



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

**Intercounty Connector  
Mandatory Referral No. 06809-SHA-1  
Status Report #2**

**Prepared 10/19/06 for discussion at the 10/26/06 Planning Board Roundtable**

This memorandum is ICC Status Report #2 to the Planning Board under condition #16 of the ICC mandatory referral. Maryland-National Capital Park and Planning Commission (M-NCPPC) staff will briefly present this report to the Planning Board on October 26, 2006 and will be joined in the discussion by State Highway Administration's (SHA) staff and consultants. This status report includes four sections:

- A. A status report on the state's responses to the Planning Board's mandatory referral comments
- B. A status report on other procedural elements
- C. A summary of events that have occurred since Status Report #1 was written on 9/11/06, and
- D. An update on project schedule and the Planning Board's next steps

Planning Board members are requested to bring their copies of the Chairman's July 28, 2006 letter transmitting the Planning Board's mandatory referral comments (attached to Status Report #1) to the October 26, 2006 roundtable discussion.

**SECTION A. MANDATORY REFERRAL COMMENTS**

**The highest priority action items this month relate to the State's review of, and response to the mandatory referral conditions.** Exhibit 1 summarizes the current progress on each of the sixteen mandatory referral conditions in matrix format.

Staff has worked with the state on their position regarding each of the 16 conditions in the Chairman's July 28, 2006 letter, including the 77 detailed comments in Attachment B to that letter. Staff expects that the state will have a formal response to the July 28, 2006 letter within the next two weeks. This status report describes the staff understanding of those responses. Because certain elements of the performance specifications remain under review, SHA has revised the Contract A RFP schedule as follows:

- The issue date for the Final Addendum has been moved from October 27, 2006 to November 10, 2006, and
- The due date for proposals has been moved from November 15, 2006 to December 15, 2006.

**Staff is not requesting any Planning Board actions on October 26, 2006.** However, the status report will be a useful opportunity to gauge the sense of the Board regarding the progress made on each of the mandatory referral conditions. Based on discussions with SHA, and Planning



Board member interest at prior briefings, staff believes several mandatory referral comments warrant discussion at the October 26, 2006 Planning Board briefing. These items are presented in the order listed in prior correspondence (General conditions #1 through #16 followed by detailed comments in Attachment B).

- **Environmental Management Team (EMT) communications protocols (Condition #2).** For the purposes of the Planning Board discussion, this condition has focused on the “halt or modify” element of the 1989 Memorandum of Understanding (MOU). As described at the September 14, 2006 roundtable discussion, the Design-Build contracts will be executed by SHA. Therefore, from a legal perspective, SHA is the only agency that has the express authority to halt or modify construction. However, through our MOU, we are participating on the ICC project’s EMT and will have the ability to influence project decisions in that role. Attachment A provides a more detailed description of the staff perspective of these roles. We understand that the SHA staff is generally supportive of the material in Attachment A.
- **Determination of roles in Trolley Museum relocation (Condition #3A).** As discussed at the Planning Board’s September 28, 2006 agenda, the formal status of this element remains unchanged from the description in Status Report #1, pending the October 20, 2006 meeting between M-NCPPC, the Trolley Museum, and SHA. Staff will provide an update to the Planning Board on October 26, 2006.
- **Easement Agreements (Conditions #3B and #3C).** Staff is working with SHA to develop easement conditions for parkland transfer. The staff objectives for these conditions are summarized in Attachment B. The draft conditions have not yet been reviewed by the legal staff at either agency, but the summary is presented for the Planning Board’s information.
- **Planning Board review of Water Quality Plans in Special Protection Areas (SPA) (Condition #6).** For projects that are within SPAs and subject to County laws, Section 19-65 of the County Code requires that both the Department of Permitting Services (DPS) and the Planning Board act on Water Quality Plans. During the past two months, staffs of M-NCPPC, SHA, and DPS have discussed this condition and SHA and DPS will provide an update on October 26, 2006.
- **Forest Impact Reduction Incentive (Condition #7).** Staff recommended that SHA increase the financial incentive for forest impact reduction to a level similar to the wetland reduction incentive. At this time there remains a wide range of opinions on the resolution to this issue. Staff understands that SHA is reviewing all financial incentives and will provide an update on October 26, 2006. Attachment C provides additional information regarding discussions between M-NCPPC and SHA to date.



