

Item 9 - Correspondence

From: [Jonathan Genn](#)
To: [MCP-Chair](#)
Cc: [Anderson, Casey](#); [Patterson, Tina](#); [Cichy, Gerald](#); [Verma, Partap](#); [Rubin, Carol](#); [Wright, Gwen](#); [Sartori, Jason](#); [Berbert, Benjamin](#)
Subject: Nov 18 Agenda Item #9 (ZTA 21-09)
Date: Friday, November 12, 2021 3:53:23 PM
Attachments: [GLDC-Letter to Planning Board Regarding ZTA 21-09-Nov 18 2021 Agenda Item #9-v1-2021-1112a.docx](#)

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Good Afternoon, Chair Anderson and Distinguished Commissioners of the Planning Board:

Kindly accept my attached 2-page letter into the record relating to the November 18, 2021 (Agenda Item #9) relating to proposed ZTA 21-09.

Respectfully Submitted,

Jonathan

Jonathan M. Genn, Esquire
Executive Vice President and General Counsel

**Global LifeSci Development Corporation
& Percontee, Inc.**
11900 Tech Road, Silver Spring, MD 20904
USA

Telephone: +1-301-622-0100
Telecopier: +1-301-622-3507
Mobile: +1-410-935-2599
Email: jonathan@percontee.com

"Make no little plans; they have no magic to stir (one's) blood and probably will themselves not be realized. Make big plans; aim high in hope and work, remembering that a noble, logical diagram once recorded will not die." - Daniel Burnham (Architect & Urban Planner, including for City of Chicago)

Global LifeSci Development Corporation

11900 Tech Road, Silver Spring, MD 20904

Telephone (o): 301-622-0100; (m) 410-935-2599; Email: jonathan@percontee.com

November 12, 2021

VIA Email (MCP-Chair@mncppc-mc.org)

Casey Anderson, Chair
Commissioners of the Montgomery County Planning Board
Maryland-National Capital Park and Planning Commission (Montgomery County)
2425 Reedie Drive, 14th Floor
Wheaton, MD 20902

RE: **November 18, 2021 (Agenda Item #9): ZTA 21-09**

Dear Chair Anderson and Distinguished Commissioners of the Planning Board:

Global LifeSci Development Corporation (“GLDC”) strongly supports proposed ZTA 21-09 introduced by Councilmember Friedson and co-sponsored by the entire County Council to establish a new Biohealth Priority Campus (BPC) zone.

GLDC, however, **strongly opposes Planning Staff’s recommendation** to eliminate from BPC eligibility Qualified Opportunity Zones and areas with ½ mile of planned or existing Bus Rapid Transit routes, because (among other reasons) this recommendation by Planning Staff would:

1. violate, most fundamentally, the County’s **Racial Equity and Social Justice** policy imperatives, because Qualified Opportunity Zones, by definition, identify those areas of greatest historic disinvestment (which, in turn, have adversely and disproportionately affected communities of color);
2. violate the foundational principles undergirding the Planning Board’s recommended **Thrive Montgomery 2050**, including its explicit proposition that “[g]rowth corridors in the East County are vital to reversing decades of disinvestment” (see, page 32 of PB’s Draft Thrive Montgomery 2050), as well as the Planning Board’s desire to encourage Compact Growth in Complete Communities (including the science-focused, proposed “Large Center” designation for “VIVA White Oak/FDA”) (see page 32 of the PB’s Draft Thrive Montgomery 2050); and
3. effectively obliterate the “science gateway” qualities of the County’s **White Oak “Science-Gateway” Master Plan**. Indeed, how could one reasonably expect a planned biomedical/biohealth epicenter --- adjacent to the only FDA Headquarters in the World --- market itself and hope to attract national and international biomedical/biohealth stakeholders, if the local planners have determined that the County’s own White Oak “Science Gateway” Master Plan is deemed *ineligible* for designation as a Biohealth Priority Campus?

GLDC certainly understands and can empathize with the Planning Staff’s concerns about the potential added work burden for expedited review of proposed BPC applications. But GLDC respectfully suggests that these concerns should not supersede the County imperatives to advance (1) Racial Equity and Social Justice, (2) the proposed Thrive Montgomery 2050 General Plan, and (3) the *science-centric* economic and social revitalization the County seeks within its own White Oak “*Science Gateway*” master plan area.

