

SUBJECT

Zoning Text Amendment (ZTA) 22-02, Density and Height Limits, Parking – Biohealth

Lead Sponsor: Councilmember Friedson

Co-Sponsors: Councilmembers Hucker, Katz, Navarro, Council President Albornoz, Council Vice-President Glass and Councilmember Riemer

EXPECTED ATTENDEES

Casey Anderson, Chair, Planning Board

Gwen Wright, Director, Planning Department

Jason Sartori, Chief, Countywide Planning & Policy, Planning Department

Benjamin Berbert, Planner Coordinator, Countywide Planning & Policy, Planning Department

Victor Salazar, Chief, Division of Zoning and Code Compliance, Department of Permitting Services (DPS)

Linda Kobylski, Chief, Division of Land Development, Department of Permitting Services (DPS)

Mark Etheridge, Manager, Sediment & Stormwater Plan Review, Department of Permitting Services (DPS)

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

PHED Committee recommends approval with amendments.

DESCRIPTION/ISSUE

ZTA 22-02 will allow additional height and increased flexibility in density for urban biohealth facilities in recognition of the unique mechanical challenges of biohealth buildings.

SUMMARY OF KEY DISCUSSION POINTS

- As introduced, ZTA 22-02 would amend the Biohealth Priority Campus provisions by allowing additional height and increased flexibility in density for urban biohealth facilities.
- The PHED Committee recommends approval of the ZTA with several amendments, including removing the Biohealth Priority Campus provisions and providing a more modest increase in height for urban biohealth facilities in the CR, LSC, or EOF zones.
- The PHED Committee also addressed an amendment to add the IM zone to ZTA 22-02, to be discussed at full Council worksession.

This report contains:

Staff Memorandum
ZTA 22-02

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M E M O R A N D U M

July 21, 2022

TO: County Council

FROM: Livhu Ndou, Legislative Attorney

SUBJECT: Zoning Text Amendment (ZTA) 22-02, Density and Height Limits, Parking – Biohealth

PURPOSE: Worksession/Action

PHED Committee recommendation (3-0): approval of the ZTA as amended
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Expected Attendees

- Casey Anderson, Chair, Planning Board
- Gwen Wright, Director, Planning Department
- Jason Sartori, Chief, Countywide Planning & Policy, Planning Department
- Benjamin Berbert, Planner Coordinator, Countywide Planning & Policy, Planning Department
- Victor Salazar, Chief, Division of Zoning and Code Compliance, Department of Permitting Services (DPS)
- Linda Kobylski, Chief, Division of Land Development, Department of Permitting Services (DPS)
- Mark Etheridge, Manager, Sediment & Stormwater Plan Review, Department of Permitting Services (DPS)

Background

Zoning Text Amendment (ZTA) 22-02, Density and Height Limits, Parking – Biohealth, lead sponsor Councilmember Friedson, was introduced on March 15, 2022. Councilmembers Hucker, Katz, Navarro, Council President Alborno, Council Vice-President Glass, and Councilmember Riemer are co-sponsors of this ZTA.

As introduced, ZTA 22-02 would have allowed additional height and increased flexibility in density for urban biohealth facilities in the CR, LSC, and EOF zones in recognition of the unique mechanical challenges of biohealth buildings. ZTA 22-02 would also have allowed consolidation of certain facilities and provide parking provisions for Biohealth Priority Campuses. Lead Sponsor Councilmember Friedson has shared with Councilmembers and the public an amended version of

the ZTA that would remove the provisions related to Biohealth Priority Campuses and provide more modest increases in height for urban biohealth facilities in the CR, LSC, and EOF zones.

Public Hearing

A public hearing was held on June 14, 2022. Three speakers testified in support of ZTA 22-02. Bob Dalrymple, an attorney on behalf of Stonebridge, testified that this ZTA would help the County attract the bioscience industry. Doug Firstenberg, a principal at Stonebridge, testified that this ZTA would create urban opportunities for tenants in the life sciences industry. He testified that this ZTA would be beneficial to the industry because this type of user needs higher ceilings.

The Council received a letter in support from the representatives of Stonebridge, as well as a letter from Warren Avenue Investors requesting industrial zones be added to the ZTA.

Planning Board Recommendation

The Planning Board met and discussed ZTA 22-02 at its hearing on June 9, 2022. The Board supported the ZTA as amended by the lead sponsor.

PHED Committee

The PHED Committee held a worksession on this item on July 11, 2022. The PHED Committee recommends approval with the following amendments:

- *Remove Biohealth Priority Campus Provisions* – The first proposed amendment is to remove the first section of the ZTA, which would have allowed consolidation of certain facilities and provided parking provisions for Biohealth Priority Campuses.
- *Move Language from “Density and Height Allocation” to “Optional Method Development”* – As introduced, ZTA 22-02 allowed additional height and flexibility in density “with Planning Board approval”. Moving this language to the optional method section makes it clear what triggers Planning Board approval and under what process Planning should review these applications.
- *Remove Life Sciences* – The intent of ZTA 22-02 is to attract urban biohealth facilities by accommodating the additional ceiling heights often needed for manufacturing and laboratories. Therefore, the PHED Committee recommends an amendment to narrow the ZTA to applications where the use is Research and Development or Medical/Scientific Manufacturing and Production.¹ While there is some overlap in the definitions of these

¹ The definitions of each use are as follows:

Medical/Scientific Manufacturing and Production – 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. *Section 3.6.4.D.*

Research and Development – the study, research, and experimentation in one or more scientific fields such as life sciences, biomedical research, communications, chemistry, computer science,

uses, Research and Development and Medical/Scientific Manufacturing and Production are the closest to the intent of the ZTA, with their emphasis on creation, manufacturing, and processing. Further, developers report that biohealth and laboratory buildings have historically been classified by DPS as Research and Development, or as Medical/Scientific Manufacturing and Production where there is a strong manufacturing component. In addition, Research and Development includes life sciences as a scientific field in its definition.

- *Remove Reallocation of Density from the LSC and EOF Zones* – Also recommended for approval is an amendment that removes the reallocation of density language from the LSC and EOF zones. There are two reasons for this change. First, residential FAR is not mapped in the employment zones. Second, these zones generally encourage commercial FAR with limitations on residential gross floor area.
- *Require the Development to Achieve Adaptive Buildings Public Benefit Points* – “Adaptive Buildings” is one of the categories of public benefit points under Section 4.7.2.D. As detailed in Section 4.7.3.D.1, an applicant may receive up to 15 points for constructing commercial or mixed-use buildings with minimum floor-to-floor heights of at least 15 feet on any floor that meets grade and 12 feet on all other floors. Internal structural systems must be able to accommodate various types of use with only minor modifications. The “public benefit” is an adaptive building can adjust to a diversity of uses over time, which makes the building more sustainable and more embedded in the pattern of a community.
- *Limit to Properties Abutting or Confronting Major Roads / Exclude Properties Abutting or Confronting Residential or Agricultural Uses* – To reduce the impact of taller buildings on neighboring homes, two additional provisions are recommended for approval regarding location. First, limiting the additional height and flexibility in density to properties abutting or confronting major roads; and second, not allowing application of these provisions on sites that abut or confront a property in an Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zone that is vacant or improved with an agricultural or residential use.

electronics, medicine, and physics. Research and Development also includes the development of prototypes and the marketing of resultant products and related activities, including administrative offices, educational facilities, libraries, and data services, and the manufacturing, mixing, fermentation, treatment, assembly, packaging, and servicing of products. *Section 3.5.8.C.*

Life Sciences – the research, development, and manufacturing activities in one or more of the following scientific fields: biology, biophysics, biochemistry, bioelectronics, biotechnology, biomedical engineering, bioinformatics, medicine, immunology, embryology, clinical engineering, diagnostics, therapeutics, nutraceuticals, pharmacogenomics, drug production, genetic testing, or gene therapy activities. Life Sciences also includes a Hospital and uses accessory to a Hospital, other than medical/dental clinic. For a business, institution, or government agency conducting such activities in a Life Sciences Center, Life Sciences also includes related activities and supporting services, such as administrative offices, educational facilities, libraries, data services, nanotechnology, informational technology, and robotics. *Section 3.5.8.A.*

- *Limit Additional Height to a Multiplier of 1.5 Times / Allow Height Averaging* – ZTA 22-02, as introduced, allowed buildings under 100 feet to double their height while buildings between 100 and 200 feet could multiply their height by 1.5. The PHED Committee amendment would only allow buildings of 100 feet or less to multiply their height; and that multiplier would be limited to 1.5 times the mapped height, up to 150 feet. Applicants will also be able to use two methods of height averaging.²

First, the height of any section of a building can vary, as long as the average height of each section does not exceed the mapped height. For example, a building with a mapped height of 150 feet could have one portion of the building be 125 feet high in exchange for another portion of the building being 175 feet high. This accomplishes the intent of the ZTA, which is to accommodate the unique engineering needs of the biohealth industry while not increasing the overall bulk of the building.

Second, height averaging would be allowed across a site with different mapped heights. This would mean a development site could have higher-than-mapped buildings on one portion of the site in exchange for lower-than-mapped buildings on another portion of the site.³ If a development site has mapped heights of 75 feet and 125 feet, those heights could be averaged so that some buildings are as high as 150 feet while some are as low as 50 feet. Again, the overall effect is that the average mapped height is not exceeded, but the mechanical needs can still be met.

Lastly, an applicant would not have to choose between these two methods of achieving additional height. While most applicants would likely get the height they need from the 1.5 times multiplier, marginal additional height could be obtained by doing height averaging first. For example, a development site with parcels mapped at 50 feet could use height averaging to construct a 25-foot building and a 75-foot building. The multiplier could then be used to achieve heights of 38 feet and 112 feet. Without averaging the heights first, the maximum height of a building mapped at 50 feet would have been 75 feet.

- *Remove Reference to Overlay Zones* – ZTA 22-02, as introduced, applied the additional height and flexibility in density provisions regardless of contrary or more restrictive provisions in an Overlay zone. Given the concerns about the effect that this might have on the master plan process, the PHED Committee recommends removing this provision as well.

Proposed Amendment – Industrial Zones

The Council received a letter from Warren Avenue Investors. The letter requests that the industrial zones be added to ZTA 22-02. The letter argues that the industrial zones are well-suited for

² Height averaging is not a new concept in the zoning ordinance. A similar method is used in Section 4.5.2.D, “Special Provisions for ‘T’ Zones Translated from Certain Zones Existing Before October 30, 2014.”

³ The ZTA uses “tract area” to calculate the average height. A tract is defined in Section 4.1.7.A.1, as “a contiguous area of land, including all proposed and existing rights-of-way, lots, parcels, and other land dedicated by the owner or a predecessor in title.”

biohealth since many buildings in this zone have dedicated loading areas and high ceilings. The PHED Committee discussed this letter, and Chair Riemer recommended adding only the IM zones to ZTA 22-02. The PHED Committee did not vote on this amendment, requesting instead additional information from Planning and Council Staff.

