TOWNSHIP OF WEST WINDSOR COUNTY OF MERCER, NEW JERSEY

ORDINANCE 2024-03

AN ORDINANCE TO AMEND AND SUPPLEMENT THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999)

CHAPTER 200 OF THE CODE OF THE TOWNSHIP OF WEST WINDSOR ENTITLED LAND USE,
PART IV ENTITLED ZONING, ARTICLE XXIX ENTITLED REGULATIONS FOR
RESEARCH/OFFICE/MANUFACTURING, RESEARCH/OFFICE AND RESEARCH AND DEVELOPMENT
DISTRICTS, SECTION 200-209 ENTITLED ROM-1 INDUSTRIAL DISTRICT (RESEARCH, OFFICE, LIMITED
MANUFACTURING) USE REGULATIONS AND SECTION 200-210 ENTITLED
DISTRICT BULK AND AREA REGULATIONS

1st Reading January 29, 2024							Date to Mayor February 27, 2024								
2nd Reading & Public Hearing February 26, 2024							Date Signed February 27, 2024								
Date Adopted February 21, 2024							Date Resubmitted to Council								
Date Effective March 15, 2024							Approved as to Form and Legality								
DOT APPROVAL RECEIVED Planning Board Approval February 7, 2024						-	Mchaol h Township Attorney								
Planning Board A	Approv	al <u>]e</u> }	SVEW	7,30	24	-					- //~	200			
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First Reading							Second Reading								
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ORDINANCE 2024-03

AN ORDINANCE TO AMEND AND SUPPLEMENT
THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999)
CHAPTER 200 OF THE CODE OF THE TOWNSHIP OF WEST WINDSOR ENTITLED
LAND USE, PART IV ENTITLED ZONING, ARTICLE XXIX ENTITLED
REGULATIONS FOR RESEARCH/OFFICE/MANUFACTURING,
RESEARCH/OFFICE AND RESEARCH AND DEVELOPMENT DISTRICTS, SECTION
200-209 ENTITLED ROM-1 INDUSTRIAL DISTRICT (RESEARCH, OFFICE,
LIMITED MANUFACTURING) USE REGULATIONS AND SECTION 200-210
ENTITLED DISTRICT BULK AND AREA REGULATIONS

- **WHEREAS**, the ROM-1 Industrial District permits, amongst other uses, mixed-use planned developments which may include affordable housing as an integral part of any such development; and
- WHEREAS, the standards set forth for affordable housing as an integral part of a mixed-use planned development have been found to be vague and therefore been misinterpreted; and
- WHEREAS, the inclusion of affordable housing as an integral part of a mixed-use planned development as a permitted use in the ROM-1 Industrial District has not in fact contributed to the production of affordable housing in the Township of West Windsor; and
- WHEREAS, the Township adopted a Housing Element and Fair Share Plan (HE&FSP) which was prepared pursuant to a Settlement Agreement between the Township of West Windsor and the Fair Share Housing Center (FSHC) dated October 9, 2018 and amended October 30, 2018; and
- WHEREAS, the Township's HE&FSP outlines the manner in which the Township of West Windsor will address its affordable housing obligation; and
- WHEREAS, neither the Township's HE&FSP nor its Settlement Agreement with FSHC rely upon the ROM-1 Industrial District as a means to address its affordable housing obligation so the inclusion of affordable housing as a part of a mixed-use planned development in the zoning standards is recommended to be removed; and
- **WHEREAS**, additional modifications are provided to better clarify the permitted uses and required standards of the ROM-1 District.
- **NOW, THEREFORE, BE IT ORDAINED** by the Township Council of the Township of West Windsor, County of Mercer, State of New Jersey, as follows:

Section 1. Chapter 200 of the Code of the Township of West Windsor (1999), Land Use, Part 4, Zoning, Article XXIX, Regulations for Research/Office/Manufacturing, Research/Office and Research and Development Districts, Section 200-209, ROM-1 Industrial District (research, office, limited manufacturing) use regulations, Subsection A, Permitted Uses, Item (8) is amended as follows. Added text is use planned underlined, and text being eliminated is struck-through.

