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Preliminary Plan 4-07057

Application	General Data
Project Name: PB & J PROPERTY Location: SOUTHEAST QUADRANT OF RITCHIE MARLBORO ROAD & SANSBURY ROAD Applicant/Address: PETER HERRING PO BOX 309 UPPER MARLBORO, MD 20773 Property Owner: PB & J LLC	Date Accepted: 11/1/2007
	Planning Board Action Limit: 4/04/2008
	Plan Acreage: 4.48
	Zone: M-X-T
	Gross Floor Area: 20,000-30,000 sq ft
	Lots: 3
	Parcels: 0
	Planning Area: 78
	Tier: Developing
	Council District: 06
	Election District: 15
	Municipality: N/A
	200-Scale Base Map: 203SE09

Purpose of Application	Notice Dates
This case was continued from the Planning Board hearing of January 17, 2007 to February 28, 2007. Staff is recommending that this case be continued to allow time for further analysis of transportation issues.	Adjoining Property Owners Previous Parties of Record Registered Associations: 8/14/2007 (CB-58-2003)
	Signs Posted 12/18/2007

Staff Recommendation		Staff Reviewer: Whitney Chellis	
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	CONTINUANCE
			X

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Plan of Subdivision 4-07057
PB&J Property Lots 1-3

OVERVIEW

This case was originally continued from the Planning Board hearing of January 17, 2008, at the request of the applicant, and then continued again on January 24, 2008 to the Planning Board hearing of February 28, 2008, due to unresolved transportation issues. To address those transportation issues the applicant has filed a mitigation plan (24-124(a)(6)) on February 15, 2008, which is currently under review. At the writing of this staff report the evaluation of that plan of mitigation has not been completed. If this case is not continued staff would be compelled to recommend disapproval of the preliminary plan due to the lack of findings of adequate transportation facilities. Staff is recommending a continuance of this case within the Planning Board's 140-day mandatory action time frame for that evaluation to be completed.

The subject property is located on Tax Map 74 in Grid F-4 and is known as Parcels 122, 123 and 197. The property is zoned M-X T, is 4.48 acres, and is located in the southeastern quadrant of the intersection of Ritchie Marlboro Road (MD 193) and Sansbury Road. The property is improved with an existing single-family dwelling unit and detached garage which are to be razed prior to approval of the final plat. The property is also encumbered by an existing recorded access easement (Liber 17172 Folio 049) serving abutting Parcel 140 to the east, zoned R-R. The applicant has indicated, but provided no evidence, that the owner of Parcel 140 has agreed to abandon the access easement to allow for the development of the PB&J property as proposed. The preliminary plan labels the relocation of the sole access serving Parcel 140 to be 65 feet to the east along Ritchie Marlboro Road. This issue is discussed further in the finding section of this report.

The property is located within the limits of the 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment*, in Planning Area 78 in the Westphalia & Vicinity Community. The sectional map amendment rezoned the subject property from the R-A to the M-X-T Zone in 2007.

The site (4.48 acres) is a part of a mixed-use village center that totals roughly 27 acres. The site is designated as retail within the mixed-use center at its northern gateway to the sector plan area along Sansbury Road and Ritchie Marlboro Road. The applicant is proposing to subdivide the property into three lots for 20,000–30,000 square feet of commercial/retail development. Lot 1 (1.84 acres) is located at the intersection of Sansbury Road and Ritchie Marlboro Road and is proposed to be developed with a pharmacy. Lot 2 (1.35 acres) is proposed to be developed with a service station and car wash, and Lot 3 (1.29 acres) is proposed to be developed with possibly a bank/restaurant or general retail. Lots 2 and 3 are configured in a manner that their only street frontage is Ritchie Marlboro Road

Development in the M-X-T Zone requires the approval of a conceptual site plan and detailed site plan. The conceptual site plan for this site (CSP-07002) is scheduled before the Planning Board on February 28, 2008. Section 27-270 of the Zoning Ordinance sets forth the order of those approvals and

requires approval of the CSP prior to the approval of the preliminary plan of subdivision. This preliminary plan must conform to the Planning Board's action on CSP-07002 and any revisions which could result from the Planning Board action.

