



Zoning Text Amendment 21-09, Office and Professional – Biohealth Priority Campus

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Staff Recommendation

Transmit comments to the District Council in support of Zoning Text Amendment (ZTA) 21-09 with some minor modifications, which would create a new type of use and a new type of development plan review, both called Biohealth Priority Campus.

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Summary

Planning staff recommends the Planning Board support, with modifications, ZTA 21-09, which has a Public Hearing on November 30, 2021. The ZTA was first introduced by Councilmember Friedson on October 19, 2021 but was subsequently co-sponsored by the full Council. This ZTA would establish a new use, and a new type of development plan for a Biohealth Priority Campus (BPC), with the intent of streamlining the development review process for certain biohealth and life science research and development companies looking to establish or expand in Montgomery County.

Background

This ZTA is modeled after the Signature Business Headquarters, ZTA 18-05, Ordinance 18-45, which created a new use, use standards, and development review process for that specific use. The use of Biohealth Priority Campus is different, but the review process with the associated BPC plan including the condensed timeline is very similar. This report will walk through all of the changes proposed through ZTA 21-09, pointing out a few minor text changes that staff recommends to improve the final code, as well as some larger concerns over the potential impacts and implications of the ZTA. The ZTA as it was introduced can be seen in attachment A, with Planning staff's proposed modifications to the ZTA in attachment B.

Analysis of Introduced ZTA

Staff is recommending support for this ZTA, with some minor modifications to the language and some more substantial changes to the scope of which properties may be eligible for a BPC. Most of the modifications do not greatly impact the policy of the ZTA but instead clarify intent or make minor adjustments to timelines or deliverables based on staff's concerns over reviewing the BPC plans. Staff however has concerns that the ZTA may be too broad in scope and could substantially impact workload and review process if allowed too liberally. This first section will focus on walking through the ZTA sections as introduced, paraphrasing the technical ZTA language. The subsequent section will highlight the changes staff is recommending the Planning Board transmit to the District Council.

Section 1.4.2. Specific Terms and Phrases Defined

The term Biohealth Priority Campus is being added to the list of defined terms, but the definition directs readers to the use standards under Section 3.5.8.E.

Section 3.1.6. Use Table

The use table is being updated to reflect the new BPC use. The ZTA proposes making it a limited use in the CR and EOF zones.

USE OR USE GROUP	Definitions and Standards		Commercial/Residential			Employment				Industrial		
			CRN	CRT	CR	GR	NR	LSC	EOF	IL	IM	IH
* * *												
COMMERCIAL												
* * *												
Office and Professional	3.5.8	*										
Life Sciences	3.5.8.A	*						P				
Office	3.5.8.B	*	P	P	P	P	P	L	P	L	L	
Research and Development	3.5.8.C			P	P			P	L	P	P	
Signature Business Headquarters	3.5.8.D				L							
<u>Biohealth Priority Campus</u>	<u>3.5.8.E</u>				L				L			
* * *												

Section 3.5.8 Office and Professional

One of the two substantial impacts of this ZTA is to establish a new use with associated standards within the Office and Professional section of the Code. This new use would be found under a new subsection, *E. Biohealth Priority Campus*. This subsection includes the definition, exemptions and use standards that would apply to this use.

Defined

The use, as defined would apply to any single commercial or industrial use that is part of Life Sciences or Research Development, or Medical/Scientific Manufacturing and Production, that is planning 150,000 SF or more of new space, or an addition of at least 50,000 SF to an existing facility. Qualifying facilities would need to be within or adjacent to a red policy area (as defined by the Growth and Infrastructure Policy), within an opportunity zone, or within ½ mile of a planned or existing BRT route. Attached to the introduction packet for ZTA 21-09 was a map showing areas that would be eligible for consideration as a BPC use, based on the introduced definition.

Exemptions

If a project qualifies for a BPC and is reviewed as a BPC plan, it would be exempt from sketch and site plan applications. The BPC is still subject to the rules of the underlying zone unless expressly exempt, and once a BPC plan is approved, any amendment to the plan shall follow the standards for amendments of such plans.

Use Standards

The use standards that would apply to the BPC include allowing floor area ratio (FAR) averaging across the site, the allotment of up to 50% of the rooftop area to have height encroachments

allowed by code including mechanical equipment or rooftop amenities, and a provision that would allow the Commercial and Residential FAR allocations to be reallocated, so long as the total FAR does not exceed the mapped FAR for the property.

Division 4.5 Commercial/Residential Zones and Division 4.6 Employment Zones

ZTA 21-09 proposes minor changes to some of the requirements of the CR zones and the Employment ones under the Density and Height Allocations and Optional Method of Development subsections. The primary purpose is to add the BPC plan type to the existing standards including using FAR averaging, and the approval procedure for optional method projects. Generally, everywhere the existing code requires something be shown or approved through a site plan or Signature Business Headquarters plan, Biohealth Priority Campus plan is being added.

Division 7.3 Regulatory Approvals

The regulatory approvals division is the other location in which this ZTA makes substantial changes, adding a new type of regulatory plan called a Biohealth Priority Campus plan including the plan requirements and necessary findings of making such plan.

Sketch Plan

The first section amended is under Section 7.3.3 for Sketch Plan, adding the BPC plan to the list of plans that would satisfy review as an optional method development.

Biohealth Priority Campus Plan

The Biohealth Priority Campus Plan is a new Section 7.3.6, and includes subsections on applicability, application requirements, hearing dates, review and recommendations, necessary findings, decision, permits, duration of approval, recording procedures, amendments, and compliance and enforcement. The framework of the BPC plan is nearly identical to that of the Signature Business Headquarters plan.

A. Applicability

The purpose of the BPC plan is stated as providing a means for reviewing BPC applications for conformance with all applicable county laws and master plan recommendations. BPC plans may be single or multi-phase projects. The geography of a BPC plan may cover part or all of a property on which it is located and must demonstrate its relationship to other applicable approvals.

B. Application Requirements

The submittal requirements are nearly identical to a site plan in scope, types of plan drawings, and detail. The primary difference is the intake requirements are condensed, requiring the Planning Department to review a submitted BPC plan for completeness within three days of receipt. If an application is requested to submit revisions, the subsequent reviews for completeness must be completed within two days.

C. Hearing Date

The first primary difference between a BPC plan and a site plan is the hearing date, which is legally set at 120 days after acceptance for site plan but is only 60 days after acceptance for a BPC plan. As written, only applicants may request extensions of the public hearing date.

D. Review and Recommendations

As introduced, comments from all reviewing agencies are due 15 days after an application is accepted which corresponds with our normal DRC cycle. Revised drawings based on those first comments are not due from the applicant until 20 days before the date of a hearing. The technical Staff Report would be posted at least 10 days prior to the Board hearing analyzing the application and outlining any conditions of approval.

E. Necessary Findings

The findings for a BPC plan are substantively similar to a site plan and include satisfying non exempt elements of Chapter 59, stormwater and forest conservation requirements, master plan conformance, adequate public facility conformance, and finding that parking, circulation, buildings and amenities are safe and well-integrated. The findings start to differ from a site plan by providing special provisions for properties within master plans that have staging requirements based on Non-Auto Driver Mode Share – allowing an application out of the staging limitations if they enter into a traffic mitigation agreement, providing parking below the minimums recommended in Division 6.2 and can prove that transit, bicycle and pedestrian infrastructure required by the master plan is funded.

F. Decision

Under subsection F. Decision, the timeline is laid out requiring a resolution be dated within 7 days of the Planning Board's vote on an application, that a 30 day window is allowed for any party to file a petition for judicial review, and that upon submittal of the final plans for review and certification the Planning Department has 30 days to take action or the plans are deemed approved and certified.

G. Conforming Permits and I. Recording Procedures

Subsections G and I are standard for regulatory plans and ensure permits are not issued before a BPC plan is approved and bond is posted. Subsection I requires the Planning Board to keep copies of the approval in permanent file.

J. Amendments

The final element of a BPC plan that warrants detailed discussion is the amendment procedures under proposed subsection J. This section defines two types of amendments, Major and Minor. Major amendments would include any increase in height or density beyond that allowed by Minor, decreasing open space, deviation from a condition of approval, or altering a basic element of the plan. Minor amendments would allow an increase in density of up to 25% provided the density remains under the mapped density after factoring any density bonuses, increase in height by up to 50% if otherwise allowed, and any change in ancillary use, parking or loading, landscaping, sidewalk, amenity or open space configuration that has a minimal effect on the overall design, layout or quality that does not prevent circulation of any street or path.

K. Compliance and Enforcement

The final subsection of the BPC Plan section is Compliance and Enforcement. This subsection is standard and lays out the process for inspections, and what happens if the Board or DPS finds a compliance issue.

Division 7.5 Notice Standards

The final page of the ZTA updates the Notice Required table under Section 7.5.1 to add the BPC plan, and show that full noticing is required equal to that of a site plan or a Signature Business Headquarters plan.

Concerns and Recommended Changes to ZTA 21-09

Planning staff recommends some changes to the language in the ZTA. Many of the changes clarify intent or process, however others have a more substantial impact to the scope and intent of the ZTA. This ZTA creates a new highly compressed schedule for Planning and other county agencies to review certain applications based on the timeline established for the review of Signature Business Headquarter (SBH) plans. The SBH plan was introduced with the understanding that few applications could take advantage of the highly compressed timeline due to the qualifying size requirement (20,000+ employees). Even then, Planning and other agencies raised concerns about the ability to provide adequate short-term staffing during the review of SBH plans given the extraordinary amount of coordination that would be required between applicants, Planning Staff and other review agencies. The BPC use threshold is much smaller than the SBH, needing to generate only 200,000 SF of new space, or 50,000 SF of additions to an existing biohealth company. The likelihood that multiple companies, both existing and new, could take advantage of this proposed process is high, which raises an even greater concern about the ability for Planning to adequately staff the reviews of BPC plans while still attending to other projects utilizing the normal 90 or 120 day review process.

