 28/MD 97 intersection. These include a new northbound lane along MD 97, through the intersection with MD 28, and a second left turn lane from southbound MD 97 to eastbound MD 28. SHA will also modify the configuration of westbound MD 28 and signal phasing/timing to improve the operation of this intersection. The combination of these improvements and the temporary connection to MD 28 will improve traffic operations at the MD 28/MD 97 intersection over the existing conditions with the opening of Contract A in 2010.

With the temporary ICC ramp connection to MD 28 and improvements to the MD 28/MD 97 intersection improvements in place, the MD 28/MD 97 intersection will experience an average operational improvement of between a 15 and 30 percent reduction in delay for all traffic at the intersection. This improvement level occurs because additional lanes are provided through the intersection and because some ICC traffic is removed from the intersection since additional access to the ICC is provided at the temporary ramp connection/intersection with MD 28 to the east. Also, because the ICC removes traffic from currently heavily congested intersections along MD 28 at Bel Pre Road and MD 115, these intersections will also operate better than they would without Contract A open.



**SHA's DECISION ON  
INTERIM CONNECTION FOR  
FIRST SEGMENT OF THE ICC  
June 17, 2008**

Currently, during the morning rush hours, traffic backs up along westbound MD 28 between Wintergate Drive and Emory Lane, primarily due to congestion at the MD 28 intersections with Bel Pre Road, MD 115 and MD 97. Contract A of the ICC will draw traffic off MD 28 at these intersections and will improve the traffic movement from MD 97 to the west.

During the evening rush hours, the eastbound traffic is stop-and-go through the same intersections, and then moves heavily but steadily past Norbeck Boulevard heading to the east. The congestion at the MD28/MD 97 intersection, the intersections to the west of MD 97, the loss of a lane, and the curve in the roadway alignment on MD 28 between MD 97 and Norbeck Boulevard are the primary reasons this occurs. While Contract A will add some traffic to MD 28, the additional traffic is added east of this bottleneck area and the operational consequences of these traffic increases are offset by the widening of MD 28 through the adjacent intersections to the temporary connection.

Listed below are benefits of the temporary two-way connection with MD 28:

- Traffic operations will improve at several intersections along MD 28, including the MD 28/MD 97 intersection and the MD 28/Norbeck Boulevard intersection.
- There is a reduction in ICC-bound trips through the MD 28/MD 97 intersection since temporary access to and from the ICC is provided at the MD 28 crossing of the ICC.
- There is a reduction in the number of trips along MD 28 through Norbeck Boulevard.
- No additional right-of-way is required for the temporary connection to MD 28.
- The additional construction cost of this temporary connection to MD 28 is minimal.

Opening the first segment of the ICC will not only bring traffic and safety benefits to the residents of the communities between I-270 and Georgia Avenue, but also to all travelers who use these secondary roads. Those travelers trying to access jobs will have a choice starting in late 2010 for this portion of their trip. Many of the secondary roads between I-270 and Georgia Avenue are also experiencing an unusually high volume of accidents, and they all have accident rates significantly higher than the rate for a highway designed like the ICC. The rate, intensity and frequency of accidents are expected to be reduced on many of these roadways once the first segment of the ICC is opened. Examples include, Muncaster Mill Road, Gude Drive, Norbeck Road, Midcounty Highway and portions of Randolph Road.



**ATTACHMENT B**

**Intercounty Connector  
Planning Board Briefing Schedule**

**As of July 22, 2008**

**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

**Study Briefing # 2 – March 4, 2004 (1.5 hours – no public testimony) - COMPLETED**

**“Property Owner” 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)

**“Planning / Zoning Authority” topics**

- 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

<b>Study Briefing # 3 – June 3, 2004 (2 hours – no public testimony) - COMPLETED</b>	
<b>“Property Owner” topics</b>	<b>“Planning / Zoning Authority” topics</b>
<ul style="list-style-type: none"> <li>• Review of SHA Draft Section 4(f) Impacts report</li> <li>• Staff proposal for candidate replacement parklands that would satisfy MOU (Hench)</li> <li>• Staff proposal for Section 4(f) impacts analysis</li> </ul>	<ul style="list-style-type: none"> <li>• Review proposed briefing schedule (Valladares)</li> <li>• Review SHA’s interim draft technical report findings</li> <li>• Review Environmental Stewardship process and findings</li> <li>• Staff proposal for policy guidance on balancing natural / cultural / community resource protection and enhancement</li> </ul>

