

THE EFFECTIVE DATE OF THIS ORDINANCE IS May 7, 2024

ORDINANCE NO. 24-02-002

**ORDINANCE
OF
THE COUNTY COUNCIL OF FREDERICK
COUNTY, MARYLAND**

**RE: KNOWLEDGE FARMS MXD
REZONING CASE R-21-02 (Amended July 2023)**

OPINION/FINDINGS

I. HISTORY

Knowledge Farms Partners, LLC (“Applicant”) originally filed this application in 2021 to change the zoning classification of 34.99 acres (“Site”), more or less, from Office/Research/Industrial (ORI) to Mixed Use Development (MXD) in order to accommodate proposed employment, commercial, residential, and institutional land uses. The Applicant withdrew the initial application in response to public comments during the first review and submitted this amended application in July of 2023. The Site is located at the intersection of MD 355 and Thornapple Drive in Urbana, Maryland. The Site sits adjacent to the Woodlands at Urbana, a planned community of 565 age-restricted homes developed by Natelli Communities.

The Site has been zoned Office/Research/Industrial since 1993 as part of the Urbana Region Plan adopted that year. The Site is within the Urbana Community Growth Area. The surrounding neighborhood, including Urbana High School and the Woodlands at Urbana, has a mix of zoning including Institutional, ORI, Natural Resource, Mixed Use, and Limited Industrial.

The Frederick County Planning Commission considered this request in a public hearing on October 19, 2023, and recommended approval of the application, with recommended conditions.

The County Council of Frederick County, Maryland, considered the request in a public hearing on March 5, 2024. The application was approved, with conditions, by the County Council on March 19, 2024.

Based upon the application, the staff report and all of the other evidence submitted in this case, the County Council makes the following specific findings of fact for the items below as identified in the Annotated Code of Maryland, Land Use Article §4-204(b) and included in Chapter 1-19 of the County Code:

II. PROPOSED DEVELOPMENT

A. County Plans and Regulations

1. Concept Plan

The application proposes to rezone 34.99 acres from Office/Research/Industrial (ORI) to Mixed Use Development (MXD). The Site is proposed for a mix of employment uses, commercial uses, residential uses, and institutional uses. The application does not identify all specific commercial or employment uses for the Site, other than the reference to medical offices, daycare, and self-storage facilities, while maintaining an existing office/research building on the Site. Specific uses will be subject to a subsequent Phase II site plan/subdivision review process. The proposed land use mix includes 6.71 acres commercial, 11.39 acres employment/institutional, 6.71 acres of residential, 13.42 acres of combined commercial/residential, 8.67 acres open space, and 1.5 acres for road right-of-way.

The MXD zone regulations allow for a maximum commercial use of 25% of the gross acreage of the Site when there is a residential component. The proposed Concept Plan table shows 6.71 acres (25%) which is the maximum allowed for commercial use. The Plan identifies potential commercial uses including medical offices, daycare, self-storage facilities, and other

uses as permitted in the General Commercial zoning district. This activity could be located anywhere within the 34.99-acre development area (up to the proposed 6.71 acre total).

The MXD regulations allow for the entirety of a project to be designated for employment uses. The Plan, however, proposes 3.41 acres of employment uses, which includes the existing 36,000 square foot office building, as well as other land within the 21.4-acre area identified on the Concept Plan as 'Mixed Use Area' for Employment uses as defined in the Zoning Ordinance. The Plan also proposes up to 7.98 acres of Institutional uses in the form of an assisted living facility, including continuing care and memory care units.

The MXD regulations allow for a maximum residential use of 25% of the gross acreage of the Site. The plan proposes senior-age restricted, multi-family residences for a 6.71-acre portion of the Site. The plan also imposes a self-limitation of 150 active-adult dwelling units. The Plan proposes 125 multi-family dwelling units to be located in five 5-story structures as well as 22 single-family attached dwellings.

The area designated for open space incorporates a largely forested intermittent stream and its buffer. The 8.67 acres of Open Space identified in the Concept Plan exceed the minimum 3.35 acres required by the County Code.

2. Phasing Plan

Section 1-19-10.500.5(D) requires a phasing plan to be submitted with a MXD floating zone reclassification application that describes the timing and sequence for dedication of public lands and development of public facilities and utilities, including public road and water and sanitary sewer service.

