



Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm.

Preliminary Plan 4-09007

Application	General Data	
Project Name: Burgess' Addition to Ritchie Location: Northeast side of Walker Mill Road, approximately 750 feet northwest of Hampton Park Boulevard Applicant/Address: Hampton Walker Mill, LLC 116 Severn River Road Severna Park, MD 21146 Property Owner: Ly-Mar, LLC 12500 Jefferson Avenue Newport News, VA 23602	Staff Report Date:	07/14/09
	Date Accepted:	05/20/09
	Planning Board Action Limit:	07/29/09
	Plan Acreage:	5.68
	Zone:	I-1
	Gross Floor Area:	90,972 sq. ft.
	Lots:	0
	Parcels:	2
	Planning Area:	75A
	Tier:	Developed
	Council District:	06
	Election District	13
	Municipality:	N/A
	200-Scale Base Map:	202SE08

Purpose of Application	Notice Dates	
Industrial Subdivision	Informational Mailing:	04/09/09
	Acceptance Mailing:	05/19/09
	Sign Posting Deadline:	06/23/09

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

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

PRINCE GEORGE'S COUNTY PLANNING BOARD

STAFF REPORT

SUBJECT: Preliminary Plan of Subdivision 4-09007
Burgess' Addition to Ritchie
Parcels D and E

OVERVIEW

The subject property is located on Tax Map 74 in Grid C-3 and is known as part of Parcel B. Parcel B was subdivided pursuant to record plat WWW 87@14 in 1973. Parcel B was then subdivided by deed in 2003 (Liber 19149 Folio 417) with the conveyance of 14,374 square feet of land to Prince George's County. The conveyance is exempt from the requirement of filing a preliminary plan of subdivision pursuant to Section 24-107(c)(5) of the Subdivision Regulations which exempts the conveyance of land to a governmental agency for a public use. The land conveyed to Prince George's County is being utilized for stormwater management associated with Walker Mill Road.

The property is 5.68 acres, zoned Light Industrial (I-1) and improved with an existing one story block building (75,972 square feet), stormwater management and a surface parking lot. The applicant is proposing to subdivide existing Parcel B into Parcels D and E. Proposed Parcel D is 4.39 acres and will contain all the existing development. Proposed Parcel E is 1.29 acres and is proposed for new development of approximately 15,000 square feet. The Zoning Ordinance (Subtitle 27) requires a minimum green area, as defined by Section 27-107.01(103), of ten percent in the I-1 Zone. The applicant has demonstrated conformance with the minimum green area requirement (Section 27-469) and setbacks for Parcel D which contains the existing development.

The property is located on the northeast side of Walker Mill Road which is a designated arterial roadway. Proposed Parcel D is to retain the existing point of access to Walker Mill Road to serve the existing development. Proposed Parcel E, which also fronts onto Walker Mill Road, is requesting direct vehicular access to this arterial facility. This new access requires the approval of a variation to Section 24-121(a)(3) of the Subdivision Regulations which establishes design guidelines for lots that front on arterial roadways. This section requires that lots be developed to provide direct vehicular access to either a service road or an interior driveway when feasible.

The applicant and staff have evaluated the existing building and stormwater management layout. A median currently exists in Walker Mill Road at the location of the Parcel E frontage. However, staff does not believe that access to Parcels D and E can be consolidated because of the location of the existing improvements. A driveway cannot be implemented around either the existing building or stormwater management facility to connect to the existing driveway on proposed Parcel D for Parcel E. The Department of Public Works and Transportation (DPW&T) has indicated that if the Planning Board were to approve the variation to allow for direct access to Walker Mill Road for Parcel E, that access would be for right-in and right-out only. As discussed in the Transportation Section, staff recommends approval of

the variation to Section 24-121(a)(3) of the Subdivision Regulations for direct access to Walker Mill Road for Parcel E.

SETTING

This 5.68-acre site in the I-1 Zone is located on the northeast side of Walker Mill Road approximately 300 feet southeast of its intersection with Ritchie Road and 750 feet northwest of Hampton Park Boulevard. All of the abutting properties are zoned I-1. To the southeast and east are parcels which are a part of the Steeplechase Business Park. To the north is the Ritchie Elementary School on land owned by the Board of Education (BOE). To the northwest is land which is a part of the Hampton South Business Park. To the south, across Walker Mill Road is I-1 zoned land developed with condominium storage units.

