

March 7, 2024

The Honorable Marc Korman
Chair, House Environment and Transportation Committee
251 House Office Building
Annapolis MD 21401

RE: Letter of Concern – House Bill 1309 – Transportation – State Highways – Project Approval

Dear Chair Korman and Committee Members:

The Maryland Department of Transportation (MDOT) offers the following letter of concern for House Bill 1309 for the Committee’s consideration.

House Bill 1309 requires the State Highway Administration (SHA) to provide comments on an application for a development project within 30 days after SHA receives the complete project application. The bill defines a “development project” as a public or private construction project requiring approval from the Administration for access to a State highway for ingress or egress.

Based on the definition of “development project” in House Bill 1309, SHA believes the intent is to affect the access permit process, specifically the access permit plan review process. SHA’s access permit process includes several steps including the 1) traffic impact study review, 2) access permit plan review, and 3) permit package review, along with post-permit issuance coordination. Each step is sequential and requires separate submittals from the requester. The steps are sequential to avoid wasted developer expenses on activities that rely on earlier work. At each step, SHA must coordinate with local entities to ensure comment consistency back to the developer. The coordination between localities often takes time, especially for more complex projects. SHA’s duration of review is reflective of the complexity of each submittal, which is further outlined below. Rushed reviews would undermine SHA’s ability to perform due diligence on projects in various aspects including traffic, environmental, and highway hydraulics.

Access permit plan reviews are generally categorized by project type:

- **Type 1 Project:** These projects require minimal construction in the State’s right-of-way. The reviews are confined to site access and improvements at offsite intersections where mitigation requirements are conditioned on the application by way of an approved traffic impact study.
 - The review guideline for a Type 1 project is 30 days for the plan review step. This timeline excludes the duration for other steps and varies depending on the completeness of the plans submitted. Occasionally, plans are returned for revision to: 1) correct errors; 2) ensure compliance with State laws, regulations, and guidelines; and 3) address incompleteness.
- **Type 2 Project:** These projects are similar in scope to Type 1 but may include additional elements other than standard site access improvements or routine offsite intersection improvements, such as additional through lanes, multiple left-turn lanes, traffic signal installations or significant modifications, roadway lighting improvements, adjustments to existing roadway cross slopes or profile, and major intersection mitigation.

- The review guideline for a Type 2 project is 45 days for the plan review step. This timeline excludes the duration for other steps and varies depending on the completeness of the plans submitted. Occasionally, plans are returned for revision to: 1) correct errors; 2) ensure compliance with State laws, regulations, and guidelines; and 3) address incompleteness.
- Extra items that might be considered relative to a Type 1 project (and that would require involvement from additional offices) include: photometric analysis of lighting improvements; hydraulic review of cross slope redesign; ADA review of signal design; and signal design, signing, and pavement marking review against various State and federal standards. These reviews will be more limited under the proposed 30-day comment window, which may lead to more iterative comments and the need to follow up with developers as SHA completes additional reviews. Such accelerated periods for comment would require the dedication of additional State resources, either for State employees or consultant support to ensure compliance with the bill.
- **Type 3 Project:** These projects require significant roadway reconstruction or new roadway alignments and include projects that directly impact the interstate system. These types of projects may require access breaks, median breaks, noise wall studies, Interstate Access Point Approval (IAPA) coordination (a federally required process), extensive geotechnical exploration, and considerable impacts to the right-of-way. Type 3 projects utilize elements of the milestone process, including a preliminary submission, semi-final submission, and final submission during the pre-permit plan review process.
 - The review guideline for a Type 3 project is 60 days for the plan review step. This timeline excludes the duration for other steps and varies depending on the completeness of the plans submitted. Occasionally, plans are returned for revision to: 1) correct errors; 2) ensure compliance with State laws, regulations, and guidelines; and 3) address incompleteness.
 - In addition to the items that might be considered under a Type 2 project, review of a Type 3 project may include roadway redesign. Similar to a Type 2 project, these reviews will be more limited under the proposed 30-day comment window, which may lead to more iterative comments and the need to follow up with developers as SHA completes additional reviews. Such accelerated periods for comment would require the dedication of additional State resources, either for State employees or consultant support to ensure compliance with the bill.

The SHA recommends maintaining the current review processes as they 1) scale for more complex projects and 2) allow SHA to accommodate the reviews necessary to support permit requests for those projects. Often, consultants are necessary to perform difficult or unusual reviews, which can impact the overall review and comment timeline. Further, the plan reviews are required to cover multiple disciplines, including highway design, pavement and geotechnical analysis, hydraulics, vulnerable user safety, traffic and signals, and environmental review. These reviews may uncover safety risks with proposed activities that must be addressed before a project is allowed to continue.

Requiring SHA to meet 30 days for comment is not realistic for many projects, as each requires technical discipline reviews from multiple subject matter experts (SMEs), followed by the compilation of SHA feedback into a conformed set of comments. These SME reviews are critical, as an incomplete understanding of a project can produce negative community impacts, safety concerns, and a reduced standard of living for communities affected by a developer's project.

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The SHA must perform thorough reviews to ensure requirements are satisfied to adequately represent all stakeholder interests – developers, motorists, pedestrians, cyclists, and the larger community. Compressing the timelines for review and comment may result in rushed reviews, increasing concerns expressed by local communities. In addition, a 30-day limitation will either require SHA to 1) incur greater costs tied to personnel expenses or consultant fees, or 2) require SHA to return plans for revision more frequently simply to meet the deadline rather than working with developers to improve submissions. Given the fiscal condition of the Transportation Trust Fund, the latter condition is most likely and will lead to a less collaborative process with more review cycles driven solely to meet the duration requirements.

In 2016, SHA reorganized the access permit processes to streamline reviews and to improve service at a local level from our Districts offices. We have made significant strides in reducing access permit review times and will continue to work with the development community to identify further improvement opportunities.

The Maryland Department of Transportation respectfully requests the Committee consider this information when deliberating House Bill 1309.

Sincerely,

William Pines, P.E.
Administrator
Office of the Administrator
Maryland State Highway Administration

Pilar Helm
Director
Office of Government Affairs
Maryland Department of Transportation