SETTING

The property is located in the southeast quadrant of the intersection of Ritchie Marlboro Road and Sansbury Roads, east of the Capital Beltway (I-495) in the Westphalia community. Abutting to the east is a single-family dwelling in the R-R Zone, fronting Ritchie Marlboro Road. Abutting to the south is vacant M-X T-zoned land owned by the Ritchie Baptist Church that is a part of the future gateway village center. To the west, across Sansbury Road, is another component of the M-X-T-zoned gateway village center known as the Westphalia Row property (20.67 acres) that is the subject of a conceptual site plan (CSP-07001) and preliminary plan of subdivision (4-07038). Across Ritchie Marlboro Road to the north is property owned by the Greater Morningstar Pentecostal Church zoned I-3 and improved with a church (DSP-02018/01). A portion (10± acres) of the Morningstar Church property is the subject of a pending zoning map amendment (A-9992) to rezone that portion of the property to R-T.

FINDINGS AND REASONS FOR STAFF RECOMMENDATION

1. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

Zone Use(s)	EXISTING	PROPOSED
	M-X-T Single-family dwelling	M-X-T 20,000–30,000 sq. ft. of commercial/retail
Acreage	4.48	4.48
Lots	0	3
Parcels	3	0
Dwelling Units:		
Detached	1 (to be razed)	0

2. **Environmental**—The Environmental Planning Section has reviewed the above-referenced preliminary plan and Type I tree conservation plan stamped as received on December 19, 2007. A review of the available information indicates that streams, wetlands, 100-year floodplain, severe slopes, and areas of steep slopes with highly erodible soils are not found to occur on the property. The soils found to occur on this site according to the Prince George's County Soil Survey are in the Adelphia, Collington, Monmouth, Rumford, Sandy, and Westphalia soil series. According to available information, Marlboro clay does not occur on this property. According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program, there are no rare, threatened or endangered species found to occur in the vicinity of this property. There are no designated scenic and historic roads in the vicinity of this property, which is located in the Southwest Branch watershed of the Patuxent River basin.

The subject property is located in the area included in the Westphalia approved sector plan and sectional map amendment. The plan contains no specific environmental recommendations for this site. The subject site is not within the designated network of the *Countywide Green Infrastructure Plan*.

A signed natural resources inventory (NRI/120/06), which included a detailed forest stand delineation (FSD), was submitted with the application. The FSD report describes one mature forest stand totaling 2.42 acres dominated by yellow poplar and sweetgum.

This property is subject to the provisions of the Prince George's County Woodland Conservation Ordinance because the gross tract area exceeds 40,000 square feet and there are more than 10,000 square feet of existing woodland on-site. A Type I tree conservation plan has been submitted and was reviewed.

This property contains a total of 2.42 acres of upland woodlands. The woodland conservation threshold has been correctly calculated at 0.67 acres, or 15 percent, of the net tract based on the current zoning. The total woodland conservation requirement has been correctly calculated at 1.42 acres. The plan proposes to meet the requirement by providing 0.36 acre of woodland preservation on-site and 1.06 acres of off-site mitigation. Woodland preservation is focused along the southern boundary of the site in a location of a possible future connection to the property to the south. It should be noted that if the treatment of the woodland preservation area shown on the plans is proposed to change in the future, the approved TCPI for this site must be revised; or if the project has proceeded to the TCPII phase, the approved TCPII shall reflect any proposed changes.

The TCPI, as submitted, requires some revisions. The TCPI should show the limits of disturbance and should include the symbol in the legend and provide at least ten feet of clearing behind retaining walls. It appears that this project may be phased and therefore the applicant should provide a lot-by-lot table stating the area of each lot, woodland existing, woodland to be cleared, and woodland preserved.

