

May 28, 2021

The Honorable Bill Ferguson  
President of the Senate  
H-107 State House  
Annapolis, Maryland 21401

The Honorable Adrienne A. Jones  
Speaker of the House  
H-101 State House  
Annapolis, Maryland 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 464 – *Maryland–National Capital Park and Planning Commission – Mandatory Referral Review MC/PG 101–21*.

Throughout my tenure as Governor, I have strived to collaborate with local, state, and federal governments, stakeholders, and all interested parties to ensure the support and success of every project statewide. It is imperative for each major public works project to have completed the National Environmental Policy Act (NEPA) process or Maryland Environmental Policy Act (MEPA), which includes full and timely review and input of all regulatory and cooperating agencies before being able to move forward with any construction. The government agencies involved in this process provide critical input, guidance, and oversight to the project leads that is crucial for the success of the process. It is also critical that the NEPA process be clearly defined, predictable, consistent, and transparent.

House Bill 464 jeopardizes economic development in Montgomery and Prince George’s counties by delaying critical projects through a unique and subjective set of processes and approvals not followed in other parts of the State or region. Based on the requirements under this law, a “complete submission” of engineering or architectural drawings that “depict the extent of the activity” subject to the Mandatory Referral is required for a Mandatory Referral to occur. Much of this work is not available at 30 percent design, which is when projects are currently reviewed under Mandatory Referral and will not be available until after substantial and costly work of the project definition has been completed. Waiting for substantive input from the Mandatory Referral after all this substantial work has been completed will likely result in significant and costly re-work and schedule delays to any project being

developed and delivered in Montgomery and Prince George's counties. Impacted projects could include key developments around Washington Metropolitan Area Transit Authority (WMATA) stations and other transit-oriented developments, new and proposed federal office buildings, highway and transit projects, and projects that include public safety or park development. At this time, we should be seeking to improve Maryland's economic competitiveness rather than introduce additional circuitous regulatory obstacles. As the State of Maryland continues to navigate the fiscal impacts of the COVID-19 pandemic, it is imperative that government agencies can appropriately calculate and allocate funding for the design and completion of key projects.

Additionally, alternative delivery methods such as Design-Build will become basically impossible to utilize in Montgomery and Prince George's counties. Under these project delivery methods, the engineering and architectural drawings are developed by the Design-Builder based on the performance requirements of the contract. Introducing a Mandatory Referral with significant unknowns in what is required to be submitted, in the timing, and in the extent of prescriptive and preferential comments that may be provided would have exponentially more risk resulting in more cost due to contract changes and delays – making the utilization of these proven alternative delivery methods too great in Montgomery and Prince George's counties. Removing or significantly impeding the use of these tools will harm the ability to deliver needed and timely projects. The Mandatory Referral process needs to ensure consistency, predictability, and cost and schedule efficiency in meeting the requirements of the law for all types of projects and project delivery methods, not leaving the requirements up to individual judgment, which is significantly influenced by personal and political preferences.

To ensure successful development for the region, we need to continue to guarantee that efficiency and sound fiscal management are Maryland's top priority. The M-NCPPC is a valued stakeholder in the reviewing and approving of projects within Montgomery and Prince George's counties. As the Planning Commission for the two most largely populated counties in the State, it is crucial that M-NCPPC provide its input early in the project development process for all projects impacting the district.

I look forward to continuing to work with M-NCPPC, as well as other stakeholders across Montgomery County, Prince George's County, and the State, to deliver improvements that bolster Maryland's economic competitiveness in the National Capital Region. However, during this unprecedented time, it is not prudent to add further fiscal impacts, delay, and unnecessary risks to all public projects in these counties.

For these reasons, I have vetoed House Bill 464.

Sincerely,

Lawrence J. Hogan, Jr.  
Governor