- (8) <u>Commercial</u> Mixed-use development, notwithstanding any other requirements of this Part 4, except as changed herein, shall also be subject to the following special requirements:
 - (a) Permitted uses:
 - [1] All those permitted and accessory uses within the ROM-1 District.
 - [2] Research and business development incubator facilities, providing flexible designed spaces that can accommodate shared administrative, laboratory, computer and related research support services, including limited manufacturing facilities.
 - [3] Conference center.
 - [4] Hotel.
 - [5] Business support uses primarily intended to service the <u>commercial</u> mixed_use park tenant needs, to include, but not be limited to, health clubs, child-care facilities, <u>convenience</u> retail, professional offices and <u>service uses</u>, <u>branch</u> banks (excluding drive-through facilities), restaurants, package shipment collection points, business libraries, travel agencies, recreational facilities and similarly related activities.
 - [6] Affordable housing as an integral part of a mixed use planned development, subject to the following provisions:
 - [a] Dwelling unit type, bulk and density standards shall be governed by the criteria contained in § 200-183, regarding the R-4B District, of this Part 4.
 - [b] Affordable housing units shall comply with the affordability criterion and other provisions governing such units as contained in § 200-237, Application and interpretation of low/moderate-income housing provisions, of this Part 4.
 - [c] There shall be no more than one affordable housing project located within any one mixed use planned development.

- [d] Location of housing within a planned development shall be conducive to fostering a residential neighborhood environment and shall be accessible to the development's common open space and public facilities or shopping services, if provided.
- [e] Recreational uses shall be appropriately buffered from nonresidential uses within the planned development and shall comply with landscape buffer requirements contained in Part 3, Subdivision and Site Plan Procedures, of this chapter. To the extent practicable, residential uses shall be in proximity to other residentially zoned areas of comparable dwelling unit type and density which may be adjacent to the ROM-1 District. Accessibility to public transportation or provisions for such accessibility shall be provided within the overall site design of such residential uses.
- [f] Residential areas shall be provided with appropriate active recreational facilities as governed by recreational design criteria contained in § 200-36C of Part 1, Site Plan Review, of this chapter.
- (b) Minimum <u>commercial</u> mixed_use planned development area: 20 acres in contiguous parcels not separated by an existing street, and served by public water and sewer systems.
- (c) Minimum lot area within <u>commercial</u> mixed-use development: four acres.
- (d) Minimum commercial mixed-use development and lot frontage: 300 feet.
- (e) <u>Commercial Mixed-use</u> development design, building arrangement, lot width, frontage, depth and yards.
 - The mixed_use design shall be based on a planned development concept providing for a unified Master Plan governing the land use, circulation, open space and utility needs of the development.

 Comprehensive design guidelines for building and site layout as well as landscape treatment shall be provided along with provision for maintenance of common areas and spaces. The Plan shall also contain a staging component to ensure the orderly completion of the project in relationship to the capacity of the existing or planned infrastructure to absorb a particular stage or stages of the development. Such staging component shall be consistent with any Township timed growth control ordinance that may be in effect.

