



ANNE ARUNDEL COUNTY OFFICE OF LAW

Legislative Summary

To: Members, Anne Arundel County Council

From: Kelly Phillips Kenney, Supervising County Attorney /s/

Via: Gregory J. Swain, County Attorney /s/

Date: July 17, 2023

Subject: Bill No. 64-23 – Subdivision and Development – Zoning – Boards, Commissions, and Similar Bodies – Parole Town Center – Parole Town Center Master Plan

This summary was prepared by the Anne Arundel County Office of Law for use by members of the Anne Arundel County Council during consideration of Bill No. 64-23.

Background

Bill No. 51-90 established the Parole Town Center Growth Management Area and enacted criteria for development in the area. Bill No. 73-94 adopted the Parole Urban Design Concept Plan (the “1994 Parole Plan”) and revised some of the development criteria established by Bill No. 51-90. These development provisions (as amended and recodified) exist in §§ 17-7-901 through 17-7-906 of the current Code.

The Parole Town Center Growth Management Area is an overlay and development is guided by the 1994 Parole Plan. The properties retain underlying zoning classifications and the uses allowed are based on those classifications, in addition to the uses set forth in §§ 17-7-901, et seq. Currently, the Parole Town Center (“PTC”) is divided into the periphery, center, and core.

Purpose

The purpose of the Bill is to repeal the 1994 Parole Plan and adopt the 2023 PTC Master Plan (“PTCMP”). The Bill also repeals and replaces Code provisions governing development in the PTC. Existing provisions are updated or expanded as appropriate, or removed as obsolete. The Bill also renames the Parole Town Center Growth Management Area to the PTC.¹ The PTC is proposed to be broken into seven subareas, instead of the three areas that exist now. This

¹ The area is more commonly referred to as the PTC, and the name “Parole Growth Management Area” has become obsolete over time.

Note: This Legislative Summary provides a synopsis of the bill as introduced. It does not address subsequent amendments to the bill.

Legislative Summary addresses the body of Bill No. 64-23 and is not intended to summarize the PTCMP.

Bill No. 64-23

SECTION 1.

This section repeals the 1994 Parole Plan.

SECTIONS 2 AND 3.

Section 2 repeals § 3-1-207(f), the existing PTC Code provisions (§§ 17-7-901 through 17-7-906), § 18-14-401 and § 18-16-305(g).² Section 3 renumbers various provisions.

SECTION 4.

Subsection **17-1-101(71)** is new and adds a definition of “multi-modal transportation center”. Subsection **17-2-101(b)(17)** is new and establishes a grandfathering provision. It provides that development applications for property in the PTC filed before the effective date of the Bill are governed by the law as it existed prior, unless an applicant makes an election in writing to the Planning and Zoning Officer (“PZO”) to be governed by the law as it existed prior.

Revisions are also made in §§ **17-2-101(b)(2) and (12), 17-5-201(b), 17-5-207(c), and 17-5-401(b)** to reflect the change in name from the Parole Town Center Growth Management Area to the PTC. There are no other substantive changes to those sections.

The new provisions of **Subtitle 9 “Parole Town Center”** are set forth in §§ **17-7-901, et seq.** Some of these provisions already exist in the current Code and are reestablished in the Bill with little to no modifications, whereas other provisions are new or elaborate on existing Code or PTCMP provisions. Significant similarities or differences between the Ordinance and the existing Code are pointed out herein as appropriate.

Section **17-7-901** sets forth new definitions of the terms “activity space”, “green area”, “open area”, “Parole Town Center”, “site” and “subarea” that are applicable in the PTC.

Section **17-7-902** sets forth the scope and applicability of the PTC subtitle. Subsection **(a)** provides that the subtitle applies in the PTC to applications for sketch plans, final plans, preliminary plans, site development plans, or building or grading permits. Subsection **(b)**

² Both § 3-1-207(f) and 18-16-305(g) are removed as obsolete. Both provide (for the Board of Appeals and Administrative Hearing Officer, respectively) that: “A variance to the provisions of the Parole Town Center Growth Management Area Provisions of this Code may not be granted if the variance affects the maximum development potential or density of a site or the floor area ratio, building height, coverage, or open area requirements.”