The industrial zones have the following heights:

Zone	Total FAR (max)	Height (max)
Light Industrial (IL)	0.25 to 1.5	25' to 50'
Moderate Industrial (IM)	0.25 to 2.5	25' to 120'
Heavy Industrial (IH)	0.5 to 4.0	35' to 200'

Council Staff reviewed the County's zoning maps and found the following:⁴

- The majority of IL properties are mapped at IL-1.0 H-50, with one zoning block mapped at IL-0.5 H-45.
- The majority of IM properties are mapped at IM-2.5 H-50. Of the 50+ IM zoning blocks, fewer than 10 are mapped between 70 to 80 feet. One IM property is mapped at 100 feet.
- All IH properties in the County are mapped at IH-2.5 H-70.

The current mapped heights in the County's industrial-zoned areas are around 50-70 feet, with very few outliers. This is likely because uses such as warehouses or light manufacturing tend to be lower buildings. A 50-foot building with a 15-foot-high ceiling would result in a three-story lab building.

Of note, the industrial zones only have standard method development, so any applications that took advantage of the additional height and flexible density in this ZTA would not automatically go to the Planning Board. If the Council approves an amendment to add the IM zone to ZTA 22-02, Council Staff recommends requiring site plan approval for those applications. A sample of the proposed amendment is included in this packet at © 40.

The below map depicts the industrial areas that would be affected by addition in this ZTA. The 4 largest areas are: the Clarksburg special study area (IM), the County transfer/dump site (IM), Crabs Branch/Gude (IM), and White Flint/Twinbrook (IL). The Clarksburg special study area is mostly farm/agricultural industrial. The White Flint/Twinbrook area is zoned IL and was left out of rezoning in prior plans in order to save industrial land in the County. There are also smaller pockets of IM on the map that contain offices, self-storage, and retail.

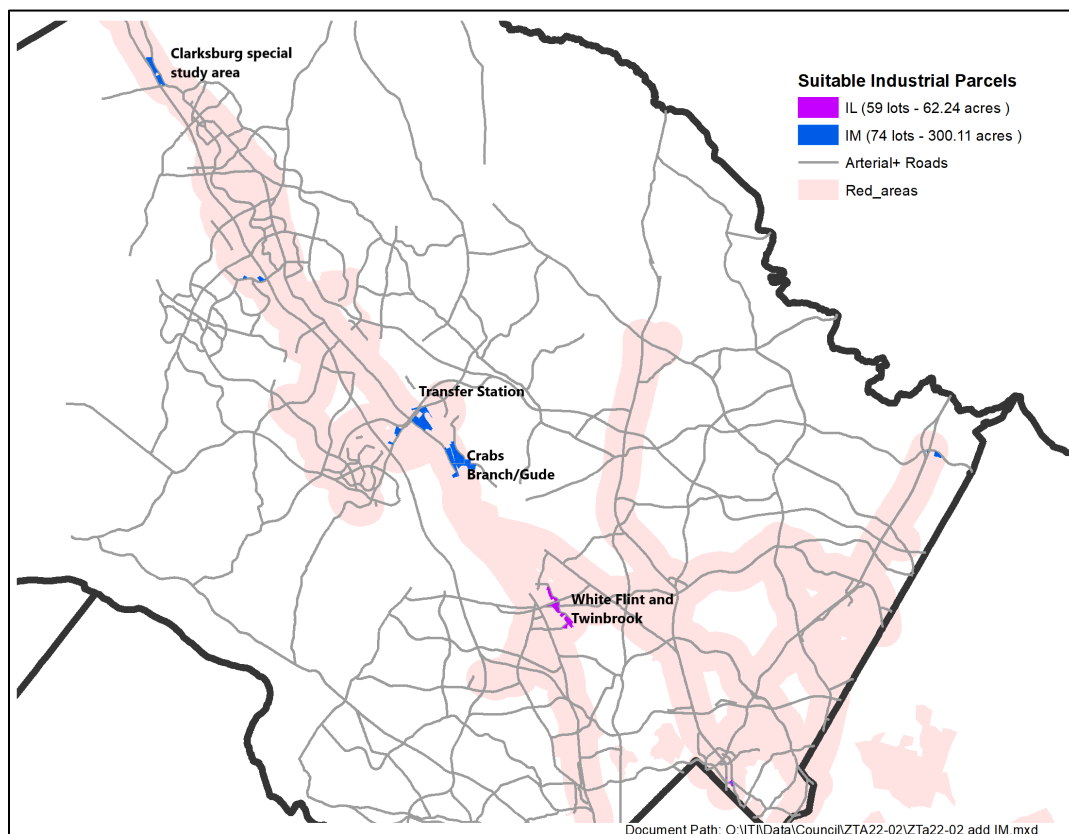
Pros:

The addition of the IM zone to this ZTA would allow for the creation of incubation-like spaces for biohealth. Due to the way the industrial zones are built out, a company could start in a taller building, and expand their lab space vertically and office space horizontally as they grow. Lab space is often built up instead of out for engineering and mechanical reasons.

⁴ <https://mcatlas.org/viewer/>

Cons:

Despite the existence of already-established loading docks and the tendency towards high ceilings in the industrial zones, there is a policy concern with allowing additional height in all industrial zones through ZTA 22-02. There is limited industrial space in Montgomery County. Zoning regulations are set up to limit the type of development in these zones, so that the land does not become too expensive. Allowing additional height and changes to density could raise the value of the land and risk pushing out industrial uses for nonindustrial ones.^{5,6} For example, the IL zone is intended to be a transitional zone between residentially-zoned land and the IM and IH zones. Popular uses in the IL zone include breweries, auto repair, and other uses that are appropriate for the zone and have advantages to being conveniently located near residential and commercial areas.



RESJ Impact Statement

The Office of Legislative Oversight (OLO) transmitted a Racial Equity and Social Justice (RESJ) impact statement on April 22, 2022. OLO found that ZTA 22-02 could have a small negative impact on racial equity and social justice as its benefits would disproportionately accrue to white

⁵ One developer reported that the industrial areas that this ZTA would affect are already higher-value land because of their location; specifically, being near transit.

⁶ While Medical/Scientific Manufacturing and Production is listed as an industrial use under the zoning ordinance, Research and Development is a commercial use <https://www.montgomerycountymd.gov/DPS/Resources/Files/ZSPE/UseTable.pdf>.

business owners and employees. To narrow the inequities, OLO recommended: 1) requiring or encouraging biohealth firms to report workforce and vendor data by race, ethnicity, and gender; 2) investing in workforce development opportunities, particularly for BIPOC residents; and 3) investing in local small businesses, especially underrepresented BIPOC small businesses. Council Staff agrees that these recommendations would benefit the County by narrowing racial equity gaps. However, they would need to be done using tools other than a ZTA, as they are not zoning changes.

This packet contains:

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Ordinance No.:
Zoning Text Amendment No.: 22-02
Concerning: Density and Height
Limits[, Parking] –
Biohealth
Draft No. & Date: 3 – 6/28/2022
Introduced: March 15, 2022
Public Hearing: June 14, 2022
Adopted:
Effective:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Councilmember Friedson
Co-Sponsors: Councilmembers Hucker, Katz, Navarro, Council President Albornoz, Council
Vice-President Glass, Councilmember Riemer

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow additional height for certain scientific uses;
- allow greater flexibility in density allocation for certain scientific uses;
- ~~[[amend the use standards for Biohealth Priority Campuses;]]~~and
- generally amend the provisions for certain scientific uses.

By amending the following sections of the Montgomery County Zoning Ordinance,
Chapter 59 of the Montgomery County Code:

[[Division 3.5.	“Commercial Uses”
Section 3.5.8.	“Office and Professional”]]
Division 4.5.	“Commercial/Residential Zones”
Section 4.5.2.	“Density and Height Allocation”
<u>Division 4.5.</u>	<u>“Commercial/Residential Zones”</u>
<u>Section 4.5.4.</u>	<u>“Optional Method Development”</u>
Division 4.6.	“Employment Zones “
Section 4.6.2.	“Density and Height Allocation”
<u>Division 4.6.</u>	<u>“Employment Zones “</u>
<u>Section 4.6.4.</u>	<u>“Density and Height Allocation”</u>

[[Division 6.2. “Parking, Queuing, and Loading”
Section 6.2.4. “Parking Requirements”]]

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

OPINION

Zoning Text Amendment (ZTA) 22-02, Density and Height Limits – Biohealth, was introduced on March 15, 2022, by lead sponsor Councilmember Friedson, co-sponsors Councilmembers Hucker, Katz, Navarro, Council President Albornoz, Council Vice-President Glass, and Councilmember Riemer.

ZTA 22-02 will allow additional height and increased flexibility in density for urban biohealth facilities in the CR, LSC, and EOF zones in recognition of the unique mechanical challenges of biohealth buildings. ZTA 22-02 would apply to Research and Development or Medical/Scientific Manufacturing and Production uses that are located within a red policy area or opportunity zone, including contiguous properties separated from the red policy area or opportunity zone only by a public right-of-way; or within ½ mile of a planned or existing Bus Rapid Transit route including the Corridor Cities Transitway. The development must front on a street classified as an arterial roadway or higher classification; and the development site cannot abut or confront a property in an Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zone that is vacant or improved with an agricultural or residential use. Additional height can be achieved in two ways. First, a property with a mapped height of 100 feet or less may achieve 1.5 times the mapped height. Second, additional height can be achieved through height averaging, where a building or portion of a building can increase its height by lowering the height of another building or portion of a building. Applicants may choose either the 1.5 multiplier, height averaging, or both.

The Office of Legislative Oversight (OLO) submitted a Racial Equity and Social Justice (RESJ) impact statement on April 22, 2022. OLO found that ZTA 22-02 could have a small negative impact on racial equity and social justice as its benefits would disproportionately accrue to white business owners and employees. OLO recommended: 1) requiring or encouraging biohealth firms to report workforce and vendor data by race, ethnicity, and gender; 2) investing in

workforce development opportunities, particularly for BIPOC residents; and 3) investing in local small businesses, especially underrepresented BIPOC small businesses.

The Montgomery County Planning Board reviewed ZTA 22-02 on June 9, 2022. The Planning Board recommended approval of ZTA 22-02 with the amendments proposed by the lead sponsor in a letter and amended draft sent out in advance of the public hearing.

A public hearing was held on June 14, 2022. Three speakers testified in support of ZTA 22-02. The Council received a letter in support of the ZTA, as well as a letter requesting the addition of industrial zones.