- [2] Buildings, lots, yard sizes and dimensions may be freely disposed and arranged and shall conform to the provisions of Part 1, Site Plan Review, of this chapter, and subject to the minimum standards below. The Planning Board may reduce the following standards for setback requirements from internal access roads of a <u>commercial mixed-use</u> development based on an approved Master Plan for the planned development, provided that such reduction does not create undesirable visual and spatial impacts on abutting properties or when viewed from the public right-of-way.
 - [a] Minimum setback from the street line: 100 feet for lots located along a commercial mixed-use development internal access road with a fifty-foot landscape area at the street right-of-way; and 125 feet with a seventy-five-foot landscape area at the street right-of-way when located along arterial roads as designated on the Township's Circulation Master Plan.
 - [b] Minimum setback from side and rear property lines: 40 feet, except where such yards are located on the perimeter of the commercial mixed-use development, they shall be 50 feet. Yards that abut a residential zone district line shall be increased according to the requirements set forth within the bulk standards for the ROM-1 District.
 - [c] Where more than one structure is located on a lot within the planned development, the structures shall be no closer to each other than 35 feet or the average height of the structure, whichever is greater.
- (f) Maximum building height and placement: six stories, but not more than 75 feet, provided that four or more storied buildings conform to the following standards, notwithstanding other provisions of this article to the contrary:
 - [1] Four or more storied buildings shall be located only within a band 1,800 feet in width as measured from the right-of-way line of Route 1. An optional band width plan may be proposed to achieve an average width across the entire development tract of 1,800 feet, provided that such optional plan does not exceed 2,000 feet at its widest when measured parallel to the Route 1 right-of-way line. However, where such an averaging plan is proposed, those portions of a development tract abutting or opposite the plan projection of a residential zone district shall be located in a band width containing not more than 1,800 feet.

- [2] The minimum setback requirements from arterial or collector roads as designated in the Township's Circulation Master Plan shall be increased an additional three feet of setback for every one foot of building height which exceeds 45 feet.
- [3] Building heights may vary up to six stories, provided that the maximum floor area of the stories above a three-storied building shall not exceed 25% of the total FAR for the planned development as may be approved on a preliminary development application.
- (g) Common open space design covenants, conditions and restrictions: The organization, administration and financial arrangements and guaranties governing the common open space or other common facilities which may be a part of the park shall be subject to the requirements set forth for planned residential developments in Article XVII of this Part 4. Furthermore, a document containing the design covenants, conditions and restrictions governing the internal implementation of the commercial mixed-use Master Plan shall be prepared by the applicant, addressing the following items: regulation of operations and uses permitted within the planned development, design guidelines for site improvements and buildings, a design review procedure, restrictions during construction and maintenance guidelines and standards regarding common open space, on-site landscaping and all paved surfaces.
- (h) Development staging program.
 - [1] A program identifying the various stages of the development, including the necessary on-site, off-site and off-tract improvements to support each stage of the development shall be prepared by an applicant. In addition, the plan shall include:
 - [a] Adequate protection to ensure the completion of each stage through the use of maintenance and performance guaranties, covenants and other formal agreements.
 - [b] Proof that the stage is substantially self-functioning and self-sustaining with regard to access, utility services, parking, common open space, all amenities and other similar physical features. Further, each stage shall be capable of occupancy, operation and maintenance upon completion of construction and development of that stage or, in the case of subsequent stages, such subsequent stages shall likewise be in harmony with those under construction or in place. It is not intended that the creation of a tract-wide stormwater management system or

other common elements be precluded by the above individual stage self-sustaining requirement. If a particular stage is dependent upon a common detention stormwater management system located in another stage, then adequate assurances are to be provided so that its construction supports the development stage for which approval is being sought.

- [c] Proof that each stage is properly related to every other segment of the planned development and to the community as a whole and to all necessary community services which are available or which may be needed to serve the planned development in the future
- [d] A description of the off-tract and off-site improvements that would be necessitated by each respective stage and proposed responsibility for construction of such improvements, including pro rata share computations, according to the Township's Off-Tract Improvement Ordinance, if as appropriate. If the proposed development is located within a designated transportation improvement district (TID), then the applicable regulations of that TID shall govern the calculation of the prorata share for off-tract road improvements.
- [2] The Planning Board in its review of the adequacy of the length and timing of the staging program and the extent of off-site and off-tract improvements associated with the initial stage of development or a subsequent stage seeking final approval shall be guided by any Township timed growth control ordinance as well as traffic management or trip reduction policies and/or ordinances that may be in effect.