The Planning Department understands the county's economic development priorities around the biohealth industry and is committed to performing fair and reasonable reviews of these plans. The original intent with this ZTA was to create a process that would apply only to a very small number of companies that are uniquely challenged and site constrained in urban areas, consistent with the red policy areas proposed as one of the geographic criteria. Red policy areas are transit and amenity rich urban areas with unique development constraints not shared in more suburban areas of the county. The red policy areas are also areas where the county is actively pursuing centers of job and population growth and this zoning policy can help with that.

Staff presented to the Board back on March 25, 2021 the Speed to Market Initiative, which was a commitment by Planning to streamline and encourage concurrent reviews of sketch, preliminary and site plans, commit to faster reviews of certified plans, accept site plan and forest conservation plan bonds during the plat review, and continue to improve the Planning Department's coordination with other review agencies. The time and money savings from the Speed to Market Initiative could be substantial over existing practices and is the more appropriate avenue for larger employers from any industry including biohealth to pursue in more suburban areas.

The following sections navigate through the introduced ZTA, highlighting the modifications recommended by staff in each section.

Section 3.5.8 Office and Professional E. Biohealth Priority Campus

Defined

The first recommendation staff has is to clarify the definition of where a BPC use can be located. The current definition states a property located within or adjacent to a red policy area. The term adjacent is

a defined term in the Zoning Ordinance however the definition is *being close to or nearby without requiring the sharing of a common boundary*. That definition is too vague and open to interpretation, therefore staff recommends specifically describing properties within a red policy area, or those that directly abut or confront those properties.

To better refine the scope of this ZTA, staff is recommending the removal of Opportunity Zones or the planned or existing Bus Rapid Transit (BRT) routes from the list of geographies that make a property eligible for a BPC. This proposal by staff is intended to focus the efforts of the ZTA on the urban, constrained red policy areas. Opportunity Zones and properties located within ½-mile of BRT routes represent a large, predominantly suburban portion of the county, including the locations of many existing biohealth companies. This is a primary reason staff is concerned about the number of companies that may qualify for the expedited review either as a new application or an amendment to existing properties. Staff recommends the following changed language for the definition of a BPC as shown below, which would modify lines 32-34 in the introduced ZTA.

E. Biohealth Priority Campus

1. Defined

* * *

- b. is located on 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]].

It should be noted that the use of red policy areas may prove problematic in the future because red policy areas are a geography defined by the Growth and Infrastructure Policy, which may be removed or replaced with future revisions to the policy. An alternative would be to refer to properties located within a ½ mile of a Metrorail station or future Purple Line station, since that is generally how red policy areas are define. Nevertheless, staff is fine with referring to red policy areas in the zoning text for now, with the understanding that future text changes may be needed if the red policy areas cease to exist in the future.

Exemptions

Staff is proposing a minor addition to text under Section 2.b that clarifies that overlay zones are included as part of the underlying zoning. The change would impact line 40 of the introduced ZTA as shown below:

E. Biohealth Priority Campus

2. Exemptions

* * *

- b. Development of a Biohealth Priority Campus should proceed under the standards of the underlying zone including any overlay zones and Chapter 50, except as modified by Section 3.5.8.E.

* * *

Use Standards

In the Use Standards, Section 3.5.8.E.3.a would allow FAR limits on the property to be reallocated so long as the total FAR does not exceed the mapped FAR. Staff supports the idea behind reallocating the residential FAR to commercial, however recommends the language be tightened up to only allow residential to be reallocated to commercial, and not the other way around. The intent of the BPC is to encourage new and expanded research and scientific businesses and not be used to allow substantial unplanned residential development. There is also a concern this may lead to the interpretation that the mapped building heights are flexible to accommodate the reallocated densities therefore staff wants to be clear it is not. Lastly, staff recommends clarifications for the mechanical penthouse standard that there be a maximum of 50% for each building's roof area. The modified text staff recommends would affect lines 47-52 of the introduced ZTA and is as follows:

E. Biohealth Priority Campus

* * *

3. Use Standards

- a. [[Commercial and r]]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.
- 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.

* * *

Section 7.7.3. Sketch Plan

This ZTA modifies the Sketch Plan Applicability and Description section to clarify that optional method development in the CR and Employment Zones requires sketch plan, or a Signature Business Headquarter (SBH) or Biohealth Priority Campus plan. However, staff finds the wording unusual because it affirms the necessary approval of a BPC plan in a section of code that only applies to sketch plans. Therefore, staff recommends the following change to lines 180-182 of the introduced ZTA:

Section 7.7.3. Sketch Plan

A. Applicability and description

1. Development under optional method in the CRT, CR, EOF, or LSC zone requires approval of a sketch plan, [or] unless the development is approved as a Signature Business Headquarters plan under Section 7.3.5, or Biohealth Priority Campus plan under Section 7.3.6.

This modification more appropriately lets section 7.7.3 dictate when a sketch plan is required, and otherwise lets the separate regulatory plan sections for SBH and BPC plans stand alone.

Section 7.3.6. Biohealth Priority Campus Plan

B. Application Requirements

Staff remains concerned about the ability for Planning and other partner agencies to perform adequate reviews within the 60 day review period, and recommends that applicants be required to submit a concept plan for review before submitting a BPC plan. A concept plan is a type of plan application that is available on the [Montgomery Planning Development Applications website](#), but is not formally defined by the Zoning Ordinance. The website defines a concept plan as *a flexible plan type that allows applicants to get staff and Development Review Committee (DRC) input on various details of a proposed project. Applicants have the freedom to submit with whatever level of detail they'd like in order to get feedback on any number of issues.* These plans have been extremely useful in the past in pre-emptively highlighting major issues that Planning or other agencies may have with an application, which ultimately expedites the formal review process later. The other concern is that any required Traffic Impact Study or Statement is reviewed by outside agencies such as the State Highway Administration that operate under a 60 day review and comment period which will not fit within the 60 day Planning Board schedule. Requiring the traffic study be included at concept plan provides an extra two weeks for the review of this document. Lastly, within the list of elements that a BPC application must include, notably missing from the list is a vicinity map at a 1" = 200' scale. These maps are typical on the cover sheet of other regulatory applications and is a simple yet effective way of helping reviewers and the public locate where an application is within the county. The changes staff proposes would add a new subsection 2 about concept plans at line 210, and would insert the requirement for a vicinity map at line 214.

Section 7.3.6. Biohealth Priority Campus Plan

* * *

B. Application Requirements

* * *

2. Prior to submitting an application for a Biohealth Priority Campus plan, an applicant must submit a concept plan as outlined on the Planning Department's Development Applications website to the Planning Director to be reviewed by applicable State and County agencies and utilities. The concept plan submittal shall include any applicable Traffic Statement or Traffic Study. Agencies must submit comments within 15 days after the date the conceptual plan is accepted.

[[2.]] 3. A Biohealth Priority Campus plan application must include:

* * *

b. a vicinity map at 1" = 200'

[[b.]] c. an application form and fees required by the Planning Director.

* * *

It should be noted that the entire list of subsections, both the numbered and lettered ones, would have their values adjusted throughout the Application Requirement section that is not being reflected here for brevity.

Additional changes within the Application Requirements section include modifying some of the elements requested of the plan submittal drawings for the proposed development from lines 242-244 of

the introduced ZTA to include massing of the proposed and adjacent buildings to help with compatibility findings.

B. Application Requirements

* * *

[[2.]] 3. A Biohealth Priority Campus plan application must include:

[[1.]] m. plans of proposed development showing:

- i. use~~[[, footprints,]]~~ and ground-floor layout~~[[, and heights]]~~ of all on-site buildings and structures, and building footprints, height, and massing for on-site and adjacent off-site buildings;

Finally, within the Application Requirements section, a series of minor but important changes are proposed to the intake process for BPC plans. As introduced, the turn-around for the completeness check is only three days, and if revisions are requested to make an application complete, the re-check must occur within two days. Staff recommends that the completeness check requirements specify business days instead of calendar days. It is conceivable an applicant may drop off plans on a Friday, or before a holiday, making it infeasible to meet the completeness check deadlines without this adjustment. There is also a concern that, as written, it could be implied that the Director has only one opportunity to reject plans as not complete. A subtle adjustment is recommended to emphasize that the process continues to public notice only once the Director deems an application complete. These recommended changes are shown below and are applied to lines 255-263 of the introduced ZTA.

B. Application Requirements

* * *

[[3.]] 4. The applicant must submit an initial application to the Planning Director for approval of completeness. The Planning Director must review the application for completeness within 3 ~~business~~ days after receipt. An application is incomplete if any required element is missing or is facially defective, e.g., a drawing that is not to scale or lacks proper signatures. The assessment of completeness must not address the merits of the application.

[[4.]] 5. The applicant must submit any required revisions to the Planning Director. The Planning Director must review the revised application for completeness within 2 ~~business~~ days after receipt.

[[5.]] 6. ~~[[After]]~~ Once the Planning Director verifies that the application is complete, the applicant must file the final application with the Planning Director, who will accept the application and establish a hearing date under Section 7.3.6.C.

C. Hearing Date

Staff recognizes the intent of the 60-day period for when the Planning Board must conduct a public hearing after an application is accepted is intended to streamline the review process. However, depending on the actual acceptance date, the review could materially be much shorter, since the 60 days is the longest period of time that may elapse from submittal to hearing. Certain submittal periods may align with holidays or other days for which regularly scheduled Planning Board hearing dates are canceled. To ensure reviewers have adequate time to conduct their reviews and that the applicant has adequate time to respond to comments, staff recommends adjusting the language to state that a

hearing must be scheduled for the next regularly scheduled hearing date after 60 days have elapsed from the date of application acceptance. This modification is to lines 269-270 of the introduced ZTA.

