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January 3, 2014

Kevin Kochanski
Director of Community Development
Township of Radnor
301 Iven Avenue
Wayne, PA 19087

Re: Proposed MUST Ordinance

Kindly consider this letter as a response by BioMed Realty Trust to the letter dated December 18, 2013 of counsel for Brandywine Realty Trust in response to the newly revised Radnor Township Staff version of the MUST Ordinance in the PLO Zoning District. BioMed feels a response is necessary due to the gross inaccuracies and misrepresentations made in the December 18th letter. Please distribute this letter to the members of the Planning Commission and the Board of Commissioners in advance of their respective meetings the week of January 6, 2014.

Currently on the BioMed site there exists gross building area of 427,109 square feet of which 228,887 square feet is designated as a research building constructed in the 1950s, which is a combination of offices and laboratory space. In 2009 the Township approved Final Land Development Plans to construct an additional 47,979 SF of office space, through the demolishing of an existing building and the construction of a new office building, raising the total gross floor area on the site to 475,088 SF (246,201 Offices + 228,887 Research).¹ Under the Radnor Township Zoning Ordinance the parking for laboratory/research space is different than office space. Since the office use is permitted as of right in the current PLO Zoning District, BioMed would only need to supply additional parking if it wished to make the existing research building into exclusively offices. Such a parking plan was presented to the Township's Zoning Officer which he accepted, hence the determination that BioMed is currently permitted as of right to construct 475,000 SF of office space.

Brandywine further asserts that that no variances were granted permitting BioMed to increase the height and building length requirement in the Zoning Code. Brandywine has simply ignored the

¹ In their letter of December 18, 2013, Brandywine contends that 23,400 SF of the approved construction was for laboratory/research. This is specious. There is no record that any of the new construction was for anything other than offices.

MUST Ordinance
Page 2
January 3, 2014

Order of the Zoning Hearing Board dated February 28, 2008. That Order specifically states: “The relief granted by this Order is limited to relief from Zoning Code Section 280-64(D)(1) and Zoning Code Section 280-64(E)...” Section 280-64(D)(1) specifically pertains to the building length of 160 feet and Section 280-64(E) specifically refers to the building height requirement. The statements by Brandywine misrepresent the decision of the Zoning Board.

Interestingly the Base provision of the Township Staff’s revised PLO Ordinance permits Biomed to only construct 264,235 SF of offices. As previously noted this is significantly less than BioMed’s by-right approved Plan for 475,000 S.F. of offices. From the outset, Brandywine has stated that it has no objection to BioMed constructing 267,560 SF of offices together with other uses. The new revisions to the Ordinance limit the Base office use on the BioMed site to 264,235 SF. Despite the revised Ordinance meeting Brandywine’s demand, Brandywine continues its opposition to the Ordinance. Brandywine contends that it is “deathly scared of traffic” and its affect on their current tenants. Brandywine also asserts that it lost a tenant in Conshohocken due to traffic concerns. Contrary to these statements of concern, Brandywine continued to bid on property in Conshohocken to construct additional offices. As recently as last month Brandywine lost a bid in which they proposed a new 14-story 226, 920 square foot office building and a 400-car underground parking garage on a 15,768 square foot parcel on Fayette Street in Conshohocken together with the addition of an additional 200 parking spaces on a nearby site.² One only has to wonder if Brandywine’s real concern is the affect of traffic or the affect of competition on their 1.8 million square feet of offices in Radnor Township.

BioMed purchased and owns 26.96 acres as a single parcel of land. Brandywine complains that 7.9 acres of that parcel which is currently largely bucolic undeveloped green space should not be included in the Lot Area calculations since the Blue Route highway is elevated above it. This area mainly consists of woods and streams. A natural walking/biking pathway is intended to connect the site with Lancaster Avenue and the existing township trail system. It is an integral piece of BioMed’s property and its proposed development.