Finally, with respect to Planning Staff’s recommended edits to add a new Subsection 7.3.6(B)(2) relating to BPC application requirements, Planning Staff’s proposed language would be duplicitous and cause unnecessary and substantial delays for all those properties that were already subject to a previously approved concept plan, sketch plan, and preliminary plan. Accordingly, GLDC respectfully suggests that Planning Staff’s proposed new Subsection 7.3.6(B)(2) should include another sentence at the end of that proposed subsection to read substantially as follows (new suggested sentence highlight in **bold** below):

[To be inserted at end of Planning Staff’s recommended new Subsection 7.3.6(B)(2)]

“...Notwithstanding anything in this Subsection 7.3.6(B)(2) to the contrary, this Subsection 7.3.6(B)(2) shall not apply to any property eligible for a Biohealth Priority Campus plan that is already subject to a previously approved concept plan, sketch, plan and/or preliminary plan....”

Thank you for your time and consideration of these matters.

Respectfully Submitted,

Jonathan M. Genn

Jonathan M. Genn, Executive Vice President and General Counsel

cc: Gwen Wright, Planning Director
Jason Sartori, Chief, CP&P
Benjamin Berbert, Planning Coordinator, CP&P

From: djwilhelm@verizon.net
To: [MCP-Chair](#)
Cc: [Wright, Gwen](#); [Sartori, Jason](#); benjamin.berbert@montgomeyplanning.org
Subject: ZTA 21-09, November 18, 2021 Agenda Item 9
Date: Monday, November 15, 2021 10:51:16 AM

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Greater Colesville Citizens Association

PO Box 4087
Colesville, MD 20914
November 15, 2021

Montgomery County Planning Board
Attn: Casey Anderson, Chair
2425 Reddie Drive
Wheaton, MD 20902

Re ZTA 21-09, November 18, 2021 Agenda Item 9

Dear Chairman Anderson:

GCCA has been a longtime strong supporter of economic development in eastern Montgomery County, including Viva White Oak. GCCA **strongly supports ZTA 21-09 as introduced** to encourage such development. Time is often critical to investors and developers and reducing delays caused by the development review process is critical.

However, GCCA **strongly opposes the staff proposal** to limit the reduced time to red policy areas and thus eliminate its applicability to opportunity zones, or within ½ mile of a planned or existing Bus Rapid Transit corridor (page 7). This change penalizes eastern Montgomery County and a number of other areas of the county where the Growth and Infrastructure Policy (GIP) is encouraging development. Such a change is major in scope, not small or medium as staff indicates.

This proposed staff change also undermines and calls into question the Planning Department's commitment to:

- Racial Equity and Social Justice imperatives, because Qualified Opportunity Zones, by definition, identify those areas of greatest historic disinvestment
- The Planning Board's recommended and PHED Committee amended Thrive Montgomery 2050 Plan. This plan specifically encourages compact growth in East County (page 17) with three identified activity centers (page 20) (Viva White Oak as large, White Oak as Medium and Hillandale as small). It also indicates this is vital to reversing decades of disinvestment in east county (page 17)
- White Oak Science Gateway Master Plan, provides the zoning and infrastructure to "reimage existing centers – and providing a framework for reinvestment – is vital to this community's longevity". It goes on to state that "FDA could serve as a gateway to attract companies that offer high quality employment in fields such as health care, pharmaceuticals, life sciences, and advanced technology". Exactly what this ZTA as introduce is targeting, but the staff proposal hinders.

The county keeps introducing road blocks that delay Viva White Oak. The staff proposed change is another example. We have had two examples of such roadblocks from the County

Executive this year alone. In the last one, 8 of the Councilmembers took issue with him in a letter.

In Conclusion, reject the staff proposal to exclude the applicability within an opportunity zone, or within ½ mile of a planned or existing Bus Rapid Transit corridor.

Also see the letter from GLDC concerning already approved preliminary plans.

Thanks for considering our views on this very important issue.

