MCPB
Item # 2
9/06/01

DATE: August 31, 2001
TO: Montgomery County Planning Board
VIA: Michael Ma, Zoning Supervisor *Ma*
FROM: Greg Russ, Zoning Coordinator
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To exempt any portion of a floor used to house mechanical equipment from the maximum density calculation in the Research and Development (R&D) zone

TEXT AMENDMENT: No. 01-07
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmembers Silverman, Denis, Subin, Leggett and Praisner
INTRODUCED DATE: July 31, 2001

PLANNING BOARD REVIEW: September 6, 2001
PUBLIC HEARING: September 11, 2001

STAFF RECOMMENDATION: APPROVAL with modifications

PURPOSE OF THE TEXT AMENDMENT

- To exempt any portion of a floor used to house mechanical equipment from the maximum density calculation in the Research and Development (R&D) zone

BACKGROUND

The Zoning Ordinance was amended in 1999 (Zoning Text Amendment No. 99006) to exempt an entire floor of mechanical equipment from the maximum density calculation in the R&D zone. The way that Text Amendment 99006 was worded, a partial floor devoted to mechanical equipment still must be counted as applicable density. The effect of Text Amendment 99006 is to recognize the unique mechanical equipment requirements for an R&D building when a total floor area is involved and to ignore the same requirements when only part of a floor is involved.

Human Genomes Sciences (HGS) owns two lots and has a third lot under contract at the Belward Research Campus on Key West Avenue in Rockville. Two manufacturing facilities are already constructed under the R&D Zone under applicable FAR limits. A third similar building is nearing design completion with substantial portions devoted to mechanical equipment, therefore limiting the size of the functional areas of the building. HGS believes that in order for this building to be constructed within design objectives and to meet the FAR limitations, it is imperative that partial floors devoted to mechanical equipment be excluded from FAR calculations (see Attachment 2).

ANALYSIS

The text amendment proposes to revise footnote #2 pertaining to Section 59-C-5.321, Maximum Density of Development. The amendment specifically proposes to exempt any portion of a floor used to house mechanical equipment from the maximum density calculation in the Research and Development (R&D) zone. As approved with Zoning Text Amendment 99006, the footnote technically affects all the industrial zones, although only the I-3, R&D and LSC zones have specific FAR limitations. The other zones are controlled through height and setback requirements. A proposed amendment to Text Amendment 01-07 proposes to add a stipulation that where portions of different floors are used for mechanical equipment, the exemption from floor area calculations cannot exceed the total floor area of one floor. Council staff and representatives of HGS support this limitation.

As stated in the original text amendment (Zoning Text Amendment 99006) analysis, staff understands that high-tech biotechnology industries may require special protection of precision equipment that cannot be accommodated in rooftop mechanical areas. Also, this space will not be occupied by personnel and will not contribute to parking requirements or traffic generation rates.

RECOMMENDATION

The staff supports the text amendment as modified and included in Attachment 1. This modification recommends approval of the change proposed by Council staff to limit the exemption to no more than the floor area of one floor. Underlining indicates text that is added to existing laws by the original text amendment. [Single boldface brackets] indicate text that is deleted from existing law by the original text amendment. Double underlining indicates text that is added to the text amendment by amendment (staff's changes). [[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment (staff's changes).

GR

Attachments

1. Proposed Text Amendment 01-07 (as modified by staff)
2. Letter from Robert G. Brewer, Jr. to Blair Ewing

ATTACHMENT 1

Zoning Text Amendment No: 01-07
Concerning: R&D zone maximum
density calculation - mechanical equipment
Draft No. & Date: 1 – 7/16/01
Introduced: July 31, 2001
Public Hearing: 9/11/01 – 1:30 p.m.
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

By: Councilmembers Silverman, Denis, Subin, Leggett, and Praisner

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- exempting any portion of a floor used to house mechanical equipment from the maximum density calculation in the Research and Development (R&D) zone.

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

DIVISION 59-C-5 “INDUSTRIAL ZONES”
Section 59-C-5.3 “Development standards”

EXPLANATION: *Boldface indicates a heading or a defined term.*
Underlining indicates text that is added to existing laws by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by the 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-C-5 is amended as follows:

DIVISION 59-C-5. INDUSTRIAL ZONES.

* * *

59-C-5.3. Development standards.

	I-1	I-2	I-3	I-4	R&D	LSC
* * *						
59-C-5.321. Maximum density of development.² The maximum density of development must not exceed the following floor area ratio which is to be based on and may be averaged over the gross tract area.					0.30	
* * *						

* * *

2 An entire floor or story or a portion of a floor or story used exclusively for mechanical equipment is excluded from the maximum density of development calculation, and no portion of any floor or story excluded from the maximum density calculation that exceeds the Floor Area Ratio of the zone may be used for any other purpose. The aggregate area of any partial floors or stories excluded from the maximum density of development calculation must not exceed the gross floor area of any floor of the building.