- **Invasive Species Removal (Condition #8).** The Design-Build contractor is responsible for invasive species removal within the limits of disturbance. Staff understands that SHA will not respond positively to the staff recommendation that the Design-Build contractor also perform invasive species monitoring and removal on park property outside the limits of disturbance. Staff understands that SHA is willing to partner with M-NCPPC on such invasive species control. Details of such a partnership are not yet determined.
- **Western Maintenance Facility (Condition #10).** SHA has confirmed that the location of the Western Maintenance Facility on the Casey 7 property, as described in the ROD, remains the preferred site. Eakin/Youngentob Associates, the contract purchaser for both Casey 6 and Casey 7 properties has submitted a pre-preliminary plan for the site that staff anticipates will be scheduled for Planning Board review during November.
- **Landscaping and Aesthetic Design Elements (Condition #11).** Staff understands that SHA has responded positively to certain comments regarding planting density (in some zones), setbacks between retaining walls and noise walls, and waivers to clear zone requirements where guardrails or topography mitigate safety concerns. In general, however, staff understands SHA disagrees with the overall aesthetic vision in our mandatory referral comments. SHA has concluded that their aesthetic guidelines will provide a high-quality design, even though differences of opinion may remain regarding topics such as some variability among hardscape treatments and colors and the use of chain link fence on non-gateway bridge structures.
- **Future Bike Path Feasibility at Northwest Branch (Condition #13).** SHA and M-NCPPC agree that a future hiker-biker trail crossing of the Northwest Branch near the ICC is desirable. SHA is not constructing this crossing as part of the Design-Build contract, but will not design the ICC to preclude a future connection. M-NCPPC requested that the ICC bridge structure be designed to accommodate a future bike path in some manner, similar to the means by which the Woodrow Wilson Bridge is being built so as to carry Metrorail at some future date.
- **Establishment of final Contract A RFP performance specifications.** SHA is reviewing the recommended changes in Attachment B to the July 28, 2006 Planning Board transmittal. Exhibit 1 summarizes functional areas where SHA has indicated preliminary support of, or concerns regarding, M-NCPPC comments. M-NCPPC staff are particularly concerned about follow-through on the following elements:
  - PS 303-5, ensuring that culverts have moist substrates for amphibian passage
  - PS 309-10, ensuring that the future Georgia Avenue busway is adequately incorporated into the ICC interchange design
  - PS 310-7, ensuring that no non-native plants are included in planting specifications
  - Wildlife fencing during construction. Subsequent to the mandatory referral review, staff has requested that temporary wildlife exclusion fencing such as super-silt fence be required adjacent to parkland during construction. This fencing is intended to keep



amphibians and reptiles outside of the limits of disturbance. Some, but not all, of this request is already required to meet other performance specifications.

## SECTION B. PROCEDURAL ELEMENTS

This section of the report describes several ongoing discussions:

- **Public outreach and notification processes.** Staff continues to be responsive to concerns regarding outreach and notification. Staff proposes that Planning Board actions regarding the ICC continue to follow the same notification process applicable to sensitive regulatory items, including a ten-day advance posting of the staff report on the Commission's website, a mailing to civic and homeowners associations within a mile of the ICC, and a press release.
- **Staff latitude in decisions regarding park property.** The Planning Board and full Commission are required to act on real property matters. Staff is authorized to issue park permits, grant temporary easements, and make technical corrections to record plats. Staff recognizes, however, that all decisions regarding the ICC have the potential to be sensitive matters and has acted with discretion in the past on these matters. For instance, in the consideration of revisions to the limits of disturbance at Station 174 and Station 324, staff felt it prudent to gain the Planning Board's concurrence, although such concurrence was not technically required. In any such future matters, staff proposes to seek Planning Board action if:
  - the increase or decrease of parkland under question is greater than 0.25 acres, or
  - the proposal would bring construction activity both (a) closer to any adjacent property, and (b) to within 50 feet of any adjacent property

Staff notes that the following discussion item regarding the Cross Creek Club development provides an example of a case for which staff does not propose seeking Planning Board concurrence.