Sincerely,

Daniel L. Wilhelm
GCCA President

From: [brrichardson3](#)
To: [MCP-Chair](#)
Subject: ZTA 21-09, Biohealth Priority Campuses - 18 Nov 2021 Meeting
Date: Tuesday, November 16, 2021 7:16:12 PM

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LABQUEST COMMUNITY PARTNERSHIP

16 November 2021

Dear Chair Anderson and Commissioners of the Planning Board:

The Labquest Community Partnership strongly supports the proposed ZTA 21-09 introduced by Councilmember Friedson and co-sponsored by the entire County Council to establish new Biohealth Priority Campus (BPC) zones within Montgomery County. Labquest believes this insightful initiative for streamlining biohealth development time and cost could be a significant factor in attracting future major investment to our county.

However, Labquest very strongly opposes the Planning Staff recommendation to a eliminate from BPC eligibility Qualified Opportunity Zones and areas within 1/2 mile of planned or existing Bus Rapid Transit (BRT) routes. Such a ZTA revision would: decimate the very basis of the White Oak “Science Gateway” Master Plan; exclude locations proximal to the FDA, one of the most preeminent biohealth assets in the world; and threaten future development of the entire East county.

Moreover, Labquest would ask that the Board weigh such proposed BPC exclusion of one of our county’s most historically underserved communities against our Racial Equality and Social Justice imperatives and Thrive Montgomery 2050 goals. We find it to be totally irreconcilable.

Labquest is joined in it’s opposition to this ill-conceived ZTA revision by our local community groups and business leaders including among others the Greater Colesville Civic Association, the Friends of White Oak Board, the Tamarack Triangle Civic Association, and the Global LifeSci Development Corporation — from which you will have received similar letters in opposition.

Thank you for your attention and consideration in this highly consequential matter.

Sincerely,

Betsy Bretz

President, Labquest Community Partnership

cf:

Council President Hucker

Councilmember Friedson

From: [Ruhlen, Christopher M.](#)
To: [MCP-Chair](#)
Cc: [Thomas Kaufman](#); [Kominers, William](#)
Subject: MCPB Agenda, Thursday November 18, 2021 -- Written Testimony of United Therapeutics Corporation Concerning Items 9 & 10 (ZTA 21-09 & SRA 21-02)
Date: Wednesday, November 17, 2021 11:29:09 AM
Attachments: [Testimony of Thomas Kaufman on Behalf of United Therapeutics for MCPB Hearing Concerning ZTA 21-09 and SRA 21-02\(4334062.2\).docx](#)

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Dear Chair Anderson and Members of the Board,

On behalf of our client United Therapeutics Corporation, we are forwarding a copy of the written testimony of Thomas Kaufman for inclusion in the public hearing record. This testimony is intended to supplement oral remarks that Mr. Kaufman will deliver at the time of hearing concerning the following two items that are scheduled on the Planning Board's agenda for Thursday, November 18, 2021:

1. ZTA 21-09, Office and Professional – Biohealth Priority Campus (Item 9)
2. SRA 21-02, Administrative Subdivisions – Biohealth Priority Campus (Item 10)

Should you have any questions, please do not hesitate to let us know.

Very truly yours,
Bill Kominers and Chris Ruhlen

Christopher M. Ruhlen, Attorney
Lerch, Early & Brewer, Chtd. rising to every challenge for over 70 years
7600 Wisconsin Ave | Suite 700 | Bethesda, MD 20814
T 301-841-3834 | F 301-347-1762 | Main 301-986-1300
cmruhlen@lerchearly.com | Bio

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**ZONING TEXT AMENDMENT 21-09, OFFICE & PROFESSIONAL – BIOHEALTH
PRIORITY CAMPUS & SUBDIVISION REGULATION AMENDMENT 21-02,
ADMINISTRATIVE SUBDIVISION – BIOHEALTH PRIORITY CAMPUS**

Testimony of Thomas Kaufman on Behalf of United Therapeutics Corporation

November 17, 2021

Good afternoon. For the record, I am Thomas Kaufman, Senior Director of Corporate Real Estate at United Therapeutics Corporation. This testimony supplements the oral remarks that I will deliver to the Montgomery County Planning Board on November 18, 2021, concerning proposed Zoning Text Amendment 21-09, Office & Professional – Biohealth Priority Campus (the "ZTA") and proposed Subdivision Regulation Amendment 21-02, Administrative Subdivision – Biohealth Priority Campus (the "SRA") (together, the "Amendments").