1 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
2 date of Council adoption.

3

4 This is a correct copy of Council action.

5

6

7

8 Mary A. Edgar, CMC

9 Clerk of the Council

LU & Zoning



SUITE 380 | 3 BETHESDA METRO CENTER | BETHESDA, MD 20814-5367 | TEL 301.986.1300 | FAX 301.986.0332 | WWW.LERCHEARLY.COM

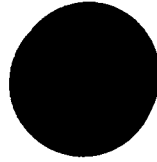
ATTORNEYS

ROBERT G. BREWER, JR.

DIRECT 301.657.0165

RGBREWER@LERCHEARLY.COM

July 17, 2001



039830

11 JUL 17 AM 11:37

RECEIVED

BY HAND

The Honorable Blair Ewing, President
Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850

Re: Proposed Mechanical Equipment Zoning Text Amendment

Dear Blair:

We represent Human Genome Sciences, Inc. The purpose of this letter is to request your co-sponsorship of a new zoning text amendment to exempt partial floors of mechanical equipment from the calculation of floor area ratios in industrial zones.

On August 3, 1999, the District Council enacted Zoning Text Amendment No. 99006, which applies in the industrial zones and exempts entire floors of mechanical equipment from floor area ratio (FAR) calculations. Partial floors devoted to mechanical equipment are, therefore, still counted as applicable FAR. The consequence of this is that biotechnology manufacturing facilities with substantial amounts of mechanical equipment that do not occupy entire floors are obligated to limit the usable areas of such buildings so that the FAR limits are not exceeded.

Human Genome Sciences owns two lots and has a third lot under contract at the Belward Research Campus on Key West Avenue in Rockville. The two HGS facilities already constructed are manufacturing facilities lawfully constructed under the R&D Zone under applicable FAR limits. A third similar building is nearing design completion and the commencement of construction is expected this fall. Once again, substantial portions of this proposed building are devoted exclusively to mechanical equipment, and therefore limit the size of the functional areas of the building. To enable this building to be constructed within design objectives and to meet FAR limitations, it is imperative that HGS be able to exclude discrete partial floors devoted to mechanical equipment from FAR calculations.

HGS proposes to further Amend Zoning Text Amendment No. 99006 (see attachment for draft language). The intended effect of this proposed zoning text amendment is to exclude from FAR calculations partial floors of mechanical equipment for biotechnology manufacturing facilities. This zoning text amendment has been reviewed with and endorsed by David Edgerely and Bob Catineau of the Department of Economic Development, and by Charlie Loehr, Director of Maryland National Capital Park and Planning Commission. Ralph Wilson of your staff has been working with us on the draft language.

5

July 17, 2001

Page 2


This proposed zoning text amendment will advance meritorious economic development goals of Montgomery County relating to its biotechnology industry, without any jeopardy to sound land use principles. The incremental relief it will offer for the design flexibility of biotechnology manufacturing facilities is critically important to Human Genome Sciences' existing and proposed facilities at the Belward Research Campus.

We seek your sponsorship and support. Council member Steve Silverman has already agreed to be a sponsor, and the text amendment is tentatively scheduled for introduction on July 31, 2001. Timing is critically important to this process. Ideally, assuming bill introduction of the proposed zoning text amendment before the District Council on July 31, a public hearing can be held by mid-September. This schedule would permit PHED Committee consideration in late September/early October, with full District Council consideration in early to mid-October. HGS needs to start construction of this third facility in October, and preliminary site grading is already underway.

If at all possible, we would appreciate your prompt consideration of our sponsorship request. If a meeting with me and/or with HGS officials and design professionals would facilitate your consideration, please let me know.

Thank you very much. With regards.

Very truly yours,



Robert G. Brewer, Jr.

RGB/dsh

\\FS1\DATA\Dept\RE\RGB\HGS\LTRSILVERMAN.doc

(6)

HUMAN GENOME SCIENCES
Proposed Text Amendment for Mechanical Space / FAR

Revise the “full floor” mechanical equipment FAR exception footnote in Section 59-C-5.32, as follows (proposed new language in bold; proposed deleted language in brackets):

“An entire floor or story, **or discrete portions of a floor or story thereof**, used exclusively for mechanical equipment, is excluded from the maximum density of development calculation, and no portion of any floor or story excluded from the maximum density calculation that exceeds the Floor Area Ratio of the zone may be used for any other purpose.”