The PHED Committee held a worksession on July 11, 2022. The PHED Committee recommended approval of ZTA 22-02 as amended.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 22-02 will be approved as amended.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

[[Sec. 1. Division 3.5 is amended as follows:

Division 3.5. Commercial Uses

* * *

Section 3.5.8. Office and Professional

* * *

E. Biohealth Priority Campus

* * *

3. Use Standards

- a. Residential FAR limits on the subject property may be reallocated to commercial FAR if the total FAR does not exceed the maximum total mapped FAR of the property and the building height does not exceed the maximum mapped height, including any increases in each allowed by this Chapter.
- b. A mechanical penthouse, and the roof structures listed in Section 4.1.7.C.3, may occupy a maximum of 50% of the roof area of any individual building.
- c. The subject property may utilize FAR averaging under Sections 4.5.2.B. and 4.6.2.B.
- d. Facilities serving a Biohealth Priority Campus may be consolidated and located on one or more properties inside the area subject to the Biohealth Priority Campus plan. Such facilities may include utilities, open space, and parking.

4. Parking

- a. In a Parking Lot District, an applicant may provide fewer parking spaces than required, after all adjustments are made under Section 6.2.3.I, only if a parking waiver under Section 3.5.8.E.4.c is approved.

- b. In a Parking Lot District, an applicant may provide more than the maximum number of parking spaces allowed provided the excess parking spaces are made available to the public and are not reserved, or if a parking waiver under Section 3.5.8.E.4.c is approved.
- c. The deciding body may waive any requirement of Section 6.2.5 if the alternative design satisfies Section 6.2.1.

* * *]]

Sec. [[2]]1. DIVISION 59-4.5 is amended as follows:

Division 4.5. Commercial/Residential Zones

* * *

Section 4.5.2. Density and Height Allocation

A. Density and Height Limits

- 1. Density is calculated as an allowed floor area ratio (FAR).
- 2. Each CRN, CRT, and CR zone classification is followed by a number and a sequence of 3 additional symbols: C, R, and H, each followed by another number where:
 - a. The number following the classification is the maximum total FAR allowed unless additional FAR is allowed under Section 4.5.2.C or Section 4.5.2.D;
 - b. The number following the C is the maximum nonresidential FAR allowed, unless additional FAR is allowed under Section 3.5.8.D or Section 4.5.4.B.5;
 - c. The number following the R is the maximum residential FAR allowed, unless additional residential FAR is allowed under Section 3.5.8.D, Section 4.5.2.C, or Section 4.5.2.D; and

- d. The number following the H is the maximum building height in feet allowed unless additional height is allowed under Section 3.5.8.D, Section 4.5.2.C, Section 4.5.2.D, ~~[[or]]~~Section 4.5.2.A.2.e. or Section 4.5.4.B.5.
- e. With Planning Board approval any Optional Method project in a CR zone that includes the provision of a major public facility under Section 4.7.3.A may add the height of any floor mostly used for above grade parking to the maximum height otherwise allowed, when the major public facility diminishes the ability of the applicant to provide parking at or below grade.
3. The following limits apply unless additional total FAR, residential FAR, or height are allowed under Section 4.5.2.C, Section 4.5.2.D, ~~[[or]]~~Section 4.5.2.A.2.e. or Section 4.5.4.B.5.:

Zone	Total FAR (max)	C FAR (max)	R FAR (max)	Height (max)
CRN	0.25 to 1.5	0.00 to 1.5	0.00 to 1.5	25' to 65'
CRT	0.25 to 4.0	0.25 to 3.5	0.25 to 3.5	35' to 150'
CR	0.5 to 8.0	0.25 to 7.5	0.25 to 7.5	35' to 300'

4. Zones are established at density increments of 0.25 FAR and height increments of 5 feet up to the maximums in Section 4.5.2.A.3.
- ~~[[5.~~ For a Life Sciences or Research and Development Use under Section 3.5.8 or a Medical/Scientific Manufacturing and Production Use under Section 3.6.4.D in the CR zone that is within a red policy area or opportunity zone, including contiguous properties separated from the red policy area or opportunity zone only by a public right-of-way; or within ½ mile of a planned or existing Bus Rapid Transit route including the Corridor Cities Transitway:

- a. with Planning Board approval, a property with a maximum building height of 100 feet or less may exceed the maximum building height allowed in the mapped zone by 2.0 times, and a property with a maximum building height of 100 to 200 feet may exceed the maximum building height allowed in the mapped zone by 1.5 times; and
- b. nonresidential FAR may be increased above the number following the C on the zoning map if the total FAR does not exceed the maximum total mapped FAR of the property, including any increases allowed under this Chapter, and the building height does not exceed the height allowed under Section 4.5.2.A.5.a.
- c. Where the provisions of any Overlay zone are contrary or more restrictive, Section 4.5.2.A.5. applies.]]

Section 4.5.4. Optional Method Development

B. Development Standards

5. Development of Certain Biohealth Uses

- a. Additional height is permitted for any application in the CR zone where the primary use is Research and Development under Section 3.5.8 or Medical/Scientific Manufacturing and Production under Section 3.6.4.D, if:
 - i. the development site is located within a red policy area or opportunity zone, including contiguous properties separated from the red policy area or

opportunity zone only by a public right-of-way; or
within ½ mile of a planned or existing Bus Rapid
Transit route including the Corridor Cities
Transitway;

ii. the development site fronts on a street classified as
an arterial roadway or higher classification;

iii. the development site does not abut or confront a
property in an Agricultural, Rural Residential,
Residential Detached, or Residential Townhouse
zone that is vacant or improved with an
agricultural or residential use; and

iv. the application achieves public benefit points for
Adaptive Buildings under Sec. 4.7.3.D.1.

b. In order to achieve additional height under Section
4.5.4.B.5.a, the following provisions apply:

i. A development site that includes a property with a
mapped height of 100 feet or less may achieve 1.5
times the mapped height. A development site that
uses averaged height under Section 4.5.4.B.5.b.2
may achieve 1.5 times the resulting averaged
height, provided the maximum building height
does not exceed 150 feet.

ii. Building height for a portion of a building or
buildings across a development site may be
increased above the number following the H on the
zoning map so long as the average height of all

buildings is no greater than the maximum height allowed by the mapped zone.

(a) Average building height is calculated as the sum of each area of each section of roof having a different height multiplied by that height, divided by the total roof area. Height is measured at the midpoint of each roof section along each frontage.

(b) If the development site has more than one mapped height, the maximum height is based on the proportion of the tract area within each mapped zone. It is calculated as the sum of the tract square footage within each mapped zone multiplied by the mapped height, divided by the total tract area.

c. For properties that satisfy the requirements of Section 4.5.4.B.5.a., residential FAR may be reallocated to nonresidential FAR if the total FAR does not exceed the maximum total mapped FAR for the property.

* * *

Sec. [[3]]2. DIVISION 59-4.6 is amended as follows:

Division 4.6. Employment Zones

* * *

Section 4.6.2. Density and Height Allocation

A. Density and Height Limits

1. Density is calculated as an allowed floor area ratio (FAR).

2. Each GR, NR, LSC, and EOF zone classification is followed by a number and symbol: H, which is followed by another number where:
 - a. The number following the classification is the maximum total FAR allowed unless additional FAR is allowed under Section 4.6.2.C and Section 4.6.2.D; and
 - b. The number following the H is the maximum building height in feet allowed unless additional height is allowed under Section 4.6.2.D or Section [[4.6.2.A.5.]]4.6.4.B.5.
3. The following limits apply unless additional total FAR, residential FAR, or height are allowed under [[Section 4.6.2.A.5,]]Section 4.6.2.C, [[and]]or Section 4.6.2.D.

Zone	Total FAR (max)	Height (max)
GR	0.5 to 2.5	25' to 120'
NR	0.25 to 1.5	25' to 50'
LSC	0.5 to 2.5	35' to 200'
EOF	0.5 to 4.0	35' to 200'

4. Zones are established at density increments of 0.25 FAR and height increments of 5 feet up to the maximums in Section 4.6.2.A.3.
- [[5. For a Life Sciences or Research and Development Use under Section 3.5.8 or a Medical/Scientific Manufacturing and Production Use under Section 3.6.4.D in the LSC or EOF zone that is within a red policy area or opportunity zone, including contiguous properties separated from the red policy area or opportunity zone only by a public right-of-way; or within ½ mile of a planned or existing Bus Rapid Transit route including the Corridor Cities Transitway:

- a. with Planning Board approval, a property with a maximum building height of 100 feet or less may exceed the maximum building height allowed in the mapped zone by 2.0 times, and a property with a maximum building height of 100 to 200 feet may exceed the maximum building height allowed in the mapped zone by 1.5 times; and
- b. nonresidential FAR may be increased above the number following the C on the zoning map if the total FAR does not exceed the maximum total mapped FAR of the property, including any increases allowed under this Chapter, and the building height does not exceed the height allowed under Section 4.6.2.A.5.a.
- c. Where the provisions of any Overlay zone are contrary or more restrictive, Section 4.6.2.A.5. applies.]]

* * *

Section 4.6.4. Optional Method Development

* * *

B. Development Standards

* * *

5. Development of Certain Biohealth Uses

- a. Additional height is permitted for any application in the LSC or EOF zone where the primary use is Research and Development under Section 3.5.8 or Medical/Scientific Manufacturing and Production under Section 3.6.4.D, if:
 - i. the development site is located within a red policy area or opportunity zone, including contiguous properties separated from the red policy area or

- 204 opportunity zone only by a public right-of-way; or
 205 within ½ mile of a planned or existing Bus Rapid
 206 Transit route including the Corridor Cities
 207 Transitway;
- 208 ii. the development site fronts on a street classified as
 209 an arterial roadway or higher classification;
- 210 iii. the development site does not abut or confront a
 211 property in an Agricultural, Rural Residential,
 212 Residential Detached, or Residential Townhouse
 213 zone that is vacant or improved with an
 214 agricultural or residential use; and
- 215 iv. the application achieves public benefit points for
 216 Adaptive Buildings under Sec. 4.7.3.D.1.
- 217 b. In order to achieve additional height under Section
 218 4.6.4.B.5.a, the following provisions apply:
- 219 i. A development site that includes a property with a
 220 mapped height of 100 feet or less may achieve 1.5
 221 times the mapped height. A development site that
 222 uses averaged height under Section 4.5.4.B.5.b.2
 223 may achieve 1.5 times the resulting averaged
 224 height, provided the maximum building height
 225 does not exceed 150 feet.
- 226 ii. Building height for a portion of a building or
 227 buildings across a development site may be
 228 increased above the number following the H on the
 229 zoning map so long as the average height of all

buildings is no greater than the maximum height allowed by the mapped zone.

(a) Average building height is calculated as the sum of each area of each section of roof having a different height multiplied by that height, divided by the total roof area. Height is measured at the midpoint of each roof section along each frontage.

(b) If the development site has more than one mapped height, the maximum height is based on the proportion of the tract area within each mapped zone. It is calculated as the sum of the tract square footage within each mapped zone multiplied by the mapped height, divided by the total tract area.