Section 7.3.6. Biohealth Priority Campus Plan

* * *

C. Hearing Date

The Planning Board must schedule a public hearing to begin ~~[[within]]~~ at the next regularly scheduled hearing date after 60 days ~~[[after]]~~ have elapsed from the date an application is accepted. The applicant may request an extension with Planning Director approval. Any extension of the public hearing must be noticed on the hearing agenda with the new public hearing date indicated.

D. Review and Recommendations

The Review and Recommendation section sets forth the submittal and review requirements for BPC plans, and proposes a very condensed timeline to meet a 60 day hearing clock. As introduced, comments from all reviewing agencies are due 15 days after an application is accepted, which corresponds with our normal DRC cycle. Revised drawings are not due from the applicant until 20 days before the date of a hearing. This date may be problematic, because it would only give staff one week (five working days) with revised plans before the staff report must be posted to meet the 10-day minimum publishing of the staff report. This time includes finalizing conditions from internal and external reviewers and having the report approved by the Director and legal counsel. Staff is recommending the final plans instead be due at least 25 days prior to the hearing to provide staff adequate time to complete the report and include any necessary conditions of approval. The revised language to lines 274-284 of the introduced ZTA would read as follows:

D. Review and Recommendation

1. State and County Agencies

* * *

- b. The applicant must submit revised drawings to address the comments a minimum of ~~[[20]]~~ 25 days before the date of the hearing. The Planning Director may extend the deadline if the applicant submits a written request within 5 days after the revised drawings were due.**

E. Findings

Most of the necessary findings for a BPC plan are similar to a site plan. There is one finding however that is a bit unusual – finding f. Finding f would require staff to find that the plan met the location criteria for a BPC which is duplicative, since that is already part of the submittal requirements. In addition, one finding not included in a BPC plan, as introduced, is the site plan finding that a use is compatible with existing and approved or pending adjacent development. The applicability of a BPC plan also mentions demonstrating its relation to and coordination with other applicable approvals or submittals. In acknowledging the constraints associated with developing within the county's red policy areas, the finding staff proposes is more specific than the typical site plan finding by focusing compatibility review to a specific master plan recommendation, or to the necessary height and setback compatibility requirements in Chapter 59. Therefore, staff finds it reasonable to include the

compatibility finding and recommends replacing the current finding in f with the compatibility language. This finding is located on lines 308-310 of the introduced ZTA and would be modified as follows:

E. Necessary Findings

* * *

2. To approve a Biohealth Priority Campus plan, the Planning Board must find that the proposed development:

* * *

- f. [[will be located within or adjacent to a red policy area, within an opportunity zone, or within ½ mile of a planned or existing Bus Rapid Transit route;]] is compatible with existing and approved or pending adjacent development per recommendations from the applicable Master Plan and requirements of the Zoning Code;

* * *

F. Decision

To keep the process streamlined and predictable, staff recommends a new subsection within the Decision section that includes a maximum period of time that may elapse from the Planning Board decision and the applicant's submittal of the final plans for certification. To account for any potential petition for judicial review, staff is recommending submittal of final plans to the Planning Department within 35 days of the date of issuance of the resolution. Additionally, this section requires the Planning Director to confirm that the certified drawings reflect the Planning Board approval within 30 days, but has no provision for what happens if the submitted plans do not comply with the Board's approval. Staff recommends the section allow the Director to reject the certified plans with comments for revision and that the rejection constitutes taking an action complying with the 30-day timeline. The new section, from lines 327-341 of the introduced ZTA, would read as follows:

F. Decision

* * *

2. Any party aggrieved by a decision of the Planning Board may file a petition for judicial review of the decision within 30 days after the Planning Board's action to the Circuit Court and thereafter to the Court of Special Appeals.
3. Within 35 days of issuance of the resolution reflecting the Planning Board's decision, the final Biohealth Priority Campus plans must be submitted to the Planning Director for review.
- [[3.]] 4. Within 30 days of submission, the final Biohealth Priority Campus plans must be certified by the Planning Director to confirm that the drawings reflect the Planning Board's approval. If the certified plans do not address or comply with the Planning Board's approval, the plans will be rejected with comments for the applicant to address. If no action is taken by the Planning Director within 30 days, the plan is deemed approved and certified.

H. Duration of Approval

Missing from the Duration of Approval section is a provision that specifies what happens if an applicant fails to meet a deadline or requirement. Staff's recommendation is to add a clause at the end of the section stating that *if an applicant fails to comply with any of the deadlines within this section, the applicable Biohealth Campus Plan approval is revoked*. This would add text to the end of line 366 of the introduced ZTA:

H. Duration of Approval

* * *

4. If the Planning Board approves a Biohealth Priority Campus plan, the applicant must have a building permit application, accepted by the Department of Permitting Services, that includes the core and shell of the principal building within two years of the date of the Planning Board's resolution. Within two years after the Department of Permitting Services accepts the building permit application that includes the core and shell of the principal building, the applicant must obtain that building permit. *If an applicant fails to comply with any of the deadlines within this section, the applicable Biohealth Campus plan approval is revoked.*

J. Amendments

The Amendments sub-section of the BPC Plan section is the last part of the ZTA that staff has recommended changes. Of primary concern is what qualifies as a major versus minor amendment. The ZTA text would allow increases of density of a BPC plan by up to 25% as a minor amendment with limited review and noticing requirements. Staff has concerns for such a large change to the plans being considered minor and not a basic element of the plan, which is a criteria otherwise reserved for a major amendment.

In site plans, any increase in building density or height not explicitly exempt elsewhere is automatically a major amendment. Under a SBH plan, the rules are more lenient and do allow up to a 10% or 30,000 SF increase in density (whichever is less) to proceed as a minor amendment, and allow a 10% increase in building height so long as both the height and density increases fall within the mapped zoning limitations. Concerns about increasing density above what was approved by original plans include potential impacts to adequate public facility approvals and any findings around compatibility that were made. To be consistent with the flexibility that was afforded for the SBH plan type, staff at a minimum recommends adjusting the amendment section to cap increased density to no more than the less of 10% or 15,000 SF. Staff recommends 15,000 SF rather than 30,000 SF because the SBH plan was in anticipation of a facility that could accommodate up to 20,000 employees whereas the BPC plan is for uses that may be as small as 150,000 SF in space. The revisions staff propose to lines 386-389 of the introduced ZTA would read as follows:

J. Amendments

* * *

2. Minor Amendment

- a. A minor amendment includes any request to:

- i. increase density by up to ~~[[25%]]~~ 10% or 15,000 square feet, provided the increase is less than or equal to the total mapped density, including any density increases or bonuses;

* * *

Racial Equity and Social Justice Impact

Bill 44-20 Racial Equity and Social Justice – Impact Statements – Advisory Committee – Amendments was enacted on December 1, 2020 and became fully effective September 1, 2021. This Bill requires that the Office of Legislative Oversight (OLO), in consultation with the Planning Department, produce a racial equity and social justice (RESJ) impact statement for each ZTA that is introduced on or after September 1, 2021. At the time of posting this staff report, the RESJ impact statement for ZTA 21-09 had not yet been received from OLO.

Conclusion

Staff recommends the Planning Board transmit comments to the District Council in support of ZTA 21-09 with recommended changes proposed by staff, to create a new Biohealth Priority Campus use under the Office and Professional Use, and to create a new Biohealth Priority Campus Plan section under the regulatory approvals section of the Zoning Ordinance.

Attachments

- A – ZTA 21-09 introduction packet
- B – ZTA 21-09 modifications as recommended by Planning Staff



Committee: PHED
Committee Review: At a future date
Staff: Livhu Ndou, Legislative Attorney
Purpose: To introduce agenda item – no vote expected
Keywords: #BiohealthPriorityCampus

AGENDA ITEM #2E
October 19, 2021
Introduction

SUBJECT

Zoning Text Amendment (ZTA) 21-09, Office and Professional – Biohealth Priority Campus

Lead Sponsor: Councilmember Friedson

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

N/A

DESCRIPTION/ISSUE

ZTA 21-09 will create a streamlined regulatory process for biohealth facilities.

SUMMARY OF KEY DISCUSSION POINTS

- ZTA 21-09 will create a new definition for Biohealth Priority Campus that includes Life Sciences, Research and Development, or Medical/Scientific Manufacturing and Production.
- ZTA 21-09 will allow a speedier regulatory process for biohealth facilities of 150,000 square feet or more or existing biohealth facilities already located in the County that are expanding by 50,000 square feet or more.
- This new use will be allowed in the Commercial/Residential and Employment Office zones; for developments within or adjacent to a red policy area, within an opportunity zone, or within ½ mile of a planned or existing Bus Rapid Transit route.

This report contains:

Staff Report
ZTA 21-09
Map of Affected Areas

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MEMORANDUM

October 14, 2021

TO: County Council

FROM: Livhu Ndou, Legislative Attorney

SUBJECT: Zoning Text Amendment (ZTA) 21-09, Office and Professional – Biohealth Priority Campus

PURPOSE: Introduction

Zoning Text Amendment (ZTA) 21-09, Office and Professional – Biohealth Priority Campus, lead sponsor Councilmember Friedson, is scheduled to be introduced on October 19, 2021.