- **Cross Creek Club Limits of Disturbance.** SHA has proposed a slight revision to straighten the bridge carrying Briggs Chaney Road over the ICC that requires 0.22 acres from a 6.01-acre parcel (Parcel E, Block D) held by the Montgomery Limited Liability Company and previously held in reservation for the ICC. The applicant is required to dedicate the parcel to M-NCPPC and, based on available ICC information at the time of site plan in February 2003, the entire parcel was designated for future park use. The change proposed by SHA occurs along the roadway frontage and does not affect the proposed park use. Staff supports the SHA proposal to have the property owner convey the 0.22 acres directly to SHA for right-of-way and the remaining 5.79 acres to M-NCPPC for park use.

## SECTION C. OTHER NOTABLE EVENTS

- **Georgia Avenue Geotechnical Field Office.** On October 12, 2006 SHA initiated geotechnical analyses based in a field office located in the southwest quadrant of the future ICC interchange with Georgia Avenue.
- **Establishment of Review Processes for Mitigation/Stewardship Projects on Parkland.** On October 12, 2006, M-NCPPC transmitted to SHA our standard protocol for the technical review and permitting processes for Compensatory Mitigation (CM) and Environmental Stewardship (ES) projects on park property. This letter is included as Attachment D.

## SECTION D. PROJECT SCHEDULE AND NEXT STEPS

The discussion of the Planning Board schedule and next steps serves two purposes:

- To help place the role of each Planning Board status report or action item in context, and
- To provide background for the discussion of proposed parkland transfer activities during the next two to three months.

Attachment E summarizes the Planning Board's ICC briefing schedule since 2003. Staff now categorizes the Planning Board's review and decisions to date in three parts:

**Part I. The ICC Study** phase, from Project Planning kickoff in 2003 through the Record of Decision in May 2006

**Part II. The ICC Project** phase for the mainline roadway construction, from Record of Decision through construction, and

**Part III. CM and ES** projects

To date, the Planning Board's reviews have included the following actions (in addition to the many briefings described in Attachment E:

### Part I. ICC Study

- Study Briefing #4 (July 15, 2004): Guidance to SHA regarding the basis for evaluating replacement parkland equivalencies
- Study Briefing #6 (February 3, 2005): Recommendations to the County Council regarding elements for a selected alternative
- Study Briefing #8 (September 15, 2005): Direction to SHA regarding the recommended parkland mitigation strategy

The ICC study is complete and no more Planning Board actions are anticipated in this category.



## Part II. ICC Project

- MCPB Resolution 06-61 (July 6, 2006): Approval of the sale of 14 ALARF properties in their entirety to SHA
- ICC Mandatory Referral (July 20, 2006): Conditional approval of mandatory referral No. 06809-SHA-1
- Project Briefing #1 (September 28, 2006): Concurrence to SHA regarding revision to limits of disturbance affecting existing or replacement parkland properties at Station 174 and Station 324

Staff finds that the **Planning Board (and the full Commission) will need to act at least four more times regarding real property matters** on the ICC project:

- To transfer remaining Advance Land Acquisition Revolving Fund (ALARF) property to SHA consisting of portions of parcels (as opposed to full parcels transferred in July 2006). Attachment E indicates that this action could be scheduled for Planning Board approval on November 16, 2006.
- To transfer properties in Contract A (west of Georgia Avenue) to SHA. SHA staff has requested this transfer occur before the end of calendar year 2006. Staff concurs that the Contract A transfer must be completed before construction begins, currently scheduled for March 2007. Attachment E indicates that this action could be scheduled for Planning Board approval on December 14, 2006.
- To transfer parkland in Contract B (between Georgia Avenue and US 29) to SHA. The Contract B parkland transfer must be completed before construction begins in that segment, currently anticipated in early 2008.
- To transfer replacement parkland properties from SHA to M-NCPPC, consisting of four sub-categories:
  - 1) Approximately 7.6 acres of property in the Upper Paint Branch SPA, described in the ROD Section 4(f) Addendum, can be transferred at any time.
  - 2) On several properties, including the Southern Asia Adventist Property, the McNeill Property, and the Dungan Property North (if not already dedicated to M-NCPPC through the subdivision process), SHA must complete titling information prior to transfer.
  - 3) On several properties, most notably the Casey Hoyles Mill Property, the Llewellyn Property, and the Peach Orchard/Allnut Property, SHA must complete either restoration or Compensatory Mitigation/Environmental Stewardship projects such as reforestation. Staff is discussing the review processes for these projects and the timing of property transfer and parkland dedication will be pending the outcome of the review process discussions.
  - 4) SHA will also return to M-NCPPC any parkland or ALARF property remaining unused for transportation purposes at the end of the construction process. The amount of this property is unknown; the Design-Build process provides a financial incentive for contractors to minimize the use of these properties.

