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July 22, 2024

VIA E-MAIL - county.council@montgomerycountymd.gov

The Honorable Andrew Friedson, Council President
Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850

RE: Zoning Text Amendment No. 24-03 – Overlay Zones – Great Seneca Life Sciences Overlay Zone (“ZTA 24-03,” or the “ZTA”)

Dear President Friedson and Members of the Council:

On behalf of our client, Trammell Crow Company (“TCC”), please include this letter in the public record for ZTA 24-03. TCC is the ground lessee of approximately 66.5 acres of land located in the northern portion of The Johns Hopkins University Belward Research Campus (the “Belward Campus”), located in the Life Sciences Center (“LSC”) planning area of the Master Plan to which the proposed ZTA is applicable. TCC’s portion of the Belward Campus is subject to a recently approved Site Plan (“Site Plan No. 820220250,” or the “Site Plan”) that allows for future development with the following: (i) up to 751,000 square feet of research and development, biotechnology offices, and laboratory uses; (ii) up to 6,000 square feet for retail uses; and (iii) related amenities and infrastructure including the northern portion of future Muddy Branch Park and a connecting segment of Belward Campus Drive.

As a stakeholder in the LSC, TCC has actively participated in the County’s review of the proposed master plan for the area that is currently pending before the Council, the Great Seneca Plan: Connecting Life and Science (the “Master Plan”). TCC greatly appreciates the Council’s consideration of its prior testimony on issues related to the draft Master Plan to date, and looks forward to the Council’s adoption of the Master Plan in the near future.

Now, TCC is pleased to have this opportunity to provide its support for the subject ZTA. The ZTA will result in the creation of the Great Seneca Life Sciences Overlay Zone (the “Overlay Zone”), which is a key recommendation of the Master Plan that is necessary to implement certain land use and zoning recommendations for the LSC. More specifically, the Overlay Zone proposes to expand the range of permissible land uses in the LSC, and to create a process by which applicants can pursue increased densities and heights above mapped zoning allowances in exchange for the provision of certain “public benefits.” In these respects, TCC believes that the Overlay Zone potentially will be a useful tool for biotechnology and related companies that are pursuing development opportunities in the LSC, while also providing additional flexibility with respect to land uses for prospective employers, whose operational needs can be unique.

At the same time, TCC is concerned that certain specific provisions in the current draft of the ZTA could be interpreted in a manner that undermines development opportunities in the LSC, as well as the flexibility that the ZTA intends to provide. TCC therefore suggests the following for consideration:

- 1. The ZTA should be revised to clarify that any public benefits requirements are intended to apply only to incentive density that may be requested above a property's applicable mapped floor area ratio ("FAR"), and not for all density above 0.5 FAR.***

The ZTA allows property owners in the Overlay Zone to seek additional density above applicable mapped FARs, by requiring the provision of certain defined public benefits in exchange for "incentive density." In its Staff Report dated May 23, 2024, the Montgomery County Planning Department recommended this approach over a more comprehensive Sectional Map Amendment process because "many sites within the overlay are large, have existing entitlements, and may never reach their full existing mapped densities . . . [but] there may be select applications that are positioned to take advantage of additional density and those opportunities are encouraged." (Planning Department Staff Report, Page 5).

In accordance with Staff's explanation above, the ZTA – in Lines 46 and 47 concerning density in the Overlay Zone – states that "[p]ublic benefits as described in Section 4.9.13.C.3 must be provided for any additional density received" above mapped FAR, up to 200 percent on a site. However, in Lines 52 through 54 concerning public benefits, the ZTA also states that "[a]ll optional method development applications within the GSLS Overlay Zone must earn incentive density for any requested density above 0.5 FAR subject to the provisions of Section 4.9.13.C.2.a . . ."

The inclusion in Line 54 of the clause "subject to the provisions of Section 4.9.13.C.2.a" may be intended to limit any requirement to obtain incentive density – and, thus, to provide associated public benefits – to only those optional method development applications that request additional density above mapped FAR. However, by also stating that in Line 53 that "any" requested density above 0.5 FAR requires incentive density, the ZTA also could be interpreted to require the provision of public benefits for all applications that propose to utilize mapped FAR above 0.5 FAR, even on properties where the existing mapped zoning allowances allow for more than the 0.5 FAR amount.

