



Senate Bill 656

State Highway Administration – Entrance to State Highway – Permit Process

MACo Position: **SUPPORT**
WITH AMENDMENTS

Date: March 10, 2015

To: Education, Health, and Environmental Affairs
Committee

From: Leslie Knapp, Jr.

The Maryland Association of Counties (MACo) **SUPPORTS** SB 656 **WITH AMENDMENTS**. The bill would bring clarity and more certainty to the process under which the State Highway Administration (SHA) grants entrance permits to certain State highways.

SB 656 would require the SHA to grant or deny specified residential, commercial, and industrial highway entrance permit requests within 60 days after receipt of a written request from a land use authority for the jurisdiction in which the proposed entrance is to be located or 120 days after receipt of a complete permit application. When determining whether to grant or deny a request for a permit, SHA must: (1) consider whether the proposed entrance is consistent with the comprehensive plan for the jurisdiction in which the proposed entrance is to be located; and (2) must determine whether to grant or deny the permit request based on whether a preponderance of reliable evidence indicates that the proposed entrance is consistent with the comprehensive plan and meets other requirements of the permit.

Finally, SHA must promptly provide a written notice and explanation of the reasons for granting or denying a permit request to the permit applicant and each land use authority for the jurisdiction in which the proposed permit is to be located. A land use authority may appeal a permit denial as a contested case to the Office of Administrative Hearings.

As the bill's fiscal note indicates, SHA does respond to most permit applications within a reasonable amount of time. However, there are circumstances where a response seems unnecessarily delayed or it is not clear why a permit was denied. Furthermore, SHA currently only offers preliminary thoughts on residential subdivision plans and it is not until much later in the process that SHA actually considers whether to allow an entrance or not. This can cause both local governments and developers to expend needless time and resources. SB 656 would address these concerns in a reasonable manner.

MACo is offering one amendment that would replace the comprehensive plan consistency test in the bill. Consistency is related to zoning and would properly be considered as part of the initial subdivision process. It does not directly relate to the determination of whether to grant a highway entrance and SHA does not have the resources or expertise to make such a determination. The amendment does not eliminate or change any existing comprehensive plan consistency requirements – only removes this new and unwarranted State determination.

SB 656 would ensure greater certainty and transparency regarding SHA’s decisions on highway entrance permits and give local governments and subdivision developers proper notice of whether a proposed subdivision will qualify for an entrance permit before the government or developer invests valuable time and resources. Accordingly, MACo urges the Committee to adopt a report of **FAVORABLE WITH AMENDMENTS** for HB 656.

MACo Proposed Amendments to SB 656

(b) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) ~~“CONSISTENT WITH” HAS THE MEANING STATED IN § 1-303.1 OF THE LAND USE ARTICLE.~~

(III) “LAND USE AUTHORITY” MEANS:

1. THE GOVERNING BODY OF A COUNTY OR OF A MUNICIPAL CORPORATION;
2. A PLANNING COMMISSION, PLANNING BOARD, OR PLANNING ADMINISTRATOR; OR
3. ANY OTHER STATE OR LOCAL OFFICIAL WITH AUTHORITY TO APPROVE A SUBDIVISION OF PROPERTY.

~~(IV)~~(III) “SUBDIVISION” HAS THE MEANING STATED IN § 1-101 OF THE LAND USE ARTICLE.

(4) ~~WHEN DETERMINING WHETHER TO GRANT OR DENY A REQUEST FOR A PERMIT, THE ADMINISTRATION SHALL CONSIDER WHETHER THE PROPOSED ENTRANCE IS CONSISTENT WITH THE COMPREHENSIVE PLAN FOR THE JURISDICTION IN WHICH THE PROPOSED ENTRANCE IS TO BE LOCATED.~~

(5) THE ADMINISTRATION SHALL DETERMINE WHETHER TO GRANT OR DENY A PERMIT REQUEST BASED ON WHETHER A PREPONDERANCE OF RELIABLE

EVIDENCE INDICATES THAT THE PROPOSED ENTRANCE ~~IS CONSISTENT WITH THE COMPREHENSIVE PLAN AND~~ MEETS ~~OTHER-THE~~ REQUIREMENTS FOR THE PERMIT.

~~(6)~~(5) THE ADMINISTRATION SHALL GRANT OR DENY A PERMIT REQUEST ON OR BEFORE THE EARLIER OF:

(I) 60 DAYS AFTER RECEIPT OF A WRITTEN REQUEST FROM A LAND USE AUTHORITY FOR THE JURISDICTION IN WHICH THE PROPOSED ENTRANCE IS TO BE LOCATED; OR

(II) 120 DAYS AFTER RECEIPT OF A COMPLETE PERMIT APPLICATION FROM THE APPLICANT.

~~(7)~~(6) THE ADMINISTRATION SHALL PROMPTLY PROVIDE WRITTEN NOTICE AND AN EXPLANATION OF THE REASONS FOR GRANTING OR DENYING A PERMIT REQUEST TO:

(I) THE APPLICANT; AND

(II) EACH LAND USE AUTHORITY FOR THE JURISDICTION IN WHICH THE PROPOSED ENTRANCE IS TO BE LOCATED.

~~(8)~~(7) A LAND USE AUTHORITY FOR THE JURISDICTION IN WHICH A PROPOSED ENTRANCE IS TO BE LOCATED MAY APPEAL THE DENIAL OF A PERMIT FOR THE ENTRANCE AS A CONTESTED CASE BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS UNDER TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.