* * *

[[Sec. 4. DIVISION 59-6.2 is amended as follows:

Division 6.2. Parking, Queuing, and Loading

* * *

Section 6.2.4. Parking Requirements

* * *

B. Vehicle Parking Spaces

252

USE or USE GROUP	Metric	Agricultural, Rural Residential, Residential, and Industrial Zones	Commercial/Residential and Employment Zones		
			Within a Parking Lot District or Reduced Parking Area	Outside a Parking Lot District or Reduced Parking Area	
		Baseline Minimum	Baseline Minimum	Baseline Maximum	Baseline Minimum
* * *					
Office and Professional					
Office	1,000 SF of GFA	2.80	2.00	3.00	2.25
Life Sciences Research and Development	1,000 SF of GFA	1.50	1.00	3.00	1.50
<u>Biohealth Priority Campus</u>	<u>1,000 SF of GFA</u>	--	<u>1.00</u>	<u>3.00</u>	<u>1.50</u>

253 ||* * *


254 **Sec. ~~[[5]]~~3. Effective date.** This ordinance becomes effective 20 days after
255 the date of Council adoption.



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

MEMORANDUM

TO: Tom, Sidney, Nancy, Gabe, Evan and Hans

FROM: Andrew 

SUBJECT: ZTA 22-02 Proposed Revisions

DATE: June 8, 2022

I am writing to inform you of some amendments I plan to put forward at the PHED Committee work session on ZTA 22-02 -Density & Height Limits – Biohealth. I introduced this ZTA in March with your support as co-sponsors, and I am told a work session is tentatively scheduled for early July.

While still recognizing that ZTA 22-02 will serve as an important economic development tool for attracting and retaining biohealth companies here in the county, particularly in transit-oriented locations, and that this ZTA closely aligns with our [county's economic development strategic plan](#) recently updated and approved by the Council in April, based upon preliminary feedback and further examination I have decided to propose the following provisions:

- Limit eligibility to properties mapped at 100 feet or less
- Remove all references to Biohealth Priority Campus use – this includes the parking provision and the consolidation of public facilities provision
- Limit eligibility to properties abutting or confronting arterials and highways
- Prohibit/exclude properties abutting or confronting residential zones
- Limit additional height to a multiplier of 1.5
- Allow height averaging in certain circumstances
- Remove language referencing overlay zones
- Strengthen language to ensure Biohealth/Life Sciences R &D and/or manufacturing is primary use

I have attached a revised draft of the ZTA for your reference. Please let me or Cindy know if you have any questions.



June 14, 2022

The Honorable Gabe Alborno

President, Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 501
Rockville, Maryland 20850

Subject: Zoning Text Amendment No. 22-02

BOARD RECOMMENDATION

The Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission met on June 9, 2022 and by the vote of 5:0 supported Zoning Text Amendment (ZTA) 22-02, as presented in its revised form, which was circulated by the office of the lead sponsor, Councilmember Friedson, on May 26, 2022 (Attachment 1-B). The Planning Board also supported clarifying language presented in testimony received during its meeting (Attachment 2). The revised ZTA adds new height and density standards for certain Biohealth users under the Optional Method of Development for the Commercial/Residential and Employment zones.

The ZTA revision from May 26 provides flexibility to Research & Development and Medical Manufacturing businesses located in or adjacent to Red Policy Areas or within ½ mile of a planned or built BRT or CCT line. Tracts that front on arterial or higher classified roads and do not abut or confront residentially zoned properties have the option to utilize height averaging for buildings across the entire tract, and buildings located in areas mapped at or below 100 feet may increase the building height up to 1.5 times the mapped height.

Further refinement of the ZTA was presented to the Board at its hearing, clarifying that buildings in an underlying zone under 100 feet may utilize both the tract height averaging as well as the increase in building heights, and that averaging is across a tract and not a site. The Board is favorable to these changes to the May 26 version of the ZTA providing additional flexibility and language consistency (Attachment B).

The Board appreciates Council staff's collaboration with Planning staff in developing the revisions to the ZTA as well as efforts by the Council to provide regulatory flexibility to our economic development priorities around the Biohealth industry. We look forward to discussing the circulated revisions to ZTA 22-02 at future Council work sessions.

CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, at its regular meeting held in Wheaton, Maryland, on Thursday, June 9, 2022.



Casey Anderson
Chair

Attachment 1: Planning Board Staff Report and Attachments
Attachment A: Introduction Packet for ZTA 22-02
Attachment B : Revised ZTA 22-02
Attachment C: RESJ Statement for 22-02

Attachment 2: Additional Clarifying Modifications

CA:BB:aj

ZTA 22-02, DENSITY AND HEIGHT LIMITS, PARKING - BIOHEALTH

Description

ZTA 22-02, as introduced, would amend provisions of Biohealth Priority Campuses to allow consolidation of utilities and facilities, and create parking standards. The ZTA would also allow Life Science, R&D, and Medical and Scientific Manufacturing and Production uses within certain geographies in the CR, EOF and LSC zones to convert residential FAR into commercial FAR and exceed mapped heights with Board approval.

ZTA 22-10

COMPLETED: 06-02-2022

MCPB

Item No. 10

06-09-2022

2425 Reedie Drive

Floor 14

Wheaton, MD 20902



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Jason Sartori, Chief, Countywide Planning and Policy
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SPONSORS

Lead Sponsor:

Councilmember Friedson

Cosponsored by:

Council President Albornoz
Council Vice President Glass
Councilmember Hucker
Councilmember Katz
Councilmember Navarro
Councilmember Reimer

INTRODUCTION DATE:

March 15, 2022

REVIEW BASIS:

Chapter 59



Summary

- Planning staff does not support this ZTA as introduced. Staff has concerns the potentially large increases in building height allowed for certain uses is in conflict with our Master and Sector Plans, and raises compatibility concerns. In addition, the new parking waiver for Biohealth Priority Campus uses in the Parking Lot Districts is contrary to the intent of these districts, and many of the parking requirements within Division 6.2 already have existing waiver provisions.
- Since introduction of the ZTA, Planning staff has been working collaboratively with Council staff to find solutions to identified concerns. Councilmember Friedson's office has circulated a memo showing a revised ZTA that would be presented to the Planning, Housing and Economic Development (PHED) committee to discuss. Planning staff recommends the Board support this modified ZTA draft. The revised ZTA greatly reduces the geographic scope of the ZTA and potential building height increases, and removes the section on parking waivers.

SECTION ONE

BACKGROUND

RECOMMENDATION SUMMARY

Planning and Council staff have been collaborating since the introduction of ZTA 22-02 and have worked through a number of Planning staff's initial concerns. Planning staff recommends the Planning Board transmit a recommendation to the District Council in **support** of a revised ZTA the lead sponsor intends to propose during committee review.

RATIONALE FOR ZONING TEXT AMENDMENT 22-02

Zoning Text Amendment (ZTA) 22-02 was introduced on March 15, 2022 by Councilmember Friedson, with Council President Albornoz, Council Vice President Glass and Councilmembers Hucker, Katz, Navarro, and Reimer as co-sponsors. The ZTA introduction packet (Attachment 1) states that the ZTA would allow additional height and increased flexibility in design for urban biohealth facilities in recognition of their unique mechanical challenges. The introduced ZTA also adds parking requirements for Biohealth Priority Campuses where they were absent from the parking tables in the ordinance. The rapid growth of the life sciences industry has been an economic development success and this ZTA is one of multiple zoning or policy changes that have been considered by the Council in recent months to benefit additional growth in the life sciences sector.

SECTION TWO

OVERVIEW AND ANALYSIS OF THE INTRODUCED ZTA

BIOHEALTH PRIORITY CAMPUS STANDARDS

ZTA 22-02, as introduced (Attachment A), proposes changes to the code for two similar but distinctly separate uses in the existing code. Some of the changes are specific to the new Biohealth Priority Campus (BPC) use, recently created through ZTA 21-09 and adopted by Ordinance 19-27. The first change clarifies that facilities including utilities, required open space, and parking may be located on one or more properties inside the boundary of a Biohealth Priority Campus.

The introduced ZTA created a new section for BPCs on parking that would include three subsections. The first subsection would allow an application in a Parking Lot District (PLD) to provide fewer parking spaces than required after making adjustments allowed under Section 6.2.3.I if a waiver under the third subsection is approved. The second subsection conversely would permit an applicant to provide more than the maximum number of spaces allowed in a PLD if the excess parking is available to the public or if a waiver is approved under the third subsection. These waivers are largely redundant with waivers that already exist under Division 6 of the code.

The final amendment proposed by the introduced ZTA related to the BPC use is a change to the Vehicle Parking Spaces table under Section 6.2.4.B. This would add Biohealth Priority Campus as a new use in the table and assign corresponding values for the metric (1,000 SF of Gross Floor Area) and baseline minimums and maximums for vehicle parking. The proposed minimum and maximum parking would be consistent with parking requirements for the Life Sciences Research and Development use already in the table.

BUILDING HEIGHT FOR LIFE SCIENCES IN THE CR/EOF/LSC ZONES

The other changes proposed by the introduced ZTA do not directly impact the Biohealth Priority Campus as a use, but rather modify provisions for development in the Commercial/Residential and Employment zones for applications with a Life Science, Research and Development, or Medical/Scientific Manufacturing use. These are the same uses that pertain to a BPC, but this portion of the ZTA would apply to applicants that are unable to meet the BPC size criteria of 150,000 SF of new space or 50,000 SF of expanded space for a single dedicated user and would include a large number of properties in the county. The changes proposed for both sets of zones are the same and would apply to any property in a CR, EOF, or LSC zone that is within a red policy area or an opportunity zone including land contiguous to these properties or properties opposite them if only separated by a right-of-way, or properties within ½ mile of a planned or existing Bus Rapid Transit route including the Corridor Cities Transitway (or Corridor Connectors).

As introduced, properties that meet the use and location criteria that are in land zoned for building heights of 100 feet or less would be allowed to exceed the maximum mapped building height up to 200%, and properties with a building height over 100 feet but less than 200 feet may exceed the maximum mapped building height to 150%. These properties would also be able to modify the mapped limits on Commercial FAR (C) and Residential FAR (R) to increase the amount of C and reduce the amount of R, so long as the application stays within the mapped total FAR. The ZTA also adds a provision that if an overlay zone would enact contrary or more restrictive standards, that the overlay zone standards would not apply.

SUMMARY OF PLANNING ANALYSIS

Planning staff has many concerns with the ZTA as introduced, which fall into two main categories:

- **Master Plan Process.** A lot of careful thought and community coordination go into creating our Master and Sector Plans, which set the mapped building heights for the CR and Employment Zones. These take into account visual impacts as well as infrastructure.
- **Parking Waivers.** Parking requirements, especially in our parking lot districts, are a delicate balance between supply and demand, and granting waivers beyond those already allowed by the parking section of the code could have negative consequences.