FINDINGS AND REASONS FOR STAFF RECOMMENDATION

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

	EXISTING	PROPOSED
Zone	I-1	I-1
Use(s)	Industrial (75,972 sq.ft.)	Industrial (15,000 sq.ft. additional= 90,972 sq.ft total)
Acreage	5.68	5.68
Parcels	1	2
Public Safety Mitigation Fee		No

Pursuant to Section 24-119(d)(2) of the Subdivision Regulations this case was heard before the Subdivision and Review Committee (SRC) meeting on June 12, 2009. The requested variation to Section 24-121(a)(3), as discussed further in the Transportation Section, was also heard at SRC on June 12, 2009 as required by Section 24-113(b).

2. **Environmental**—The Environmental Planning Section has reviewed a Natural Resources Inventory (NRI/009/09) on the subject property. A review of available information indicates there are no streams, 100-year floodplain or wetlands on the property. The NRI shows that the property contains no existing woodland. On February 20, 2009, a standard letter of exemption was issued for the subject site. This site is not subject to the provisions of the Woodland Conservation and Tree Preservation Ordinance because it contains less than 10,000 square feet of woodland and has no previously approved tree conservation plan.

The site is in the southwest branch which drains into the Patuxent River basin. According to the *Prince George's County Soil Survey*, the principal soil series on the site are Adelphia, Collington, and Shrewsbury soil series. This information is provided for the applicant's benefit. No further action is needed as it relates to this preliminary plan review. A soils report, in conformance with County Council Bill CB-94-2006, will be required by the Prince George's County during the permit process review.

Marlboro clay is not found to occur in the vicinity of this site. 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 on this property or adjacent properties. No designated historic or scenic roads will be affected by this development. The site is adjacent to a designated arterial right-of-way (ROW) which is regulated for noise for residential land uses; however, no residential uses are proposed for this site.

The property is in the Developed Tier of the 2002 *Prince George's County Approved General Plan*. The May 1985 *Approved Master Plan for Suitland-District Heights and Vicinity, Planning Areas 75A and 75B* does not note any specific environmental issues associated with this property. According to the 2005 *Approved Countywide Green Infrastructure Plan*, there is a small area of network gap located at the northeast corner of the site. The network gap is associated with an off-site stream valley and woodland to the east of the property. No disturbance is proposed for this area.

3. **Community Planning**—This application is consistent with the 2002 General Plan Development Pattern policies for the Corridors in the Developed Tier. The property is located in the Developed Tier. One of the visions for the Developed Tier is to create a network of sustainable, transit-supporting, mixed-use pedestrian-oriented, medium-to-high-density neighborhoods. By creating employment opportunities within the Developed Tier these neighborhoods can become more sustainable where employment opportunities exist.

The property is located within the limits of the 1985 *Approved Master Plan for Suitland-District Heights & Vicinity, Planning Areas 75A and 75B*. The property is located in Planning Area 75A in the Beltway Employment Areas (Hampton Office and Industrial Area). The land use recommendation is for employment land use for this property. The proposed subdivision conforms to the intent and policies of the master plan. The 1986 Adopted Sectional Map Amendment for Suitland-District Heights and Vicinity, Planning Areas 75A and 75B retained the I-1 Zone for the property.

4. **Department of Parks and Recreation (DPR)**—In accordance with Section 24-134(a) of the Subdivision Regulations the subject property is exempt from the requirements of the mandatory dedication of park land because it is a nonresidential development.
5. **Trails**—The Adopted and Approved 1985 Equestrian Addendum to the Adopted and Approved Countywide Trails Plan and the Approved Master Plan of Transportation recommend a master plan trail facility along Ritchie-Marlboro Road and Walker Mill Road Extended. Bicycle and pedestrian improvements have been incorporated into the recent Ritchie-Marlboro Road and Capital Beltway (I-95) interchange. These improvements have taken the form of wide and standard sidewalks along both sides of Ritchie Marlboro Road and Walker Mill Road, but the actual trail alignment is on the south side of Walker Mill Road.

The proposal includes a curb cut for a new driveway entrance off Walker Mill Road. There is a standard sidewalk along the frontage of the subject property. The proposal should include sidewalk connections to the existing sidewalk on Walker Mill Road. Sidewalk connections should also be made in the future from any proposed building on-site to the sidewalk.

