

COUNTY COUNCIL
OF
TALBOT COUNTY, MARYLAND

2008 Legislative Session, Legislative Day No.: December 23, 2008

Bill No.: 1161

Expiration Date: February 26, 2009

Introduced by: Mr. Bartlett, Mr. Duncan, Mr. Foster, Mr. Harrison, Mr. Pack

A BILL ENACTED PURSUANT TO THE AUTHORITY GRANTED BY ARTICLE 66B, § 13.01, MD. ANN. CODE, TO AUTHORIZE TALBOT COUNTY TO ENTER INTO DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENTS AND TO ESTABLISH PROCEDURES AND REQUIREMENTS FOR THE CONSIDERATION AND EXECUTION OF SUCH AGREEMENTS

By the Council: December 23, 2008

Introduced, read first time, ordered posted, and public hearing scheduled on Tuesday, January 13, 2009 at 2:00 p.m. at the Bradley Meeting Room, Talbot County Court House, South Wing, 11 North Washington Street, Easton, Maryland 21601.

By Order _____
Susan W. Moran, Secretary

A BILL ENACTED PURSUANT TO THE AUTHORITY GRANTED BY ARTICLE 66B, § 13.01, MD. ANN. CODE, TO AUTHORIZE TALBOT COUNTY TO ENTER INTO DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENTS AND TO ESTABLISH PROCEDURES AND REQUIREMENTS FOR THE CONSIDERATION AND EXECUTION OF SUCH AGREEMENTS

SECTION ONE: BE IT ENACTED BY THE COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND, that Chapter 50 of the Talbot County Code entitled “Development Rights and Responsibilities Agreements” shall be and is hereby adopted as set forth herein.

Chapter 50

DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENTS

§ 50-1 Definitions

In this chapter the following words have the meanings indicated.

“Agreement” means a development rights and responsibilities agreement.

“County Council” means the Talbot County Council.

“Planning Commission” means the Talbot County Planning Commission.

§ 50-2 Authority

Talbot County, acting through the County Council, shall exercise the authority granted by Section 13.01 of Chapter 66B Zoning and Planning, Md. Ann. Code, to enter into development rights and responsibilities agreements.

§ 50-3 Applicability

Any person having a legal or equitable interest in real property located within the County may petition the County Council to enter into an Agreement pertaining to the development of that property. Talbot County may include a federal, state, or local government or unit as an additional party to the Agreement.

§ 50-4 Contents of development rights and responsibilities agreement

A. At a minimum, a development rights and responsibilities agreement shall contain the following:

- (1) A legal description of the real property subject to the Agreement;

- (2) A certification that the petitioner has either a legal or equitable interest in the property;
 - (3) The names of all parties having an equitable or legal interest in the property, including lien holders;
 - (4) The duration of the Agreement, including any proposed phasing plan of the development;
 - (5) The permissible uses of the real property;
 - (6) The density or intensity of use of the real property;
 - (7) The maximum height and size of structures to be located on the real property;
 - (8) A description of the permits or approvals required or already approved for the development of the real property;
 - (9) A statement that the proposed development is consistent with applicable development regulations and the County Comprehensive Plan;
 - (10) A description of the conditions, terms, restrictions or other requirements determined by the County Council, or its designees, to be necessary to ensure the public health, safety and welfare;
 - (11) In addition, the Agreement shall include provisions for the following matters to the extent that they are applicable to the proposed development project;
 - (a) Dedication of portions of the real property for public use;
 - (b) Protection of sensitive areas;
 - (c) Preservation or archaeological investigation of prehistoric sites which may provide information not commonly available from similar sites in the County; and preservation or restoration of significant historical structures for which preservation or restoration, and maintenance, are economically reasonable and feasible; and
 - (d) Construction or financing of public facilities and extension or improvement of necessary utilities.
 - (12) Provisions requiring the developer to reimburse the County for its attorney's fees, costs and expenses incurred in the event an Agreement is breached by the petitioner.
- B. In addition to the matters set out in Paragraph A, an Agreement may fix the period in which and terms by which development and construction may commence and be completed, as well as provide for other matters consistent with this title, including the

phasing of development in such a manner that public facilities and services may be provided in an orderly and sequential fashion in the discretion of Talbot County.