Because all of the PTC provisions are in Article 17, there is no opportunity for a variance and therefore neither section is applicable. As discussed later herein, a modification under § 17-2-108 can be granted to provisions governing development in the PTC.

establishes certain exemptions to the provisions of the subtitle: building permits to demolish and reconstruct less than 1,000 square feet or add cumulative floor area of less than 1,000 square feet alterations or renovations of a single dwelling unit, a limit of disturbance of less than 5,000 square feet, or a hospital licensed under State law.³

Section **17-7-903** sets forth criteria for when compliance with other laws and manuals are required in the PTC and establishes criteria for which provisions prevail in the case of a conflict. Subsection **(a)** requires that development complies with the site design and architectural standards in the PTCMP. Subsection **(b)** requires that development shall comply with the Landscape Manual, except that when a specific landscaping requirement in the PTCMP differs from the Landscape Manual, the requirement in the PTCMP applies. Similarly, subsection **(c)** provides that development shall comply with the DPW Design Manual,⁴ except that when a specific design requirement in the PTCMP differs from the DPW Design Manual, the PTCMP requirement applies. Subsection **(d)** sets forth what provision prevails in the event of a conflict.

Section **17-7-904** establishes the bulk regulations for the PTC. Subsection **(a)** provides that development is exempt from § 17-6-110(a)(3)⁵ and 17-6-111 (open space, recreation area, and open area requirements) and any other bulk regulations in the Code. Subsection **(b)** sets forth the maximum height and minimum open area for each of the seven subareas of the PTC. The second column for maximum height sets forth the height for property being developed that is adjacent to property not in the PTC and in the RA, RLD, R1, R2, or R5 zoning districts.⁶

Subsection **(c)(1) and (2)** sets forth criteria for measuring building height, specifically that building stories at street level or higher are included, and certain unoccupied rooftop space and basements below street level are not included. Subsection **(c)(3)** establishes a minimum of two building stories for all structures in the Core subarea, except for buildable lots in existence as of the effective date of the Bill. Subsection **(c)(4)** provides that structured parking may not be the tallest structure on a site.

Subsection **17-7-904(d)** establishes that open area is calculated based on the gross area⁷ of the site and that a minimum of 50% of the required open area shall be green area. Subsection **(e)**

³ These exceptions are similar to what exists in current § 17-7-901(b), which exempts hospitals and building permits for additions that are less than 1,000 square feet, or for tenant improvements if the Office of Planning and Zoning (“OPZ”) is satisfied the proposed use is substantially similar to the existing use.

⁴ As defined in § 16-1-101(26), the “DPW Design Manual” means the Department of Public Works Design Manual and the Standards and Specifications for Construction.” The DPW Design Manual is available online at: <https://www.aacounty.org/departments/public-works/engineering/design-manual/> and governs construction of various infrastructure such as roads and streets, sewers, and water mains.

⁵ This section requires a setback of 560 feet from US Route 50.

⁶ The bulk regulations exist in the current code in § 17-7-902. Those criteria include a maximum floor area ratio (FAR), which is being eliminated in this Bill. The maximum heights are currently set forth in § 17-7-902(2) and the minimum open area in subsection (3).

⁷ Section § 18-1-101 provides gross area “means the total area of a lot.”

provides the criteria for activity space.

Subsection **17-7-904(f)(1)** establishes the setbacks for each subarea of the PTC. Subsection **(f)(2)** provides that the setback from U.S. Route 50 or Maryland Route 665 shall be 35 feet. Subsection **(f)(3)** establishes criteria for the measurement of setbacks. Subsection **(f)(4)** provides that the PZO may approve a setback other than one set forth in the subsection either as a modification in accordance with § 17-2-108, or as part of an incentive program under § 17-7-909.

Subsection **17-7-904(g)** provides for noise mitigation measures for certain development adjacent to U.S. Route 50 or Maryland Route 665. Subsection **(g)(1)** requires that a developer conduct a noise study to identify noise mitigation measures that are necessary to reduce highway traffic sound to certain levels. Subsection **(g)(2)(i)** requires that subject to the result of the noise study, indoor noise mitigation measures are included on building architectural plans and Subsection **(g)(2)(ii)** requires that outdoor noise mitigation measures be provided in open area maintained by a homeowners association or similar entity, or in the absence of an open area, covered under a noise mitigation maintenance easement.

Section **17-7-905** sets forth the allowed uses, prohibited uses, and use conditions. Subsection **(a)(1)(i)** provides that the uses allowed in the PTC are the permitted, conditional, and special exception uses allowed in the underlying zoning district of a property, unless otherwise provided in the section.⁸ Subsection **(a)(1)(ii)** provides for additional allowed uses in the C2, C3, C4, TC, W1, W2 or W3 zoning districts, which are the uses allowed in the R22 district.

Subsection **17-7-905(a)(2)(i)** lists additional permitted uses in the PTC. Subsection **(a)(2)(ii)** lists two additional conditional uses (“housing for elderly of moderate means” and “workforce housing”) and the conditions for the same.

