

COUNTY COUNCIL
OF
TALBOT COUNTY, MARYLAND

2024 Legislative Session, Legislative Day No.: March 12, 2024

Bill No.: 1551

Expiration Date: May 16, 2024

Introduced by: Mr. Callahan, Ms. Haythe, Mr. Leshner, Mr. Stepp

A BILL TO AWARD 8.348 ACRES OF SUPPLEMENTAL GROWTH ALLOCATION TO THE TOWN OF EASTON AND TO IMPOSE CERTAIN CONDITIONS, RESTRICTIONS, AND LIMITATIONS ON ITS USE

By the Council: March 12, 2024

Introduced, read first time, ordered posted, and public hearing scheduled on Tuesday, April 9, 2024, at 6:30 p.m. at the Bradley Meeting Room, Talbot County Courthouse, South Wing, 11 North Washington Street, Easton, Maryland 21601.

By Order: *Susan W. Moran*
Susan W. Moran, Secretary

A BILL TO AWARD 8.348 ACRES OF SUPPLEMENTAL GROWTH ALLOCATION TO THE TOWN OF EASTON AND TO IMPOSE CERTAIN CONDITIONS, RESTRICTIONS, AND LIMITATIONS ON ITS USE

WHEREAS, pursuant to § 190-55.5 (I) of the Talbot County Code (the “County Code”), if a municipality within Talbot County, Maryland (the “County”) has used all of the growth allocation designated for its use by Table VII-3 of Chapter 190 of the County Code, such municipal corporation may apply for supplemental growth allocation which, if granted, shall be subtracted from the County’s total growth allocation, and the County Council of Talbot County (the “County Council”) may transfer growth allocation to a municipal corporation and may impose such conditions, restrictions, and limitations upon the use of any such supplemental growth allocation, as it may consider appropriate; and

WHEREAS, on August 5, 2022, Thomas Cohee and Lot 16, LLC (collectively, the “Applicants”) submitted a request to the Town of Easton (the “Town”) for growth allocation to reclassify 8.348 acres (the “Property”) of certain real property located at 28580 Marys Court, Easton, Maryland, being a portion of that real property shown on Tax Map 25, Grid 22 as Parcel 46, Lots 16 and 20 consisting in the aggregate of 14.4904± acres, from Resource Conservation Area (“RCA”) to Intensely Developed Area (“IDA”) (the “Application”); and

WHEREAS, the Town has used all of the acreage within its corporate limits eligible for reclassification from RCA to LDA or IDA under Table VII-3 of Chapter 190 of the County Code; therefore, the Town requires supplemental growth allocation from the County in order to approve the Application; and

WHEREAS, the County currently has 462.17 acres available for supplemental municipal growth allocation pursuant to § 190-55(D)(3) of the County Code and will have 453.822 acres remaining if the Application is granted; and

WHEREAS, on September 26, 2022, the Town’s Planning Commission and the County’s Planning Commission held a joint public hearing, after which the Town’s Planning Commission recommended that the Council of the Town of Easton (the “Town Council”) support the Application and the County’s Planning Commission recommended that the County Council support the Application; and

WHEREAS, on April 3, 2023, the Town Council and the County Council held a joint public hearing as required by § 190-55.5 (I)(3)(c); and

WHEREAS, on January 2, 2024, the Town Council passed Ordinance No. 807 granting the Application to reclassify the Property from RCA to IDA, conditioned in part upon the County Council granting supplemental growth allocation to the Town; and

WHEREAS, pursuant to § 190-55.5 (I)(3)(c) of the County Code, the County Council shall evaluate an application for supplemental growth allocation in accordance with the criteria set forth in § 190-55.5 (F) of the County Code; and

WHEREAS, on _____, 2024, the County Council held a public hearing on the Application, notice of which was published in *The Star Democrat*, a newspaper of general circulation in the County, on _____, 2024, and _____, 2024.

SECTION ONE: BE IT ENACTED BY THE COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND, that:

1. **Award.** Subject to the following conditions, restrictions, and limitations, the County Council hereby awards 8.348 acres of supplemental growth allocation to the Town of Easton for reclassification from RCA to IDA.

2. **Conditions, Restrictions, and Limitations.** The award of supplemental growth allocation hereunder is subject to the following conditions, restrictions, and limitations:

a. **Use.** The award of supplemental growth allocation hereunder shall be used exclusively for the project approved by the Easton Town Council pursuant to Ordinance No. 807, effective January 22, 2024 (the “Project”).

b. **Contingencies.** Ordinance No. 807 incorporated a Conceptual Site Plan for the Project (the “Concept Plan”) as Exhibit “A,” and Findings of Fact (the “Town Findings”) as Exhibit “B.” The award of supplemental growth allocation hereunder shall be contingent upon full compliance by the Applicants with the Concept Plan, all requirements set forth in the Town Findings, including the conditions set forth on page 7 thereof, and final approval of the award by the State of Maryland Critical Area Commission pursuant to § 190-55.5 (E)(11) of the County Code.