6. **Transportation**—The applicant proposes 15,000 square feet of commercial building space on Parcel E. A traffic study dated March 18, 2009 was submitted by the applicant. The findings and recommendations outlined below are based upon a review of these materials and analyses conducted by the Transportation Planning Section, consistent with the “Guidelines for the Analysis of the Traffic Impact of Development Proposals” (*Guidelines*).

Growth Policy—Service Level Standards

The subject property is located within the Developed Tier, as defined in the *Prince George’s County Approved General Plan*. As such, the subject property is evaluated according to the following standards:

Links and signalized intersections: Level-of-service (LOS) E, with signalized intersections operating at a critical lane volume (CLV) of 1,600 or better. Mitigation, as defined by Section 24-124(a)(6) of the Subdivision Regulations is permitted at signalized intersections within any tier subject to meeting the geographical criteria in the *Guidelines*.

Unsignalized intersections: *The Highway Capacity Manual* (Transportation Research Board) procedure for unsignalized intersections is not a true test of adequacy but rather an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

The traffic generated by the proposed development would impact the intersections of Ritchie Road and Walker Mill Road, Walker Mill Road and Ritchie Marlboro Road, and Ritchie Marlboro Road and Hampton Park Boulevard. A new intersection at the site access point (Parcel E) on Walker Mill Road was also included in the traffic study. The intersections of Ritchie Road/Walker Mill Road and Hampton Park Road/Ritchie Marlboro Road are signalized. The traffic counts were taken in February 2009.

The applicant’s traffic consultant assumed 15,000 square feet of retail space for the site, since retail use would generate a higher volume of traffic than industrial or office space. As allowed by the *Guidelines*, a pass-by rate of up to 60 percent of the trips is allowed for retail space. These are trips already assumed to be on the highway, they are included as exit/entrance driveway volumes at the site entrance. The proposed development would generate a total of 50 AM (31 in, 19 out) and 180 PM (90 in, 90 out) peak-hour vehicle trips as determined using the *Guidelines*.

The existing conditions at the critical intersections identified for review and study are summarized below:

EXISTING TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (CLV, AM & PM)		Level of Service (LOS, AM & PM)	
Ritchie Rd/Walker Mill Rd	995	749	A	A
Site Access/Walker Mil Rd	N/A	N/A	--	--
Walker Mill Rd/Ritchie Marlboro Rd	9.5	10.8	--	--
Hampton Park Blvd/Ritchie Marlboro Rd	456	494	A	A
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the <i>Guidelines</i> , delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.				

Background conditions reflect a compounded growth rate of one percent for two years for all traffic movements. There are seven pending or approved developments in the vicinity of the site. These developments will generate over 1,500 AM peak-hour trips and over 3,000 PM peak-hour trips. The developments include Steeplechase, Ritchie Road Shopping Center, Ritchie Station Marketplace, Greater Morningstar Church, Heritage Glen, Westphalia Row, and the PB&J Property. The largest development is Ritchie Station Marketplace with 1,000,000 square feet of retail space. All of the traffic for the 1,000,000 square feet of retail space was assigned to the northbound access point opposite Hampton Park Boulevard, this accounts for the drop in LOS A (CLV 494) to LOS D (CLV 1,363) during the PM peak hour.

BACKGROUND TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (CLV, AM & PM)		Level of Service (LOS, AM & PM)	
Ritchie Rd/Walker Mill Rd	1,195	1,248	C	C
Site Access/Walker Mil Rd	N/A	N/A	--	--
Walker Mill Rd/Ritchie Marlboro Rd	10.2	13.5	--	--
Hampton Park Blvd/Ritchie Marlboro Rd	705	1,363	A	D
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the <i>Guidelines</i> , delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.				

Under both existing and background conditions the critical intersections operate at acceptable operating conditions based on the *Guidelines*. Under total traffic conditions, the site generates a total of 50 AM (31 in, 19 out) and 180 PM (90 in, 90 out) peak-hour vehicle trips as determined using the *Guidelines*. Less the pass-by trips allowed, up to sixty percent, the site is expected to

generate a total of 20 AM (12 in, 8 out) and 72 PM (36 in, 36 out) peak-hour vehicle trips. Total traffic conditions are shown below. All of the critical intersections operate at acceptable levels of service.