This property is located on the south side of Ritchie Marlboro Road, a master plan arterial roadway that has been identified as a transportation-related noise generator. The Environmental Planning Section noise model predicts the unmitigated 65 dBA Ldn noise contour to be approximately 155 feet from the centerline of Ritchie Marlboro Road. However, no residential uses are proposed so the noise levels are acceptable for the proposed commercial use and noise mitigation is not required.

Water and Sewer Categories

The water and sewer service categories are W-4 and S-3 according to water and sewer maps obtained from the Department of Environmental Resources dated June 2003 and will therefore be served by public systems.

3. **Community Planning**—The 2002 General Plan locates this property in the Developing Tier. One of the visions for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit serviceable. This application is not inconsistent with the 2002 General Plan Development Pattern policies for the Developing Tier.

The property is within the limits of the 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment*, in Planning Area 78 in the Westphalia and vicinity community. The sectional map amendment rezoned the subject property from the R-A to the M-X-T Zone. The property is located in a designated mixed-use activity center at the northern gateway to the sector plan area along Sansbury Road and Ritchie Marlboro Road. This portion of the mixed-use center is recommended for commercial land uses at the north end of a “main street” along Sansbury Road. The design principles for the mixed-use activity centers, which were approved in the 2007

Westphalia sector plan and SMA, promote development of distinct residential and neighborhood commercial activity centers designed around a main-street theme and anchored by shared amenities. Main-street character and accompanying pedestrian orientations can most effectively be achieved along Sansbury Road, not Ritchie Marlboro Road, which is a designated arterial facility.

This application generally conforms to the retail/commercial land use pattern recommended for this portion of the mixed-use activity center at Sansbury and Ritchie Marlboro Roads by the 2007 approved Westphalia sector plan and SMA (CR-2-2007) land use policies. Development on this site will be subject to the review of a detailed site plan that will evaluate the site for conformance to the plan design principles for a pedestrian-oriented, main-street development character along Sansbury Road and connectivity with development on adjacent properties within the activity center. The review of the detailed site plan should ensure the ability for the connectivity between the subject site and Parcel 195 (Ritchie Baptist Church) to the south. The development of Parcel 195 would include primary access to Sansbury Road and secondary or accessory access to the access easement being provided within the subject site, pursuant to Section 24-128(b)(9). The gateway design features will be determined during review of the of the detailed site plan.

An illustrative concept plan and illustrative site development plan were submitted to the public record of the Westphalia sector plan as Exhibit 19 for the entire mixed-use activity center, which includes the subject property at Sansbury and Ritchie Marlboro Roads. Pursuant to approval of Council Bill CB-78-2006, master plan design guidelines or standards and referenced exhibits in the public record are important conceptual site planning tools to establish criterion for certain plans and SMAs approved after October 1, 2006, such as Westphalia. The lot pattern proposed by this preliminary subdivision application generally conforms to the lot pattern illustrated by Exhibit 19. The type, placement and design of commercial uses on the proposed lots and compliance with sector plan design principles and guidelines will be addressed during review of conceptual (CSP-07002) and detailed site plan applications.

4. **Parks and Recreation**—In accordance with Section 24-134(a) of the Subdivision Regulations, this subdivision is exempt from the requirements of mandatory dedication of parkland because it consists of nonresidential development.
5. **Trails**—The preliminary plan was reviewed for conformance with the Countywide Trails Plan and/or the appropriate area master plan in order to provide the master plan trails. The master plan trail proposed along Ritchie Marlboro Road has been completed in the vicinity of the subject site through the recent interchange improvements made by SHA. This trail has been implemented as an eight-foot-wide concrete sidewalk along the frontage of the subject property. The sidewalk provides access along Ritchie Marlboro Road through the interchange.

A master plan trail/bikeway has also been implemented along the subject site's frontage of Sansbury Road. This trail/bike facility has also been implemented as an eight-foot-wide sidewalk along the frontage of the subject property. The approved Westphalia sector plan designates Ritchie Marlboro Road as a master plan trail corridor and Sansbury Road as a master plan bikeway. No additional improvements are necessary along these frontages. Further review of the internal pedestrian circulation will be addressed at the time of detailed site plan for this site.