Three additional types of Planning Board regulatory actions may also be required:

- Staff hopes that SHA will concur that there are opportunities in Contract B and Contract C to revise limits of disturbance for selected locations within or adjacent to parkland, similar to the September 28, 2006 Planning Board review of two locations in Contract A.
- Staff has notified SHA and the Department of Natural Resources (DNR) of our desire to request delegation of Forest Conservation responsibilities for certain projects (notably CM and ES projects) to M-NCPPC to assure that these projects meet our local standards for forest protection and reforestation. If the delegation does not occur, then DNR conducts both reforestation and forest conservation activities on all ICC related projects. If delegation does occur, then the Planning Board will have a regulatory review of Forest Conservation Plans for those projects.
- DNR has expressed interest in placing conservation easements on certain areas of parkland to ensure that CM or ES projects are retained in perpetuity. Staff will consider conservation easements on a case-by-case basis and recommend the Planning Board consider them on their individual merits. The first such case is likely to be for the wetlands creation site NW-128, currently under construction.

As described in Section B of this status report, staff also expects the Planning Board to review the water quality plans for portions of the ICC in SPAs.

### **Part III. Compensatory Mitigation / Environmental Stewardship Projects**

- CM Project NW-128 Mandatory Referral (July 13, 2006): Conditional approval of mandatory referral No. 06903-SHA-1

Three additional CM/ES projects are underway and mandatory referrals are anticipated in Spring 2007. Two are fish passage sites (RC-131 and RC-131A) in the Candy Cane Park section of Rock Creek near Meadowbrook and the third is a stream restoration project (NB-1) on Williamsburg Run in the Norbeck Estates community.



**Exhibit 1. ICC Mandatory Referral Condition Status Matrix**

No.	Topic	Status
1	Mandatory referral coverage	Not yet applicable; will be revisited in 2007 during review of Contract C RFP.
2	Staff role on EMT	SHA is defining the role of all EMT members. M-NCPPC has proposed a communications protocol for managing emergency and episodic events.
3	Park planning agreements	SHA is developing facilities relocation proposals. M-NCPPC is leading the development of legal agreements for easements/permits and maintenance/liability
4	Community involvement	SHA has developed a community outreach program that is posted at <a href="http://www.iccproject.com">www.iccproject.com</a> . Staff has offered to provide assistance in identifying community concerns and interests.
5	Proposal review	Not yet applicable; will be addressed by SHA in reviewing submitted proposals, anticipated November/December 2006 for Contract A.
6	Water Quality Plan reviews in Special Protection Areas	SHA is developing a proposed process for Water Quality Plan review processes.
7	Forest stand impact reductions incentives	SHA has revised designs responsive to staff concerns at three of nine sites in Contract A. At all remaining sites, SHA has suggested an increase to the proposed forest retention incentive value; staff continues to negotiate for a higher value closer to the value for wetlands.
8	Invasive species management	SHA is revising performance specifications to better reflect M-NCPPC comments on available planting species. SHA has indicated that they would consider partnership in addressing NNI inspection and removal on park property.
9	Resource protection priorities	SHA reviewing Planning Board recommendation.
10	Western Maintenance Facility	SHA continues to plan for the Casey 7 location included in the ROD but has let the property contract purchaser know that SHA will consider a private sector proposal for Casey 6 that accomplishes the same objectives.
11	Design elements and landscaping	SHA reviewing Planning Board recommendations but does not expect to pursue major changes to the aesthetic elements.
12	East-west trail connectivity	SHA reviewing Planning Board recommendation. Staff coordinating with SHA and DPWT with proposal to address remaining portions of both master planned and ROD bike path connections during Planning Board recommendations to County Council on CTP, scheduled for October 26, 2006.
13	Shared-use path details	SHA reviewing Planning Board recommendation.
14	Interchange sequencing plan	SHA concurs with Planning Board recommendation and is establishing a schedule for producing requested information.
15	Transportation facilities	SHA reviewing Planning Board recommendation.
16	Monthly briefings	Ongoing



