

BY: Economic and Environmental Affairs Committee

AMENDMENTS TO HOUSE BILL NO. 852

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with "Land" in line 2 down through "Corporations" in line 3 and substitute "Maryland-National Capital Park and Planning Commission - Development Agreements"; strike beginning with "delegate" in line 6 down through "County" in line 13 and substitute "adopt certain ordinances establishing procedures and requirements for the execution of certain development rights and responsibilities agreements; requiring that certain proposed development agreements be consistent with the Commission's general plan; providing for the terms, duration, amendment, termination, and remedies of certain development agreements; and generally relating to development rights agreements in Prince George's County"; and in line 16, strike "8-112.4" and substitute "7-121".

AMENDMENT NO. 2

On page 2, after line 1, insert:

"7-121.

(a) In this section, the following words have the meanings indicated.

(1) "Development" means any activity, other than normal agricultural activity, which materially affects the existing condition or use of any land or structure.

(2) "Development rights and responsibilities agreement" or "agreement" means an agreement, approved by the district council or the county executive, as appropriate, made between a planning board of the Commission, or its designee, a reviewing entity, and a person having a legal or equitable interest in real property for the purpose of establishing conditions under which development of the property may proceed for a specified time.

(Over)

(3) "Regulatory plan" means an application proposing development on privately owned land that must be submitted to a planning board of the Commission for review and final approval under this article or under [county] MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY laws and regulations.

(4) "Reviewing entity" means the county executive OF MONTGOMERY COUNTY OR PRINCE GEORGE'S COUNTY, unless otherwise indicated, or other local, State, or federal government or unit that agrees to execute an agreement.

(b) This section [only] applies to Montgomery County AND PRINCE GEORGE'S COUNTY.

(c) (1) The district council may adopt ordinances, consistent with this section, that establish procedures and requirements for the execution of development rights and responsibilities agreements.

(2) An ordinance may specify the circumstances under which a person may request the negotiation and execution of an agreement based upon:

(i) The size, use, zoning, or staging plan of the proposed development; or

(ii) Other relevant factors, including the provision of public benefits or amenities or growth management policies adopted by the County.

(3) An ordinance adopted under this section by a district council, shall authorize the planning board of the Commission to:

(i) If approved by the district council or county executive, as appropriate, execute agreements affecting real property within the boundaries of the planning board's jurisdiction with a person having a legal or equitable interest in the real property; and

(ii) If requested by any party, include a reviewing entity as an additional party to the agreement.

(4) Nothing in this section may be construed to require the adoption of an ordinance by the district council or to authorize the district council, the Commission, or its designee to require a party to enter into an agreement.

(d) (1) Before entering into an agreement, a person having a legal or equitable interest in real property or the representative of a person having a legal or equitable interest in real property, shall request that a planning board of the Commission in the jurisdiction in which the property is located consider negotiating and executing an agreement. A request must be made as part of an application submitted to a planning board for a regulatory plan review on matters authorized by this article.

(2) A planning board may, but need not, agree to negotiate and, after public hearing, enter into an agreement.

(e) A public hearing for a regulatory plan review may satisfy the requirement for a public hearing for an agreement.

(f) A planning board may not enter into an agreement unless the board makes an affirmative determination that the proposed agreement is consistent with the Commission's general plan.

(g) (1) An agreement shall include:

(i) A legal description of the real property subject to the agreement;

(ii) The names of all persons having a legal or equitable interest in the real property subject to the agreement;

(iii) The duration of the agreement;

(iv) The permissible uses of the real property;

(v) The density or intensity of use;

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- (vi) The maximum height and size of structures;
 - (vii) The general location of all buildings, structures and supporting facilities and features;
 - (viii) A description of all anticipated permits required or already approved for the development of the real property;
 - (ix) A statement that the proposed development is consistent with the Commission's general plan and all applicable development laws and regulations administered by the planning board;
 - (x) A description of the conditions, terms, restrictions, or other requirements determined by a planning board to be necessary to ensure the public health, safety, and welfare of its citizens; and
 - (xi) To the extent applicable, provisions for the:
 - 1. Dedication of a portion of the real property for immediate or future public use;
 - 2. Protection of sensitive areas;
 - 3. Preservation and restoration of historic structures; and
 - 4. Construction or financing of public facilities.
- (2) An agreement may:
- (i) Establish the terms by which and a period of time during which an approved development, or individual phases, must commence and be completed;
 - (ii) Incorporate those terms and conditions that would be included in other

enforceable agreements and instruments between the parties required as part of its regulatory plan review; and

(iii) Provide for other matters consistent with this article.

(h) Unless otherwise provided under subsection (g)(1)(iii) of this section or extended by amendment under subsection (j)(1) of this section, an agreement shall be void 5 years after the date on which the parties execute the agreement. Any extension must be approved by the district council or county executive, as appropriate.

(i) During the established term of the agreement:

(1) Development may occur in accordance with applicable laws, rules, and regulations, governing the use, density, or intensity of the real property, adopted by the district council and administered by the planning board or county and, if applicable, those adopted, enacted, or promulgated by a reviewing entity and in effect when the project was reviewed and approved by the board and reviewing entity; and

(2) The project may be constructed without effect by and regard to modifications that may subsequently occur to such applicable laws, rules, and regulations, except as provided in subsection (k) of this section.

(j) (1) After a public hearing, the parties to an agreement may amend the agreement by mutual consent, provided that any substantial modification must be approved by the district council or county executive, as appropriate.

(2) A planning board may not amend an agreement, unless it makes a determination that the proposed amendment to the agreement is consistent with the Commission's general plan.

(k) (1) The parties to an agreement may terminate the agreement by mutual consent.

(2) After a public hearing, the planning board with the approval of the district council or county executive, as appropriate, may suspend or terminate an agreement if it determines

(Over)

that suspension or termination is essential to ensure the public health, safety, or welfare.

(l) An agreement may not prevent a planning board, district council, county executive, or other local, State, or federal government from requiring a person to comply with the laws, rules, regulations, and policies, adopted, enacted, or promulgated after the date of the agreement, if either the district council or county executive, as appropriate, 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 jurisdiction.

(m) (1) An agreement shall be void if not recorded in the land records office of the jurisdiction within 20 days after the date on which the parties execute the agreement.

(2) When an agreement is recorded, the parties to the agreement and their successors in interest are bound to the agreement.

(n) Unless terminated under subsection (k) of this section, an agreement may be enforced by the parties to the agreement or their successors in interest, utilizing all remedies available by law. No right to an administrative appeal arises from the negotiation or enforcement of an agreement.”.

AMENDMENT NO. 3

On page 2, strike in their entirety lines 2 through 29, inclusive.