ZTA 21-09 will create a definition for a Biohealth Priority Campus, which will include Life Sciences under Section 3.5.8, Research and Development under Section 3.5.8, or Medical/Scientific Manufacturing and Production under Section 3.6.4.D. This new use will provide a speedier regulatory process for biohealth facilities of 150,000 square feet or more or existing biohealth facilities already located in the County that are expanding by 50,000 square feet or more. This new use will be allowed in the Commercial/Residential and Employment Office zones; and be for developments within or adjacent to a red policy area, within an opportunity zone, or within ½ mile of a planned or existing Bus Rapid Transit route.

The intent of ZTA 21-09 is to build on the Planning Department's recent *Speed to Market* efforts and serve as an important economic development tool to attract and retain biohealth companies and continue to build the County's reputation as a leader in the biotech arena.

A public hearing is scheduled for November 30, 2021 at 1:30 p.m.

This packet contains:

ZTA 21-09

Map of Affected Areas

Pages

© 1-23

© 24

Zoning Text Amendment No.: 21-09
Concerning: Office and Professional –
Biohealth Priority
Campus
Draft No. & Date: 1 – 10/13/2021
Introduced:
Public Hearing:
Adopted:
Effective:
Ordinance No.:

**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

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- create a Biohealth Priority Campus use; and
- provide a process for approval of a Biohealth Priority Campus.

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

DIVISION 1.4.	“DEFINED TERMS”
Section 1.4.2.	“Specific Terms and Phrases Defined”
DIVISION 3.1.	“USE TABLE”
Section 3.1.6.	“Use Table”
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”
Section 4.5.4.	“Optional Method Development”
DIVISION 4.6.	“EMPLOYMENT ZONES”
Section 4.6.2.	“Density and Height Allocation”
Section 4.6.4.	“Optional Method Development”
DIVISION 7.3.	“REGULATORY APPROVALS”
Section 7.3.3.	“Sketch Plan”
DIVISION 7.5.	“NOTICE STANDARDS”
Section 7.5.1.	“Noticed Required”

And by adding the following section:

Section 7.3.6. “Biohealth Priority Campus Plan”

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.*

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 59-1.4 is amended as follows:

Division 1.4. Defined Terms

* * *

Section 1.4.2. Specific Terms and Phrases Defined

* * *

Biohealth Priority Campus: See Section 3.5.8.E

* * *

Sec. 2. DIVISION 59-3.1 is amended as follows:

Division 3.1. Use Table

* * *

Section 3.1.6. Use Table

The following Use Table identifies uses allowed in each zone. Uses may be modified in Overlay zones under Division 4.9.

15

USE OR USE GROUP	Definitions and Standards	Ag	Rural Residential				Residential											Commercial / Residential			Employment				Industrial		
							Residential Detached							Residential Townhouse			Residential Multi-Unit										
		AR	R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20	R-10	CRN	CRT	CR	GR	NR	LSC	EOF	IL	IM
* * *																											
COMMERCIAL																											
* * *																											
Office and Professional	3.5.8																										
Life Sciences	3.5.8.A																						P				
Office	3.5.8.B								C	C	C								P	P	P	P	P	L	P	L	L
Research and Development	3.5.8.C																		P	P			P	L	P	P	
Signature Business Headquarters	3.5.8.D																			L							
Biohealth Priority Campus	3.5.8.E.																			L				L			
* * *																											

16

Sec. 3. Division 3.5 is amended as follows:

Division 3.5. Commercial Uses

* * *

Section 3.5.8. Office and Professional

* * *

E. Biohealth Priority Campus

1. Defined

Biohealth Priority Campus means the headquarters or other primary place of business of a single commercial or industrial organization, including ancillary uses, that includes at least 150,000 square feet of new space to be constructed or 50,000 square feet of new space to be added to an existing building or group of buildings:

- a. that qualifies as a Life Sciences or Research and Development Use under Section 3.5.8 or as a Medical/Scientific Manufacturing and Production Use under Section 3.6.4.D; and
- b. is located within or adjacent to a red policy area, within an opportunity zone, or within ½ mile of a planned or existing Bus Rapid Transit route.

2. Exemptions

- a. A sketch plan and a site plan are not required for a Biohealth Priority Campus if the Planning Board approves a Biohealth Priority Campus plan under Section 7.3.6.
- b. Development of a Biohealth Priority Campus should proceed under the standards of the underlying zone and Chapter 50, except as modified by Section 3.5.8.E.
- c. After a Biohealth Priority Campus Plan is approved, subsequent additions or expansions of the Biohealth Priority Campus, in

any size or amount, will be processed under Section 7.3.6 as amendments.

3. Use Standards

- a. Commercial and residential FAR limits on the subject property may be reallocated if the total FAR does not exceed the maximum total mapped FAR of the property.
- 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.
- c. The subject property may utilize FAR averaging under Sections 4.5.2.B. and 4.6.2.B.

* * *

Sec. 4. DIVISION 59-4.5 is amended as follows:

Division 4.5. Commercial/Residential Zones

* * *

Section 4.5.2. Density and Height Allocation

* * *

B. FAR Averaging

1. Only standard method development projects that require site plan approval or optional method development projects can average FAR between properties.
2. FAR may be averaged over 2 or more directly abutting or confronting properties in one or more Commercial/Residential zones[,] if:
 - a. the properties are under the same site plan, sketch plan, [or] Signature Business Headquarters plan, or Biohealth Priority Campus plan; however, if a sketch plan, [or] Signature Business Headquarters plan, or Biohealth Priority Campus plan is

- 71 required, density averaging must be shown on the applicable
 72 plan;
- 73 b. the resulting properties are created by the same preliminary
 74 subdivision plan or satisfy a phasing plan established by an
 75 approved sketch plan, [or] Signature Business Headquarters
 76 plan, or Biohealth Priority Campus plan;
 - 77 c. the maximum total, nonresidential, and residential FAR limits
 78 apply to the entire development, not to individual properties;
 - 79 d. the total allowed maximum density on a resulting property that
 80 is abutting or confronting a property in an Agricultural, Rural
 81 Residential, or Residential Detached zone that is vacant or
 82 improved with an agricultural or residential use does not exceed
 83 that allowed by the property's zone; and
 - 84 e. public benefits are required to be provided under any phasing
 85 element of an approved sketch plan, [or] Signature Business
 86 Headquarters plan, or Biohealth Priority Campus plan.
- 87 3. Density may be averaged over 2 or more non-contiguous properties in
 88 one or more CRT or CR zones[,] if:
- 89 a. [Each] each provision under Section 4.5.2.B.2 is satisfied;
 - 90 b. [The] the properties are within ¼ mile of each other, located in
 91 a designated master-planned density transfer area, or are part of
 92 a Signature Business Headquarters plan or Biohealth Priority
 93 Campus plan;
 - 94 c. [The] the minimum public benefit points required under
 95 Section 4.5.4.A.2 must be exceeded by at least 50%; and
 - 96 d. [The] the applicable master plan does not specifically prohibit
 97 the averaging of density between non-contiguous properties.

4. If the Planning Board approves a site plan [or], Signature Business Headquarters plan, or Biohealth Priority Campus plan for a development project using FAR averaging across two or more lots, the maximum density on certain lots in the development project will be less than or greater than the zone allows, as indicated in the applicable plan. To provide additional notice of the FAR averaging, before the Planning Board approves a certified site plan [or], certified Signature Business Headquarters plan, or Biohealth Priority Campus plan for such a project or, if plat approval is required, before plat approval, the applicant must state the gross square footage taken from any lot with reduced density in an instrument approved by the Planning Board and must record the instrument in the Montgomery County land records.

* * *

Section 4.5.4. Optional Method Development

The CRT and CR zones allow development under the optional method.

A. General Requirements

1. Procedure for Approval

A sketch plan must be approved under Section 7.3.3, unless a Signature Business Headquarters plan is approved under Section 7.3.5 or a Biohealth Priority Campus plan is approved under Section 7.3.6.

A site plan must be approved under Section 7.3.4 for any development on a property with an approved sketch plan.

* * *

Sec. 5. DIVISION 59-4.6 is amended as follows:

Division 4.6. Employment Zones

* * *

Section 4.6.2. Density and Height Allocation

* * *

B. FAR Averaging

1. Only standard method development projects that require site plan approval or optional method development projects can average FAR between properties.
2. FAR may be averaged over 2 or more directly abutting or confronting properties in one or more Employment zones[,] if:
 - a. the properties are under the same site plan, [or] sketch plan, or Biohealth Priority Campus plan; however, if a sketch plan or Biohealth Priority Campus plan is required, density averaging must be shown on the [sketch] applicable plan;
 - b. the resulting properties are created by the same preliminary subdivision plan or satisfy a phasing plan established by an approved sketch plan or Biohealth Priority Campus plan;
 - c. public benefits are required to be provided under the phasing element of an approved sketch plan or Biohealth Priority Campus plan.
3. Density may be averaged over 2 or more non-contiguous properties in one or more LSC or EOF zones[,] if:
 - a. [Each] each provision under Section 4.6.2.B.2 is satisfied;
 - b. [The] the properties are within ¼ mile of each other or in a designated master-planned density transfer area or part of a Biohealth Priority Campus plan;
 - c. [The] the minimum public benefit points required under Section 4.6.4.A.2 [must be] are exceeded by at least 50%; and

* * *

d. [The] the applicable master plan does not specifically prohibit the averaging of density between non-contiguous properties.

4. If the Planning Board approves a site plan or Biohealth Priority Campus plan for a development project using FAR averaging across two or more lots, the maximum density on certain lots in the development project will be less than or greater than the zone allows, as indicated in the [site]applicable plan. To provide additional notice of the FAR averaging, before the Planning Board approves a certified site plan or certified Biohealth Priority campus plan for such a project or, if plat approval is required, before plat approval, the applicant must state the gross square footage taken from any lot with reduced density in an instrument approved by the Planning Board and must record the instrument in the Montgomery County land records.

