



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item # 14
1/22/04

To: Montgomery County Planning Board

Date: 16 January 2004

From: ICC Internal Review Team(301/495-4545)

Subject: Planning Board Briefing and Status Report/2004 Intercounty Connector Study

The purpose of the current staff presentation is to clearly identify for the Planning Board the process, schedule and decision making protocol by which the 2004 Draft EIS for the Intercounty Connector is being prepared. To assist in this effort, the State Highway Administration (SHA), as the lead agency for the study, will provide initial basic information followed by several focused areas of discussion that the staff wishes to bring to the Board's attention. Please refer to figure 1 for the order of presentation today.

It is expected that the Board will be in a better position after the presentation to provide guidance and direction for future meetings with staff and others, as needed.

The project background leading to the current study is briefly identified on page 1 of attachment # 8. Park and Planning staff have participated to varying degree in the two Project Planning studies conducted between 1979 and 1999. The second study was presented to the Planning Board during 1997 and culminated with a letter dated 14 August 1997 to the then County Council President, see attachment # 1 (Planning Board packet only). A very important fact at that time that greatly influenced the Board's decision process was the understanding that the master plan alignment crossing through the Paint Branch would not be pursued by the State Highway Administration due to extreme environmental impacts.

The current study, commenced in 2003, embraces a fresh start with no preconceived deterrents; the M-NCPPC was again invited to participate and is doing so in both Montgomery and Prince George's Counties.

The study is structured within the concept established under a new Executive Order that greatly accelerates agency review and resolution of conflicts for projects of national

significance. See attachment # 3. Utilizing this new Order, the U.S. Secretary of Transportation included the ICC in 2003 as one of 13 projects nationwide to be placed on the streamlined list. This will expedite the study by requiring agencies to conduct concurrent rather than sequential reviews, set time periods for response and engage in a dispute resolution process. Using this Order the EIS is to be completed in two years. See Attachment #7 for major milestone events and expected dates for their completion. We are currently approaching milestone 6, that is, concurrence by the appropriate agencies for the Alternatives to be Retained for Detailed Study (ARDS), in February 2004. Part of our purpose today is to review this milestone schedule to identify points at which Planning Board input would be desirable.

FIGURE 1.

PLANNING BOARD BRIEFING AND STATUS REPORT/ICC DEIS 2003

- I Current Status 2004 DEIS (SHA- 30 MINUTES)
 - Purpose and Need
 - Study Area
 - ARDS/No Interchange Discussion
 - Avoidance/Minimization/Mitigation and Stewardship Concepts
 - Future Timetable for Appropriate Board Comment Opportunity
 - Current Right of Way Maps/Ownership Entity/Fund used for Purchase

- II Order of staff presentation-Topic (1.5 HOURS TOTAL/WITH TIME FOR BOARD QUESTIONS)
 - Staff participation in study process-Valladares/Hardy
 - TPR-Current Board transportation policy-Hawthorne/Hardy
 - Environmental impact review and evaluation/Input to SHA to date and on-going review-Hench/Bunnag/Schneider
 - Park stewardship/Memorandum of Understanding-Hench
 - Bikeway/Trail considerations/County Council action/letter-Kines
 - No public testimony

- III Attachments:
 - 1. Prior Board ICC advice on 1997 DEIS-*Planning Board Packet Only*
 - 2. TPR recommendation on ICC
 - 3. Executive Order 13274: Environmental Stewardship and Transportation Infrastructure Project Reviews
 - 4. Current Purpose and Need Statement

5. Copy of Alternatives Screening Matrix-Suggested Alternatives that do not Address All or Part of the Purpose and Need
6. Study Area Map with Corridors 1 and 2 in color
7. Major Milestone chart
8. Copy of November Public Workshop document
9. County Council ARDS letter to SHA
10. January 24, 1997 letter to Neil Pedersen on mitigation and parkland replacement with 3 attachments. Pages circle 1 to circle 15.
11. M-NCPPC MOU with SHA
12. Packet of letters received by Chairman's office
13. Internal Review Team List
14. Draft List of Potential Mitigation and/or Enhancement Sites for the ICC.