Brandywine fails to note that the Radnor Township Zoning Code in calculating gross Lot Area includes all land within the deeded boundaries of a tract including those areas in the right of way. Since the FAR concept is new to the Radnor Zoning Code, but a common provision in more recently drafted Codes, it is only logical that the definition of Lot Area remain the same. In fact, the Zoning Hearing Board of Radnor Township in a recent decision determined that the definition of Lot Area includes those areas in the right-of-way. The intent of the MUST and the definition of Lot Area within the MUST is consistency with other provisions of the Radnor Zoning Code. The only property significantly affected by a change in the definition of Lot Area is that owned by BioMed, hence the reason for Brandywine’s opposition.

² See Montgomery Media, by Carl Rotenberg, published on August 18, 2013.

MUST Ordinance
Page 3
January 3, 2014

Brandywine claims that the Radnor Zoning Officer stated that traffic mitigation would not be required under any Base Density within the MUST. This misrepresents the statements of the Zoning Officer. The Conditional Use process, even for Base Density, requires an extensive Development Impact Study which includes traffic issues. As part of the Conditional Use approval, as well as part of the Land Development process, an applicant will be required to perform traffic improvements. If an applicant wishes to go beyond the Base Density, which in BioMed's situation is already less than that permitted by-right, an applicant would need to perform extensive off-site traffic mitigation in addition to that required on-site. These requirements of wide-ranging traffic improvements, again calls into question Brandywine's true motives in its opposition to the Ordinance.

Brandywine complains that they have been excluded from the Township's process. On October 1, 2012 Brandywine had their initial Land Planner, Barton Partners, submit a report to the Township analyzing BioMed's proposed MUST Ordinance. Many of the recommendations by Brandywine's then Land Planner, a copy of which is attached, were incorporated into the Ordinance revisions, particularly, those relating to additional uses, expansion of the required lot area to qualify for the MUST, and additional building height. Additionally, BioMed met with representatives of Brandywine in May of 2013 in order to discuss the current state of the Ordinance. Brandywine first appeared before the Board of Commissioners in opposition to the Ordinance in September of 2013. BioMed has reviewed the tapes of the township meetings since Brandywine first appeared. At that time the Ordinance was proposed by BioMed and they were presenting the Ordinance to the various Boards. Despite the fact that BioMed was presenting the Ordinance, both BioMed's and Brandywine's representatives have each taken 3 hours and 8 minutes of time before the Boards since September. BioMed believes that the Boards have been much more accommodating to permitting Brandywine to present their same redundant, misleading arguments and facts on multiple occasions with the apparent intent of delaying the process. Due to the time constraints of these meetings, BioMed has been denied the attempt to present new quantifiable traffic studies which could significantly aid the Boards in reaching a conclusion. In this regard BioMed, respectfully requests that at its next meeting the Planning Commission permit BioMed 20 minutes to present these traffic reports.

In closing the Board cannot ignore the conclusions of the Township staff, the Township's traffic engineer, SEPTA, and the tangible traffic analysis offered by McMahon Associates, that the MUST Ordinance achieves its purposes. The revised Ordinance incorporates the comments of the Planning Commission, the Board of Commissioners, and even Brandywine's original Land Planner regarding the mixing of uses, the minimization of traffic impacts, the advantages of mass transit, the avoidance of burden on the public schools, the expansion of stormwater management methods, and the creation of a Green/LEED environment. In conclusion after just short of two years of debate, the time has come for the approval of the Township's MUST Ordinance.

MUST Ordinance

Page 4

January 3, 2014

Very truly yours,



NICHOLAS J. CANIGLIA

Enc.

- c. Robert A. Zienkowski
John Rice, Esquire
Peter Nelson, Esquire
Marc B. Kaplin, Esquire

To: Brandywine Realty Trust

Attn: Tony Ziccardi

From: Seth A. Shapiro

Email: sshapiro@bartonpartners.com

Date: October 1, 2012

Re: Proposed Mixed Used Transportation Development (Must) Amendment to the –
Radnor Township PLO Zoning District

We have had the opportunity to preliminarily review the proposed Amendment referenced above. The content of the zoning amendment certainly *does not* read as its title implies – for the advocacy of a mixed use transit oriented district. Rather, the text of the amendment seems only to support the intensification of commercial (office) development within a corridor where commercial development (office) is the primary land use.