A-1

**Halt Construction**

**Modify Construction**

Encroachment on Park property

Episode within LOD that may affect Park property

Proactive Design change

Proactive Build methodology change

Equipment Operator	Step 1	Step 1		
Park Police	Step 2 <i>If warranted</i>			
Environmental Management Team	Step 3	Step 2	Step 1	Step 1
Resident/Project Engineer and DB Environmental Manager	Step 4	Step 3	Step 2	Step 2
IAWG			Step 3	Step 3
ICC Director	Step 5	Step 4	Step 4	Step 4
Chairman / SHA Administrator	Step 6	Step 5	Step 5	Step 5

10/6/06 DRAFT matrix describing implementation of 1989 MOU statement that M-NCPPC position powers will "include ways to halt and/or modify construction activities as needed to protect the (parkland) resource, especially in the case of episodic or emergency situations". Steps 1 through 6 indicate priority order of applicable process steps that may be pursued.

ATTACHMENT A.

## ATTACHMENT B.

### Summary of ICC Easement Conditions 10/6/06 DRAFT language

The property transfer documents will include conditions for granting SHA rights to use certain temporary easement areas that will be identified on the right-of-way plats. These conditions are being reviewed by M-NCPPC and SHA at technical staff levels and have not yet been reviewed by legal staff at either agency. The intent of the conditions is to achieve the following objectives:

#### For Temporary Easements on Park Property

- Demarcate limits of disturbance
- Require M-NCPPC specifications for tree preservation, planting, and repair or replacement of damaged infrastructure
- Establish restoration requirements
- Identify indemnification and insurance responsibilities
- Retain Commission staff authorization for minor field adjustments
- Designate Commission authority for non-native species inventory and management
- Prohibit equipment storage

#### For Public Use Easements on Property Transferred to State

- Define limits of public use where Park trails will cross state property
- Define maintenance and liability responsibilities



## ATTACHMENT C

ICC Mandatory Referral condition #7 recommends that SHA increase the financial incentive to further reduce forest impacts to a level of similar value to the wetland impact reduction incentive. Staff understands that SHA is reviewing all financial incentives and will provide an update to the Planning Board on October 26. This Attachment provides additional information regarding discussions between M-NCPPC and SHA to date.

### Background

The NEPA planning process defines minimization to sensitive resources at a level appropriate for the 30% design plans developed at that stage. Staff continues to pursue means to reduce resource impacts beyond the NEPA level definition. The detailed design process provides opportunities for these further reductions, through fine-tuning of engineering-level design details or application of innovative design and construction techniques.

State and M-NCPPC agree that financial incentives are useful tools for motivating a design-build contractor to seek opportunities to further reduce impacts. Incentives must be large enough to motivate contractors to minimize resource loss.

At time of mandatory referral submission, M-NCPPC noted the following elements in the SHA proposal:

- Wetland impact reduction incentive valued at \$450K/acre in SPAs, \$300K/acre elsewhere
- Concept of forest impact reduction incentives, but with no dollar amount yet proposed

Both agency staffs worked toward concurrence on a forest impact reduction incentive. SHA's July 13, 2006 Contract A RFP retained wetland impact reduction incentives and included:

- Forest impact reduction incentive of \$15K/acre adjacent to parkland, \$5K/acre elsewhere
- Incentive of \$50K/acre for reduction of limits of disturbance on properties that were either parkland or Designated Transportation Areas
- Incentives for minimizing stream impacts (\$600/LF in SPA, \$400/LF elsewhere) and maintaining highest quality erosion and sediment control (maximum payment of \$4M)

M-NCPPC staff's June 29, 2006 mandatory referral memorandum commended the state's commitment to incentives in general and the wetlands impact reduction incentive in particular. Staff recommended (condition #7) that the forest impact reduction incentive be increased so as to be similarly valued as wetlands for the highest-quality forest stands (20 sites in memo Exhibit 5). The Planning Board endorsed the staff recommendation.



In a July 28, 2006 memorandum staff suggested a value of \$392K/acre for highest quality forests and \$130K/acre for forests of secondary quality. During September, SHA proposed an increased forest impact reduction incentive value of \$100K/acre to the IAWG.