2003 DEIS STUDY/PARK AND PLANNING STAFF PARTICIPATION

The principal means of agency communication has been established through an InterAgency Working Group (IAWG) that meets monthly at the SHA in Baltimore attended by Jorge Valladares (Environmental) and Dan Hardy (Transportation). The IAWG is not a decision making body. Decisions are made at a group known as the Principals (+1) that consists of federal and state representatives. The IAWG is kept abreast of study progress and information. Items are brought to it for discussion and comment. To maintain discipline in Montgomery M-NCPPC lines of communication, Jorge Valladares has been identified as the point of contact for all information going into and from the Park and Planning Department. A first tier group of staff with whom information is shared includes Jeff Zyontz (CWP), Rick Hawthorne (Transportation), Dan Hardy (Transportation), John Hench (Park Planning and Resource Analysis) and John Carter (CBP). Additional staff have been called upon to provide assistance and expertise as needed.

Another significant group meeting frequently in which staff participate is the Aesthetics Working Group. This group deals with roadway and bridge design elements, visual quality, aesthetic character and effects on environmental quality. A list of the various study groups and sub-groups is attached as figure 2.

FIGURE 2.

2003 ICC STUDY GROUPS

- Interagency Working Group (IAWG)
- Federal and State Principals (+1)
- Aesthetics Working Group (AWG)
- Travel Demand Task Force
- Expert Land Use Panel (ELUP)

- Brown Trout Technical Group
- University of Maryland Economic Study
- SHA Noise Committee

The items that staff will bring to the Board today are in the following order of presentation:

- Review of past and recent transportation reports and current policy
- December 2003 County Council letter on Alternatives Retained for Detailed Study (ARDS)
- Park stewardship and Memorandum of Understanding with SHA
- Environmental impact and evaluation in current study
- Bikeway and Trail considerations

ICC PROJECT HISTORY

The concept of a limited access circumferential highway located north of the current Capital Beltway was first adopted in the Commission's 1953 Master Plan of Highways. In the 1953 Plan, the term Inter-County Belt Freeway was used to describe the facility now known as the Capital Beltway, and a second freeway, called the Cross-County Circumferential Route, was planned approximately three to five miles to the north.

During the next three decades several transportation network revisions were adopted through the community planning process. By the time the State Highway Administration completed the first DEIS for the ICC and the Rockville Facility in 1983, the master plan alignment for the ICC was generally established in its current location.

During the past decade, the Department staff involvement in the ICC has been focused within two substantial planning efforts, the second SHA environmental impact study of the mid-1990s and the subsequent Planning Board's Transportation Policy Report. During that timeframe, the prevailing County Council sentiment regarding the ICC has shifted, as described in the following paragraphs.

1997 Draft Environmental Impact Statement

The State Highway Administration conducted its second environmental impact statement for the ICC with a DEIS published in the spring of 1997. In neither of the 1983 nor 1997 era studies were any final decisions made. The degree of environmental impacts documented in the 1997 DEIS, particularly within the Northwest Branch and Paint Branch stream valley parks, resulted in several actions:

- Comments from state and federal agencies during 1997 regarding the severity of impacts along the master plan alternative, particularly relative to those impacts associated with other alternatives

- The August 1997 recommendation from the Planning Board that the County Council support one or more “hybrid” options generally consisting of a new freeway along the master plan ICC alignment between I-370 and Georgia Avenue, a new freeway along the master plan ICC alignment between US 29 and I-95, and new or upgraded roadway segments in the vicinity of MD 28 and MD 198 between Georgia Avenue and I-95. This recommendation is included as attachment # 1 to this memorandum for Board members only. The County Council did not support the Planning Board recommendation.
- The April 1999 recommendation from the County Council that the state stop project planning for the ICC and focus resources instead on a network of improvements alternative to alleviate congestion.
- The establishment of the Transportation Solutions Group (TSG), a “blue ribbon panel” appointed by Governor Glendening to address the transportation problems in the ICC study area. The TSG prepared a final report, “Providing More Travel Choices for Suburban Marylanders” in July 1999. The TSG report stated that a majority of the members recommended a new east-west, value-priced, limited-access parkway, with consideration of various design, operating, and environmental mitigation features. The TSG did not recommend a particular alignment for the parkway.
- The September 1999 announcement by Governor Glendening that the state would not build the portion of the ICC between Georgia Avenue and US 29. Instead, the Governor supported studying new, independent, east-west link improvements in the ICC study area west of Georgia Avenue and east of US 29.