(i) Affordable housing incentives:

- [1] At least 100 affordable housing units may be provided within a mixed use planned development. For every unit constructed on site, an additional 550 square feet of nonresidential use over and above the maximum development program proposed by an applicant shall be permitted. Such additional nonresidential square footage shall not be utilized in the calculation of either off-tract improvement obligations or pro rata contributions for off-tract infrastructure improvements.
- [2] In lieu of on-site affordable housing construction, dedication to the Township of a suitable area for such housing construction by a Township designee of at least 15 acres for each 100 affordable units or

portion thereof within the planned development may be offered. For the provision of such a site area, an additional 50 square feet of nonresidential use over and above the maximum development program proposed by an applicant shall be permitted for each dwelling unit to be constructed. Such additional nonresidential square footage development potential shall not be utilized in the calculation of either off-tract improvement obligations or pro rata contributions for off-tract infrastructure improvements.

Section 2. Chapter 200 of the Code of the Township of West Windsor (1999), Land Use, Part 4, Zoning, Article XXIX, Regulations for Research/Office/Manufacturing, Research/Office and Research and Development Districts, Section 200-210, ROM-1 District Bulk and Area Standards, Subsection E, Minimum Yards, is amended as follows. Added text is underlined, and text being eliminated is struck-through.

E. Minimum yards:

- (1) Front yard: 125 feet with a seventy-five-foot landscape area at the street right-of-way.
- (2) Rear yard: 40 feet.
- (3) Side yards: There shall be two side yards with a minimum of 40 feet each.
- (4) Yards abutting residential districts.
 - (a) The above yards, including the landscape transition buffer and screen requirements, shall be increased by 35 feet in those instances where they abut, in whole or in part, a residential zone district or lot line.
 - (b) Furthermore, in those instances involving greater than a two-story building or structure with an associated parking facility-for both nonresidential and residential uses, the minimum setbacks as measured to the nearest residential district zone line shall be as set forth below. These increased setback requirements shall apply only to a development application which contains a planned commercial development.
 - [1] For buildings and structures the minimum setback shall be 500 feet.
 - [2] For pervious <u>surfaces</u> and impervious surfaces the minimum setback shall be 300 feet.
 - (c) The Planning Board may reduce these setback standards, but in no event shall the setback be reduced by more than 50%, upon a satisfactory showing by the applicant that, through the provision of berming and landscaping, or in combination with building site placement, a complete

visual screen of <u>all</u> the nonresidential uses is achieved when viewed from existing grade level at an adjacent residential property line. The following criteria shall be used as a guide by the Planning Board in its review of a request to relax the increased setback standards:

- [1] The height of berm and its associated landscaping, including the density of plant material on the berm, shall be increased above the minimum buffer requirements established by the Township's landscape standards contained in § 200-91P of Part 3, Subdivision and Site Plan Procedures, of this chapter. Such increase in berm height or plant materials or combinations thereof shall be provided so that the proposed structure is not visible above the proposed buffer at the reduced setback line when viewed from existing grade level at the adjacent residential property line. An effective visual buffer shall be established within two growing seasons of its initial installation.
- [2] Grading and planting plans, together with site section drawings showing lines of sight from a residential property line, shall be provided to demonstrate a site plan's conformance with these requirements.

<u>Section 3</u>. In the event of any conflict between the provisions and requirements of this section and the provisions and requirements of any other section of this chapter, the provisions and requirements of this section shall govern.

<u>Section 4</u>. This ordinance shall take effect twenty days after action or inaction by the Mayor as approved by law, or an override of a mayoral veto by the Council, whichever is applicable; upon filing with the Mercer County Planning Board; and upon publication according to law.