### **Examination of Similarities Between Wetlands and Forest Values**

During the past two months, State, M-NCPPC, and other interagency staff have reviewed four alternative methods for establishing a similar value between forest and wetlands. These methods include:

- **Cost of constructing replacement resource.** Staff understands that this method is the basis for the July 13, 2006 RFP incentive value of \$5K to \$15K per acre to replant a forest with saplings and the \$300K to \$450K per acre values for constructing wetlands. Most agency staffs agree that reforestation costs are substantially lower than wetlands creation costs. However, most agency staff also agree that the use of replacement value in establishing incentive values is inappropriate because a new wetland provides ecological benefits almost immediately, while most forest stand benefits accrue gradually over a period of 40 to 60 years.
- **Theoretical value of forests.** Several agencies contributed to this discussion, with the identification of some three dozen resource documents regarding the theoretical value of urban forests in providing habitat, reducing runoff, filtering air pollution, and providing aesthetic value. Resource documents suggest ranges from \$15K to \$10M per acre. All agency staff reached a common conclusion that there is no academic or theoretical consensus on which to base a numeric value for forest acreage.
- **Legislative value of resource.** Staff suggested in our July 28, 2006 memo that SHA adopt an incentive value of \$392K/acre based in part on the established RFP wetlands values and in part on a mid-range of theoretical forest values. The \$392K is based on the Montgomery County Code maximum penalty of \$9/square foot for willful destruction of forests. SHA suggests that use of a punitive value is inappropriate, particularly considering that M-NCPPC has previously concurred that the replacement parkland in the ROD provides fair compensation for interior forest loss approved in the ROD even if no further reductions can be achieved. The Montgomery County Code change occurred December 2005; previously the maximum fine was \$1/square foot, or \$44K/acre.
- **Motivational value to contractor.** All agency staff agree that the purpose of the incentive is to motivate a contractor to seriously pursue measures to preserve the resource. SHA notes that the forest impact reduction incentive is a new concept. The wetlands incentive concept is not new, and SHA reports success in reducing permitted wetland impacts on other jobs in Wicomico County (US 113) and Carroll County (Hampstead Bypass) where incentives ranged from \$40K to \$80K per acre. SHA believes the \$100K/acre (augmented by the \$50K/acre for parkland/DTA to a \$150K total) will be sufficient to motivate contractors to reduce forest impacts. SHA has suggested that if the \$100K value does not generate responsive proposals in Contract A, then there may be opportunity for changes to be made in Contract B. The schedule for Contract B, containing the Northwest Branch and Paint Branch stream valleys, is approximately a year behind the schedule for Contract A.



SHA has expressed concern that because the focus of highest quality forest is in areas proposed for stormwater management; higher values for forest impact reduction incentives might compromise water quality (as a contractor might, for instance, risk portions of the \$4M total E/SC incentive in return for forest impact reduction savings).

At the October 4, 2006 Interagency Working Group meeting, SHA concluded that the \$100K incentive was appropriate and agency representatives present at the meeting were polled regarding that proposal. M-NCPPC was the only agency participating that strenuously advocated for a higher incentive figure.

Staff understands that SHA has recently decided to revisit the values of all incentive programs in the Contract A RFP. SHA will provide an update on this review on October 26, 2006.

M-NCPPC



## MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

9500 Brunett Avenue  
Silver Spring, Maryland 20901

October 12, 2006

Ms. Melinda Peters  
Project Director  
Safety Highway Administration  
Maryland Department of Transportation  
707 North Calvert Street  
Baltimore, MD 21202



Dear Ms. Peters:

Per our prior discussions, this letter identifies the process that we expect to follow when SHA or its contractors are constructing improvements on properties that are owned, or will be owned, by M-NCPPC. The process, as outlined below, is based on the Planning, Design, Construction, and Operations (PDCO) process adopted by M-NCPPC.

Typically when an entity such as SHA proposes to improve land that will ultimately be transferred to M-NCPPC stewardship, M-NCPPC requires the donor to obtain a Park Permit as though the land were already under M-NCPPC stewardship. From past experience, M-NCPPC has found that unless there is a close-working relationship between the donor and M-NCPPC, the improvements made on the donated land do not meet the minimum standards of the Department of Parks, and it then becomes a liability to park resources. Recognizing your interest in streamlining administrative process and realizing that each project will be evaluated separately based on scope and magnitude, we believe the following process will expedite the Park Permit process.