Transportation Policy Report

In part due to the uncertainty regarding the ICC, the County Council directed the Planning Board to prepare a comprehensive, countywide review of land use and transportation plans. The Transportation Policy Report (TPR) was conducted in two phases. The first phase resulted in a 1999 Staff Draft report. The second phase included development of the 34-member TPR Task Force and resulted in the Planning Board’s Transportation Policy Report in January 2002 and the TPR Task Force Final Report in February 2002.

The Planning Board’s Transportation Policy Report stated that the County’s greatest capacity deficiency is forecast to be the crossing of Rock Creek between the I-270 corridor and the communities along Georgia Avenue. Similarly, the ICC was found to be the most significant future project in Montgomery County in terms of increasing average speeds in the county, a key measure of system performance. The TPR also found that the ICC, as evaluated, would negatively and irreparably affect the environment.

The Planning Board’s Transportation Policy Report recommended that the state complete the environmental impact studies for the full ICC master plan alignment to conclusively determine the facility’s feasibility. The recommendation recognized that, in light of the twenty-five year history of ICC environmental impact studies to date, a conclusive answer might not be reached swiftly. The TPR therefore recommended that SHA also begin project planning studies for the east-west link improvements, also known as the

Western Connector and the Eastern Connector, as proposed by Governor Glendening. For the area between I-370 and Georgia Avenue, the TPR recommends two Western Connector options, called Option 1 and Option 2, as potential interim solutions that would not preclude eventual ICC construction. The excerpts from the TPR regarding the ICC are contained in an attachment to this memorandum.

The TPR also supported revised land use plans that improve jobs/housing balance on a subregional level and further orient development toward transit stations. The County Council has supported the land use recommendations described in the TPR and has directed the Planning Board to pursue the land use recommendations through a series of master plan amendments.

Recent Planning Board and County Council Actions

The Planning Board is in the process of amending four master plans in the ICC study area; with the latest draft of each plan noted in appendices below:

- Upper Rock Creek Master Plan (Planning Board Draft, July 2003),
- Olney Master Plan (Public Hearing Draft, July 2003),
- Shady Grove Sector Plan (Public Hearing Draft, December 2003), and
- Gaithersburg Vicinity Master Plan

In each of these plans, the Planning Board recommendation regarding the ICC has been consistent with the TPR recommendation:

- The ICC is retained as a six-lane freeway (F-9) with a minimum 300' right-of-way and an off-road shared use path (Class I bikeway)
- The TPR recommendations for Option 1 and Option 2 are cited as potential interim improvements that would be considered consistent with the master plan.

Transportation needs, including the ICC, were a focus of the November 2002 County Council election campaigns. The Fifteenth Council of Montgomery County has supported the implementation of the ICC along the master plan alignment through a variety of forums, beginning with a December 3, 2002 resolution to support the state action to restart the SHA environmental impact study.