There are no significant public facility needs required to be met prior to development on the Site, other than those network and system improvements typically required as part of a Phase

II site development plan (e.g., road and intersection improvements). The existing approved Site Plan for the property has met the applicable regulatory requirements.

3. Land Use Proposal

The Concept Plan includes commercial, employment, institutional, and residential uses. The proposed land use mix allows for 6.71 acres commercial, 11.39 acres employment/institutional, 6.71 acres of residential, 13.42 acres of combined commercial/residential, 8.67 acres open space, and 1.5 acres for road right-of-way. As discussed above, this proposed land use mix complies with the County Code requirements.

4. Consistency with the County Comprehensive Plan

The application is consistent with the County Comprehensive Plan. The Site has a land use plan designation of Office/Research/Industrial (ORI) and is within the Urbana Community Growth Area. An ORI land use plan designation permits the application of the MXD floating zone district, with approval by the County Council.

The application is also consistent with the Livable Frederick Master Plan (LFMP). The LFMP embodies a focus on policy and general growth strategy in order to articulate a clear direction for Frederick County in the face of future change. This application is consistent with the broad LFMP policies that seek to establish land uses which are generally supportive of the economic, employment, and service needs of our communities and neighborhoods located within designated Community Growth Areas such as the Urbana/I-270 Corridor Community Growth Area that surrounds this Site. The rezoning of land that is the subject of this Application would continue to allow for additional employment, commercial, age-restricted residential, and institutional uses in an area long identified for such development in County planning documents.

5. Compatibility with Adjoining Zoning and Land Uses

The Site has been zoned Office/Research/Industrial (ORI) since 1993 as part of the Urbana Region Plan update adopted that year. The surrounding neighborhood includes a mix of zoning, including Institutional, ORI, Natural Resource, Mixed Use (MXD), and Limited Industrial. The proposed MXD zoning is generally compatible with surrounding zoning and land uses.

6. Availability of Public Facilities and Services

The proposed MXD rezoning will not impact school capacity, and will not significantly impact parks, public safety, or library facilities. Water is supplied by the New Design Water Treatment Plant. Sewer is treated by the Ballenger McKinney Wastewater Treatment Plant.

The Site is served by the Urbana Volunteer Fire Company (Station #23) which is approximately 1.2 miles from the Site. This is within the recommended maximum distance of 2 miles for high value commercial development. Police protection would be provided by the Frederick County Sheriff's Office.

B. Approval Criteria

§ 1-19-3.110.4 (A) – Approval Criteria for Zoning Map Amendments

(1) Consistency with the comprehensive plan;

The Site is designated Office/Research/Industrial on the current Comprehensive Plan Map which is consistent with the application of the MXD floating zone district. The proposed uses of the Site, including employment, commercial, residential, and institutional, would be appropriate in supporting the employment and residential uses in the vicinity.

(2) Availability of public facilities;

The proposed MXD rezoning will not impact school capacity, and will not significantly impact parks, public safety, or library facilities. Water is supplied by the New Design Water Treatment Plant. Sewer is treated by the Ballenger McKinney Wastewater Treatment Plant.

(3) Adequacy of existing and future transportation systems;

The proposed MXD rezoning should not affect the adequacy of existing and future road networks. Existing planned projects, as well as modest improvements in the immediate vicinity of the Site, will provide adequate functionality to the transportation network in Urbana.

(4) Compatibility with existing and proposed development;

The proposed commercial, residential, and institutional uses would be compatible with the existing and planned mix of residential, employment, and commercial uses in the area.

(5) Population change;

Population change resulting from the further development of the Knowledge Farms Site would be limited to the residential and institutional uses proposed by the Applicant.

(6) The timing of development and facilities;

The application does not propose a schedule for development of the Site. The Site will be subject to subsequent subdivision, site plan, and AFPO review.

(7) Sensitive environmental resources have been identified and impacts to these resources are avoided or minimized to the maximum extent practicable.

Areas of the Site which are characterized by sensitive environmental resources are generally not identified for development activity. An existing Forest Conservation easement is located along the southern portion of the Site and along the intermittent stream that runs parallel to MD 355. The stream and its buffer, as well as the FRO area, are proposed as open space/green area in the Concept Plan

(8) Historic resources have been identified and impacts to these resources are avoided or minimized to the maximum extent practicable.