Such an interpretation could lead to inequitable outcomes in the Overlay Zone area, particularly where amendments are sought for existing optional method development entitlements on properties with mapped zoning designations that exceed 0.5 FAR, that do not propose to utilize additional density above the applicable mapped zoning limit. More specifically, the ZTA could result in new public benefits requirements being imposed in connection with efforts to adjust existing entitlements to address bioscience or other tenant needs, potentially slowing the ability to bring the projects to market quickly and creating additional costs and obligations that could make such sites less attractive for employers.

To clarify that public benefits requirements in the Overlay Zone are intended to apply only where an applicant for an optional method development project seeks to utilize additional density above mapped FAR, we recommend the following revision to proposed Section 59.4.9.13.C.3 in Lines 52-58 of the ZTA:

All optional method development applications within the GSLS Overlay Zone must earn incentive density for any requested density above 0.5 FAR that exceeds mapped FAR and is subject to the provisions of Section 4.8.13.C.2.a, and are not responsible for providing public benefits under Section 4.7, Optional Method Public Benefits. Incentive density is the term used to describe any density above 0.5 FAR including any mapped density or additional density allowed by the GSLS Overlay Zone.

- 2. The ZTA should more clearly address the permissibility of warehousing and storage functions that are associated with biotechnology operations, which the Zoning Ordinance otherwise allows in connection with medical/scientific manufacturing and production uses in the LSC and CR zones.***

The ZTA proposes to permit all land uses that are allowed in the CR Zone, with certain additions and prohibitions. Among the uses that the ZTA currently prohibits are “storage facility” uses, which the Zoning Ordinance defines to include “any structure and land for the short or long-term storage of goods or equipment, not including Self-Storage.” The Zoning Ordinance allows storage facility uses in the CR Zone as a limited use.

Although warehousing and storage functions are typical operational components of biotechnology facilities, we understand that the Zoning Ordinance does not establish a separate, stand-alone land use category that would include such functions. Rather, the Zoning Ordinance specifically allows “incidental storage” as part of the “medical/scientific manufacturing and production” use category.¹ Thus, wherever the Zoning Ordinance allows medical/scientific manufacturing and production uses, associated warehousing and storage functions also have been allowed. (This includes on properties in the LSC and CR Zones, where the Zoning Ordinance permits medical/scientific manufacturing and production uses by right.)

So as to avoid any possible interpretation of the Zoning Ordinance that would deem the warehousing and storage functions allowed by right under the medical/scientific manufacturing and production use category as prohibited storage facilities in the Overlay Zone, we recommend the following addition to Section 59.4.9.13.B.2.e in Lines 22 through 28 of the proposed ZTA:

¹ The Zoning Ordinance defines medical/scientific manufacturing and production as “a building used for the manufacturing, compounding, processing, assembly, or packaging, including incidental storage, sales, and distribution, of cosmetics, drugs, perfumes, pharmaceuticals, toiletries, synthetic molecules, products resulting from biotechnical and biogenetic research and medical, scientific, or technical instruments, devices, and equipment.”

2. *The following uses are not allowed except as protected by Section 7.7.2., Nonconforming Use:*
 - a. *Single-Unit Living*
 - b. *Retail/Service Establishment (85,001 SF and Over)*
 - c. *Drive-Thru*
 - d. *Self-Storage*
 - e. *Storage Facility, excluding incidental storage for a Medical/Scientific Manufacturing and Production use*

We thank you for your consideration of the above, and for the opportunity to participate in this amendment process. Please do not hesitate to let us know if you have any additional questions, or if we can provide additional information that would be helpful for the Council’s review.

Sincerely,



Christopher M. Ruhlen

- cc: Councilmember Gabe Albornoz
Councilmember Marilyn Balcombe
Councilmember Natali Fani-González
Councilmember Evan Glass
Councilmember Will Jawando
Councilmember Sidney Katz
Councilmember Dawn Luedtke
Councilmember Kristin Mink
Councilmember Laurie-Anne Sayles
Councilmember Kate Stewart
Mr. Eric Fischer
Mr. William Brewer