The County Council provided comments to SHA on the proposed Alternates Retained for Detailed Study in a December 1, 2003 letter from President Subin to SHA Administrator Neil Pedersen. The letter is included as attachment # 9 to this packet and contains thirteen points, briefly summarized as follows:

- The Council's strong preference is for Corridor 1
- Extraordinary environmental protection measures should be assumed
- Concurrence with the SHA proposal to drop the alternates so described in the November 2003 public workshop brochure. See attachment # 8.
- Evaluate a parkway design that prohibits trucks

- Evaluate the master-planned Midcounty Highway Extended connection to the ICC
 - Develop a Layhill Road interchange in both Corridor 1 and Corridor 2
 - Study the option of not adding a Briggs Chaney Road interchange in Corridor 1
 - Examine a replacement for the local function of Norbeck Road Extended in Corridor 2
 - Rectify the proposed Corridor 2 interchange with US 29 to address circuitous travel patterns
 - Include the master-planned hiker-biker trail in the ICC right-of-way as part of both Corridor 1 and Corridor 2
 - Provide replacement parkland of equal or greater quantity and quality per the 1989 MOU between SHA and M-NCPPC
 - Examine the VDOT cost-overrun experience with the Springfield Interchange
 - Proceed expeditiously with the master-planned widening of MD 28 and MD 198
- SHA staff will describe how these comments are addressed in the Draft Alternates Retained for Detailed Study at the January 22 Planning Board worksession.

PARK STEWARDSHIP/MEMORANDUM OF UNDERSTANDING

As noted in the Planning Board's Transportation Policy Report (M-NCPPC, 2002), the ICC (as evaluated) will negatively and irreparably affect the environment. Given the location of the various ICC alternatives currently under study, the majority of these impacts will occur in County parks. Accordingly the issue of park stewardship, *i.e.*, the application of best management practices towards the conservation of natural and cultural resources, has been and continues to be of critical concern to the Montgomery County Planning Board and its staff.

M-NCPPC staff, consultants, and interested members of the public have well documented natural and cultural resources potentially affected by the various ICC alternatives in Montgomery County Parks. This information continues to form the basis for staff's analysis of potential ICC related impacts and will facilitate staff's efforts to participate in the development of strategies to minimize, mitigate, and compensate for ICC related impacts to publicly owned land under the Planning Board's jurisdiction. In 1997, staff provided the Planning Board with a GIS-based overview of natural and cultural resources potentially affected by the various ICC project alternatives. Within the context of the Planning Board's review of the 2004 Draft Environmental Impact Statement for the Intercountry Connector project, staff can repeat this exercise.

The Montgomery County Department of Park and Planning's Park Recreation and Open Space Master Plan (PROS Plan), adopted by the Planning Board in 1998 (see Attachment #10-A), and the Intercountry Connector Memorandum of Understanding, signed by representatives of the M-NCPPC and Maryland State Highway Administration (SHA) in October 1989 (see Attachment #11), provide policy guidance regarding the stewardship of natural and cultural resources in Montgomery County Parks.

The *Policy for Parks*, adopted by the Planning Board in 1988 and reaffirmed in the 1998 PROS Plan, includes the goals and objectives used in planning Montgomery County Parks. The *Policy for Parks* includes a section titled “Relationship to Other Public Agencies, Education and the Private Sector” that is particularly applicable. The third item in this section reads as follows:

Lands and facilities under the control of the Maryland-National Capital Park and Planning Commission are held as a public trust for the enjoyment and education of present and future generations. The Commission is pledged to protect these holdings from encroachments that would threaten their use as parkland. The Commission recognizes that under rare circumstances non-park uses may be required on park property in order to serve the greater public interest.

Historically the Planning Board has taken a hierarchical approach when evaluating non-park uses of parkland. The Board has tended to follow a policy of avoidance as the first option followed by minimization, mitigation, and compensation.

The Intercounty Connector Memorandum of Understanding provides an interagency understanding of park replacement, land transfer, design, implementation, impact minimization, impact mitigation, and construction management associated with the ICC project. As such, it sets forth a set of mutually agreed upon principles that help guide the relationship between M-NCPPC and SHA throughout the life of the ICC project. Staff reviewed the agreement with SHA staff in 1997 and recommended that it be followed during the ensuing project study work. Although the agreement is now 15 years old, it still provides a valuable framework within which the Planning Board may choose to negotiate ICC related issues associated with effective stewardship of natural and cultural resources in Montgomery County Parks.