Subsection **17-7-905(a)(3)** provides conditions in addition to those in Article 18 for certain conditional or special exception uses. These uses are automobile gasoline stations; self-service storage facilities in the Core, Parole North District, and Church District; and automobile, truck, and recreational vehicle sales in the Core and Parole North Districts.

Subsection § **17-7-905(a)(4)** provides that the conditional or special exception uses of assisted living facilities, child care centers, or nursing homes, are subject to the conditions in the subsection, in lieu of the conditions in Article 18.

Subsection § **17-7-905(b)** allows development to contain a mix of any of the allowed residential, commercial, light industrial, and civic or institutional uses. The mix of uses is not required to comply with any other Code provisions governing specific mix of uses.⁹

⁸This is the same as current Code language, which also provides that the uses are those allowed in the underlying zoning districts (§ 18-14-101(a)). Current § 17-7-902(4), (5), and (6) allow for additional uses when the FAR is at a certain number.

⁹This is somewhat of a change from the current Code (§ 17-7-904(d)(8)), which allows mixed use only as in incentive when certain criteria are met.

Subsection **17-7-905(c)** contains a list of uses that are prohibited in the PTC, unless the use was lawfully in existence prior to the effective date of Bill No. 64-23.¹⁰

Section **17-7-906** contains a new inclusionary housing requirement for the PTC. Under this section, for development with more than 20 dwelling units, 10% of the dwelling units shall meet certain affordable housing criteria. The affordable units shall be encumbered by a recorded restricted covenant enforceable by the County or its designee that requires home ownership units be occupied by households with an income that does not exceed 100% of the adjusted median income for the area (“AMI”), and rental units be occupied by a household with an income that does not exceed 60% of the AMI. The covenant must also comply with the conditions in § 18-10-170(2)(i), (iv), and (v).¹¹ The dwelling units must also comply with § 18-10-170(8).¹² Subsection **(3)** requires home prices to be set at rates certified by the County or its designee.

Section **17-7-907** requires that land in a proposed development shall be reserved as future rights-of-way or other public facilities if there is an appropriation of at least 30% of the construction cost for the facilities or improvements in the current approved budget, with the remainder programmed for construction in the current approved capital improvement program.

Section **17-7-908** sets forth the parking, transportation and site access requirements for development in the PTC. Subsection **(a)** requires that parking shall be in accordance with Title 3 of Article 18, unless otherwise provided. Subsection **(b)** provides that an enclosed shopping mall may be exempt from meeting the parking requirements in subsection (a) if a parking program is submitted to and approved by the PZO.

Subsection **(b)(1)** requires that on sites greater than 1.5 acres, parking for professional and general offices or retail and service businesses in excess of what is required under subsection (a) shall be in a garage structure. Subsection **(b)(2)** requires that parking for multifamily dwellings with 100 units or more shall be in a garage structure, except for a limited number of short term or handicapped parking spaces. Either of these provisions can be modified under the incentive

¹⁰The Code does not typically list prohibited uses because § 18-2-201(b) provides that “a use not specifically allowed in this article is prohibited.” But, the list in § 17-7-905(c) contains uses that would otherwise be allowed in various underlying zoning districts in the PTC.

¹¹ These provisions require the following deed restrictions:

(i) the units be restricted to occupancy by eligible households under this section for at least 10 years for home ownership units and at least 30 years for rental units, except that the deed restriction may be 15 years for “lease to purchase” rental units;

(iv) the initial transfer of a home ownership unit to the original buyer of that unit shall be accompanied by a certification from Anne Arundel County or its designee that the buyer’s household income does not exceed the maximum allowed for that unit; and

(v) if the original buyer of a home ownership unit transfers title to that unit within 10 years, the transfer shall be accompanied by a certification from Anne Arundel County or its designee that the transferee’s household income does not exceed the maximum allowed for that unit.

¹² This subsection provides: “The initial allowable maximum rental rates for rental units shall be established by the developer and approved by Anne Arundel County or its designee after obtaining and considering information and data dealing with current general market and economic conditions and the current minimum rental rates of privately produced market priced housing.”

program set forth in § 17-7-909.

Subsection (c) requires electric vehicle charging stations for multifamily dwellings and mixed use development at a rate of one electric vehicle charging station for every 50 parking spaces required. For a business complex with three or more uses, one electric vehicle charging station is required for every 75 parking spaces required. The electric vehicle charging stations count towards the total number of parking spaces.

Subsection (d)(1) requires that a developer provides the necessary on-site improvements to accommodate the bicycle and pedestrian amenities required in the DPW Design Manual, and dedication to the County to require these improvements. Subsection (d)(2) requires that in addition to any DPW Design Manual requirements, the developer, at the discretion of the PZO, shall provide additional width for pedestrian easements where required on-street sidewalk sections exceed five feet, and that a developer includes one bicycle parking space for every 20 vehicle parking spaces.