It should be noted that the former Chesapeake Beach Railroad right-of-way (Parcel 197) is located along the southern edge of the subject site. This former right-of-way crosses under the current Ritchie Marlboro Road and Capital Beltway interchange. Because of this, the existing side path/wide sidewalk along Ritchie Marlboro Road will be utilized as the trail alignment along

this corridor. This sidewalk includes curb cuts and crosswalks and safely negotiates pedestrians and cyclists through the interchange. No recommendations are made regarding this trail.

There are no master plan trail recommendations at this time. Internal pedestrian connections will be evaluated at the time of detailed site plan.

6. **Transportation**—The Transportation Planning Section is currently reviewing the applicant's proposed transportation mitigation plan. Staff is recommending a continuance of this case within the Planning Board's 140-day mandatory action time frame for that evaluation to be completed.
7. **Schools**—There are no residential dwelling units proposed and therefore there are no anticipated impacts on schools.
8. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for adequacy of fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(B)-(E) of the Subdivision Ordinance and found the following:

The existing engine service at Ritchie Road Fire Station, Company 37, located at 1415 Ritchie Marlboro Road, has a service travel time of 2.08 minutes, which is within the 3.25-minute travel time guideline.

The existing paramedic service at Kentland Fire Station, Company 46, located at 10400 Campus Way South, has a service travel time of 4.86 minutes, which is within the 7.25-minute travel time guideline.

The existing ladder truck service at Marlboro Fire Station, Company 45, located at 7710 Croom Road has a service travel time of 9.49 minutes, which is beyond the 4.25-minute travel time guideline.

In order to alleviate the negative impact on fire and rescue services due to the inadequate service, an automatic fire suppression system should be provided in all new buildings proposed in this application unless the Prince George's County Fire/EMS Department determines that an alternative method of fire suppression is appropriate.

The existing ladder truck service located at Kentland Company 33 is beyond the recommended travel time guideline. The nearest fire station, Ritchie Marlboro Company 37, is located at 1415 Ritchie Marlboro Road, which is 2.08 minutes from the development. This facility would be within the recommended travel time for ladder truck service if an operational decision to locate this service at that facility is made by the county.

The above findings are in conformance with the *Adopted and Approved Public Safety Master Plan 1990* and the *Guidelines for the Analysis of Development Impact on Fire and Rescue Facilities*.

9. **Police Facilities**—The approved 2002 General Plan addresses the provision of public facilities that will be needed to serve existing and future county residents. The plan includes planning guidelines for police facilities as station space per capita: 141 square feet per 1,000 county residents.

The police facilities test is done on a countywide basis in accordance with the policies of the Planning Board. There are 267,660 square feet of space in all of the facilities used by the Prince George's County Police Department and the latest county population estimate is 825,520. Using the standard of 141 square feet per 1,000 residents, 116,398 square feet of space for police facilities are needed. The current amount of space available, 267,660 square feet, is above the guideline. The proposed development is within the service area for Police District II, Bowie.

10. **Health Department**—The Environmental Engineering Program Section with the Department of Environmental Resources notes that a raze permit must be obtained through the Department of Environmental Resources prior to the removal of any existing structures. Any hazardous materials located in any structures on-site must be removed and properly stored or discarded prior to the structures being razed. A note should be placed on the preliminary plan that requires that the structure is to be razed and the well and septic systems properly abandoned before the release of the grading permit.
11. **Stormwater Management**—The Department of Public Works and Transportation, Office of Engineering has determined that on-site stormwater management is required. A Stormwater Management Concept Plan, #38441-2006-00, has been approved with conditions to ensure that development of this site does not result in on-site or downstream flooding. Development must be in accordance with this approved plan, which proposes an underground storage system.
12. **Historic**—A Phase I archeological survey is not recommended. A search of current and historic photographs, topographic and historic maps, and locations of currently known archeological sites indicates the probability of archeological sites within the subject property is low. According to tax assessor records, the existing house on the property was built in 1935. This house appears in the 1938 aerial photographs. Although it is unlikely that significant archeological deposits will be found on the property and no archeological survey is requested, the house should be photographed and recorded on a Maryland Inventory of Historic Properties form by an architectural historian and the documentation, sent to historic preservation staff.