In a letter dated January 24, 1997 to Neil Pedersen, then Director of SHA’s Office of Planning and Preliminary Engineering, Planning Board Chairman William H. Hussmann articulated the Planning Board’s opinion regarding environmental mitigation and parkland replacement issues relative to the ICC project (Attachment #10-C). [Staff have also included in Attachment C a memorandum and letters relevant to Mr. Hussmann’s correspondence on this issue.] Mr. Hussmann noted that the Planning Board was aware that the ability to mitigate the impact of any one of the ICC alternatives on the environment and the county park system is the “critical issue” for the project. On behalf of his colleagues, Mr. Hussmann wrote the following:

“Replacement land should, as nearly as possible, be contiguous to existing parks, in the same watershed, preferably the same subwatershed, and duplicate the function and ecological/cultural value of lands impacted. These considerations also need to account for related edge and noise impacts where appropriate. For takings that affect park acreage beyond the proposed right-of-way, it may be necessary to consider replacement on a greater than acre-for-acre basis. The findings of the DEIS (*i.e.*, Draft Environmental Impact Statement) studies relative to the natural resources should address these concerns and assist in these determinations. We (*i.e.*, the Planning Board) will need to see this

impact and mitigation information to determine the adequacy of any needed replacement lands.”

In the same letter, Mr. Hussmann acknowledged SHA’s concern that some mitigation sites (e.g., stormwater management facilities, created wetlands) will need to be considered on park property. Again on behalf of his colleagues, Mr. Hussmann stated: “Such specific situations will need to be presented and reviewed on a project-by-project basis. However, in accordance with previous guidance, we suggest that replacement parkland should be provided for mitigation which may be anticipated in parks.” And that “This also may be reviewed on a project-by-project basis in respect to the proposed mitigation measure.”

And finally in regard to SHA’s suggested consideration of “already planned or programmed parklands for replacement lands,” Mr. Hussmann stated the Board’s concern to “maintain no net loss in the overall park system.” When the time finally comes to identify and approve potential replacement lands, staff believes that the Planning Board should give equal consideration to lands identified for future park acquisition on the current Park Acquisition Map, in the Legacy Open Space Functional Master Plan (M-NCPPC, 2001), in any of the various area master plans, or through the ICC study process. Such a strategy would provide a valuable opportunity to acquire critically important parkland at a time when more traditional funding sources are not available.

New to the current round of ICC studies is the concept of *Environmental Stewardship*. As envisioned by SHA, *Environmental Stewardship* will take the ICC project study beyond the minimum federal regulatory requirements for impact avoidance, minimization, and compensation as articulated in the National Environmental Policy Act. In so doing, the concept is proposed to bring about improvements to natural, cultural, or human environmental conditions within the study area. These conditions include, but are not limited to, environmental degradation resulting from existing development. SHA has asked staff to assist in developing an *Environmental Stewardship* package for each ICC alternative retained for more detailed study. As of the present time, staff delivered a preliminary draft list of potential projects that is being refined based on criteria the state is elaborating and field visits, see attachment # 14. These projects will be brought to the Planning Board for review and approval as they determine.

ENVIRONMENTAL IMPACT AND EVALUATION

As has been noted before, in the mid-1990’s, the SHA in cooperation with various federal, state, and local agencies, including M-NCPPC, conducted a project planning study for the Intercounty Connector. In 1997, SHA released a Draft Environmental Impact Statement (DEIS) on the ICC. Park and Planning staff reviewed the documents and technical studies that comprised the DEIS. Through a series of four worksessions in the summer of 1997, the Planning Board reviewed the alternative proposals and received and considered public comment.

In 1997, Planning Board staff reviewed the Draft EIS in two phases: staff's first task was to review the completeness and clarity of the DEIS to determine if it provided the needed information to address local concerns and requirements. The second phase was to assess the relative merits and disadvantages of the four build alternatives presented in the DEIS.