Additionally, while making zoning exceptions for certain uses may seem like a plausible way to promote economic development, Planning staff is concerned that the introduced ZTA (as well as the draft ZTA revisions discussed in Section Three of this report) provides no certainty of the end tenant of

a building. Planning staff does not have any recommendation on how, through zoning, to guarantee the continued use of a structure for the intended biohealth use.

Staff did, however, have many suggestions to improve the introduced ZTA, most of which have been incorporated in the draft revisions to the ZTA circulated by the lead sponsor's staff. The sponsor intends to offer these revisions during the PHED committee's review of the ZTA, therefore Planning staff's more detailed comments and analysis focus on the proposed revisions.

RACIAL EQUITY AND SOCIAL JUSTICE (RESJ)

Planning staff received the Office of Legislative Oversight (OLO) RESJ statement on ZTA 22-02 (Attachment C). Generally, it mirrored similar concerns expressed during the review of ZTA 21-09 for Biohealth Priority Campuses, namely noting inequities in the employment makeup and opportunities within the Biohealth industry. This report, however, did also highlight one of Planning staff's stated concerns about the introduced ZTA undermining the Master Planning process, breaking trust with communities and disadvantaging communities that are typically under-represented in public comment of development applications. It is worth noting the RESJ statement was based fully on the introduced ZTA text and is not updated to reflect the draft revisions that were shared by the lead sponsor's staff.

SECTION THREE

OVERVIEW AND ANALYSIS OF THE DRAFT ZTA REVISIONS

On May 26, 2022, the lead sponsor's staff shared a revised draft of ZTA 22-02 with members of the community and with Planning staff (Attachment B). This draft reflects the outcome of discussions between Planning and Council staff on ways to minimize many of Planning's concerns with the introduced text, while still providing flexibility and benefits to the biohealth and life sciences industry. The following sections look at the revised ZTA text, what changes it makes to the code, how it differs from the introduced ZTA.

BIOHEALTH PRIORITY CAMPUSES

The first major change in the modified ZTA draft is the removal of all the sections that applied to BPCs, including all the sections related to parking waivers, properties allowed under the BPC plans, and parking standards for BPCs. **Staff supports removing the parking waiver section since the waivers already available under Division 6.2 are generous and could be applied to a BPC application.** Planning staff has no opinion about the removal of the other elements that related to BPCs from the revised ZTA.

LOCATION OF PROPOSED NEW CODE

The next set of changes between the introduced and revised ZTA hinge on how the ZTA would allow for extra building height and flexibility to convert residential FAR to commercial FAR. The ZTA as

introduced created a new Section 5 under the Density and Height Allocation portion of the CR and the Employment Zones (Section 4.5.2. and 4.6.2.) that defined what properties qualified for additional flexibility and the amount of additional height for which they were eligible. The revised ZTA instead moves this text to the Optional Method Development sections (Section 4.5.4. and 4.6.4), as a new Subsection 5 under the Development Standards. **Staff has no opinion on this change and thinks either location in the code is equally effective for these provisions.**

ADDITIONAL HEIGHT ELIGIBILITY

More importantly, the content is also changed. The new section is structured with two subsections: one that sets the use and geographic criteria or eligibility and the other that establishes how to calculate additional height.

Under the use and location criteria, the revised ZTA kept the applicability requirements that a site be in a red policy area, opportunity zone, or within ½ mile of a planned or existing Bus Rapid Transit route or Corridor Cities Transitway (or Corridor Connectors) route. Added to the criteria, however, is a requirement for a site to have frontage on an arterial or higher classified roadway, that the application receive public benefits for Adaptive Buildings, and that the site must not abut or confront properties in an Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zone that is vacant or improved with agricultural or residential uses. **Planning staff supports these new requirements, which lessen concerns over compatibility with adjacent residential properties and also limit height increases to sites where the additional height is less impactful.**

The Adaptive Buildings public benefit criteria are defined under Section 4.7.3.D.1 of the Code, and allow up to 15 points for buildings built with minimum 15-foot first floor height, and minimum 12 foot upper floor height, along with internal structural systems that can accommodate various types of uses with only minor modifications.

Planning staff does note the ZTA as first introduced was eligible to both Life Sciences, or Research and Development uses under Section 3.5.8 whereas the revised ZTA is only eligible to Research and Development under Section 3.5.8. Staff is unsure why this change was made and would **recommend adding Life Sciences back to the list of qualifying users to be consistent with the intent of this ZTA.**

Another positive change in the revised draft ZTA relates to the calculation of additional building height. The introduced ZTA created a two-tier system, where buildings under 100 feet would be allowed to double their height and buildings between 100 and 200 feet could apply a 1.5 multiplier to their mapped height. After discussions between Planning and Council staff, it was agreed that the areas mapped over 100 feet do not need extra height, and areas under 100 feet would more appropriately receive a 1.5 multiplier. When combined with the more restrictive location criteria, this revision to the introduced ZTA greatly reduces concerns about compatibility with adjacent residential development, or the possibility these provisions would substantially alter the intent of an area Master or Sector Plan. **Planning staff recommends supporting the new height increase calculation.**

Additional height provisions were added with the revised ZTA draft that would allow height averaging as another means of flexibility for biohealth buildings. The first of the two height averaging clauses is similar to how height averaging is allowed in other situations, allowing the height of individual buildings to vary as long as the average of each roof section still matches the mapped height. A new section that would allow height averaging across a split height property was also added, which is a new concept to the Zoning Code. This provision would not only allow height averaging of roof elevations within the same mapped height, but anticipates a multi building site that may have different mapped heights. The formula would allow height averaging between buildings and would allow the average height to apply sitewide and be based on the proportion of the property that falls within each mapped height. **Staff supports this concept as a creative way to provide additional flexibility to biohealth developments that may be spread across multiple buildings and multiple mapped height areas.** This may allow buildings in one portion of a site to be built higher than mapped, but in exchange for lower buildings on another portion of the site. The overall massing across the site would be unchanged.

SECTION FOUR

CONCLUSION

Planning staff was concerned with the unintended consequences of the ZTA as introduced but believes most of these concerns are addressed through the draft revisions to the ZTA distributed by the lead sponsor's staff. Planning staff recommends the Planning Board transmit comments to the District Council not supporting ZTA 22-02 as it was introduced but offering strong support instead for the draft modified ZTA language, with just a minor comment about Life Sciences being omitted from the draft revisions. Planning staff is happy to continue coordinating with Council staff on modifications to this ZTA that provide desired flexibility for the biohealth industry and to ensure the draft ZTA language is fully considered and incorporated into the final text.

Attachments

- A – ZTA introduction Packet for ZTA 22-02
- B – Draft ZTA 22-02 revisions, May 26
- C – Office of Legislative Oversight's RESJ Statement

Racial Equity and Social Justice (RESJ) Zoning Text Amendment Statement

Office of Legislative Oversight

ZTA 22-02:

DENSITY AND HEIGHT LIMITS, PARKING - BIOHEALTH

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that Zoning Text Amendment 22-02 could negatively impact racial equity and social justice as its benefits would disproportionately accrue to White business owners and employees. OLO anticipates a small impact of this ZTA on racial and social inequities. To improve racial equity and social justice, this statement offers a few recommended policy options for consideration.

PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements for zoning text amendments (ZTAs) is to evaluate the anticipated impact of ZTAs on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.²

PURPOSE OF ZTA 22-02

The purpose of ZTA 22-02, Density and Height Limits, Parking – Biohealth, is to diminish current requirements for building height, density, and parking for biohealth facilities that locate in urban areas in the County. The underlying intent of ZTA 22-02 is to reduce building regulations for biohealth businesses that could grow the sector and advance economic development in the County.

Towards this end, ZTA 22-02 amends recent changes to the zoning code establishing Biohealth Priority Campuses to provide more building flexibility for facilities that locate on them and increase building height and density allocations for biohealth facilities that operate under the Life Sciences, Research and Development and Medical/Scientific Manufacturing and Production uses.³ If enacted, ZTA 22-02 would allow:

- Biohealth Priority Campuses to consolidate facilities for utilities, open space, parking and reduce parking space requirements.
- Higher building densities and height allocations for biohealth facilities located in Commercial/Residential Zones within a Red Policy Area⁴ (or adjacent to it), within an Opportunity Zone,⁵ or within ½ mile of a planned or existing Bus Rapid Transit route.⁶ Increased building densities and height allocations established with this ZTA could supersede existing Overlay Zone requirements for building densities and height allocations.
- Higher building densities and height allocations for biohealth facilities located in Employment Zones. Increased building densities and height allocations established with this ZTA could also supersede existing Overlay Zone requirements for building densities and height allocations.

ZTA 22-02 was introduced on March 15, 2022.

RESJ Impact Statement

Zoning Text Amendment 22-02

LAND USE, ECONOMIC DEVELOPMENT, AND RACIAL EQUITY

Understanding the impact of ZTA 22-02 on racial equity and social justice requires understanding the historical context that shapes land use and economic development in Montgomery County today. To describe this historical context, this section describes the historical drivers of racial inequities in land use and economic development and available data on racial disparities, especially within the biohealth industry.⁷

Inequities in Land Use. The way land is used and regulated either helps or hinders people's access to opportunity. Throughout the 20th century, jurisdictions have used zoning to separate not only uses – like residential, commercial, and industrial – but also people according to wealth, class, and race.⁸ More specifically, land use regulations have been used to exclude people of color and low-income residents from predominantly White and affluent residents in several ways. For example, by allowing single family homes or homes on large lots, both of which exclude more affordable housing.⁹ This has resulted in the concentration of poverty, especially in BIPOC communities.¹⁰ Because social determinants are so tightly connected to where one lives, the implications of zoning on inequality are large as where one lives determines where they go to school, their exposure to crime and policing, and where they can shop.¹¹ For homeowners, where one resides is perhaps the most important determinant of their family's wealth.¹²

Data show that many poor neighborhoods have disproportionately high people of color populations and lack access to jobs, good schools, and other opportunities necessary to help residents rise out of poverty.¹³ The land use injustices and social inequities impacting localities are multi-faceted.¹⁴ They manifest not only in housing segregation but also in disparities in exposure to pollution, health inequities, unequal access to green and blue infrastructure (e.g. parks, trees, well-functioning waterways), transportation infrastructure, and economic investment.¹⁵ These inequities result from zoning and a variety of other government policies and private actions that include environmental laws, housing policies, transportation policies, restrictive covenants, housing-market discrimination, and redlining.¹⁶

Patterns of inequitable land use in Montgomery County manifest as racial and economic segregation by Council district, higher rates of unemployment, poverty, and housing burden among Black and Latinx residents, and as greater reliance on public transit and longer commutes for Black residents. More specifically, the data shows:

