



## 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

**Date:** November 6, 2023

**Subject:** Bill No. 84-23 – Subdivision and Development – Zoning – Boards, Commissions, and Similar Bodies – Finance, Taxation, and Budget – Public Works – Odenton Town Center – Odenton Town Center Master Plan

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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. 84-23.

### Background

The Odenton Town Center (“OTC”) was originally designated in 1972. Since then, the County Council has adopted various versions of the OTC Growth Management Plan, the latest of which was in 2016.

The OTC Growth Management Area currently consists of 6 zoning districts. In the 2016 Plan, the OTC is further broken into 16 regulatory blocks. Development is currently governed by the 2016 Plan, and current § 17-7-803(a) establishes that the provisions in the 2016 OTC Plan have the force of law as if set forth in the Code.

### Purpose

The purpose of the Bill is to repeal the 2016 Odenton Plan and adopt the 2023 OTC Master Plan (“OTCMP”). The Bill also repeals and replaces Code provisions governing the OTC. Existing provisions are updated or expanded as appropriate, or removed as obsolete. The Bill also renames the Odenton Town Center Growth Management Area to the OTC.<sup>1</sup> The Bill also moves most of the regulatory language that currently exists in the 2016 Plan into the Code. This Legislative Summary addresses the body of Bill No. 84-23 and is not intended to summarize the OTCMP.

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<sup>1</sup>The area is more commonly referred to as the OTC, and the name “Odenton 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.**

**Bill No. 84-23**

**SECTION 1.**

This section repeals the 2016 OTC Plan.

**SECTIONS 2 AND 3.**

Section 2 repeals various sections due to renumbering, and repeals the existing OTC Code provisions §§ 17-7-801 through 17-7-806 and 18-9-101 through 18-9-104. Section 3 renumbers various provisions.

**SECTION 4.**

The changes in §§ **3-1-205** and **3-1-207** reflect the change in name from the OTC Growth Management Area to the OTC.

**Section 3-6B-101** is new and governs the OTC Advisory Committee. The Committee already exists per existing § 17-7-805, and the 2016 Plan also discusses the role of Committee. New § **3-6B-101** codifies the purpose, composition, and term of members of the committee, in a way consistent with Code provisions governing other boards and commissions. (§ **3-6B-101(a)**, **(b)**, and **(c)**). The section also provides for appointment of a chair, governs meetings, states what constitutes a quorum, and provides that members are not entitled to compensation. (§ **3-6B-101(d)**, **(e)**, **(f)**, and **(h)**). Subsection **(g)** provides that a developer shall submit all sketch plans, preliminary plans, final plans, site development plans, and incentive program applications to the committee. The subsection also provides that a developer is required to present sketch plans, preliminary plans or an incentive program application before a meeting of the Committee. Subsection **(i)** sets forth the duties of the Committee, including making written advisory recommendations to the Office of Planning and Zoning (“OPZ”) on the applications discussed in subsection (g).

The changes in §§ **4-2-306**, **4-2-307**, **13-5-112**, **13-7-101**, **13-7-103**, and **13-7-104** all reflect the change in name from the OTC Growth Management Area to the OTC, with no substantive changes.

**Article 17**

Subsection **17-2-101(b)(18)** is new and establishes a grandfathering provision. It provides that development applications for property in the OTC filed before the effective date of the Bill are governed by the law as it existed prior to the effective date of the Bill.

Revisions are also made in §§ **17-2-101(b)(2)**, **17-3-203(f)**, **17-3-303(e)**, and **17-5-201(b)**, to reflect the change in name from the Odenton Town Center Growth Management Area to the OTC.

Subsection **17-5-202(a)(2)** is removed to delete obsolete language governing the testing for adequate public facilities (“APF”) for projects in the OTC. Existing (1) becomes (a). Subsection **17-5-203(a)** is revised to reflect the change in the prior section, and also for clarification, as there is an option to postpone APF testing to final plan review for any development in the County (not just in the OTC).