United Therapeutics fully supports the proposed Amendments and we are pleased that the Montgomery County Planning Department has recommended the Planning Board support them with only minor amendments. We believe that the Amendments will be particularly helpful for biotechnology companies like United Therapeutics that are pursuing development opportunities in Montgomery County's urbanized areas, including in our home in Silver Spring. Furthermore, we believe the Amendments provide an exciting opportunity for the County to replicate and repurpose the same processes that it has already approved for Signature Business Headquarters ("SBH") development to accommodate biotechnology opportunities. In doing so, the Amendments provide a unique opportunity to fulfill the promise of that unutilized SBH process as an economic development tool.

At the same time, United Therapeutics is concerned that certain of the Planning Department's proposed revisions are inconsistent with the primary strategic objective of the Amendments to streamline the development review process for certain biotechnology projects. Our particular concerns include the following:

I. Definition of Biohealth Priority Campus (ZTA Staff Report, Page 7)

The Planning Department proposes to revise the definition of the Biohealth Priority Campus ("BPC") so as to limit the applicability of the use to only those properties that are located within Red Policy Areas, or those that "abut" or "confront" Red Policy Area properties (as the Zoning Ordinance defines those terms). We understand that these changes are intended, in part, to address concerns that the use of the phrase "adjacent to" in the current ZTA is potentially vague.

United Therapeutics is concerned that restricting the potential locations for BPC uses as Planning Department Staff proposes may inadvertently disqualify some of United Therapeutics's real property holdings from being included in a future BPC Plan for our Silver Spring campus. More specifically, United Therapeutics is aware that certain of our properties are separated physically from Red Policy Area locations by rights-of-way that are greater than 80' and, therefore, would

not be deemed "confronting" under applicable Zoning Ordinance definitions if Staff's proposed revision were included in the ZTA. Spring Street, for example, has a 100' right of way. Therefore, properties on the north side of Spring Street would not be considered "confronting" with this revision, nor would other separate parcels behind those fronting on Spring Street.

To prevent this outcome while addressing Staff's concerns with vagueness, we suggest the following clarification:

- b. *is located (1) on a property within, [[or adjacent to]] abutting, or confronting property located within a red policy area [[, within an opportunity zone, or within ½ mile of a planned or existing Bus Rapid Transit route]], or (2) on or abutting a property that is directly across a public road right of way greater than 80' from a property within a red policy area that is zoned CR, or (3) within an opportunity zone, or (4) within ½ mile of a planned or existing Bus Rapid Transit route.*¹

II. Use Standards – Height (ZTA Staff Report, Page 8)

The Planning Department proposes revisions to clarify that mapped building heights are maximums that cannot be flexibly interpreted to accommodate reallocated densities within a BPC Plan. We do not object to this clarification per se. However, we note that the Zoning Ordinance allows increases above mapped building heights in several instances, such as for the various permitted height encroachments for certain rooftop elements in Section 4.1.7.C.3. For this reason, we believe that any revision in the ZTA to limit building height as mapped, should include additional language to clarify that building heights may not exceed the maximum mapped height "except where permitted in accordance with other applicable Zoning Ordinance provisions, including any height increases allowed by this Chapter."

III. Application Requirements – Concept Plan (ZTA Staff Report, Page 9)

The Planning Department proposes to require a Concept Plan submittal in advance of any BPC Plan application. However, United Therapeutics is concerned that requiring such advance submittals and reviews will directly undermine the efficacy of the ZTA as a tool for streamlined development approvals. We understand that the Concept Plan process typically adds ± 2 to 3 months to the overall development review process, excluding the necessary lead time for preparing the Concept Plan application materials. (The additional proposed revision requiring a Traffic Impact Study or Statement at Concept Plan would only serve to prolong the time before filing is allowed).

¹ The Planning Department's proposed revisions are shown in red font, and our proposed revisions are shown in blue.

Furthermore, the Concept Plan process is advisory in nature and non-binding. There is no assurance that sufficiently detailed responses will be elicited from participating reviewing agencies. For that reason, the Concept Plan process does not serve to prevent contrary guidance by the agencies at the time of subsequent application reviews and, therefore, often does not advance a clear benefit for applicants that cannot be otherwise obtained through preliminary consultations and outreach to Department Staffs (which is not precluded and typically occurs in the normal course of preparing for application submittal).

Adding ± 60 - 90 days, at minimum, back into the development review process erases the potential time that would be saved by utilizing the BPC Plan process and that the ZTA seeks to achieve. In addition, Concept Plan submittals are not mandatory for SBH applications. Why add such a requirement for BPC Plans when it is not needed for SBH Plans? We fail to see the need for this revision and oppose the introduction of this added requirement.

IV. Findings for Approval (ZTA Staff Report, Pages 11-12)

The Planning Department recommends creating an additional finding for Planning Board approval of BPC Plans – proposed Finding (f) (7.3.6.E.2.f) – to address compatibility review with existing and proposed future development per recommendations in the Master Plan and requirements of the Zoning Code. This recommendation proposes to add an additional criterion for review that is not applicable to SBH applications. Why add this for BPC Plans?

To the extent that Staff is concerned with ensuring compliance with applicable Master Plan recommendations and Zoning Ordinance requirements concerning compatibility, we note that other provisions of the ZTA already address these issues. More specifically, Master Plan conformance is addressed through Finding (e), which requires the Planning Board to find that the BPC Plan "substantially conforms with the intent of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan". (Section 7.3.6.E.2.e in the ZTA, and similar language in Section 7.3.5.E.2.e in the SBH legislation.) Similarly, proposed Finding (b) requires the Planning Board to find that the BPC Plan "satisfies the applicable use and development standards and general requirements of this Chapter." (Section 7.3.6.E.2.b in the ZTA; Section 7.3.5.E.2.b in the SBH legislation.)

Because the ZTA already addresses these issues, proposed Finding (f) is redundant and we do not support this change.

V. Decision – Requirement for Certified Site Plan Submission Within 35 Days (ZTA Staff Report, Page 12)

The Planning Department recommends that BPC Plan applicants be required to submit BPC Plans for certification within 35 days of Planning Board approval. However, we note that the Planning Board has discretion to impose conditions of approval on BPC Plans that must be completed prior to certification. In some instances, these conditions cannot be addressed in the timeframe of one

month (for example, where easements or agreements with County agencies or utilities are to be negotiated and recorded). As a result, this requirement simply would be unworkable. Notably, the Zoning Ordinance does not include a comparable timing requirement for the certification of SBH plans.

To the extent that Staff are concerned that plans for an approved BPC will not be submitted for certification in a timely manner, we note that the ZTA already requires BPC plans to be certified by the Planning Director within 24 months of the mailing date of any Planning Board approval resolution. We believe that this durational limitation is sufficient to ensure the timely certification of BPC Plans and, because it may not otherwise be possible for a BPC applicant to address required conditions of approval within a 35 day timeframe as described above, we oppose revising the ZTA in this manner.

VI. Decision – Duration of Approval (ZTA Staff Report, Page 13)

Finally, Planning Department Staff propose revisions to clarify that a BPC plan approval will be revoked in the event that an applicant fails to comply with certain prescribed deadlines for building permit application and building permit issuance. If these proposed clarifications are included in the ZTA, we respectfully suggest that provisions should also be added to clarify that the Planning Board may extend the two-year building permit filing and issuance requirement for the approved BPC plan. We note that such extensions may be particularly important for biotechnology development, given that the industry is non-linear in nature and many potential factors could affect a project's ability to advance to building permit. The ability to obtain permits may also be impacted by other circumstances beyond the applicant's control, such as situations where other governmental approvals are required but cannot be completed in the prescribed timeframes.

We thank you for your consideration of these issues and look forward to discussing the Amendments with you in more detail at the time of hearing. In the meantime, please do not hesitate to let us know if you have any questions.