* * *

Section 4.6.4. Optional Method Development

The LSC and EOF [zone]zones allow development under the optional method.

A. General Requirements

1. Procedure for Approval

A sketch plan must be approved under Section 7.3.3 or a Biohealth Priority Campus plan must be approved under Section 7.3.6. A site plan must be approved under Section 7.3.4 for any development on a property with an approved sketch plan.

* * *

Sec. 6. DIVISION 59-7.3 is amended as follows:

Division 7.3. Regulatory Approvals

* * *

Section 7.3.3. Sketch Plan

A. Applicability and Description

1. Development under optional method in the CRT, CR, EOF, or LSC zone requires approval of a sketch plan, [or] Signature Business Headquarters plan, or Biohealth Priority Campus plan.

Section 7.3.6. Biohealth Priority Campus Plan

A. Applicability and Description

1. A Biohealth Priority Campus plan provides a detailed overview of a proposed Biohealth Priority Campus. A Biohealth Priority Campus plan review will be used to determine if the proposed development satisfies current laws, regulations, and this Chapter, and substantially conforms with the intent of the applicable master plan and approved guidelines.
2. A Biohealth Priority Campus plan may be phased, with each phase approved separately under this section.
3. A Biohealth Priority Campus plan may encompass all or part of any property on which the Biohealth Priority Campus will be located and must demonstrate its relation to and coordination with other applicable approvals or submittals. Any amendment to a previously approved plan may follow the timeframe for review under Section 7.3.6.B.3 through Section 7.3.6.B.6, Section 7.3.6.C, and Section 7.3.6.D.

B. Application Requirements

1. Ownership
 - a. An applicant must own the subject property or be authorized by the owner to file the application.

b. If any land or right-of-way encompassed by a Biohealth Priority Campus plan application is owned or controlled by the State, County, or any other entity or agency, a written agreement or authorization from that entity or agency must be submitted with the Biohealth Priority Campus plan application.

2. A Biohealth Priority Campus plan application must include:

- a. a legally binding commitment or other evidence accepted by the Planning Director that the Biohealth Priority Campus will meet the requirements of Section 3.5.8.E.1.
- b. an application form and fees required by the Planning Director;
- c. a site map showing existing buildings, structures, circulation routes, significant natural features, historic resources, and zoning and legal descriptions on the proposed development site and within 500 feet of the perimeter boundary;
- d. a list of abutting and confronting property owners in the County tax records;
- e. a list of any civic, homeowners, and renters associations that are registered with the Planning Department and located within ½ mile of the site;
- f. documentation of interest in the proposed development site under Section 7.3.6.B.1;
- g. a statement of justification outlining how the proposed development satisfies the standards and criteria required to grant the application;
- h. verification that the applicant has posted notice on the property, notified affected properties, and held a pre-submittal

- community meeting that followed the Planning Department’s
Administrative Procedures for Development Review process;
 i. a Traffic Statement or Study accepted by the Planning Director,
if not submitted with a previous or concurrent application;
 j. environmental documentation or exemption for:
 i. an approved Natural Resources Inventory/Forest Stand
 Delineation;
 ii. a Stormwater Management Concept Application or, if
 required, a Water Quality Plan Application; and
 iii. a final Forest Conservation Plan application;
 k. existing and proposed dry and wet utility plan;
 l. plans of proposed development showing:
 i. use, footprints, ground-floor layout, and heights of all
 buildings and structures;
 ii. required open spaces and recreational amenities;
 iii. detailed layout and dimensions for all sidewalks, trails,
 paths, roadways, parking, loading, and bicycle storage
 areas;
 iv. grading;
 v. landscaping and lighting; and
 m. a development program and inspection schedule detailing the
construction schedule for the project.
3. The applicant must submit an initial application to the Planning
Director for approval of completeness. The Planning Director must
review the application for completeness within 3 days after receipt.
An application is incomplete if any required element is missing or is
facially defective, e.g., a drawing that is not to scale or lacks proper

signatures. The assessment of completeness must not address the merits of the application.

4. The applicant must submit any required revisions to the Planning Director. The Planning Director must review the revised application for completeness within 2 days after receipt.

5. After the Planning Director verifies that the application is complete, the applicant must file the final application with the Planning Director, who will accept the application and establish a hearing date under Section 7.3.6.C.

6. Public notice is required under Division 7.5.

C. Hearing Date

The Planning Board must schedule a public hearing to begin within 60 days after the date an application is accepted. The applicant may request an extension with Planning Director approval. Any extension of the public hearing must be noticed on the hearing agenda with the new public hearing date indicated.

D. Review and Recommendation

1. State and County Agencies

a. Reviewing State and County agencies and utilities must submit comments within 15 days after the date an application is accepted. If no comments are submitted within that time, the application is deemed approved.

b. The applicant must submit revised drawings to address the comments a minimum of 20 days before the date of the hearing. The Planning Director may extend the deadline if the applicant submits a written request within 5 days after the revised drawings were due.

2. Planning Director

The Planning Director must publish a report and recommendation a minimum of 10 days before the Planning Board hearing.

3. Withdrawal of an Application

The Planning Board must send a notice to all parties entitled to notice of the hearing when an applicant withdraws an application for a Biohealth Priority Campus plan.

E. Necessary Findings

1. When reviewing an application, the approval findings apply only to the site covered by the application.

2. To approve a Biohealth Priority Campus plan, the Planning Board must find that the proposed development:

- a. satisfies any previous approval that applies to the site, unless exempt under Section 3.5.8.E.2 or amended;
- b. satisfies the applicable use and development standards and general requirements of this Chapter;
- c. satisfies the applicable requirements of Chapter 19 and Chapter 22A;
- d. provides safe, well-integrated parking, circulation patterns, building massing, and site amenities;
- e. substantially conforms with the intent of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan;
- f. will be located within or adjacent to a red policy area, within an opportunity zone, or within ½ mile of a planned or existing Bus Rapid Transit route;

- g. on a property in a master plan area that requires staging based on Non-Auto Driver Mode Share (NADMS), is exempt from the staging requirement if:
- i. the applicant agrees to enter into a traffic mitigation agreement that provides an action plan for substantial achievement of the applicable NADMS goal;
 - ii. parking below the minimum required under Section 6.2.4 is provided; and
 - iii. transit, bicycle, and pedestrian infrastructure required by the applicable stage of the master plan is funded in the Capital Improvements Program or Consolidated Transportation Program, or provided by the applicant; and
- h. will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.

F. Decision

- 1. The Planning Board must act upon the close of the record of the public hearing by majority vote of those present at the public hearing to approve, approve with modifications or conditions, or deny the application. The Planning Board must issue a resolution reflecting its decision within 7 days of the Planning Board vote.
- 2. Any party aggrieved by a decision of the Planning Board may file a petition for judicial review of the decision within 30 days after the Planning Board's action to the Circuit Court and thereafter to the Court of Special Appeals.

3. Within 30 days of submission, the final Biohealth Priority Campus plans must be certified by the Planning Director to confirm that the drawings reflect the Planning Board's approval. If no action is taken by the Planning Director within 30 days, the plan is deemed approved and certified.

G. Conforming Permits

For any development requiring a Biohealth Priority Campus plan, DPS must not issue a sediment control permit, building permit, or use-and-occupancy permit for any building, structure, or improvement unless the Planning Board has approved a Biohealth Priority Campus plan and a bond has been approved under Section 7.3.6.K.4.

H. Duration of Approval

1. A Biohealth Priority Campus plan expires unless a certified Biohealth Priority Campus plan is approved by the Planning Director within 24 months after the date the resolution is mailed.
2. A Biohealth Priority Campus plan does not become effective until a record plat, if otherwise needed, is recorded that satisfies any approved subdivision plan for the subject property. If no record plat is needed, then the Biohealth Priority Campus plan becomes effective upon certification under Section 7.3.6.F.3.
3. Development activities under Section 7.3.6 must satisfy the certified Biohealth Priority Campus plan and any conditions of approval.
4. If the Planning Board approves a Biohealth Priority Campus plan, the applicant must have a building permit application, accepted by the Department of Permitting Services, that includes the core and shell of the principal building within two years of the date of the Planning Board's resolution. Within two years after the Department of

Permitting Services accepts the building permit application that includes the core and shell of the principal building, the applicant must obtain that building permit.

I. Recording Procedures

The certified Biohealth Priority Campus plan and Planning Board resolution must be maintained in the permanent files of the Planning Department.

J. Amendments

Any property owner may apply for a Biohealth Priority Campus plan amendment to change a certified Biohealth Priority Campus plan. There are two types of amendments: a major and a minor amendment.

1. Major Amendment

a. A major amendment includes any request to:

i. increase density or height by more than that allowed under a minor amendment (Section 7.3.6.J.2);

ii. decrease open space;

iii. deviate from a condition of approval; or

iv. alter a basic element of the plan.

b. Public notice is required under Division 7.5.

c. A major amendment must follow the same hearing procedures and satisfy the same necessary findings as the original Biohealth Priority Campus plan.

2. Minor Amendment

a. A minor amendment includes any request to:

i. increase density by up to 25%, provided the increase is less than or equal to the total mapped density, including any density increases or bonuses;

- ii. increase height by up to 10%, provided the height is less than or equal to the height and any increases allowed under Section 3.5.8.D; or
- iii. change an ancillary use, a parking or loading area, landscaping, sidewalk, recreational facility or area, configuration of open space, or any other plan element that will have a minimal effect on the overall design, layout, quality or intent of the plan.