c. **Criteria.** Pursuant to §§ 190-55.5 (I)(3)(c) and (F), in addition to specific requirements set forth elsewhere in Chapter 190 of the County Code, the County Council shall evaluate the applicable components of an application for growth allocation: the Zoning Map amendment, the revision to the Critical Area land management designation, requested growth allocation, and the concept plan, with all of the following standards being used:

1. The standards and factors for amendments to the Official Zoning Map (§ 190-55.2 (B) and (C)) shall be used to evaluate any proposed rezoning.
2. In addition, the County Council shall consider the following factors as applicable:
 - a. Whether applicable requirements of the County’s Critical Area Program, Zoning Ordinance, and Subdivision Regulations have been met, including the standards for establishment of RCA, LDA, and IDA areas established in § 190-15.3.
 - b. In addition to meeting the minimum requirements of the Critical Area Regulations, the project design shall enhance the habitat value or improve water quality in the area. For example, afforestation may exceed the 15%

requirement or best management practices for stormwater management may be installed on portions of the site to remain in agricultural use.

- c. For residential development, a community pier shall be provided rather than individual piers.
 - d. The location, nature, and timing of the proposed growth allocation in relation to the public interest in ordered, efficient, and productive development and land use.
 - e. Whether the proposed growth allocation, subject to the proposed concept site plan, will fulfill public purposes through the provision of public facilities, implementation of Comprehensive Plan strategies, or advancement of the land use policies and objectives of the Comprehensive Plan.
3. The County Council may approve the application only if it finds that the proposed concept site plan will:
- a. Create lots or parcels that maximize opportunities for clustered development that protect habitat and agricultural resources;
 - b. Locate structures to minimize impact on habitat protection areas and agricultural areas;
 - c. Avoid or provide a minimally disturbed Shoreline Development Buffer;
 - d. Minimize soil erosion and runoff;
 - e. Maximize protection of eroding shorelines;
 - f. Have a minimal impact or cause an improvement to stormwater, floodplain and stream characteristics;
 - g. Avoid or minimize impacts on nontidal wetlands;
 - h. Maximize protection of plant and wildlife habitats, particularly for threatened and endangered species, plant and wildlife common to the Chesapeake Bay Region, and anadromous fish propagation waters; and
 - i. Maximize protection of forests.
4. The County Council shall also make findings based on the growth allocation standards of Md. Code Ann., Natural Resources § 8-1808.1(c), and may establish conditions of approval that are consistent with the intent of the County's Critical Area Program.

5. The fact that an application for growth allocation complies with the specific requirements and standards shall not be deemed to create a presumption that the proposed growth allocation would be compatible with surrounding land uses, and is not, in itself, sufficient grounds to require approval.

d. **Factual Findings and Approval.** This award of supplemental Growth Allocation is specifically conditioned upon the County Council's review of information provided with regard to the foregoing criteria, and upon the County Council's determination and adoption of written findings of fact, which are attached hereto as Exhibit A and incorporated by reference herein as if fully set forth.

e. **Project Amendments.** Pursuant to § 190-55.5 (I)(3)(d) of the County Code, any material amendment to the Project shall be subject to County Council review and approval for a period of five (5) years following the date of initial approval.

3. **Non-Performance or Breach.** In the event of non-performance or breach of: (a) any condition, restriction, or limitation imposed in connection with the award of this supplemental growth allocation, or (b) any agreement executed by the Applicants or their successors or assigns with the County, the County Council may, in its discretion, amend, repeal, rescind, suspend, annul, or revoke this supplemental award of growth allocation by introduction and passage of a bill for that purpose.

SECTION TWO: AND BE IT FURTHER ENACTED, that if any provision of this Bill 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 Bill which can be given effect without the invalid provision or application, and for this purpose the provisions of this Bill are declared severable.

SECTION THREE: AND BE IT FURTHER ENACTED, that the Talbot County Department of Planning and Zoning and the Talbot County Office of Law, in consultation with and subject to the approval of the County Manager, may make non-substantive corrections to codification, style, capitalization, punctuation, grammar, spelling, and any internal or external reference or citation included in this Bill, as finally adopted, that are incorrect or obsolete, with no further action required by the County Council. All such corrections shall be adequately referenced and described in an editor's note following the section affected.

SECTION FOUR: AND BE IT FURTHER ENACTED, that this Bill shall take effect sixty (60) days from the date of its passage.

PUBLIC HEARING

Having been posted and Notice of time, date, and place of hearing, and Title of Bill No. ___ having been published, a public hearing was held on Tuesday, _____, 2024 at 6:30 p.m. in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland 21601.

BY THE COUNCIL

Read the third time.

ENACTED:

By Order _____
Susan W. Moran, Secretary

Callahan -

Stepp -

Leshner -

Mielke -

Haythe -

EFFECTIVE DATE: