
CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor



DEPARTMENT OF LAW
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June 16, 2023

The Honorable President and Members
of the Baltimore City Council
Attn: Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 23-0390 – Transit-Oriented Development – Penn Station

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 23-0390 for form and legal sufficiency. The bill constitutes a resolution of the Mayor and City Council to officially designate Penn Station, and the area surrounding and including Baltimore Penn Station (the “Project”) as a State Transit-Oriented Development (“TOD”).

Under relevant State law, TOD means

a mix of private or public parking facilities, commercial and residential structures, and uses, improvements, and facilities customarily appurtenant to such facilities and uses, that:

- (1) Is part of a deliberate development plan or strategy involving:
 - (i) Property that is adjacent to the passenger boarding and alighting location of a planned or existing transit station; or
 - (ii) Property, any part of which is located within one-half mile of the passenger boarding and alighting location of a planned or existing transit station;
- (2) Is planned to maximize the use of transit, walking, and bicycling by residents and employees; and
- (3) Is designated as a transit-oriented development by:

- (i) The Secretary [of the Maryland Department of Transportation], after considering a recommendation of the Smart Growth Subcabinet established under [§ 9-1406 of the State Government Article](#),¹ and
- (ii) The local government or multicounty agency with land use and planning responsibility for the relevant area.

Md. Code, Transportation Article (“Trans.”), § 7-101(o). “Transit station,” in turn, means “any facility, the primary function of which relates to the boarding and alighting of passengers from transit vehicles” and “includes platforms, shelters, passenger waiting facilities, parking areas, access roadways, and other real property used to facilitate passenger access to transit service or railroad service.” Trans. § 7-101(q).

The bill describes the Project as meeting the above criteria for TOD designation and attaches material supporting the designation, including the geographical area boundaries and a letter from the Mayor to the Secretary of the Maryland Department of Transportation outlining the City’s transportation priorities, including TOD designation for the Project. The bill file also contains a report from the Planning Commission supporting the Project’s TOD designation.

Although the City has not yet designated a TOD, this bill appears to be an appropriate way for the Mayor and City Council of Baltimore to make the designation required under Trans. Section 7-101(o)(3)(ii), which requires the “local government” with “land use and planning responsibility for the relevant area” to make the TOD designation.

Accordingly, the Law Department can approve the bill for form and legal sufficiency. However, for clarity, the following amendments are recommended:

- 1) On Page 2, in Line 2, strike beginning with the word “Maryland” through the word “Articles” in Line 5, and substitute “[State Transportation Article](#).” (Reason: this section references [Executive Order 01.01.2009.12](#) of the Maryland Governor that is not relevant to the City’s TOD designation. That Order, instead, describes a State policy to locate State office or laboratory spaces near TODs.)
- 2) On Page 2, in Line 10, strike the first word “City” through the word “for.” On that same page, in Line 10, after the word “Station,” add the word “and”. On that same page, in Line 12, after the word “Exhibit C,” and before the words “in accordance with”, add “is hereby designated a Transit-Oriented Development”. On that same page, in line 12, strike the first “the” through the word “and” in Line 13.

¹ As of July 1, 2023, the Secretary of Transportation no longer designates a TOD. Instead, the designation comes directly from the Smart Growth Subcabinet, established under Section 9-1406 of the State Government Article. See 2023 Md. Laws Ch. 512 (H.B. 12).

Sincerely,



Jeffrey Hochstetler
Chief Solicitor

cc: Ebony Thompson, Acting City Solicitor
Nina Themelis, Mayor's Office of Government Relations
Elena DiPietro, Chief Solicitor, General Counsel Division
Hilary Ruley, Chief Solicitor
Ashlea Brown, Chief Solicitor
Michelle Toth, Special Solicitor
Teresa Cummings, Assistant Solicitor