TOTAL TRAFFIC CONDITIONS				
Intersection	Critical Lane Volume (CLV, AM & PM)		Level of Service (LOS, AM & PM)	
Ritchie Rd/Walker Mill Rd	1,197	1,272	C	C
Site Access/Walker Mil Rd	11.1	13.1	--	--
Walker Mill Rd/Ritchie Marlboro Rd	10.3	13.6	--	--
Hampton Park Blvd/Ritchie Marlboro Rd	711	1,369	A	D
<p>*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the <i>Guidelines</i>, delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.</p>				

Access to the site is proposed at a new entrance along Walker Mill Road, which is an arterial roadway. This roadway is designated A-35 in the 1985 *Approved Master Plan for Suitland-District Heights and Adopted Sectional Map Amendment for Suitland-District Heights and Vicinity (Planning Areas 75A and 75B)* with 120 feet right-of-way (ROW). The dedication of 60 feet from the centerline of Walker Mill Road is shown correctly on the site plan. No additional dedication is required.

Variation to Section 24-121(a)(3)

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 applicant has submitted a variation request and seeks a site access point on Walker Mill Road, a designated arterial roadway.

Section 24-113(a) of the Subdivision Regulations sets forth the required findings for approval of variation requests.

Section 24-113(a) reads:

- (a) **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) of the Subdivision Regulations could result in practical difficulties to the applicant that could result in the applicant not being able to develop Parcel E due to the existing improvement locations on Parcel D.

- (1) The granting of the variation will not be detrimental to the public safety, health, or injurious to other property;**

There are two lanes of traffic along Walker Mill Road, this would allow through traffic to bypass the entering/exiting vehicles. While the configuration would introduce a few more U-turns at adjacent median breaks, the field check indicated no potential issues with traffic movement to and from the site. Therefore, it is determined that the granting of the variation would not be detrimental to the public safety, health, or welfare or be injurious.

- (2) The conditions on which the variation is based are unique to the property for which the variation is sought and are not applicable generally to other properties;**

An adjacent industrial building is located immediately west of proposed Parcel E and Parcel D, blocking a possible service road, and a storm pond exists to the rear of the industrial building, preventing a service road there. Parcel E is a small triangular parcel unique in its configuration to the surrounding properties which creates some physical constraints on the site. The site and the proposed right in, right out access point were field-checked. A WAWA gas station is currently under construction on an adjacent parcel along Walker Mill Road. Therefore, access to adjacent parcels from Parcel E is unlikely.

- (3) The variation does not constitute a violation of any other applicable law, ordinance, or regulation;**

The variation to Section 24-121(a)(3) is unique to the Subdivision Regulations and is not regulated by any other law, ordinance or regulations. Therefore the granting of the variation will not violate and other code requirement.

- (4) 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 strict letter of these regulations is carried out;**

As indicated, existing Parcel B is unique in its configuration to the surrounding properties which has driven the configuration of Parcel E which is also a small triangular parcel. Due to this configuration, the properties only frontage is on

Walker Mill Road. Without the approval of the variation, this portion of Parcel B would remain unbuildable. Parcel E is proposed at 1.29 acres which is a substantial amount of I-1 Zoned land which would not be usable without access, which could be a hardship to the owner.

Based on the preceding findings adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Subdivision Regulations if the application is approved with conditions.

7. **Schools**—There are no residential dwelling units proposed in the development. Therefore, there are no anticipated impacts on schools.
8. **Fire and Rescue**—The Special Projects 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 Regulations.
 - a. The existing engine service at Ritchie Fire/EMS Station, Company 37, located at 1415 Ritchie Marlboro Road, has a service travel time of 0.9 minutes, which is within the 3.25-minute travel time guideline.
 - b. The existing ladder truck service at District Heights Fire/EMS Station, Company 26, located at address, has a service travel time of 5.5 minutes, which is beyond the 4.25-minute travel time guideline.
 - c. The existing paramedic service at Kentland Fire/EMS Station, Company 46, located at 10400 Campus Way South, has a service travel time of 6.2 minutes, which is within the 7.25-minute travel time guideline.
 - d. The existing ambulance service at Kentland Fire/EMS Station, Company 46, located at 10400 Campus Way South, has a service travel time of 6.2 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 discussed, an automatic fire suppression system should be provided in all new buildings proposed in this subdivision unless the Prince George's County Fire/EMS Department determines that an alternative method of fire suppression is appropriate.