Moreover, Section 106 review may require archeological survey for state or federal agencies. Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic properties, to include archeological sites. This review is required when state or federal monies or federal permits are required for a project.

13. **Variation**—Section 24-121(a)(3) of the Subdivision Regulations establishes design guidelines for lots that front on arterial roadways. This section requires that these lots be developed to provide direct vehicular access to either a service road or an interior driveway when feasible. This design guideline encourages an applicant to develop alternatives to direct access onto an arterial roadway.

The subject property has frontage on and proposes direct vehicular access via Ritchie Marlboro Road for Lots 2 and 3, which is an arterial roadway, and Sansbury Road for Lot 1, which is proposed as a 100-foot right-of-way along the property's frontage. Sansbury is proposed as a "main street" in the approved 2007 Westphalia sector plan and sectional map amendment, and the Department of Public Works and Transportation (DPW&T) is limiting access to right-in and right-out for this site (Lot 1).

Section 24-113 of the Subdivision Regulations sets forth the required findings for approval of variation requests (in **bold**). Staff supports the variation to allow access to a proposed arterial in this case and makes the following findings:

Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon evidence presented to it in each specific case that:

The approval of the applicant's request does not have the effect of nullifying the intent and purpose of the Subdivision Regulations. In fact, strict compliance with the requirements of Section 24-121(a)(3) could result in practical difficulties to the applicant that could result in the applicant not being able to appropriately develop this property.

- A. **That the granting of the variation will not be detrimental to the public safety, health or welfare, or injurious to other property.** One of the purposes of limiting access to an arterial is to enhance public safety, health and welfare. Due to the limited right-in and right-out access to Sansbury Road and the requirement for a median along the property's frontage on Sansbury Road, adequate circulation for the development proposed necessitates direct access to Ritchie Marlboro Road. The applicant requested and staff recommends that direct access be limited to right-in/right-out for the two access points serving the site (Lots 2 and 3); Lot 1 is to be served via Sansbury Road. Staff recommends that the applicant record an ingress and egress and parking easement to provide for cross pedestrian and vehicular circulation to be reflected on the final plat. The details of the circulation will be determined with the review of the detailed site plan (DSP).
- B. **The conditions of which the variation is based are unique to the property for which the variation is sought and are not applicable generally to other properties.** The intersection of Sansbury Road and Westphalia Road is designated by the 2007 approved Westphalia sector plan as one of nine gateways into Westphalia. It is proposed as the location of a mixed-use village center and was rezoned to M-X-T as a part of that plan. The type and amount of development proposed on this site is unique within the sector plan in its location and its commercial uses and is intended to support a mixed-use main street community that was envisioned by the sector plan. This site is the main retail component serving the village center. Neither staff nor DPW&T supports a median opening on Sansbury Road at the site's entrance due to a median break proposed roughly 500 feet to the south to serve the Westphalia Row portion of the sector plan development, which is primarily residential; consequently, this access must be limited to a right in/right-out only. The lack of a medium break would restrict access and on-site circulation without direct access to Ritchie Marlboro Road.
- C. **The variation does not constitute a violation of any other applicable law, ordinance, or regulation.** The Department of Public Works and Transportation will require that the applicant obtain access permits if access to Ritchie Marlboro Road is permitted by the Planning Board. That permitting process will ensure that no other violation of any other applicable law, ordinance or regulation occurs.