**Interim SHA Activities**

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

<b>Study Briefing # 4 – July 15, 2004 (4 hours) - COMPLETED</b>	
<b>Include Public Testimony on Staff Recommendations</b>	
<b>“Property Owner” topics</b>	<b>“Planning / Zoning Authority” topics</b>
<ul style="list-style-type: none"> <li>• <b>Planning Board comment to SHA on staff proposals for MOU and candidate replacement parkland</b></li> </ul>	<ul style="list-style-type: none"> <li>• Review proposed briefing schedule (Valladares)</li> <li>• <b>Planning Board comment to SHA on staff proposals for policy guidance on balancing natural / cultural / community resource protection and enhancement</b></li> <li>• Review SHA’s interim technical report findings</li> <li>• Review Environmental Stewardship process and findings</li> </ul>

**Interim SHA Activities**

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

<b>Study Briefing # 5 – January 13, 2005 (2 hours – no public testimony) - COMPLETED</b>	
<b>“Property Owner” topics</b>	<b>“Planning / Zoning Authority” topics</b>
<ul style="list-style-type: none"> <li>• Review draft 4(f) findings</li> <li>• Staff proposal on parkland mitigation concepts for inclusion in FEIS (both Corridor 1 and Corridor 2)</li> <li>• Park staffing impacts</li> <li>• FY 05 &amp; 06 Operating and CIP Budget/Work Program impacts</li> </ul>	<ul style="list-style-type: none"> <li>• Review DEIS summary of findings</li> <li>• Air Quality Conformity/COG</li> <li>• Review SHA Public Hearings</li> <li>• Present menu of options for Preferred Alternative</li> <li>• Planning Board comment on additional supplementary information requested of staff for Briefing #6.</li> <li>• Review proposed briefing schedule</li> </ul>

**Interim SHA Activities**

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

<b>Study Briefing # 6 – February 3, 2005 (4.5 hours) – COMPLETED</b>	
<b>Include Public Testimony on Staff Preferred Alternative Recommendations</b>	
<b>“Property Owner” topics</b>	<b>“Planning / Zoning Authority” topics</b>
<ul style="list-style-type: none"> <li>• As necessary</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Planning Board recommendations on Preferred Alternative.</b></li> <li>• Review proposed briefing schedule</li> </ul>

**Interim Activities**

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

<b>Study Briefing # 7 – July 28, 2005 (2.5 hours) - COMPLETED</b> <b>Include Public Testimony on Parkland Mitigation Package</b>	
<b>“Property Owner” topics</b>	<b>“Planning / Zoning Authority” topics</b>
<ul style="list-style-type: none"> <li>• <b>Planning Board comments to SHA on staff proposals for parkland mitigation and compensation concepts for SHA/MdTA Preferred Alternative.</b></li> </ul>	<ul style="list-style-type: none"> <li>• Review proposed briefing schedule</li> </ul>

<b>Study Briefing # 8 – September 15, 2005 (2 hours) - COMPLETED</b> <b>Parkland Replacement</b>	
<b>“Property Owner” topics</b>	<b>“Planning / Zoning Authority” topics</b>
<ul style="list-style-type: none"> <li>• Recommendations on appropriate Parkland Replacement Mitigation.</li> </ul>	<ul style="list-style-type: none"> <li>• Review proposed briefing schedule</li> </ul>

**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 16<sup>th</sup> 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 18, 2007 - COMPLETED**  
Contract A proposed revisions to RFP plans

**Status Report #11 – December 6, 2007 - COMPLETED**  
SPA review process and reforestation requirements for park property

**MCPB Resolution – January 10, 2008**  
**Include Public Testimony on Park Property Transfer**  
Transfer of parkland from M-NCPPC to SHA for Contract C

**Status Report #12 – January 31, 2008 - COMPLETED**  
SPA review process and reforestation requirements for park property continued

**Upper Rock Creek SPA Environmental Review – February 21, 2008 - COMPLETED**  
**Include Public Testimony**

**Status Report #13 – February 28, 2008 – COMPLETED**  
Upper Rock Creek SPA review and reforestation requirements continued

**MCPB Resolution – March 6, 2008**  
**Include Public Testimony on Park Property Transfer**  
Transfer of parkland from M-NCPPC to SHA for Contract B

**Status Report #14 – May 1, 2008 – COMPLETED**  
Bike trail and park planning activities

**Status Report #15 – July 24, 2008**  
Staffing, conservation easements, vernal pools, interchange designs

**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**

**Projects PB-122 through PB-129 – January 17, 2008 - COMPLETED**  
**Mandatory Referral MR 07905-SHA-1 on SPA best management practices**

**Future mandatory referral reviews to be scheduled beginning in late 2008.**