As part of the ICC mitigation/stewardship plans three different kind of projects, where SHA is responsible for design and construction, are proposed by SHA:

- Park Development Projects on park property such as the National Capital Trolley Museum (if built by SHA), Rock Creek Hiker-Biker Trail improvements, and the Olney Manor Recreational Park dog exercise area.
- Compensatory Mitigation and Environmental Stewardship projects on Parklands not included in the above category.
- Lands that are not currently owned by M-NCPPC but will eventually be dedicated to M-NCPPC by SHA such as Llewellyn fields and areas that will be reforested with no other improvements.

For certain projects, M-NCPPC must prepare a submittal to the Montgomery County Council for their approval. This is required for projects that have a capital cost of at least \$100,000. Additionally, a supplemental analysis and report is required for any project in the above category that has an annual operating budget impact equal to or greater than 10 percent of the capital cost; and/or generates at least 25 vehicle trips during the peak one-hour period in the vicinity of the project. M-NCPPC is currently discussing with Council staff to identify which of the above projects may need their review.



## **Terms of the agreement for project development on park properties**

SHA shall proceed with work starting with developing the preliminary design and continuing through park commissioning (turning the operations of the facility over to M-NCPPC) in a manner that facilitates the thorough planning, coordination, and approval of the project. Although all policy matters will be directed to one point of contact (Mitra Pedoeem via Dan Hardy), the M-NCPPC Park Development Division (PDD) shall assign an independent Project Manager (PM) to each of the development projects proposed by SHA. SHA shall work cooperatively with these project managers, other M-NCPPC staff, representatives from other public agencies, adjacent property owners, and the community.

While the contract for the work described herein will be between SHA and their consultant and contractor teams, the PDD and PM will be providing design standards and specifications, and guidance to complete the projects.

Throughout the design and construction of the projects, the work shall comply with all applicable federal, state, and local specifications, laws, ordinances, regulations, and guidelines, including M-NCPPC guidelines. SHA must build in to the project schedule adequate time for M-NCPPC review at each submittal or phase of work. For the purpose of scheduling one month review period submittals is standard. Less time may be necessary for incremental changes to the project. At a minimum, SHA shall perform the tasks outlined below:

### **I. Preliminary Design and Mandatory Referral**

1. Attend project kick-off meeting: M-NCPPC will assign a project manager to the project to coordinate with SHA. The PM will provide copies of park standard details, standard specifications, and any other available information to SHA. SHA will provide project schedule.
2. Complete NRI/FSD, topographic survey, and geotechnical survey if needed.
3. Conduct introductory community meeting (optional depending on complexity of project) to solicit input from the community on the M-NCPPC program of requirements and SHA ROD commitments. For all required community meetings SHA will conduct the public involvement process. Meeting invitees shall include adjacent property owners, civic associations, relevant interest groups, and M-NCPPC. The Community Relations Office of M-NCPPC can provide assistance to SHA when setting up the community meeting.
4. Develop preliminary design and alternatives: The preliminary design and alternatives shall be consistent with M-NCPPC's program of requirements for the site, and shall not preclude future facility improvements that may be identified in planning documents. The PM will provide the applicable planning documents to SHA, if necessary.
5. Present preliminary design and alternatives to M-NCPPC and at an Alternates community meeting (mandatory): SHA will solicit input from the community and M-NCPPC on the proposed design and alternatives. The designs shall contain a minimum 30% plans and concept plan with plan view and optional profile graphical renderings. The preliminary designs shall include a description of all amenities and facilities proposed for the site.
6. Conduct check in meetings with: Recreational Advisory Board, Development Review Committee, and Wetland Coordinating Committee. SHA may schedule these check-ins at any time during the preliminary design.



7. Select Preferred Alternative: with input from M-NCPPC and reflecting comments from the community.
8. Prepare material for Planning Board Mandatory Referral: Includes at least 30-50% design plans, project scope, preliminary forest conservation plan, and an approved NRI/FSD, approved SWM concept plan.
9. Submit a comprehensive report to M-NCPPC for Mandatory Referral outlining the preliminary design process, alternatives investigated, results of community meetings, and the recommended alternative.

## **II. Detailed Design**

1. 50% Review: Incorporate Planning Board comments into the 50% design and submit to M-NCPPC for comments. The Design should contain: facility lay-out, grading, preliminary sediment and erosion control plan, preliminary landscape plan, final stormwater management and forest conservation plans, and all other permit applications that are ready for submittal.
2. 90% Review: submit to M-NCPPC the 90% design for comments. The Design should contain: copies of regulatory agency comments and approved final forest conservation plan; and construction drawings and specifications. Submit survey of forest conservation area and provision of digital survey data to Countywide Planning Division/Environmental Planning.
3. Obtain all permits.
4. Final Review: Submit to M-NCPPC 100% construction documents and specifications for comments. Obtain sign-off by the Director of Parks.
5. Issuance of Park Permit: Once the Technical Review, which is incorporated into the above steps, is complete, M-NCPPC issues a permit for the project.