Subsection (e) requires that site access shall be from alleys, shared access between adjacent sites, or local service roads to minimize direct access points along major roadways.

Section **17-7-909** sets forth the criteria for the incentive program in the PTC. The incentive program currently exists for the PTC (as well as for the Odenton Town Center) and allows a developer to propose public benefits and amenities over and above what is required by the Code or manuals in exchange for increased density, increased height, decreased open area, or other relief from development requirements.

Subsection (a) is very similar to what exists in current § 17-7-903(a). Subsection (a) states that there is an incentive program for development that provides a public benefit that achieves a mixture of desirable land uses, quality design, and public amenities that create a sense of unified community and an enhanced quality of life in the PTC. New subsection (a) goes on to more clearly state what the incentive program allows for, which is additional development capacity or other relief from the requirements in Article 17 (other than Title 5 (adequate public facilities) or Title 8 (critical area)) or Article 18 (other than Title 13 (critical area)), the PTCMP, the Landscape Manual or the DPW Design Manual.

Subsection (b) is similar to what exists in current § 17-7-904(a). Both provide the criteria for an application for use of the incentive program. Subsection (c) is almost identical to existing § 17-7-904(b), which sets forth OPZ's criteria for evaluating the application.

Subsection (d) sets forth the types of public benefits that a developer may propose. These benefits include site design, architectural features, streetscape improvements, open area, community amenities, environmental restoration projects or other elements that exceed the requirements in the Code or the PTCMP. The subsection goes on to list the types of public benefit items that a developer may propose. The use of the incentive program is typically an iterative process between the County and the developer, giving the opportunity for the developer to propose various amenities and the County to determine the incentive based on what is requested as an incentive and proposed as a public benefit. The lists in this section are therefore not exhaustive

and a developer may be innovative in their proposals and requests.

Current § 17-7-904(d) lists various types of proposed public benefits (often referred to as proffers) that may be considered. The list in new § **17-7-909(d)** expands and adds to the current list providing examples of public benefits in various categories: **(1)** land use public benefits; **(2)** transit and parking public benefits; **(3)** conservation public benefits; and **(4)** in the Core and Parole North Districts, a list of significant public benefits.¹³

Subsection **(e)** lists the types of incentives that can be granted to a developer based on the proposed public benefit. This includes **(1)** increased density up to 44 dwelling units per acre, based on the size the entire development; **(2)** relief from any requirements of Article 17 (other than Titles 5 and 8), Article 18 (other than Title 13), the PTCMP, the Landscape Manual, or the DPW Design Manual; **(3)** additional building height; or **(4)** reduction in open area requirements. Item **(5)** includes a chart indicating the maximum height of a building granted an incentive and the minimum open area.¹⁴

It is worth noting that, a developer may request a modification of the provisions of the PTC subtitle pursuant to § 17-2-108. As an overlay with Code provisions in Article 17 (instead of 18), developers can utilize the modification process instead of a variance. Therefore, if a developer has a request for relief from a requirement of the PTC provisions based on hardship and can meet the criteria required for a modification, a modification is an option in lieu of proposing enhanced public benefits through the incentive program to get relief from Code requirements.

The change in § **17-11-209(b)(3)** reflects the change in name from the Parole Town Center Growth Management Area to the PTC.

Section **18-14-101** replaces the existing section of the Code. Subsection **(a)** indicates that the new seven subareas of the PTC: the Core, Parole North District, Church Creek District; Hudson Street Transition, Housley Road Village, Gateway Business Mix, and Defense Highway Corridor. This is a change from the three classifications (periphery, center, and core) that currently exist. Subsection **(b)** is essentially the same as the existing provision and provides that uses in the PTC are those that are allowed by existing zoning classifications, in addition to the uses set forth in PTC subtitle of Article 17.

SECTIONS 5 and 6.

These sections adopts the PTCMP, and provide that a certified copy of the plan shall be kept on file with the Council and OPZ.

SECTION 7.

This section provides that references to “the effective date of Bill No. 64-23 shall be

¹³ These are listed as “incentives for landmark buildings” in § 17-7-904(f) of the current Code.

¹⁴ Similar incentives exist in the current Code in § 17-7-904(c) and (f), which establishes a higher maximum building height for “landmark buildings”, which are in the new Ordinance as “significant” public benefits.

replaced with the actual date that the Ordinance takes effect.

SECTION 8.

This section provides that the Ordinance shall take effect 45 days from the date it becomes law.

The Office of Law is available to answer any additional questions regarding this Bill.
Thank you.

cc: Honorable Steuart Pittman, County Executive
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