Subsection **17-5-401(a)** is revised to refer to new subsection (d). Subsection (d) is new and governs the testing of APF for road facilities in the OTC. This language is almost identical the road APF provisions recently adopted by the Council in Bill No. 64-23 for the Parole Town Center. A development passes road APF if (after the offset discussed below) it creates 250 or fewer daily trips, or meets the level of service criteria set forth in (i), or the developer has an approved mitigation plan per (ii). Subsection (d)(2) provides for a “look-back,” and allows for an offset for the number of trips for a prior use on a site that existed within five years of a development application. Subsection (d)(2)(i) requires the developer to provide supporting information to justify the offset requested. Subsection (d)(2)(ii) provides that if OPZ accepts the offset requested, the number of trips from the prior use can be subtracted from the number of trips generated by the new use. Lastly, Subsection (d)(2)(iii) provides that the offset applies regardless of whether any of the structures are demolished from the site.

Sections **17-5-403(a)** and **17-6-113** are both revised to reflect the OTC name change.

Subsection **17-5-901(e)** is new and sets forth the mitigation requirements for the OTC, which includes certain improvements or construction, contributions to a capital project, a significant capital improvement, providing or contributing to long-term satellite parking, providing traffic design or traffic direction, or improvements to bicycle, pedestrian or transit infrastructure.

The new provisions of **Subtitle 8 “Odenton Town Center”** are set forth in §§ **17-7-801, et seq.** Section **17-7-801** sets forth new definitions of the terms “activity space”, including private and public, “community amenity”, “green area”, “open area”, “Odenton Town Center”, and “site” that are applicable in the OTC.

Section **17-7-802** sets forth the scope and applicability of the OTC subtitle. Subsection (a) provides that the subtitle applies in the OTC to applications for sketch plans, final plans, preliminary plans, site development plans, or building or grading permits. Subsection (b) establishes certain exemptions to the provisions of the subtitle: building permits to renovate or redevelop existing developed sites and increase floor area that existed as of June 5, 2016, by less than 50%<sup>2</sup>; construct an ancillary building of less than 2,000 square feet; alter, renovate or reconstruct a single dwelling unit; or a limit of disturbance of less than 5,000 square feet.

Section **17-7-803** sets forth criteria for when compliance with other laws and manuals are required in the OTC and establishes criteria for which provisions prevail in the case of a conflict. Subsection (a) requires that development complies with the urban design and architectural standards in the OTCMP, and that any structure that is greater than 120 square feet is subject to the architectural requirements. Subsection (b) requires that development shall comply with the

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<sup>2</sup>This exemption currently exists in the 2016 plan.

Landscape Manual and supplemental landscaping requirements in the OTCMP, except that when a specific landscaping requirement in the OTCMP differs from the Landscape Manual, the requirement in the OTCMP applies. Subsection (c) provides that development shall comply with the DPW Design Manual.<sup>3</sup> Subsection (d) requires that development in the OTC complies with the historic preservation requirements in the OTCMP. Subsection (e) sets forth what provision prevails in the event of a conflict.

Subsection **17-7-804(a)** requires a pre-submittal meeting for development adjacent to or fronting on roads identified as planned in the OTCMP to determine the extent of required road improvements. Subsection (b) requires that land in a proposed development be reserved as future rights-of-way for transportation and other infrastructure if the project has been funded for design and is at least 60% designed. Subsection (c) governs transportation improvements for phased developments, and requires, among other things, the establishment of continuous road frontage pedestrian network as part of the first phase of development. Subsection (d) sets forth various requirements for site access and circulation, including circulation patterns to minimize curb cuts, provide connection between sites, and provide adequate stacking capacity for drive-through establishments.

Subsection **17-7-805(a)** requires that when a County or regional trail or extension abuts a development, a developer provides for on- and off-site connections, and Subsection (b) requires that when there is an existing trail, the developer shall construct a connection to the trail from the development. Both subsections provide that the connections are not required if OPZ determines that the connection will result in unnecessary impact to the environment. Subsection (c) requires a developer to provide the necessary right-of-way dedications or pedestrian easements to accommodate the improvements.

Section **17-7-806** requires that a minimum of 10% of the gross area of a site shall be provided as green area.

Subsection **17-7-807(a)** provides that development is exempt from § 17-6-110(a)(6)<sup>4</sup> and 17-6-111 (open space, recreation area, and open area requirements). Subsection (b) requires at least one square foot of activity space per every 10 square feet of floor area, and that it be apportioned between public and private activity space, except that in the OTC-C and OTC-T districts, at least 50% of the total activity space shall be public. Subsection (c) requires that public activity space shall be accessible from a public road. Subsection (d) requires that each public activity space in the OTC-C and OTC-T districts shall include at least one community amenity to fill in gaps as shown on the community amenity map. Subsection (e) allows adjacent property owners to cooperatively provide public activity space.

Section **17-7-808** establishes the criteria for historic preservation in the OTC. Under Subsection (a), development in the OTC-H district shall comply with the historic preservation

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<sup>3</sup> 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.

<sup>4</sup>This section requires a setback of 450 feet from MD Route 32.

design requirements in the OTCMP. Subsection **(b)** exempts properties identified as exempt in the OTCMP from the section. Subsection **(c)** requires that contributing historic structures inside the OTC-H zoning district shall be retained. Subsection **(d)** allows that contributing historic structures outside the OTC-H zoning district may be moved only if no other viable alternative for preservation is available. Subsection **(e)** requires that any exterior changes or alterations to a contributing historic structure shall comply with the historic preservation design requirements in the OTCMP, unless the property is, or is required to be, encumbered by a preservation easement. Subsection **(f)** requires that new development in the OTC-H zoning district shall comply with the historic preservation design requirements in the OTCMP.

Section **17-7-809** allows for flexibility in design standards for various items where redevelopment involves environmental remediation or other constraints or requires special planning and design considerations.

Section **17-7-810** sets forth the criteria for the incentive program in the OTC. The incentive program currently exists for the OTC 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 or other relief from development requirements. The OTC incentive program is currently referred to a “bonus” program, and the name is being changed to be consistent with the provisions for the Parole Town Center. The incentive program provisions are almost identical to those recently adopted by the Council in Bill No. 64-23 for the Parole Town Center.

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 OTC. 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)) Article 18, the OTCMP, the Landscape Manual or the DPW Design Manual.

Subsection **(b)** provides the criteria for an application for use of the incentive program, and allows for a developer to request a pre-application meeting. Subsection **(c)** 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, community amenities, environmental restoration projects or other elements that exceed the requirements in the Code or the OTCMP. The subsection refers to the Appendix in the OTCMP, which lists other suggested public amenities (also referred to as proffers). 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 and the OTCMP are therefore not exhaustive and a developer may be innovative in their proposals and requests.

Subsection **(e)** lists the types of incentives that can be granted to a developer based on the

proposed public benefit. This includes (1) increased residential density; (2) relief from any requirements of Article 17 (other than Title 5), Article 18, the OTCMP, the Landscape Manual, or the DPW Design Manual; (3) additional building height; or (4) reduction in green area requirements.

It is worth noting that, a developer may request a modification of the provisions of the OTC subtitle in Article 17 pursuant to § 17-2-108 (or a variance of the provisions in Article 18, as discussed in more detail below). Therefore, if a developer has a request for relief from a requirement of the OTC provisions based on hardship and can meet the criteria required for a modification or a variance, a modification or variance is an option in lieu of proposing enhanced public benefits through the incentive program to get relief from Code requirements.

Paragraph **17-11-209(b)(3)** is revised to reflect the new title of the OTC.

### **Article 18**

Paragraph **18-2-101(b)(12)** is new and establishes a grandfathering provision for Article 18. It provides that the same development applications addressed in Article 17 above or any applications under Article 18 for property in the OTC filed before the effective date of the Bill are governed by the law as it existed prior.

Section **18-2-105** sets forth the updated names and revised labels to the six OTC zoning districts. There is no change to the boundary lines of any of the districts, and there is no rezoning. Of note, what was formerly called “North Odenton” is now the “Fort Meade Business Mix and “East Odenton” is now “East Odenton Village Mix”. The other districts retain the same names with slightly revised labels.

Sections **18-9-101, et seq.** are the new provisions for the OTC District subtitle. Section **18-9-101** provides that the subtitle applies in the OTC. Section **18-9-102** provides that there is an overlay entitled the Historic Village Mix Block within the OTC-H zoning district. This overlay area was formerly Historic Block 10 in the 2016 Plan.