§ 50-5 Referral to Planning Commission; compliance with comprehensive plan

Upon receipt of a petition to enter into an Agreement, the petition shall be referred to the Planning Commission for a determination of whether the proposed Agreement is consistent with the County's Comprehensive Plan. Talbot County may not enter into an Agreement unless the Planning Commission determines whether the proposed Agreement is consistent with the Comprehensive Plan.

§ 50-6 Public hearing; manner of approval

- A. Before an Agreement may be executed by the County, the County Council shall hold a public hearing on the proposed Agreement. Notice of the hearing shall be published in a newspaper of general circulation within the County once each week for two consecutive weeks, with the first such publication of notice appearing at least 14 days prior to the hearing. The notice shall contain the name of the petitioner, a brief description sufficient to identify the property involved, a fair summary of the contents of the petition and the date, time and place of the public hearing. This hearing may be combined with other required public hearings for the proposed development.
- B. If after consideration of all information produced as a result of the public hearing, the County Council determines that execution of an Agreement is in the best interest of the County and furthers the purpose and intent of this Chapter, the County Council shall enact a resolution approving the Agreement and authorizing the County Manager to execute and deliver the same.

§ 50-7 Amendment of Agreement

- A. Subject to Paragraph B of this subsection and after a public hearing, the parties to an Agreement may amend the Agreement by mutual consent.
- B. The parties may not amend an Agreement unless the Planning Commission determines that the proposed amendment is consistent with the Comprehensive Plan.

§ 50-8 Termination of Agreements; suspension

- A. The parties to an Agreement may terminate the Agreement by mutual consent.
- B. If, after a public hearing, the County Council determines that suspension or termination is essential to ensure the public health, safety or welfare, the County Council may suspend or terminate the Agreement.

§ 50-9 Applicable laws, regulations and policies

- A. Except as provided in Paragraph B of this subsection, the laws, rules, regulations and policies governing the use, density, or intensity of use or development of the real property

subject to the Agreement shall be the laws, rules, regulations and policies in force at the time that all parties execute the Agreement.

- B. An Agreement may not prevent compliance with the laws, rules, regulations and policies enacted after the date of the Agreement if the County Council determines that imposition and compliance with these laws and regulations is essential to ensure the public health, safety or welfare of residents of all or part of the County.

§ 50-10 Recording Agreements among the Land Records

- A. An Agreement shall be void if not recorded among the Land Records of Talbot County within 20 days after the last day on which all parties have executed the Agreement.
- B. All parties and their successors in interest are bound by the Agreement when it is recorded.

§ 50-11 Enforcement by interested parties

Unless terminated under Section 50-8 of this Chapter, the County, the petitioner, any other party to the Agreement, and their successors in interest, may enforce the Agreement.

SECTION TWO: BE IT FURTHER ENACTED, that this ordinance shall take effect sixty (60) days from the date of its passage and shall remain effective until the end of March 30, 2023, and, after that date, with no further action required by the County Council, this Ordinance shall be abrogated and of no further force and effect. SUBJECT, HOWEVER, to the proviso that abrogation of this Ordinance shall not impair the rights of any party under any Agreement in effect as of March 30, 2023, and shall not affect the parties' authority to amend, extend, suspend, or terminate any such Agreement, or any portion thereof, or to exercise any other power, right, or privilege, including enforcement of any such Agreement, in accordance with the provisions of this Ordinance, as amended from time to time, as if it had not been abrogated.

SECTION THREE: AND BE IT FURTHER ENACTED, That if any provision of this Ordinance or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Ordinance which can be given effect without the invalid provision or application, and for this purpose the provisions of this Ordinance are declared severable.

PUBLIC HEARING

Having been posted and Notice of time, date, and place of hearing, and Title of Bill No. 1161 having been published, a public hearing was held on Tuesday, January 13, 2009 at 2:00 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland.

BY THE COUNCIL

Read the third time.

ENACTED: **January 13, 2009**

By Order _____
Susan W. Moran, Secretary

Foster	-	Aye
Pack	-	Aye
Duncan	-	Aye
Bartlett	-	Aye
Harrison	-	Aye