A minor amendment also includes a reduction in approved parking to satisfy Article 59-6. A minor amendment does not include any change that prevents circulation on any street or path.

b. Public notice is required under Division 7.5.

c. A minor amendment may be approved by the Planning Director without a public hearing if no objection to the application is received within 15 days after the application notice is sent. If an objection is received within 15 days after the application notice is sent, and the objection is considered relevant, a public hearing is required. A public hearing must be held under the same procedures as an original application.

K. Compliance and Enforcement

1. If the Planning Board finds, after holding a public hearing or designating a hearing officer to hold a public hearing, that a property under development is not in compliance with a certified Biohealth Priority Campus plan, it may:

- a. impose a civil fine or administrative civil penalty authorized by Chapter 50 (Section 50-10.6.D);

- b. suspend or revoke the non-compliant portion of the Biohealth Priority Campus plan approval;
- c. order a compliance program that would permit the applicant to take corrective action to satisfy the certified Biohealth Priority Campus plan;
- d. allow the applicant to propose modifications to the certified Biohealth Priority Campus plan; or
- e. take any combination of these actions.

2. If the Planning Board or its designee finds that the applicant has failed to comply with a compliance program approved under Section 7.3.6.K.1.c, the Planning Board may, without holding any further hearing, take any of the actions identified in Section 7.3.6.K.1.a through Section 7.3.6.K.1.e.

3. If the Planning Board suspends or revokes all or any portion of a Biohealth Priority Campus plan, DPS must immediately suspend any applicable building permit under which construction has not been completed or withhold any applicable use-and-occupancy permit, until the Planning Board reinstates the applicable portion of the Biohealth Priority Campus plan or approves a new plan for the development.

4. The Planning Board may require the applicant to post a commercially acceptable form of surety securing compliance with and full implementation of specified features of the certified Biohealth Priority Campus plan in an amount set by the Planning Board. If such surety is required, DPS must not issue a building permit or use-and-occupancy permit until such surety is accepted.

* * *

Sec. 7. DIVISION 59-7.5 is amended as follows:

Division 7.5. Notice Standards

Section 7.5.1. Notice Required

Notice is required for each application according to the following table:

Application	Newspaper	Pre-Submittal Meeting	Application Sign	Application Notice	Hearing Notice	Resolution Notice	Building Permit Sign Notice	Website Posting
* * *								
Regulatory Approvals								
* * *								
Site Plan		X	X	X	X	X		X
Signature Business Headquarters Plan		X	X	X	X	X		X
<u>Biohealth Priority Campus Plan</u>		<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>		<u>X</u>
* * *								
Amendments to Approvals								
* * *								
Minor Site Plan Amendment				X				X
Major Signature Business Headquarters Plan Amendment			X	X	X	X		X

Minor Signature Business Headquarters Plan Amendment				x				
<u>Major Biohealth Priority Campus Plan</u>			<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>		<u>x</u>
<u>Minor Biohealth Priority Campus Plan</u>				<u>x</u>				

KEY: x = Required

448 * * *

449 **Sec. 7. Effective date.** This ordinance becomes effective 20 days after the
450 date of Council adoption.

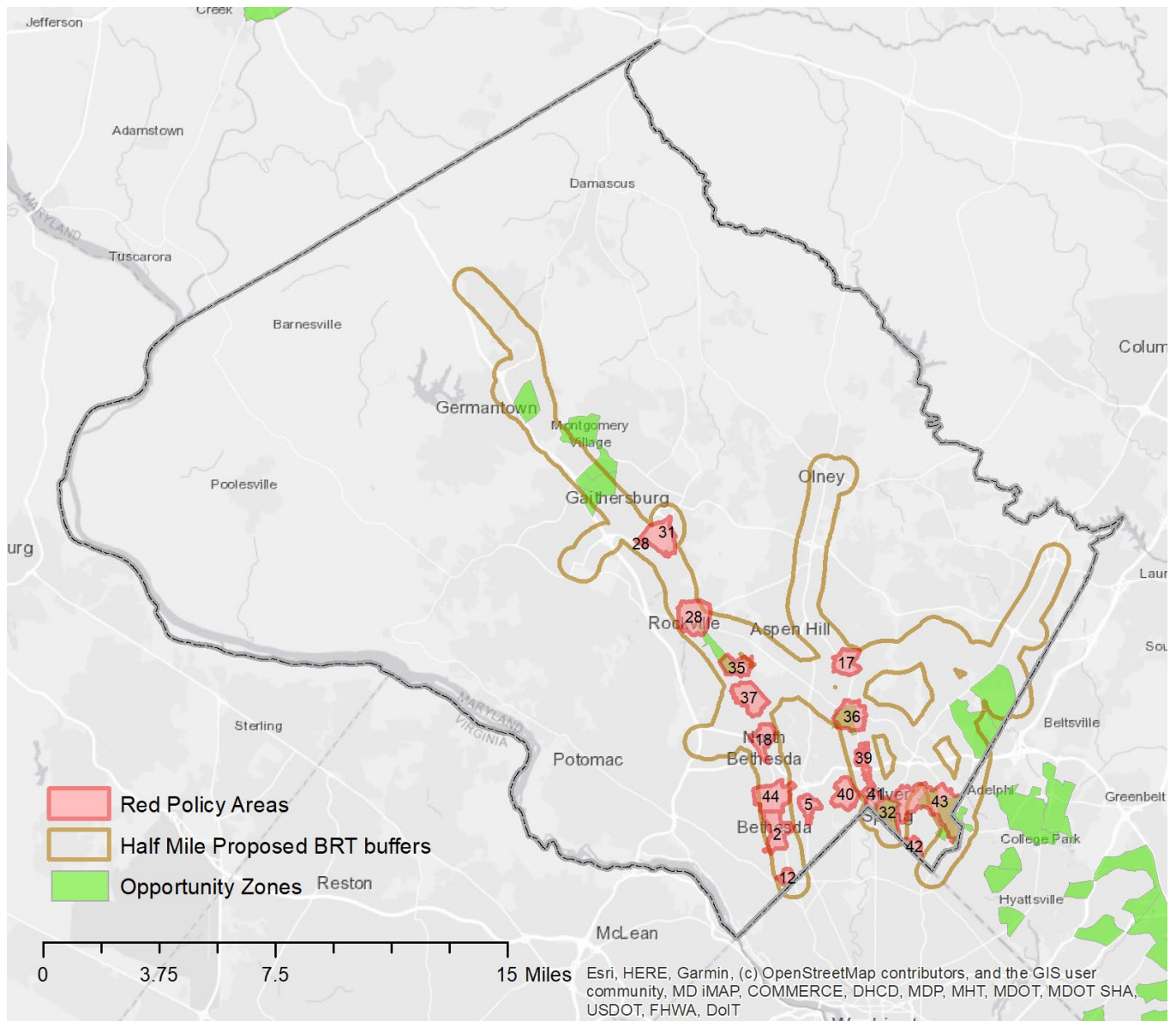
451

452 This is a correct copy of Council action.

453

454

455 _____
456 Selena Mendy Singleton, Esq.
Clerk of the Council



Zoning Text Amendment No.: 21-09
Concerning: Office and Professional –
Biohealth Priority
Campus
Draft No. & Date: 1 – 10/13/2021
Introduced: October 19, 2021
Public Hearing:
Adopted:
Effective:
Ordinance No.:

**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

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- create a Biohealth Priority Campus use; and
- provide a process for approval of a Biohealth Priority Campus.

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

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Section 1.4.2.	“Specific Terms and Phrases Defined”
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Section 7.3.3.	“Sketch Plan”
DIVISION 7.5.	“NOTICE STANDARDS”
Section 7.5.1.	“Noticed Required”

And by adding the following section:

Section 7.3.6. “Biohealth Priority Campus Plan”

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.*

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 59-1.4 is amended as follows:

Division 1.4. Defined Terms

* * *

Section 1.4.2. Specific Terms and Phrases Defined

* * *

Biohealth Priority Campus: See Section 3.5.8.E

* * *

Sec. 2. DIVISION 59-3.1 is amended as follows:

Division 3.1. Use Table

* * *

Section 3.1.6. Use Table

The following Use Table identifies uses allowed in each zone. Uses may be modified in Overlay zones under Division 4.9.

15

USE OR USE GROUP	Definitions and Standards	Ag	Rural Residential				Residential											Commercial / Residential			Employment				Industrial		
							Residential Detached							Residential Townhouse			Residential Multi-Unit										
		AR	R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20	R-10	CRN	CRT	CR	GR	NR	LSC	EOF	IL	IM
* * *																											
COMMERCIAL																											
* * *																											
Office and Professional	3.5.8																										
Life Sciences	3.5.8.A																						P				
Office	3.5.8.B								C	C	C							P	P	P	P	P	L	P	L	L	
Research and Development	3.5.8.C																		P	P			P	L	P	P	
Signature Business Headquarters	3.5.8.D																			L							
Biohealth Priority Campus	3.5.8.E.																			L			L	L			
* * *																											

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Sec. 3. Division 3.5 is amended as follows:

Division 3.5. Commercial Uses

* * *

Section 3.5.8. Office and Professional

* * *

E. Biohealth Priority Campus

1. Defined

Biohealth Priority Campus means the headquarters or other primary place of business of a single commercial or industrial organization, including ancillary uses, that includes at least 150,000 square feet of new space to be constructed or 50,000 square feet of new space to be added to an existing building or group of buildings:

a. that qualifies as a Life Sciences or Research and Development Use under Section 3.5.8 or as a Medical/Scientific Manufacturing and Production Use under Section 3.6.4.D; and

b. is located ~~on 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]]~~.

2. Exemptions

a. A sketch plan and a site plan are not required for a Biohealth Priority Campus if the Planning Board approves a Biohealth Priority Campus plan under Section 7.3.6.

b. Development of a Biohealth Priority Campus should proceed under the standards of the underlying zone ~~including any overlay zones~~ and Chapter 50, except as modified by Section 3.5.8.E.