Subsection **18-9-103(a)** provides that any use lawfully in existence in the OTC prior to the effective date of the Bill that became prohibited may continue, as long as the use does not cease for 12 consecutive months. Any change, expansion or alteration of any such use shall comply with the OTC provisions in Articles 17 and 18, or Title 15 of Article 18 (which would allow registration as a nonconforming use and application for expansion of any such use as a special exception).

Subsection **(b)** contains the use chart for the OTC districts and historic village mix block. Currently, the use chart for the OTC is in the 2016 Plan, and with this Bill, it will move into the Code. Some use terms have been updated to use terms consistent with the rest of the Code.

Section **18-9-104** establishes the bulk regulations for the OTC. Like the use chart, the bulk regulations are also currently in the 2016 Plan rather than the Code. Subsection **(b)** sets forth criteria for measuring building height, specifically that when determining the height of a principal structure, towers, spires and chimneys and similar features are not counted toward the maximum

height. Subsection (c) establishes criteria for the measurement of setbacks. Subsection (d) provides that the PZO may approve a bulk regulation other than one set forth in the section as part of an incentive program under § 17-7-810.

Subsection § **18-9-104(e)** provides for noise mitigation measures for certain residential development or nonresidential development with activity spaces adjacent to Maryland Route 32. Subsection (e)(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 (e)(2)(i) requires that subject to the result of the noise study, indoor noise mitigation measures are included on building architectural plans and Subsection (e)(2)(ii) requires that outdoor noise mitigation measures be provided in activity area maintained by a homeowners association or similar entity, or in the absence of a activity space, covered under a noise mitigation maintenance easement. These provisions are almost identical to those recently adopted by the Council in Bill No. 64-23 for the Parole Town Center

Section **18-9-105** sets forth the conditions for certain uses in the OTC, which apply in lieu of any conditions in Title 10 of Article 18. These uses include housing for elderly of moderate means, workforce housing, assisted living facilities, bed and breakfast homes, a business complex with auxiliary use, nursing home, self-service storage facilities and solar energy generating facility - accessory.

Section § **18-9-106** requires a development with a gross area of five acres or more in the OTC-C shall 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.

Section **18-9-107** sets forth the parking requirements for development in the OTC. Subsection (a)(1) requires that parking shall be in accordance with Subtitle 1 of Title 3 of Article 18, unless otherwise provided. Subsection (a)(2) allows a developer to reduce parking requirements or enter into joint parking agreements. Subsection (a)(3) allows parking to be available onsite or near a site in leased spaces or public facilities. Lastly, Subsection (a)(4) provides that when feasible, adjoining property owners in the OTC-C zoning district shall create shared parking lots.

Subsection (b) requires that multifamily dwellings with 200 or more dwelling units, parking shall be in a garage structure, except for a limited number of short-term or handicapped parking spaces. Subsection (c) regulates the placement of surface parking, and Subsection (d) requires one bicycle parking space for every 20 vehicle parking spaces, among other bicycle parking parameters. Subsection (e) 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.

Section **18-9-108** regulates signage in the OTC. The 2016 Plan contains in depth signage provisions that are being somewhat simplified and put into the Code. Subsection (a) provides for

definitions of certain terms, including “hanging or blade sign”, “monument sign”, and “on-site directional sign”. Subsection (b) provides that signage shall comply with Subtitle 3 of Title 3 of Article 18 and that in cases of conflict, this section shall apply. Subsection (c) puts size and height limitations on on-site directional signs.

Subsection **18-9-108(d)** provides for conditions for wall signs, awning and canopy signs, and hanging or blade signs. Subsection (e) allows for one additional sign of up to 400 square feet for a property with a theater establishment. Subsection (f) establishes size and other criteria for various freestanding signs. Subsection (g) allows for pedestrian directory signs and sets forth size and other limitations for the same.

Subsection (h) allows for temporary signs in addition to the ones allowed by § 18-3-306 to be posted during business hours with certain conditions. Subsection (i) sets forth the criteria for signs for multi-family residential developments or subdivision. Subsection (j) lists the signs that are prohibited in the OTC.

Sections **18-16-303** and **18-16-305** are revised to reflect the new name of the OTC.

#### **SECTIONS 5 and 6.**

These sections adopts the OTCMP, 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. 84-23 shall be 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 Stuart Pittman, County Executive  
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