Introduction: January 29, 2024

Planning Board Approval: February 7, 2024

Public Hearing: February 26, 2024 Adoption: February 26, 2024

Mayor Approval: February 27, 2024

Effective Date: March 18, 2024

TOWNSHIP OF WEST WINDSOR

Community Development Department Division of Land Use

TO:

Marlena Schmid

Business Administrator

FROM:

Samuel J. Surtees 1/24

Manager, Division of Land Use

SUBJECT:

Proposed Ordinance Revisions to:

Section 200-209; 200-210

(ROM-1 Use, Bulk, Area Regulations)

DATE:

December 19, 2023

The proposed ordinance is intended to update and better clarify the permitted uses and required standards of the ROM-1 District, predominately by removing "affordable housing as an integral part of a mixed use planned development" from the list of permitted uses.

By way of background, the ROM-1 District had previously encompassed a significantly greater portion of the Township. At that time, the ROM-1 District had identified affordable housing as, "an integral part of a mixed used planned development" as a mechanism to encourage the production of affordable housing. Such units, the entirety of which are to be affordable, are only permitted to be developed in conjunction with a mixed-use planned development consisting of other permitted non-residential units. This provision is not intended to permit any market – rate residential units.

Since the adoption of the provision, the ROM-1 District has not in fact, contributed to the production of affordable housing. Furthermore, the Township adopted a Housing Development and Fair Share Plan (HE & FSP) in 2018 which was prepared pursuant to a Settlement Agreement between West Windsor Township and the Fair Share Housing Center. This agreement outlines the manner in which the Township will address its affordable housing obligation. Neither the Settlement Agreement nor the HE & FSP rely upon the ROM-1 District as a means to address the Township's affordable housing obligations. Gerry Muller, Township Planning Board & Affordable Housing Attorney, has confirmed this and has no objection to the provision of the code being removed as shown in the proposed ordinance.

Furthermore, this language for affordable housing has been found to be vague and has been misinterpreted. In order to prevent developers from continually misinterpreting the code and since it is not a productive nor required component to address the Township's affordable housing obligation, the proposed ordinance removes this provision from the ROM-1 District.

Finally, the proposed ordinance provides additional minor updates and clarifications to the code, including: modifying the types of business support uses permitted specifying "stormwater management" systems as opposed to just "detention" systems; removing reference to a "Transportation Improvement District" (the T.I.D. program was replaced with the current "Off-Tract Road Assessment Program"); and specifically identifying "pervious surfaces and impervious surfaces".

If you have any questions or require further clarification, please advise.

Thank you

c: ROM-1 District Zoning File

Gay Huber

From:

Sam Surtees

Sent:

Monday, February 12, 2024 9:24 AM

To:

Gay Huber Lisa Komjati

Cc: Subject:

