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October 3, 2024

The Honorable Andrew Friedson, President
And Members of the Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

**Re: Development Impact Tax Amendment – Bill No. 16-24
Exemption from Impact Taxes for Projects Providing No Parking and Located near
Metro**

Dear President Friedson and Members of the County Council:

Our firm represents Community Three Maryland, LLC, (“Community Three”), the owner of the property located at 4725 Cheltenham Drive in Bethesda, Maryland (the “Property”). The Property contains approximately 0.24 acres and is zoned CR 3.0, C-2.0, R-2.75, H-90’ and located in the Bethesda Overlay Zone. Community Three has obtained Sketch, Preliminary and Site Plan approvals, and even its building permit, for the redevelopment of the underutilized Property (previously used as a single-story automotive detailing use), transforming it into a unique residential apartment building containing eight (8) live/work units and 102 dwelling units, with 15% Moderately Priced Dwelling Units and the market rate units designed to target workforce housing rent levels within HUD AMI parameters (the “Project”).

We use the term unique, in large part, because the approved Project is not providing any parking on-site. The Property is located within the Bethesda Parking Lot District and Community Three made the decision to provide no parking long before the approval of ZTA 23-10, which allows certain transit-accessible residential developments to eliminate its parking requirement. The County has long since sought to incentivize reduced parking, given the important planning and policy objectives this promotes (as recognized by the Council in its adoption of ZTA 23-10). To further this important public policy objective, we are requesting that the Council provide an **exception that would eliminate any impact tax obligation if a project, located within ½ mile**

of a Metro station, and within a Parking Lot District, provides no parking on-site.¹ This mirrors the distance requirement in ZTA 23-10.

We recognize that this request is coming to the Council a bit late in the process; however, for the reasons set forth in this correspondence, we believe it makes sense to include this exemption. We also would note that, although they did not consider this specific request, an important focus of the Planning Board in its review of the GIP and associated modifications to the Development Impact Taxes was how the County can implement policies that will promote desirable development.² This fits that bill.

Why provide the exemption for both transportation and school impact taxes? For the transportation impact tax, first and foremost, a project that provides no on-site parking is placing little to no stress on the road network where the transportation impact taxes are designed to be utilized. Using Vehicle Miles Traveled (“VMT”) as a measure to assess the need for transportation impact taxes leads to the conclusion that a project without parking will generate the least amount of VMT’s. Instead, these future residents will likely be utilizing transit and thus, providing the additional ridership that the region’s transit services critically need. As far as the school impact tax is concerned, that exemption is like other exemptions in the Code, which seek to promote an important policy objective. Nonetheless, we would note that market forces will dictate which building can successfully provide no parking on-site. A building that has no parking is almost certain to contain smaller units (primarily studios and one bedrooms), and thus, generate far fewer students, if any, as compared to a buildings that has larger units and on-site parking. As such, there is a clear nexus to waiving the transportation and school impact tax requirements for buildings that provide no parking. Simply put, under current economic conditions, as is, the impact tax policy severely limits, if not eliminates, the ability to build workforce housing units with no parking.

Not only does this exemption further an important policy objective, but from a practical point of view, it will allow for the advancement of much-needed additional housing near transit. Community Three has been working to move their Cheltenham project forward without great success. High construction costs and persistently high interest rates have taken its toll on the Project’s feasibility. Providing the exemption will help close the gap and truly make a difference

¹ If the Council wanted, this exemption could further be limited to projects in Red Policy Areas. Red Policy Areas are envisioned for “Downtowns with current or master planned high-density development and premium transit service (e.g., Metrorail, Purple Line, BRT).” (See Public Hearing Draft, Growth and Infrastructure Policy 2024-2028, page 24).

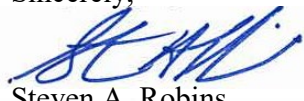
² We would note that the Planning Board’s support for ZTA 23-10 is applicable to this requested exemption. In the Planning Board’s transmittal statement to the County Council in connection with ZTA 23-10, date December 27, 2023, the Board noted: “The Planning Board is very supportive of these changes, as they align with many of its recent planning initiatives that are working to reduce vehicle miles traveled, reduce car dependency, and generally create great spaces that are made for people rather than vehicles.”

in getting this Project off the ground (as opposed to the continuation of the automotive use of the Property).

The Development Impact Taxes are an important tool in the County's tool box for implementing important land use policies and objectives. This requested exemption is a specific and important upgrade to those policies – further reinforcing the Planning Board's initiatives to “reduce car dependency, and generally create great spaces that are made for people, [at all income levels,] rather than vehicles.”

We appreciate your time and consideration of our request.

Sincerely,

A handwritten signature in blue ink, appearing to read "S.A. Robins".

Steven A. Robins

A handwritten signature in blue ink, appearing to read "Elizabeth C. Rogers".

Elizabeth Rogers