There are no identified historical or cultural resources on the Site.

§ 1-19-10.500.3. – Approval Criteria for Planned Development Districts

(A) The proposed development is compact, employing design principles that result in efficient consumption of land, efficient extension of public infrastructure, and efficient provision of public facilities;

The proposed Site will have a relatively compact development due primarily to the small size of the parcel as well as some of the natural site constraints. The area has extensive existing infrastructure including water/sewer lines and road improvements that would support development of the Site.

(B) The proposed development design and building siting are in accordance with the County Comprehensive Plan, and any applicable community corridor plans;

The application does not identify a specific business or user for the Site, so it is difficult to address building and site design at this stage. These factors will be applied at Phase II of development. There is no current Community or Corridor Plan for this area.

(C) The proposed development is compatible with existing or anticipated surrounding land uses with regard to size, building scale, intensity, setbacks, and landscaping, or the proposal provides for mitigation of differences in appearance or scale through such means as setbacks, screening, landscaping; or other design features in accordance with the County Comprehensive Plan, and any applicable community or corridor plan;

The proposed commercial use can be made compatible with surrounding uses through careful design and siting of new structures. The subsequent site plan review for the Site would address detailed design issues such as parking, landscaping, screening, building height, building massing/location, etc.

(D) The proposed development provides a safe and efficient arrangement of land use, buildings, infrastructure, and transportation circulation systems. Factors to be evaluated include: connections between existing and proposed community development patterns, extension of the street network; pedestrian connections to, from, and between buildings, parking areas, recreation, and open space;

A subsequent Site Development Plan review will evaluate the safety and efficiency of the arrangement of on-site buildings and infrastructure.

(E) The transportation system is or will be made adequate to serve the proposed development in addition to existing uses in the area. Factors to be evaluated include: roadway capacity and level of service, on-street parking impacts, access requirements, neighborhood impacts, projected construction schedule of planned improvements, pedestrian safety, and travel demand modeling;

Transportation network adequacy will be achieved through a combination of planned improvements and Site access modification.

(F) The proposed development provides design and building placement that optimizes walking, biking, and use of public transit. Factors to be evaluated include: extension of the street network; existing and proposed community development patterns; and pedestrian connections to, from, and between buildings, parking areas, recreation, and open space;

The application does not include specific uses or engineered layouts of the Site. The primary pedestrian access will be along Thornapple Drive, Urbana Parkway, and Urbana Pike.

(G) Existing fire and emergency medical service facilities are or will be made adequate to serve the increased demand from the proposed development in addition to existing uses in the area. Factors to be evaluated include: response time, projected

schedule of providing planned improvements, bridges, roads, and nature and type of available response apparatus;

The Site is served by the Urbana Volunteer Fire Company (Station #23) which is approximately 1.2 miles from the Site. This is within the recommended maximum distance of 2 miles for high value commercial development. Police protection would be provided by the Frederick County Sheriff's Office.

(H) Natural features of the site have been adequately considered and utilized in the design of the proposed development. Factors to be evaluated include: the relationship of existing natural features to man-made features both on-site and in the immediate vicinity, natural features connectivity, energy efficient site design, use of environmental site design or low impact development techniques in accordance with Chapter 1-15.2 of the Frederick County Code;

The natural features of the Site will be incorporated into the planned open space areas, as well as protected through Forest Conservation easements already in place.

(I) The proposed mixture of land uses is consistent with the purpose and intent of the underlying County Comprehensive Plan land use designation(s), and any applicable community or corridor plans;

The Site is designated Office/Research/Industrial which allows for the application of the MXD floating zone. The addition of the commercial, residential, and institutional uses to the employment uses already occupying the Site is consistent with the intent of the MXD zone to provide the opportunity for commercial uses to support the surrounding residential community and is in keeping with the Livable Frederick Master Plan policy of supporting a mix of uses in the County's designated growth areas.

(J) Planned developments shall be served adequately by public facilities and services. Additionally, increased demand for public facilities, services, and utilities created by the proposed development (including without limitation water, sewer, transportation, parks and recreation, schools, fire and emergency services, libraries, and law enforcement) shall be evaluated as adequate or to be made adequate within established county standards;

Existing infrastructural systems are sufficient to support the proposed development as described in the application. The Site is situated approximately 1.2 miles from the Urbana Volunteer Fire Company (Station #23). The Site is within the recommended maximum distance of 2 miles for high value commercial development. Police protection would be provided by the County Sheriff's Office.