- D. **Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.** The property is unique to other surrounding properties in that it is rectangular in shape with limited frontage (260± linear feet) on Sansbury Road to the west, compared to the over 600± linear feet of frontage on Ritchie Marlboro Road. If access were denied from Lots 2 and 3, adequate circulation may not be provided, which could restrict the amount of development on the site and result in a hardship on the owner.
14. **Commercial Use**—Although the subject application is not proposing any residential development, the M-X-T Zone does permit residential development. Because there exist different adequate public facility tests and there are considerations for recreational components for residential subdivisions, a new preliminary plan should be required if residential development is to be considered on this site.
15. **Existing Access Easement Serving Parcel 140**—The subject property is encumbered by an existing recorded access easement (Liber 17172 Folio 049) serving abutting Parcel 140 to the east, zoned R-R. The driveway serving the existing dwelling on-site is also partially located within the easement benefiting Parcel 140 (the existing dwelling is to be razed). The applicant has indicated, but provided no evidence, that the owner of Parcel 140 (to the east) has agreed to abandon the access easement to allow for the development of the PB&J property as proposed. The preliminary plan labels the relocation of the sole access to Parcel 140 to be 65 feet to the east along Ritchie Marlboro Road onto Parcel 140.

In order to develop this site as proposed, the existing access easement serving Parcel 140 should be abandoned. The location of the new driveway apron will require the approval of the Department of Public Works and Transportation (DPW&T) for access onto Ritchie Marlboro Road. DPW&T in their referral dated November 29, 2007, state that the “[e]xisting driveway on Lot 3 needs to be removed or relocated outside Lot 3 limits and is to remain as a right-in and right-out only access.” DPW&T acknowledges that the apron will be relocated “outside” proposed Lot 3.

If the applicant is unable to demonstrate the concurrence for the removal of the access easement, the detailed site plan should be designed to ensure that the rights of the benefited property are not interrupted and there is appropriate separation between the residential access and the commercial use. In the event that the benefited property owner (Parcel 140) does not agree to the relocation (as discussed in the variation section of this report) the access will remain to serve Parcel 140. In the event that the Planning Board grants two points of access to the site from Ritchie Marlboro Road as requested by the applicant, the access easement serving Parcel 140 (Liber 17172 folio 049) to the east, unless abandoned, should be included when counting the total number of authorized points of access to Ritchie Marlboro Road. Section 24-121(a)(3) of the Subdivision Regulations does not distinguish between existing and proposed access to an arterial.

16. **Conceptual Site Plan (CSP-07002)**—At the writing of this staff report the conceptual site plan (CSP-07002) for this 4.48-acre site is scheduled before the Planning Board. The proposed preliminary plan is not inconsistent with recommendations of the CSP.

An illustrative concept plan and illustrative site development plan were submitted to the public record of the Westphalia sector plan as Exhibit 19 for the mixed-use activity center at Sansbury and Ritchie Marlboro Roads, of which this application is a part, along with graphic illustrations

(Perspectives of Sansbury Road and the Village Green). This application falls within “Block B” of the submitted illustrative site plan, which proposes 20,000–30,000 square feet of retail uses on the southeast corner of the intersection of Ritchie Marlboro and Sansbury Roads. The perspective of Sansbury Road shows a continuous, walkable streetscape with building frontages and sidewalks along the properties on Sansbury Road. This image depicts the type of pedestrian-friendly, mixed-use, main-street development envisioned by the sector plan.

The application does not clearly demonstrate how development or access will be coordinated with “Block C” on Exhibit 19 to the south. This potential connection is of key importance because it allows for future development to the south to be easily accessible to the subject property along an internal driveway instead of forcing all interaction between the subject property and the rest of the village center to take place via Sansbury Road. Connectivity is one of the goals for achieving the envisioned development patterns for the Westphalia sector plan area, particularly in activity center areas. Instead, the submitted CSP and preliminary plan show a woodland preservation area that could hinder coordinated access and shared development patterns between lots within this activity center. This is not consistent with mixed-use activity center development concepts or the development illustrations submitted to the record. The review of the detailed site plan should explore the provision for shared access to Parcel 195 to the south, which would encourage and support cross vehicular circulation as set forth in the sector plan, and remove what could be perceived as hurdles in the planning process to encourage property owners to implement a connection.

RECOMMENDATION

CONTINUANCE TO PROVIDE TIME FOR THE ANALYSIS OF THE APPLICANT’S PROPOSED TRANSPORTATION MITIGATION PLAN.