- Racial and economic segregation by Council district where 72 percent of District 1 (Bethesda, Poolesville, and Potomac) residents were White, average household income was \$205,600, and the poverty rate was 3 percent compared to 66 percent of District 5 residents (Burtonsville, Silver Spring, and Takoma Park) were BIPOC, average household income was \$102,500, and the poverty rate was 9 percent from 2011 to 2015.¹⁷
- Racial inequities in unemployment where 5 percent of Black residents and 4 percent of Latinx residents were unemployed compared to 3 percent of Asian and White residents in 2019.¹⁸
- Racial inequities in poverty where 13 percent of Latinx residents and 12 percent of Black residents lived in poverty compared to 6 percent of Asian residents and 3 percent of White residents in 2019.¹⁹
- Racial inequities in housing burden where 59 percent of Latinx renters and 54 percent of Black renters expended more than 30 percent of their household income on housing compared to 43 percent of Asian renters and 42 percent of White renters in 2019.²⁰
- Racial inequities in public transit use where 21 percent of Black residents commuted to work via public transit compared to 14 percent of Asian residents, 13 percent of White residents and 11 percent of Latinx residents.²¹
- Racial inequities in commuting time where Black residents averaged 38 minutes commutes to work compared to 36 minutes commutes for Asian residents and 34 minutes commutes for both White and Latinx residents.²²

RESJ Impact Statement

Zoning Text Amendment 22-02

Inequities in Economic Development. Historically inequitable policies have fostered racial and ethnic inequities in economic development among business owners and employees. As noted by the Federal Reserve Bank of Boston:²³

“(T)he practices and policies that laid the groundwork for and built the U.S. were explicitly designed to ensure an absolute accumulation of intergenerational wealth and concentrated power for white people, particularly men. A legacy of land theft, slavery, racial segregation, disenfranchisement, and other exclusive policies against Black and Indigenous people and people of color produced a racialized economy that decimated these communities and intentionally barred survivors and descendants from building wealth, socioeconomic well-being, and resilience.”

Current inequities in policies and practices also adversely impact people of color as they consider starting and growing businesses. These include disparities by race and ethnicity in educational attainment, personal wealth, access to mainstream capital, and exposure to entrepreneurship in family and social networks.²⁴ They also include disparities by race and ethnicity in access to credit with Black - and Latinx-owned businesses more likely to have been denied credit, to receive only a portion of the funding requested, or to refrain from applying for needed funding out of fear their applications will be rejected.²⁵ Other factors that explain the disparity in capital include discriminatory lending practices, less wealth to leverage, recent financial challenges, and lower credit scores.

Historic and current inequities in economic opportunity result in sizable disparities in business ownership, employment, and income by race and ethnicity. More specifically:

- Despite Black and Latinx firms each accounting for 15 percent of local firms in 2012 and Asian firms accounting for 14 percent of local firms, Black and Latinx firms each accounted for less than 2 percent of business revenue, and Asian firms accounted for 4 percent of business revenue.²⁶
- Nearly two-thirds (64 and 62 percent) of White and Asian residents in Montgomery County were employed in management, business, science and arts occupations in 2017 compared to less than half of Black residents (45 percent) and only a quarter of Latinx residents were employed in such positions.²⁷
- The median household income for White families in Montgomery County was \$119,000 in 2017 and \$109,000 for Asian families compared to \$73,000 for Black households and \$72,000 for Latinx households.²⁸

Inequities in the Biohealth Industry. Systemic racism has also fostered racial inequities in health care and the biohealth industry. The nation’s history of inequitable health care by race predates its founding with the near genocide of Indigenous people due to their exposure to small pox and other diseases from European colonists and the inhumane treatment of enslaved Africans that made them more susceptible to disease and death.²⁹ Post slavery, health care services remained segregated by race and it was not until the 1960’s with the passage of Medicare and Medicaid that health care services were integrated.³⁰

Racial inequities have also characterized the biohealth industry where historically the medical community has exploited Black people through experimentation.³¹ Additionally, educational and occupational segregation continue to limit the participation of Black and Latinx people as professionals in Science, Technology, Engineering, and Mathematics (STEM) fields that include the biohealth industry. Nationally, between 2017 and 2019:³²

- Black people accounted for 11 percent of all jobs, 9 percent of STEM jobs, and 6 percent of life science jobs.
- Latinx people accounted for 17 percent of all jobs and 8 percent of STEM jobs and ? percent of life science jobs.
- Asian people accounted for 6 percent of all jobs, 13 percent of STEM jobs and 19 percent of life science jobs.
- White people accounted for 63 percent of all jobs, 67 percent of STEM jobs and 65 percent of life science jobs.

RESJ Impact Statement

Zoning Text Amendment 22-02

A study of personnel and executives in the biotech industry also finds an under-representation of Black, Latinx and Indigenous employees and executives. The 2020 survey of 18 biotech firms found that:³³

- Black people accounted for 7 percent of biotech employees and 3 percent of executives;
- Latinx people accounted for 4 percent of biotech employees and 4 percent of executives;
- Asian people accounted for 18 percent of biotech employees and 14 percent of executives;
- Native Americans, Hawaiians and Pacific Islanders accounted for 0.4 percent of biotech employees and 0 percent of executives; and
- White people accounted for 65 percent of biotech employees and 78 percent of executives.

These racial and ethnic disparities in the biohealth workforce are significant because the industry offers high wages. In 2017, bioscience workers earned an average income of nearly \$99,000.³⁴ In Maryland, the average annual pay for biomedical positions was nearly \$70,000 with workers at the 25th percentile earning \$44,000 annually and those at the 90th percentile earning \$107,000 annually.³⁵

The racial and ethnic disparities in the biohealth workforce are also significant because the industry is sizable. More than 800,000 people work in the biopharmaceutical industry in the U.S.; it is estimated that the biohealth industry supports another 4.7 million jobs across the country.³⁶ Of note, the Biohealth Capital Region of Maryland, the District of Columbia, and Virginia employs an estimated 75,000 workers and ranks fourth among U.S. biopharma hubs, behind Boston, San Francisco, and New Jersey/New York.³⁷ The United Therapeutic Corporation headquartered in Silver Spring, Maryland and the Research Training Park in North Carolina employs 950 people.³⁸

ANTICIPATED RESJ IMPACTS

Understanding the impact of ZTA 22-02 on racial equity and social justice requires understanding the stakeholders most likely to be impacted by this zoning text amendment and their demographics. Since this ZTA is aimed at reducing building regulations and requirements for biohealth facilities, biotech firm owners, employees and residents located near biohealth facilities are the stakeholders most likely to be impacted by this ZTA as follows.

- **Biohealth Business Owners.** Available data on local business revenue suggest that White-owned firms predominate the biohealth industry and thus could disproportionately benefit from ZTA 22-02. While White-owned firms accounted for slightly more than half of all Montgomery County businesses in 2012, they accounted for more than 90 percent of local business revenue. If White-owned firms benefit more from ZTA 22-02 than BIPOC-owned firms, this ZTA could widen current racial and ethnic inequities in entrepreneurship.
- **Biohealth Workers.** Available data on occupations and the biohealth workforce from national and local sources suggests that Asian residents are significantly over-represented among local biohealth workers and thus could disproportionately benefit from growth in the local biotech industry fostered by ZTA 22-02. White people account for a majority of the biotech workforce and thus would benefit from biotech industry growth as well. Nationally, Asian people account for 18 percent of biotech positions compared to 6 percent of the overall workforce; White people account for 65 percent of biotech positions compared to 63 percent of the overall workforce. If Asian and White employees benefit more from ZTA 22-02 than Black, Latinx and Indigenous residents, this ZTA could widen current racial and ethnic inequities in biohealth employment

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- **Residents Near Biohealth Facilities.** County residents whose homes and communities abut biohealth facilities are the residents potentially most impacted by the higher densities and building heights and reduced parking requirements allowed under this ZTA. OLO anticipates a negative impact of this ZTA on the residential neighbors of biohealth facilities who do not do business with these facilities. The demographics of which residents could be most adversely impacted by this ZTA, however, remain unknown as it is unclear where biohealth facilities will locate, relocate, or expand in the County as a result of reducing building regulations and requirements.

Taken together, OLO finds that ZTA 22-02 could have a net impact of widening racial and ethnic inequities in the County as available data suggests that the two groups to benefit the most from this bill – biohealth business owners and employees – are disproportionately White and Asian. To narrow racial and social inequities, ZTA 22-02 would have to yield greater benefits for BIPOC groups under-represented in the biohealth industry as business owners and employees. Overall, OLO anticipates a small impact of ZTA 22-02 on racial and social inequity.

RECOMMENDED POLICY OPTIONS

The County's Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.³⁹ For zoning text amendments, OLO offers recommended policy options rather than amendments to offset potentially racially or socially inequitable changes to the Zoning Ordinance.

Overall, OLO finds that ZTA 22-02 could widen racial and ethnic inequities because its provisions could exacerbate racial inequities in business revenue and employment in the biohealth sector. Should the Council seek to advance equitable growth in the biohealth industry that reduces racial and social inequities, the following policy options could be considered to require and/or encourage biohealth firms seeking to create or expand their facilities to:⁴⁰

- **Report workforce and vendor data by race, ethnicity, and gender.** The rationale for public policies to support economic development is that their benefits exceed their costs to government. Yet, there is rarely any accountability for achieving favorable returns on public investments for economic development or equitable development that narrows gaps in outcomes by race and ethnicity. To track whether changes in the zoning code and/or other public policies enhance equitable economic development, the County Council could encourage and/or require biohealth firms to report data on their workforce and vendor demographics by race (Black, Asian, White, Indigenous, Other), ethnicity (Latinx), and gender (male, female, non-binary).
- **Invest in workforce development opportunities, particularly for BIPOC residents.**⁴¹ To ensure that growth in the biohealth industry benefits a cross-section of communities and reduces disparities in the biohealth workforce by race and ethnicity, biohealth firms could be encouraged to enter into agreements to provide biohealth workforce development opportunities for underrepresented persons of color. Biohealth firms investing in biohealth workforce development programs could be encouraged to partner with community members, education institutions and non-profit partners to design and deliver programs. Career and technical education programs in secondary and post-secondary institutions, apprenticeships and targeted training could increase the pipeline of Latinx and Black residents into biohealth professions.

RESJ Impact Statement

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- **Invest in local small businesses, especially underrepresented BIPOC small businesses.**⁴² To ensure that local small businesses inclusive of BIPOC businesses benefit from the expansion of biotech business opportunities, biotech firms could be encouraged to (a) partner with underrepresented BIPOC businesses to increase the success of such firms in the biohealth industry; and (b) provide opportunities to BIPOC businesses that offer spillover benefits for industry expansion. For example, local biohealth firms could be encouraged to support an industry eco-system analogous to the Opportunity Hub Initiative in Atlanta that promotes “inclusive high-tech innovation, entrepreneurship, and investment eco-systems” to foster BIPOC entrepreneurship in technology.⁴³

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

OLO staffers Elaine Bonner-Tompkins, Senior Legislative Analyst, and Elsabett Tesfaye, Performance Management and Data Analyst, drafted this RESJ impact statement.