## **III. Construction**

1. Select qualified construction contractor: The construction contractor selected for the project shall have experience constructing parks. SHA shall notify M-NCPPC of the selected contractor before the contract is awarded.
2. Set construction start date and schedule for construction.
3. Conduct a pre-construction meeting at the project site and invite relevant M-NCPPC staff as is outlined in the Park Permit. SHA shall notify M-NCPPC of the meeting at least one week in advance.
4. Monitoring and updates: M-NCPPC shall regularly inspect the construction site and report to SHA infractions and specifications and design specifications that are not being met. SHA shall submit monthly progress reports detailing construction status.
5. Upon substantial completion of construction, SHA and M-NCPPC will conduct a final inspection to develop the punch list.
6. Construction contractor completes all outstanding work as noted on the punch list.




#### IV. Final Approval and Closeout

1. Conduct Final Approval meeting: visit site to determine if all work is completed; resolve disputes or disagreements.
2. Conduct commissioning meeting: training on operational systems, if needed; turn over operation and maintenance manuals, as built drawings, and warranties; turn over utilities, meters, etc.
3. Deliverables: The Consultant Team shall provide the following deliverable items for M-NCPPC: AutoCAD 2002 or later version of survey, all the construction drawings and as-built drawings. Submit one disk and two sets of full size prints for use by M-NCPPC. With each submission of CAD files, include a hard copy that defines information found on each layer, layer set-up for each sheet, and plotting instructions.

We are providing this information to you to incorporate these steps into your schedule. Following this process will expedite the M-NCPPC technical review as required in the Park Permit for each project. We hope to reach an agreement on this process by the time the Park land is being transferred for the construction of ICC. We look forward to continued coordination on this process.

Sincerely,



Michael F. Riley, P.E.  
Park Development Division Chief

cc: Mary Bradford, Director, Montgomery County Department of Parks  
Mitra Pedoeem, PDD, M-NCPPC  
Dan Hardy, Countywide Planning, M-NCPPC  
Tom Hay, ICC Environmental Monitor, PDD, M-NCPPC

# ATTACHMENT E

## Intercounty Connector Planning Board Briefing Schedule

October 19, 2006

### 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	“Planning / Zoning Authority” topics
<ul style="list-style-type: none"><li>• Staff proposal defining how “equal quality” parkland will be assessed per MOU (Hench)</li><li>• Means by which park owner statements can influence Section 4(f) impacts analysis (SHA)</li></ul>	<ul style="list-style-type: none"><li>• Review proposed briefing schedule (Valladares)</li><li>• Confirmation that Planning Board process dovetails with SHA process (SHA)</li><li>• Update on selected ARDS package (SHA), response to Council / Board comments</li></ul>



**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**



## **Interim Activities**

- SHA completes final Contract A RFP Addendum

**MCPB Resolution – Tentatively scheduled for November 16, 2006**  
**Include Public Testimony on ALARF Property Transfer**  
Remaining portions of ALARF parcels not needed in their entirety for the ICC

**Status Report #3 – Tentatively scheduled for November 16, 2006**

**MCPB Resolution – Tentatively scheduled for December 14, 2006**  
**Include Public Testimony on ALARF Property Transfer**  
Transfer of parkland from M-NCPPC to SHA for Contract A and Contract C

**Status Report #4 - Tentatively scheduled for December 14, 2006**

**Status Report #5 - Tentatively scheduled for January 11, 2007**

**Status Report #6 - Tentatively scheduled for February 8, 2007**

**Status Report #7 - Tentatively scheduled for March 8, 2007**

**Status Report #7 - Tentatively scheduled for March 8, 2007**

**MCPB Resolution – Tentatively scheduled for March 8, 2007**  
**Include Public Testimony on ALARF Property Transfer**  
Transfer of parkland from M-NCPPC to SHA for Contract B  
Includes agreements regarding all replacement property transfers from SHA to M-NCPPC

**Continuing monthly briefings**

## **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 early 2007.