ROM-1 ordinance 2024-03

Gay,

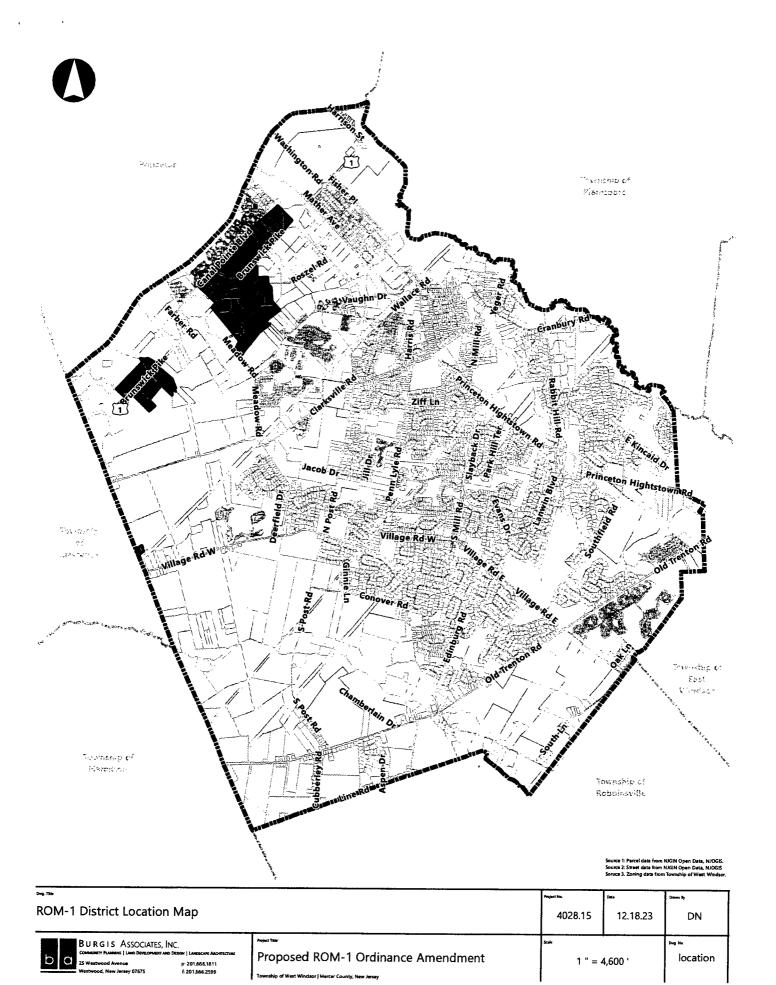
The planning board at their February 7, 2024 meeting voted unanimously to advise Township Council that Ordinance 2024-03 was consistent with the West Windsor Township Master Plan.

If you require any additional information please advise.

Thank you

Sam

Please be advised that the Township of West Windsor is subject to the New Jersey Open Public Records Act. As such, any email sent or received by the Township may be subject to a records request.



Gay Huber

From:

Benner, Jill <jbenner@mercercounty.org>

Sent:

Tuesday, February 27, 2024 8:20 AM

To:

Gay Huber

Cc:

Allison Sheehan

Subject:

'EXTERNAL'RE: Transmittal of Ordinance from West Windsor Township 2024-03



CAUTIO you reco Thank you. CAUTION: This email originated from outside the Township. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Jill Benner, Supervising Clerk Mercer County Planning Department 640 South Broad Street P.O. Box 8068 Trenton, NJ 08650-0068

Phone: 609-989-6545



From: Gay Huber <ghuber@westwindsortwp.com>

Sent: Tuesday, February 27, 2024 8:19 AM To: Benner, Jill < jbenner@mercercounty.org>

Cc: Allison Sheehan <asheehan@westwindsortwp.com>

Subject: Transmittal of Ordinance from West Windsor Township 2024-03

Good Morning,

Please find attached Ordinance 2024-03 which was adopted by the West Windsor Township Council at their meeting held on Monday, February 26, 2024. If there is anything additional you need please feel free to reach out.

Have a wonderful day.

Gay

Ms. Gay M. Huber **Township Clerk Township of West Windsor** 609-799-2400 ext 213 ghuber@westwindsortwp.com

To stay informed please consider signing up for the Township's e-bulletins at: Register for town emails (westwindsornj.org) and Police Department Alerts at: Police Dept. Alerts (westwindsornj.org)

Please be advised that the Township of West Windsor is subject to the New Jersey Open Public Records Act. As such, any email sent or received by the Township may be subject to a records request.

AFFIDAVIT

STATE OF NEW JERSEY

: SS

COUNTY OF MERCER

AFFIDAVIT OF PUBLICATION

I, Gay M. Huber, Municipal Clerk of the Township of West Windsor in the County of Mercer, being duly sworn according to law, depose and say that the notice which is attached hereto is exactly as it was published on February 2, 2024 in the Princeton Packet, a semi-weekly newspaper of general circulation, printed in the State of New Jersey and having its publication office at 300 Witherspoon Street, Princeton, New Jersey.