¹ Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools <https://www.racialequitytools.org/glossary>

² Ibid

³ Montgomery County Council, Zoning Text Amendment 22-02, Density and Height Limits, Parking – Biohealth, Introduced March 15, 2022

⁴ Red Policy Areas, also known as Metro Station Areas Policy Areas (MSPA), are one of the four areas within the Transportation Policy Area. MSPAs are characterized by high-density development and the availability of premium transit service (Metrorail, MARC). Montgomery County Planning Department

⁵ Opportunity Zones are designed to spur economic development by providing tax benefits to investors. They are part of a federal tax code that allow investors to roll capital gains into Opportunity Funds that invest in businesses, equipment, and real property in select census tracts. Montgomery County Planning Department: Montgomery County Economic Indicators Briefing 2019.

⁶ Bus Rapid Transit is a high-quality and high-capacity bus-based transit system that delivers fast, comfortable, reliable and cost-effective transit service. Montgomery County Planning Department, Transportation.

⁷ Information in this section originally referenced in OLO RESJ Impact Statement for ZTA 21-09, Office and Professional – Biohealth Priority Campus, December 2, 2021

⁸ Tyler Quinn-Smith, Zoning for Equity: Raising All Boats. Smart Growth America

⁹ Lance Freeman, Build Race Equity into Zoning Decisions, Brookings Institution

¹⁰ Tyler Quinn-Smith

¹¹ Lance Freeman

¹² Ibid

¹³ Kathleen McCormick, Planning for Social Equity, Land Lines, Winter 2017

¹⁴ Tony Arnold, “Land-Use Regulation: What’s It Worth Anyway?” Urban Institute

¹⁵ Ibid

¹⁶ Ibid

¹⁷ Leah Headey and Lily Posey, Racial Inequities in Montgomery County, 2011-15, Urban Institute, https://www.urban.org/sites/default/files/publication/95386/2017.12.28_montgomery_county_finalized_7.pdf

¹⁸ National Equity Atlas, <https://nationalequityatlas.org/indicators/Unemployment#/?geo=04000000000024031>

¹⁹ Ibid

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²⁰ Ibid

²¹ Ibid

²² Ibid

²³ Field Note, 2020-2, December 2020 – Turning the Floodlights on the Root Causes of Today’s Racialized Economic Disparities: Community Development Work at the Boston Fed Post-2020, Regional and Community Outreach

²⁴ Stephen Roblin, COVID-19 Recovery Outlook: Minority-Owned Businesses, Office of Legislative Oversight, September 21, 2020

²⁵ Alicia Robb, "Minority-Owned Employer Businesses and their Credit Market Experiences in 2017," Office of Advocacy U.S. Small Business Administration, July 22, 2020 cited by Stephen Roblin

²⁶ Jupiter Independent Research Group, Racial Equity Profile Montgomery County, OLO Report 2019-7, Office of Legislative Oversight, July 15, 2019

²⁷ American Community Survey, 1 Year Estimates, 2019, Table S0201

²⁸ Jupiter Independent Research Group

²⁹ W.M. Byrd and L.A. Clayton, Race, medicine, and health care in the United States: a historical survey, 2001, National Medical Association. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2593958/>

³⁰ Ibid

³¹ Harriet Washington, Medical Apartheid: The Dark History of Medical Experimentation on Black Americans from Colonial Times to the Present, Doubleday, 2007.

³² Richard Fry, Brian Kennedy, and Cary Funk, STEM Jobs See Uneven Progress in Increasing Gender, Racial, and Ethnic Diversity, Pew Research Center, April 1, 2021

³³ Coqual/Bio: Measuring Diversity in the Biotech Industry: Advancing Equity and Inclusion, Second Annual Report, July 2021

³⁴ TEconomy/Bio: Investment, Innovation, and Job Creation is Growing in U.S. Bioscience Industry, 2018

³⁵ Biomedical Salary in Maryland, ZipRecruiter, November 2021. <https://www.ziprecruiter.com/Salaries/Biomedical-Salary--in-Maryland>

³⁶ SelectUSA, Biopharmaceutical Spotlight: The Biopharmaceutical Industry in the United States

³⁷ Genetic Engineering and Biotechnology News: The 10 U.S. Biopharma Clusters – Pandemic Reshuffles the Bottom of GEN’s Regional Rankings But Not the Top for Now, March 10, 2021

³⁸ Our People. United Therapeutics Corporation, 2020

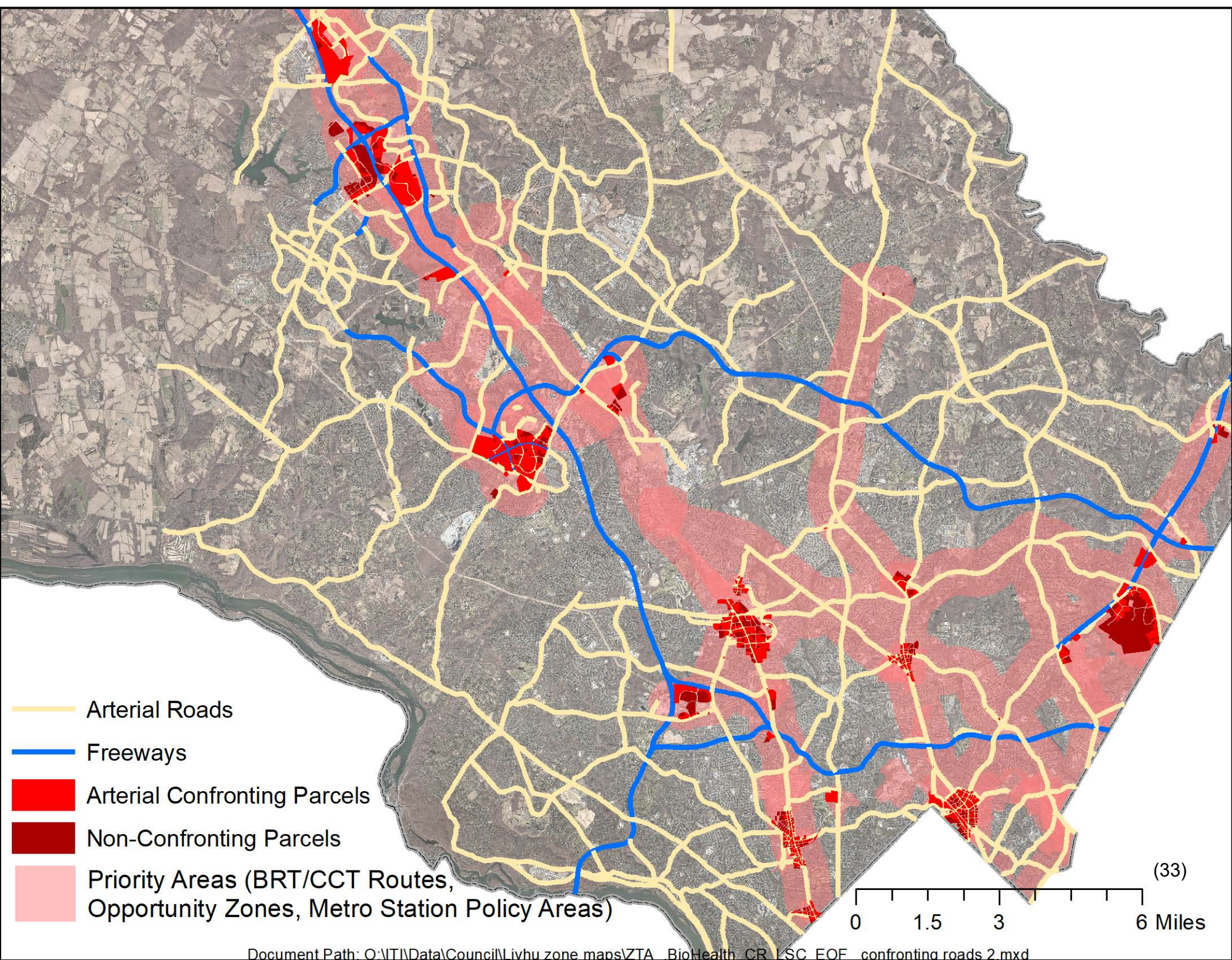
³⁹ Montgomery County Council, Bill 27-19, Administration – Human Rights - Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee - Established

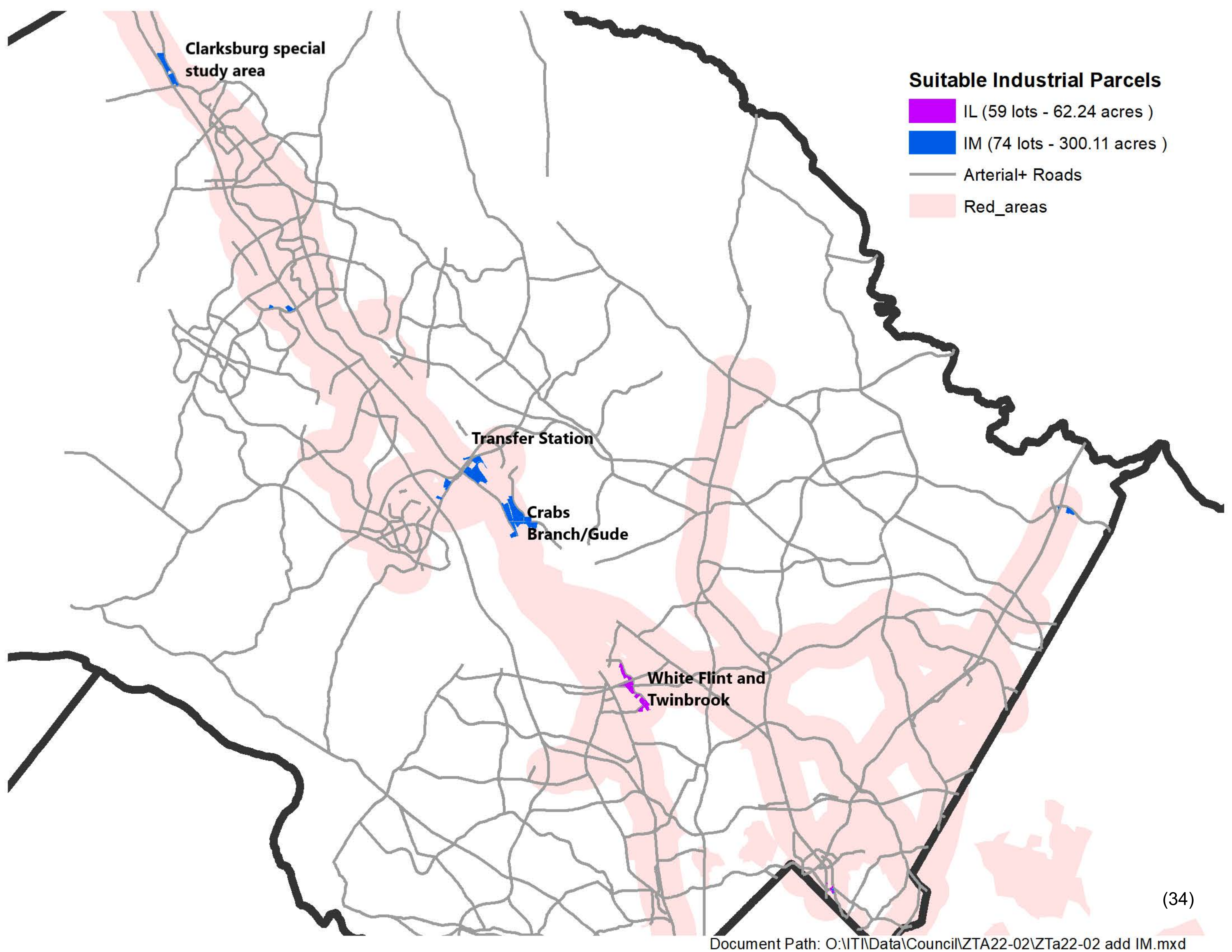
⁴⁰ Two of the three recommended amendments originally referenced in OLO RESJ Impact Statement for ZTA 21-09, Office and Professional – Biohealth Priority Campus, December 2, 2021