The above findings are in conformance with the March 2008 *Approved Public Safety Facilities Master Plan* and the "Guidelines for the Mitigation of Adequate Public Facilities: Public Safety Infrastructure."

9. **Police Facilities**—The proposed development is within the service area for Police District III, Palmer Park. The police facilities test is done on a countywide basis in accordance with the policies of the Planning Board. There is 128,608 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 141 square feet per 1000 residents, it calculates to 116,398 square feet of space for police. The current amount of space, 128,608 square feet is above the guideline.

10. **Health Department**—The Environmental Engineering Program has reviewed the preliminary plan of subdivision for Burgess' Addition to Ritchie and has no comments to offer.
11. **Stormwater Management**—The Department of Public Works and Transportation (DPW&T), Office of Engineering, has determined that on-site stormwater management is required. Stormwater Management Concept Plan 8528-2009-00 has been approved with conditions to ensure that development of this site does not result in on-site or downstream flooding. Development should be in accordance with this approved plan.
12. **Historic**—Phase I archeological survey is not recommended on this 5.68-acre property located at 8800 Walker Mill Road in Capitol Heights, Maryland. 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. The subject property has already been developed. However, the applicant should be aware that there are 14 previously identified archeological sites, 11 prehistoric sites, one late 19th to early 20th century railroad, and one multi-component prehistoric and historic site, located within a one-mile radius of the subject property. In addition, there is one County Historic Site, Concord (75A-001), located within a one-mile radius of the subject property.

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. **Public Utility Easement (PUE)**—In accordance with Section 24-122(a) of the Subdivision Regulations, when utility easements are required by a public utility company, the subdivider should include the following statement in the dedication documents recorded on the final plat:

“Utility easements are granted pursuant to the declaration recorded among the County Land Records in Liner 3703 at Folio 748.”

The preliminary plan of subdivision correctly delineates a ten-foot public utility along the right-of-way of Walker Mill Road as requested by the utility companies.

14. **Water and Sewer Categories**—Section 24-122.01(b)(1) of the Subdivision Regulations states that “the location of the property within the appropriate service area of the Ten-Year Water and Sewerage Plan is deemed sufficient evidence of the immediate or planned availability of public water and sewerage for preliminary or final plat approval.” The 2008 Water and Sewer Plan as amended, designates this property in Water and Sewer service Category 3, and the site will therefore be served by public systems.
15. **Use Conversion**—The subject property is zoned I-1. While the subject application is not proposing any residential development, if legislation would permit such a land use, a new preliminary plan should be approved if residential development is to be considered.

RECOMMENDATION

Staff recommends APPROVAL of Preliminary Plan of Subdivision 4-09007, subject to the following conditions:

1. Prior to signature approval of the preliminary plan of subdivision, the following technical corrections shall be made:
 - a. Revise General Note 7 to reflect that the proposed building is on Parcel E.
2. Development of this site shall be in conformance with the Stormwater Management Concept Plan 8528-2009-00 and any subsequent revisions.
3. At the time of final plat, the applicant shall dedicated a ten-foot public utility easement (PUE) along the public right-of-way (ROW) as delineated on the approved preliminary plan of subdivision.
4. Any residential development of the subject property shall require the approval of a new preliminary plan of subdivision prior to the approval of building permits for residential uses.
5. The applicant and the applicant's heirs, successors, and or assignees shall provide a standard sidewalk connection on both sides of the proposed driveway to the Walker Mill Road sidewalk, unless modified by the Department of Public Works and Transportation (DPW&T).
6. An automatic fire suppression system shall be provided in all new buildings proposed in this subdivision, unless the Prince George's County Fire/EMS Department determines that an alternative method of fire suppression is appropriate.
7. The proposed development on Parcel E shall be limited to uses generating no more than 20 new trips during the AM peak hour, and 72 new trips during the PM peak hour. Any development generating a traffic impact greater than that identified herein above shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation facilities.
8. Development on Parcel D shall be limited to the existing warehouse use or uses generating no more than 30 AM peak hour, and 30 PM peak-hour trips. Any development generating a traffic impact greater than that identified herein above shall require a new preliminary plan of subdivision with a new determination of the adequacy of transportation facilities.

STAFF RECOMMENDS APPROVAL OF A VARIATION TO SECTION 24-121(a)(3).