NOTICE OF PENDING ORDINANCE

ORDINANCE 2024-03

AN ORDINANCE TO AMEND AND SUPPLEMENT
THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999)
CHAPTER 200 OF THE CODE OF THE TOWNSHIP OF WEST WINDSOR ENTITLED
LAND USE, PART IV ENTITLED ZONING, ARTICLE XXIX ENTITLED REGULATIONS
FOR RESEARCHOFFICE MANUFACTURING, RESEARCHOFFICE AND
RESEARCH AND DEVELOPMENT DISTRICTS, SECTION 200-209 ENTITLED ROM-1
INDUSTRIAL DISTRICT (RESEARCH, OFFICE, LIMITED MANUFACTURING) USE
REGULATIONS AND SECTION 200-210 ENTITLED DISTRICT BULK AND AREA
REGULATIONS

The ordinance published herewith was introduced and passed upon first reading at a meeting of the governing body of the Tewnship of West Windsor, in the County of Mercer, State of New Jersey, held on January 29, 2024. It will be further considered for final passage, after public hearing therson, at a meeting of the governing body to be held in the West Windsor Township Municipal Building, 271 Clarksville Road, in the Township on February 26, 2024 at 7:00 o'clock P.M., and during the weeks prior to and up to and including the date of such meeting, copies of said ardinance will be made available at the Clerk's office to the members of the general public who shall request the same.

Gay M. Huber Township Clerk Township of West Windsor 1x, PP, 2/2/24, Fee:\$24.01

Gay M. Huber, Township Clerk

Sworn and subscribed to before me this $\frac{5^{1/2}}{2024}$ day

Notary Public of New Jersey

ALLISON D. SHEEHAN Notary Public, State of New Jersey Comm. # 50085844 My Commission Expires 7/10/2028

Adv. Fee: \$24.01 PD: 2/2/24

AFFIDAVIT

STATE OF NEW JERSEY

: SS

COUNTY OF MERCER

AFFIDAVIT OF PUBLICATION

I, Gay M. Huber, Municipal Clerk of the Township of West Windsor in the County of Mercer, being duly sworn according to law, depose and say that the notice which is attached hereto is exactly as it was published on March 1, 2024 in the Princeton Packet, a semi-weekly newspaper of general circulation, printed in the State of New Jersey and having its publication office at 300 Witherspoon Street, Princeton, New Jersey.

NOTICE

Notice is hereby given that the following ordinance entitled:

ORDINANCE 2024-03

AN ORDINANCE TO AMEND AND SUPPLEMENT
THE CODE OF THE TOWNSHIP OF WEST WINDSOR (1999)
CHAPTER 200 OF THE CODE OF THE TOWNSHIP OF WEST WINDSOR ENTITLED
LAND USE, PART IV ENTITLED ZONING, ARTICLE XXIX ENTITLED REGULATIONS
FOR RESEARCH/OFFICE/MANUFACTURING, RESEARCH/OFFICE AND
RESEARCH AND DEVELOPMENT DISTRICTS, SECTION 200-209 ENTITLED ROM-1
INDUSTRIAL DISTRICT (RESEARCH, OFFICE, LIMITED MANUFACTURING) USE
REGULATIONS AND SECTION 200-210 ENTITLED DISTRICT BULK AND AREA
REGULATIONS

was duly approved and adopted on Second and Final reading at a regular meeting of the West Windsor Township Council held on February 26, 2024 and was approved by Mayor Hemant Marathe on February 27, 2024. This Ordinance shall become effective on March 18, 2024.

Gay M. Huber Township Clerk West Windsor Townshi 1x, PP, 3/1/24, Fee:\$22.51

Gay M. Huber, Township Clerk

Sworn and subscribed to before me this 5% day

Notary Public of New Jersey

ALLISON D. SHEEHAN Notary Public, State of New Jersey Comm. # 50085844

My Commission Expires 7/10/2028

Adv. Fee: \$22.51

PD: 3/1/24