- c. After a Biohealth Priority Campus Plan is approved, subsequent additions or expansions of the Biohealth Priority Campus, in any size or amount, will be processed under Section 7.3.6 as amendments.

3. Use Standards

- a. [[Commercial and r]] 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.
- 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.

* * *

Sec. 4. DIVISION 59-4.5 is amended as follows:

Division 4.5. Commercial/Residential Zones

* * *

Section 4.5.2. Density and Height Allocation

* * *

B. FAR Averaging

1. Only standard method development projects that require site plan approval or optional method development projects can average FAR between properties.
2. FAR may be averaged over 2 or more directly abutting or confronting properties in one or more Commercial/Residential zones[,] if:

- a. the properties are under the same site plan, sketch plan, [or] Signature Business Headquarters plan, or Biohealth Priority Campus plan; however, if a sketch plan, [or] Signature Business Headquarters plan, or Biohealth Priority Campus plan is required, density averaging must be shown on the applicable plan;
 - b. the resulting properties are created by the same preliminary subdivision plan or satisfy a phasing plan established by an approved sketch plan, [or] Signature Business Headquarters plan, or Biohealth Priority Campus plan;
 - c. the maximum total, nonresidential, and residential FAR limits apply to the entire development, not to individual properties;
 - d. the total allowed maximum density on a resulting property that is abutting or confronting a property in an Agricultural, Rural Residential, or Residential Detached zone that is vacant or improved with an agricultural or residential use does not exceed that allowed by the property's zone; and
 - e. public benefits are required to be provided under any phasing element of an approved sketch plan, [or] Signature Business Headquarters plan, or Biohealth Priority Campus plan.
3. Density may be averaged over 2 or more non-contiguous properties in one or more CRT or CR zones[,] if:
 - a. [Each] each provision under Section 4.5.2.B.2 is satisfied;
 - b. [The] the properties are within ¼ mile of each other, located in a designated master-planned density transfer area, or are part of a Signature Business Headquarters plan or Biohealth Priority Campus plan;

- c. [The] the minimum public benefit points required under Section 4.5.4.A.2 must be exceeded by at least 50%; and
- d. [The] the applicable master plan does not specifically prohibit the averaging of density between non-contiguous properties.

4. If the Planning Board approves a site plan [or], Signature Business Headquarters plan, or Biohealth Priority Campus plan for a development project using FAR averaging across two or more lots, the maximum density on certain lots in the development project will be less than or greater than the zone allows, as indicated in the applicable plan. To provide additional notice of the FAR averaging, before the Planning Board approves a certified site plan [or], certified Signature Business Headquarters plan, or Biohealth Priority Campus plan for such a project or, if plat approval is required, before plat approval, the applicant must state the gross square footage taken from any lot with reduced density in an instrument approved by the Planning Board and must record the instrument in the Montgomery County land records.

* * *

Section 4.5.4. Optional Method Development

The CRT and CR zones allow development under the optional method.

A. General Requirements

1. Procedure for Approval

A sketch plan must be approved under Section 7.3.3, unless a Signature Business Headquarters plan is approved under Section 7.3.5 or a Biohealth Priority Campus plan is approved under Section 7.3.6. A site plan must be approved under Section 7.3.4 for any development on a property with an approved sketch plan.

* * *

Sec. 5. DIVISION 59-4.6 is amended as follows:

Division 4.6. Employment Zones

* * *

Section 4.6.2. Density and Height Allocation

* * *

B. FAR Averaging

1. Only standard method development projects that require site plan approval or optional method development projects can average FAR between properties.
2. FAR may be averaged over 2 or more directly abutting or confronting properties in one or more Employment zones[,] if:
 - a. the properties are under the same site plan, [or] sketch plan, or Biohealth Priority Campus plan; however, if a sketch plan or Biohealth Priority Campus plan is required, density averaging must be shown on the [sketch] applicable plan;
 - b. the resulting properties are created by the same preliminary subdivision plan or satisfy a phasing plan established by an approved sketch plan or Biohealth Priority Campus plan;
 - c. public benefits are required to be provided under the phasing element of an approved sketch plan or Biohealth Priority Campus plan.
3. Density may be averaged over 2 or more non-contiguous properties in one or more LSC or EOF zones[,] if:
 - a. [Each] each provision under Section 4.6.2.B.2 is satisfied;

- b. [The] the properties are within ¼ mile of each other or in a designated master-planned density transfer area or part of a Biohealth Priority Campus plan;
- c. [The] the minimum public benefit points required under Section 4.6.4.A.2 [must be] are exceeded by at least 50%; and
- d. [The] the applicable master plan does not specifically prohibit the averaging of density between non-contiguous properties.

- 4. If the Planning Board approves a site plan or Biohealth Priority Campus plan for a development project using FAR averaging across two or more lots, the maximum density on certain lots in the development project will be less than or greater than the zone allows, as indicated in the [site]applicable plan. To provide additional notice of the FAR averaging, before the Planning Board approves a certified site plan or certified Biohealth Priority campus plan for such a project or, if plat approval is required, before plat approval, the applicant must state the gross square footage taken from any lot with reduced density in an instrument approved by the Planning Board and must record the instrument in the Montgomery County land records.

* * *

Section 4.6.4. Optional Method Development

The LSC and EOF [zone]zones allow development under the optional method.

A. General Requirements

1. Procedure for Approval

A sketch plan must be approved under Section 7.3.3 or a Biohealth Priority Campus plan must be approved under Section 7.3.6. A site plan must be approved under Section 7.3.4 for any development on a property with an approved sketch plan.

* * *

Sec. 6. DIVISION 59-7.3 is amended as follows:

Division 7.3. Regulatory Approvals

* * *

Section 7.3.3. Sketch Plan

A. Applicability and Description

1. Development under optional method in the CRT, CR, EOF, or LSC zone requires approval of a sketch plan, [or] unless the development is approved as a Signature Business Headquarters plan, or Biohealth Priority Campus plan.

* * *

Section 7.3.6. Biohealth Priority Campus Plan

A. Applicability and Description

1. A Biohealth Priority Campus plan provides a detailed overview of a proposed Biohealth Priority Campus. A Biohealth Priority Campus plan review will be used to determine if the proposed development satisfies current laws, regulations, and this Chapter, and substantially conforms with the intent of the applicable master plan and approved guidelines.
2. A Biohealth Priority Campus plan may be phased, with each phase approved separately under this section.
3. A Biohealth Priority Campus plan may encompass all or part of any property on which the Biohealth Priority Campus will be located and must demonstrate its relation to and coordination with other applicable approvals or submittals. Any amendment to a previously approved plan may follow the timeframe for review under Section

7.3.6.B.3 through Section 7.3.6.B.6, Section 7.3.6.C, and Section 7.3.6.D.

B. Application Requirements

1. Ownership

- a. An applicant must own the subject property or be authorized by the owner to file the application.
- b. If any land or right-of-way encompassed by a Biohealth Priority Campus plan application is owned or controlled by the State, County, or any other entity or agency, a written agreement or authorization from that entity or agency must be submitted with the Biohealth Priority Campus plan application.

2. Prior to submitting an application for a Biohealth Priority Campus plan, an applicant must submit a concept plan as outlined on the Planning Department's Development Applications website to the Planning Director to be reviewed by applicable State and County agencies and utilities. The concept plan submittal shall include any applicable Traffic Statement or Traffic Study. Agencies must submit comments within 15 days after the date the concept plan is accepted.

[[2.]] 3. A Biohealth Priority Campus plan application must include:

- a. a legally binding commitment or other evidence accepted by the Planning Director that the Biohealth Priority Campus will meet the requirements of Section 3.5.8.E.1.

b. a vicinity map at 1" = 200'

[[b.]] c. an application form and fees required by the Planning Director;

[[c.]] d. a site map showing existing buildings, structures, circulation routes, significant natural features, historic resources, and

zoning and legal descriptions on the proposed development site
and within 500 feet of the perimeter boundary;

[[d.]] e. a list of abutting and confronting property owners in the
County tax records;

[[e.]] f. a list of any civic, homeowners, and renters associations that
are registered with the Planning Department and located within
½ mile of the site;

[[f.]] g. documentation of interest in the proposed development site
under Section 7.3.6.B.1;

[[g.]] h. a statement of justification outlining how the proposed
development satisfies the standards and criteria required to
grant the application;

[[h.]] i. verification that the applicant has posted notice on the
property, notified affected properties, and held a pre-submittal
community meeting that followed the Planning Department’s
Administrative Procedures for Development Review process;

[[i.]] j. a Traffic Statement or Study accepted by the Planning
Director, if not submitted with a previous or concurrent
application;

[[j.]] k. environmental documentation or exemption for:

i. an approved Natural Resources Inventory/Forest Stand
Delineation;

ii. a Stormwater Management Concept Application or, if
required, a Water Quality Plan Application; and

iii. a final Forest Conservation Plan application;

[[k.]] l. existing and proposed dry and wet utility plan;

[[l.]] m. plans of proposed development showing:

- i. use~~[[, footprints,]] and~~ ground-floor layout~~[[, and heights]]~~ of all on-site buildings and structures, and building footprints, height, and massing for on-site and adjacent off-site buildings;
- ii. required open spaces and recreational amenities;
- iii. detailed layout and dimensions for all sidewalks, trails, paths, roadways, parking, loading, and bicycle storage areas;
- iv. grading;
- v. landscaping and lighting; and

~~[[m.]] n.~~ a development program and inspection schedule detailing the construction schedule for the project.