With the current work of preparing a new Draft EIS, SHA and its consultants have requested information on natural resources that occur within the ICC corridors both within and outside M-NCPPC parkland. Staff have provided information such as the GIS layers for forest cover, wetlands, water resources, Upper Paint Branch Special Protection Area (SPA) boundary and legislation, existing and projected impervious surface coverages in the Upper Paint Branch SPA, and the SPA law. Staff is in the process of compiling information on rare, threatened, endangered, or unusual plant and animal species that have been identified in parkland within the ICC corridors.

SHA and its consultants are also developing designs for how each stream valley will be crossed by the ICC. SHA has held a series of field meetings at many of these stream valley crossing locations. Staff has attended these field meetings. Based on discussions at these meetings, and staff's knowledge of and existing information about the natural resources in and around these stream valley crossing locations, staff has submitted written comments and recommendations on how (e.g., bridge or culvert) the ICC should cross each stream valley. These written comments also include staff's recommendations on minimum design criteria that should be applied at each stream valley crossing, regardless of whether the crossing is a bridge or culvert.

BIKEWAY AND TRAIL

The shared use path along the ICC (aka "the ICC bike path") has been recommended in county master plans for most of the last decade. It is highlighted in the *Countywide Park Trails Plan*, the *Countywide Bikeways Functional Master Plan* and other county master plans. Nearly 20 existing and planned bikeways and major park trails would connect to the proposed ICC bike path including the Rock Creek Trail system, the Matthew Henson Trail and Northwest Branch Trail/Rachel Carson Greenway which then connects to Wheaton Regional Park and the Sligo Creek Trail.

The proposed ICC bike path is part of the regional vision for bicycle transportation. As a completely off-road facility, virtually free from potential conflicts with motor vehicles, the ICC bike path would serve as the east-west spine for both the county's bikeway network for bicycle transportation and the county's hard surface trail network for active recreation. The path would not only connect communities in the eastern part of the county with the cities of Rockville and Gaithersburg (and thus also the county's Metrorail system), it also would provide off-road bicycle connectivity as far north as Clarksburg via the planned shared use path along the Midcounty Highway.

The path could help relieve traffic congestion by encouraging travel by means other than driving alone, thus improving air quality. The path also could improve the health of the county's residents by offering a spectacular recreational path for bicyclists, walkers, joggers, roller-bladers and others. Building bike paths parallel to a limited access

highway is not a new concept in the U.S. There are two examples in northern Virginia: 1) the Custis Trail along I-66, and 2) the bike path adjacent to the Fairfax County Parkway. Both paths are heavily used for both bicycle transportation and for active recreation. A tour of these facilities by bicycle planners in northern Virginia could be arranged upon request.

The *Draft Alternatives Retained for Detailed Study (ARDS)* document received by M-NCPPC on January 7, 2004, states that hiker-biker trails will be provided only where appropriate to complement nearby existing trails along the ICC alignment. SHA proposes to build the path only in short segments for local connectivity and not provide the path for the highway's total length to accommodate regional connectivity. To satisfy regional connectivity, SHA plans to only upgrade on-road bicycle facilities along existing county or state roads. SHA cites footprint/environmental concerns and site constraints in certain areas as reasons for not including the path along the highway's entire length.

(Then) Council President Subin sent a letter to Neil Pedersen in early December outlining the Council's concerns about the ICC project. See attachment #9. Point # 10 in the letter specifically requested SHA to include the bike path in the ICC right-of-way for both Corridor 1 and 2. The M-NCPPC (in both counties), Montgomery County Department of Public Works and Transportation, and the Montgomery County Council are all in agreement that SHA should study the bike path as part of the ARDS process and justify why certain segments are not being included.

The ICC bike path provides important regional and local transportation connectivity for non-motorized modes. The path also could serve as an important recreational amenity to communities adversely impacted by the highway. The environmental impact of the bikeway is minor compared to the overall impact of the entire highway project. Building the bike path could actually engender an overall net positive environmental effect in the long term by encouraging more people to bicycle for transportation, which in turn will take cars off the road, reduce air emissions and improve air and water quality.

Attachments: 1-14