Indeed, the ordinance has a land area limitation for sites 10 acres or greater, which covers both the BioMed site and 201 King of Prussia Road owned by Brandywine Realty Trust. It would not include the parcel located in-between these two commercially oriented sites, which also includes one of the transit stops. The Amendment should cover all parcels between the Radnor Train Station and Route 30, to the north and east of King of Prussia Road.

A more detailed review is provided below in regard to Uses, Setbacks, Heights, and Buffers. We have not reviewed the signage elements of the ordinance.

PERMITTED LAND USE: The ordinance actually limits uses to what is currently present on the site, and does not postulate a mix of uses appropriate to the district's regional infrastructure connectivity. Transit Oriented Developments are characterized by a mix of uses that permit 24 hour activity, including residential and retail. Beyond the limited access highway interchange, (I-476) the sites covered by the amendments are also immediately adjacent to two regional/commuter rail stations...one of which is on the most heavily utilized commuter rail corridor in the United States. A true TOD ordinance would *require* a mix of uses, including:

- Retail
- Hospitality (Hotel/Conference Centers)
- Multi-Family Residential
- Senior Living (Independent and Assisted Living)
- Student Housing
- Active and Passive Open Spaces

Governing a mix of uses is a key aspect of any TOD ordinance. In general, minimum and maximum percentages of overall land uses are prescribed for both residential and commercial uses within a proposed district.

SETBACKS: Requiring a setback of 175 feet from “the property line parallel or most nearly parallel to a public street line” is counter to the notion that King of Prussia Road ought to be a vibrant pedestrian oriented thoroughfare, consistent with the term TOD. Should a mix of uses be proposed for these

memorandum

parcels, King of Prussia Road would certainly act as a front door, with buildings and active ground floors activating and accentuating the public realm. Indeed, TOD ordinances generally provide maximum setbacks as opposed to minimums, especially from public streets and for retail uses.

Universally large setbacks for parking structures are also counter to a mixed use strategy. In pedestrian oriented districts parking structures can be seamlessly integrated into the built environment. This includes the placement of commercial or retail functions on the ground floor, lining the garage with other uses, or using site topographical features to hide the structures. A 350 foot setback for a garage does not permit creative solutions as mentioned above, rather it forces the garage to the rear of the parcel, and essentially guarantees the placement of surface parking where there should be building.

There are a multitude of other setback issues within the amendment, all of which should be carefully evaluated for compliance with best practice in regard to Smart Growth.

BUILDING HEIGHT: The Height limit listed is 7 stories or 91 feet. This is commensurate with an office floor to floor of 13 feet. When a building is mixed use, especially one with retail uses on the ground floor, the first floor can be as high as 21 feet to the finished floor of the second level. This would mean that a 7 story mixed use building with office on the ground level and 6 levels of office above should really be 99 feet. We would also question why a 7 story limit is the cap given the site's access to regional infrastructure. Our recommendation would be 10 stories, or 120 feet. This also allows for taller residential buildings with enough permissible height to make buildings that are proposed to be taller than the high rise life safety code (75 feet) financially feasible.

BUFFERS: One of the hallmarks of an integrated mixed use, development is the lack of buffers. Buffers are useful in separating land uses, which is contrary to the goals of TOD and Smart Growth (though consistent with conventional suburban/Euclidian zoning. Requiring buffers is not recommended as the land area between King of Prussia road and the two rail rights of way out to be thought of as one integrated mixed use district. Additionally, requiring a planted buffer between King of Prussia Road and any building development is also counter to the goal of activating the street as a public space. Having a planted buffer of 100 feet along King of Prussia Road on exacerbates the notion that the road is a high speed automobile oriented thoroughfare. Our recommendation would be the transformation of King of Prussia Road into an urban boulevard, with a planted median, wide planted strips between the curb and the sidewalk for street trees, and a sidewalk of a width commensurate with a pedestrian oriented district (8 feet), activated where appropriate with ground level retail uses.

There are many other aspects of the proposed amendment that we believe need to be carefully reviewed. The above is merely a snapshot of the most (in our opinion) inappropriate restrictions for the parcels in question. An ordinance permitting a comprehensive mixed use transit oriented development typology for this area would certainly seem appropriate given the infrastructure in place. This would seem to entail either an overlay strategy commensurate with a master plan, or a complete re-write of the PLO district.