~~[[3.]] 4.~~ The applicant must submit an initial application to the Planning Director for approval of completeness. The Planning Director must review the application for completeness within 3 business days after receipt. An application is incomplete if any required element is missing or is facially defective, e.g., a drawing that is not to scale or lacks proper signatures. The assessment of completeness must not address the merits of the application.

~~[[4.]] 5.~~ The applicant must submit any required revisions to the Planning Director. The Planning Director must review the revised application for completeness within 2 business days after receipt.

~~[[5.]] 6.~~ ~~[[After]]~~ Once the Planning Director verifies that the application is complete, the applicant must file the final application with the Planning Director, who will accept the application and establish a hearing date under Section 7.3.6.C.

~~[[6.]] 7.~~ Public notice is required under Division 7.5.

C. Hearing Date

The Planning Board must schedule a public hearing to begin at the next regularly scheduled hearing date ~~[[within]] after~~ 60 days ~~[[after]] have elapsed from~~ the date an application is accepted. The applicant may request an extension with Planning Director approval. Any extension of the public hearing must be noticed on the hearing agenda with the new public hearing date indicated.

D. Review and Recommendation

1. State and County Agencies

a. Reviewing State and County agencies and utilities must submit comments within 15 days after the date an application is accepted. If no comments are submitted within that time, the application is deemed approved.

b. The applicant must submit revised drawings to address the comments a minimum of ~~[[20]] 25~~ days before the date of the hearing. The Planning Director may extend the deadline if the applicant submits a written request within 5 days after the revised drawings were due.

2. Planning Director

The Planning Director must publish a report and recommendation a minimum of 10 days before the Planning Board hearing.

3. Withdrawal of an Application

The Planning Board must send a notice to all parties entitled to notice of the hearing when an applicant withdraws an application for a Biohealth Priority Campus plan.

E. Necessary Findings

1. When reviewing an application, the approval findings apply only to the site covered by the application.
2. To approve a Biohealth Priority Campus plan, the Planning Board must find that the proposed development:
 - a. satisfies any previous approval that applies to the site, unless exempt under Section 3.5.8.E.2 or amended;
 - b. satisfies the applicable use and development standards and general requirements of this Chapter;
 - c. satisfies the applicable requirements of Chapter 19 and Chapter 22A;
 - d. provides safe, well-integrated parking, circulation patterns, building massing, and site amenities;
 - e. substantially conforms with the intent of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan;
 - f. [[will be located within or adjacent to a red policy area, within an opportunity zone, or within ½ mile of a planned or existing Bus Rapid Transit route;]] is compatible with existing and approved or pending adjacent development per recommendations from the applicable Master Plan and requirements of the Zoning Code;
 - g. on a property in a master plan area that requires staging based on Non-Auto Driver Mode Share (NADMS), is exempt from the staging requirement if:
 - i. the applicant agrees to enter into a traffic mitigation agreement that provides an action plan for substantial achievement of the applicable NADMS goal;

- ii. parking below the minimum required under Section 6.2.4 is provided; and
- iii. transit, bicycle, and pedestrian infrastructure required by the applicable stage of the master plan is funded in the Capital Improvements Program or Consolidated Transportation Program, or provided by the applicant; and
- h. will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities.

F. Decision

1. The Planning Board must act upon the close of the record of the public hearing by majority vote of those present at the public hearing to approve, approve with modifications or conditions, or deny the application. The Planning Board must issue a resolution reflecting its decision within 7 days of the Planning Board vote.
2. Any party aggrieved by a decision of the Planning Board may file a petition for judicial review of the decision within 30 days after the Planning Board's action to the Circuit Court and thereafter to the Court of Special Appeals.
3. Within 35 days of issuance of the resolution reflecting the Planning Board's decision, Biohealth Priority Campus plans must be submitted to the Planning Director for review and certification.
- [[3.]] 4. Within 30 days of submission, the final Biohealth Priority Campus plans must be certified by the Planning Director to confirm that the drawings reflect the Planning Board's approval. If the plans do not address or comply with the Planning Board's approval, the plans will

be rejected with comments for the applicant to address. If no action is taken by the Planning Director within 30 days, the plan is deemed approved and certified.

G. Conforming Permits

For any development requiring a Biohealth Priority Campus plan, DPS must not issue a sediment control permit, building permit, or use-and-occupancy permit for any building, structure, or improvement unless the Planning Board has approved a Biohealth Priority Campus plan and a bond has been approved under Section 7.3.6.K.4.

H. Duration of Approval

1. A Biohealth Priority Campus plan expires unless a certified Biohealth Priority Campus plan is approved by the Planning Director within 24 months after the date the resolution is mailed.
2. A Biohealth Priority Campus plan does not become effective until a record plat, if otherwise needed, is recorded that satisfies any approved subdivision plan for the subject property. If no record plat is needed, then the Biohealth Priority Campus plan becomes effective upon certification under Section 7.3.6.F.3.
3. Development activities under Section 7.3.6 must satisfy the certified Biohealth Priority Campus plan and any conditions of approval.
4. If the Planning Board approves a Biohealth Priority Campus plan, the applicant must have a building permit application, accepted by the Department of Permitting Services, that includes the core and shell of the principal building within two years of the date of the Planning Board's resolution. Within two years after the Department of Permitting Services accepts the building permit application that includes the core and shell of the principal building, the applicant

must obtain that building permit. If an applicant fails to comply with any of the deadlines within this section, the applicable Biohealth Campus plan approval is revoked.

I. Recording Procedures

The certified Biohealth Priority Campus plan and Planning Board resolution must be maintained in the permanent files of the Planning Department.

J. Amendments

Any property owner may apply for a Biohealth Priority Campus plan amendment to change a certified Biohealth Priority Campus plan. There are two types of amendments: a major and a minor amendment.

1. Major Amendment

a. A major amendment includes any request to:

i. increase density or height by more than that allowed under a minor amendment (Section 7.3.6.J.2);

ii. decrease open space;

iii. deviate from a condition of approval; or

iv. alter a basic element of the plan.

b. Public notice is required under Division 7.5.

c. A major amendment must follow the same hearing procedures and satisfy the same necessary findings as the original Biohealth Priority Campus plan.

2. Minor Amendment

a. A minor amendment includes any request to:

i. increase density by up to ~~[[25%]]~~ 10% or 15,000 square feet, provided the increase is less than or equal to the total mapped density, including any density increases or bonuses;

- ii. increase height by up to 10%, provided the height is less than or equal to the height and any increases allowed under Section 3.5.8.D; or
- iii. change an ancillary use, a parking or loading area, landscaping, sidewalk, recreational facility or area, configuration of open space, or any other plan element that will have a minimal effect on the overall design, layout, quality or intent of the plan.

A minor amendment also includes a reduction in approved parking to satisfy Article 59-6. A minor amendment does not include any change that prevents circulation on any street or path.

- b. Public notice is required under Division 7.5.
- c. A minor amendment may be approved by the Planning Director without a public hearing if no objection to the application is received within 15 days after the application notice is sent. If an objection is received within 15 days after the application notice is sent, and the objection is considered relevant, a public hearing is required. A public hearing must be held under the same procedures as an original application.

K. Compliance and Enforcement

- 1. If the Planning Board finds, after holding a public hearing or designating a hearing officer to hold a public hearing, that a property under development is not in compliance with a certified Biohealth Priority Campus plan, it may:
 - a. impose a civil fine or administrative civil penalty authorized by Chapter 50 (Section 50-10.6.D);

- b. suspend or revoke the non-compliant portion of the Biohealth Priority Campus plan approval;
- c. order a compliance program that would permit the applicant to take corrective action to satisfy the certified Biohealth Priority Campus plan;
- d. allow the applicant to propose modifications to the certified Biohealth Priority Campus plan; or
- e. take any combination of these actions.

2. If the Planning Board or its designee finds that the applicant has failed to comply with a compliance program approved under Section 7.3.6.K.1.c, the Planning Board may, without holding any further hearing, take any of the actions identified in Section 7.3.6.K.1.a through Section 7.3.6.K.1.e.

3. If the Planning Board suspends or revokes all or any portion of a Biohealth Priority Campus plan, DPS must immediately suspend any applicable building permit under which construction has not been completed or withhold any applicable use-and-occupancy permit, until the Planning Board reinstates the applicable portion of the Biohealth Priority Campus plan or approves a new plan for the development.

4. The Planning Board may require the applicant to post a commercially acceptable form of surety securing compliance with and full implementation of specified features of the certified Biohealth Priority Campus plan in an amount set by the Planning Board. If such surety is required, DPS must not issue a building permit or use-and-occupancy permit until such surety is accepted.

* * *

Sec. 7. DIVISION 59-7.5 is amended as follows:

Division 7.5. Notice Standards

Section 7.5.1. Notice Required

Notice is required for each application according to the following table:

Application	Newspaper	Pre-Submittal Meeting	Application Sign	Application Notice	Hearing Notice	Resolution Notice	Building Permit Sign Notice	Website Posting
* * *								
Regulatory Approvals								
* * *								
Site Plan		X	X	X	X	X		X
Signature Business Headquarters Plan		X	X	X	X	X		X
<u>Biohealth Priority Campus Plan</u>		<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>		<u>X</u>
* * *								
Amendments to Approvals								
* * *								
Minor Site Plan Amendment				X				X
Major Signature Business Headquarters Plan Amendment			X	X	X	X		X

Minor Signature Business Headquarters Plan Amendment				x				
<u>Major Biohealth Priority Campus Plan</u>			<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>		<u>x</u>
<u>Minor Biohealth Priority Campus Plan</u>				<u>x</u>				

KEY: x = Required

* * *

Sec. 7. Effective date. This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.

Selena Mendy Singleton, Esq.
Clerk of the Council