⁴¹ Sarah Treuhart and Victor Rubin, Economic Inclusion: Advancing an Equity Driven Growth Model, Big Ideas for Jobs, Policy Link, 2012; and Donnie Charleston, “How States Can Support Shared Prosperity by Promoting Quality Jobs,” Shared Prosperity Partnership, Urban Institute, March 2020

⁴² Ibid

⁴³ Mark Muro, Alan Berube, and Jacob Whiton, Black and Hispanic underrepresentation: It’s time to change the equation.” Brookings, March 28, 2018.





**Clarksburg special
study area**

Suitable Industrial Parcels

- IL (59 lots - 62.24 acres)
- IM (74 lots - 300.11 acres)
- Arterial+ Roads
- Red_areas

Transfer Station

**Crabs
Branch/Gude**

**White Flint and
Twinbrook**

TESTIMONY OF WARREN AVENUE INVESTORS

Zoning Text Amendment (ZTA) 22-02 – Biohealth Facilities – Development Standards

June 14, 2022

- Good afternoon. I'm Mark Jackson with Warren Avenue Investors.
- Warren Avenue's principals have developed over 20 Million SF of life science uses in premier markets across the country over the last 30 years including Maryland, Boston, San Francisco, Seattle, and San Diego. Currently Warren Avenue has more than 100,000 SF of life science space in Montgomery County.
- Warren Avenue is teaming up with DSC Partners to convert an approximately 12.7-acre site located on Standish Place near the intersection of East Gude Drive and Crabbs Branch Way into a burgeoning life sciences campus.
- The property is zoned IM (Moderate Industrial) with a 50' mapped height limit
- Warren's development plan for the Standish site will cater to existing life science tenants and attract established companies to what is currently an underutilized flex park.
- Warren Avenue strongly supports the rationale for the ZTA to foster the development of life science facilities by providing flexible development standards that address the unique mechanical system and building design needs of such facilities.
- As introduced, the ZTA applies to properties in the CR, LSC and EOF Zones that meet certain criteria for compatibility with surrounding uses and proximity to transit. We understand the sponsor of the ZTA will be recommending changes to these criteria, which are supported by the Planning Board.

- Warren believes the Standish site meets all of the proposed criteria for proximity to transit, compatibility with adjacent uses, and the ability to develop the project with adaptive buildings.
- The same rationale for providing flexible development standards for life science uses in the CR, LSC and EOF Zones applies to IM zoned properties that meet the proposed compatibility and locational criteria.
- The IM Zone is well situated for life science companies, especially new and emerging companies that are coming out of an incubator space. The “flex use” building characteristics of the IM Zone are ideal for these initial lab spaces, which include (A) move-in ready office layouts; (B) dedicated loading areas and (C) high ceiling/roof heights. Of these 3 characteristics, the high ceiling/roof height is the most important (often 15’+ to the underside of roof structure for a single-story building).
 1. Heavy MEP Infrastructure: Laboratories require a large amount of MEP systems (Mechanical, Electrical, and Plumbing) to keep their lab running. The more space above the “finished” ceiling, the more efficiently and effectively these initial labs can be built.
 2. Flexibility: As life science companies grow and mature, the needs within their built labs also change. The more space above the finished ceiling, the easier and more cost-effective it is to add/modify their existing MEP systems instead of looking to re-design / build their modified labs in a different location.
- However, given these requirements for life science buildings, a 50’ height limit only allows for 3-story, purpose built, lab buildings.
- Therefore, as with similarly situated sites in the CR, LSC and EOF Zones, the flexible heights standards proposed in the ZTA are necessary to allow Warren to develop the Standish site with buildings optimally designed to retain and attract life science companies to the County.
- Accordingly, Warren respectfully requests the County Council to include the IM Zone in the ZTA.
- Thank you for your time and consideration of this request.



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June 14, 2022

Via Email

Mr. Gabe Alborno, Council President
And Members of the County Council
Council Office Building
100 Maryland Avenue, 4th Floor
Rockville, MD 20850

Re: June 14th County Council Public Hearing (Zoning Text Amendment 22-02, Density and Height Limits, Parking – Biohealth – the “ZTA”); Stonebridge Letter in Support

Dear Council President Alborno and Councilmembers:

On behalf of Stonebridge, we offer the following comments in support of revised ZTA 22-02. We will also be providing oral testimony during the County Council’s June 14 public hearing, and we will be available to participate in the anticipated early July PHED Committee worksession during which this ZTA will be discussed. Stonebridge supports the revised ZTA as it will create necessary flexibility to allow for more bioscience development sites to respond to the expanding market demand of prospective bioscience tenants in appropriate urban areas of Montgomery County. This further legislative response to create more zoning flexibility in attracting biotechnology tenants to the County’s urban areas is another critical step for Montgomery County in being a leading national hub serving the biohealth/life sciences sector.

Stonebridge has identified several urban redevelopment opportunities that are desirable for bioscience users, but additional flexibility for density and height are needed to bring these economic development opportunities to fruition in urban areas of the County not previously thought to be attractive to these prospective tenants. The ZTA, as originally introduced, provided comprehensive changes to the Zoning Ordinance to create additional flexibility for a greater range of bioscience projects (including Biohealth Priority Campuses). Upon further analyses, however, it was determined by the ZTA sponsor (and Stonebridge agrees) that the broader objectives of the original ZTA could be addressed in other ways and that the focus of this amended ZTA should be narrowed. As such, the revised ZTA eliminates changes applicable to Biohealth Priority Campuses

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Selzer Gurvitch Rabin Wertheimer & Polott, P.C.

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and narrows the scope of development sites eligible for greater flexibility relative to density and building height to urban areas best suited to attract highly desirable biotechnology tenants. More specifically, the revised ZTA includes additional protections to ensure that increased building height is only achieved at development sites that are appropriately separated from single-family residential properties and limits the maximum additional building height achievable for bioscience projects through a multiplier (1.5x) to a maximum of 150 feet of building height. All of these changes result in a ZTA that carefully balances the hugely important economic development opportunities and employment and other ancillary benefits of bioscience projects against high quality urban design standards to ensure compatibility with adjacent development.

The revised ZTA will continue to embrace the Montgomery County Strategic Economic Development Plan (2021-2025, the “Economic Development Plan”). The ZTA is consistent with the Economic Development Plan’s recommendation to “[p]rioritize neighborhood-level land use planning to enhance infrastructure and locations that appeal to life sciences companies,” which in turn will allow the public and private sectors to “[a]ggressively recruit life sciences companies to Montgomery County to increase the density of its biohealth establishments.” *See* pp. 16-17. Given that the revised ZTA creates flexible opportunities for delivery of bioscience projects in the County’s urban core, Stonebridge fully supports the ZTA and looks forward to the opportunity to continue to collaborate with Council staff, M-NCPPC staff, and other public sector partners to implement bioscience projects in urban settings.

Again, we will be present at both the County Council public hearing and the PHED Committee worksession should any of you have any questions or need additional information relative to the desire and intention of Stonebridge to be a major stakeholder in the County’s fast-growing efforts to be a leading destination for the biohealth industry.

Very truly yours,

**Selzer Gurvitch Rabin Wertheimer
& Polott, P.C.**

C. Robert Dalrymple

By: _____
C. Robert Dalrymple

Matthew M. Gordon

By: _____
Matthew M. Gordon

ZTA 22-02 (County Council Public Hearing)

June 14, 2022

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cc: Ms. Livhu Ndou
Ms. Cindy Gibson
Doug Firstenberg
Jane Mahaffie
Chris Smith

1 **Sec. 3. DIVISION 59-4.8 is amended as follows:**

2 **Division 4.8. Industrial Zones**

3 * * *

4 **Section 4.8.3. Standard Method Development**

5 * * *

6 **A. IL and IM Zones, Standard Method Development Standards**

7 * * *

8 **B. Development of Certain Biohealth Uses**

9 1. Additional height is permitted for any application in the IM zone
10 where the primary use is Research and Development under Section
11 3.5.8 or Medical/Scientific Manufacturing and Production under
12 Section 3.6.4.D, if:

- 13 a. the development site is located within a red policy area or
14 opportunity zone, including contiguous properties separated
15 from the red policy area or opportunity zone only by a public
16 right-of-way; or within ½ mile of a planned or existing Bus
17 Rapid Transit route including the Corridor Cities Transitway;
18 b. the development site fronts on a street classified as an arterial
19 roadway or higher classification; and
20 c. the development site does not abut or confront a property in an
21 Agricultural, Rural Residential, Residential Detached, or
22 Residential Townhouse zone that is vacant or improved with an
23 agricultural or residential use.

24 2. In order to achieve additional height under Section 4.8.3.B.1, the
25 following provisions apply:

- 26 a. Site plan approval is required under Section 7.3.4.

b. A development site that includes a property with a mapped height of 100 feet or less may achieve 1.5 times the mapped height. A development site that uses averaged height under Section 4.5.4.B.5.b.2 may achieve 1.5 times the resulting averaged height, provided the maximum building height does not exceed 150 feet.

b. Building height for a portion of a building or buildings across a development site may be increased above the number following the H on the zoning map so long as the average height of all buildings is no greater than the maximum height allowed by the mapped zone.

i. Average building height is calculated as the sum of each area of each section of roof having a different height multiplied by that height, divided by the total roof area. Height is measured at the midpoint of each roof section along each frontage.

ii. If the development site has more than one mapped height, the maximum height is based on the proportion of the tract area within each mapped zone. It is calculated as the sum of the tract square footage within each mapped zone multiplied by the mapped height, divided by the total tract area.

[B]C. IH Zone, Standard Method Development Standards

* * *