(K) Sensitive environmental resources are protected to the maximum extent practicable; and

Areas of the Site which are characterized by sensitive environmental resources are generally not identified for development activity. An existing Forest Conservation

easement is located along the southern portion of the Site and along the intermittent stream that runs parallel to MD 355. The stream and its buffer, as well as the FRO area, are proposed as open space/green area in the Concept Plan

(L) All efforts have been made to promote the protection, preservation, and integration of historic resources into the planned development through reuse, adaptive use and rehabilitation.

There are no identified historical or cultural resources on the Site.

Based upon the findings herein and the record evidence, the County Council has determined that it is appropriate to grant the rezoning request in Case No. R-21-02, subject to the conditions listed below.

ORDINANCE

BE IT ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND, that for the reasons set forth above, the rezoning of 34.99 acres of land (as depicted in the application) to Mixed Use Development (MXD) is hereby granted, subject to the following conditions:

1. The Applicant shall develop no more than 147 age-restricted dwellings and 150 assisted living beds, cumulatively, on the Site.
2. Covenants shall restrict 100% of the dwelling units in the Knowledge Farms MXD project to be age-restricted per the Federal Fair Housing Act and the Housing for Older Persons Act of 1995. There shall be a further limitation on the minimum age of permanent residents being 19 years of age in order to qualify for an APFO exemption under §1-20-7(D) of the County Code. These covenants shall be recorded prior to the recording of the first subdivision plat. The covenants shall be recorded and made part of the title for each dwelling unit. Every property owner within the age-restricted development (and HOA) shall be beneficiaries of the covenants with the ability to

enforce them through administrative or judicial proceedings. These covenants are to be reviewed by the County Attorney's Office to ensure that these covenants are recorded and restrict age as proffered in a binding and enforceable manner. The required biannual federal surveys by the HOA (24 CFR1 100.307) shall be made available to the County for its review and records.

3. Any single-family attached (villa-style) dwelling units shall be limited to no more than 2-stories (or 30 feet) in height. Multi-family structures shall be limited to no more than 5-stories in height (4 levels of occupied residential space plus 1 level of above-ground structured parking). Any institutional structures shall be limited to no more than 3-stories in height. Any residential, commercial, or institutional structures located within 200 feet of any portion of a single-family attached dwelling unit fronting upon Thornapple Drive or Herb Garden Drive shall be limited in height to no more than 2-stories (or 30 feet).
4. The warrant analysis for the traffic signalization of the Urbana Pike/Thornapple Drive/Campus Drive intersection shall be completed prior to buildout of any commercial or institutional uses on the Site.
5. Signage shall be installed by the Applicant, in accordance with the Maryland Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD) and the rules and standards established by Frederick County's Division of Public Works, on Thornapple Drive (west of its intersection with the access drive serving the existing Knowledge Farms office building at 3280 Urbana Pike) that indicates 'No Through Traffic'.

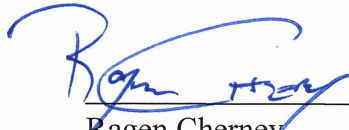
6. The business hours for any commercial uses or activities on the Site shall not extend beyond 10 PM.
7. No new primary structure developed as a result of this rezoning shall be placed within 50 feet of the property boundary of the community known as The Woodlands of Urbana. No new accessory structure developed as a result of this rezoning shall be placed within 50 feet of any existing individual residential property boundary within the community known as The Woodlands of Urbana.
8. Prior to the recordation of any lot, or the issuance of the first building permit, for development activity on the Site approved through this rezoning application, the Applicant shall secure and guarantee a secondary full movement vehicular access to MD 355.

AND BE IT FURTHER ENACTED AND ORDAINED, that the Zoning Administrator is hereby authorized and directed to make the appropriate changes to the zoning map as reflected in this decision.

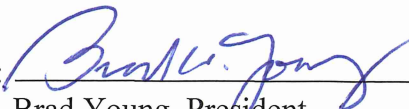
The undersigned hereby certify that this Ordinance was approved and adopted on the 7th day of May, 2024.

ATTEST:


COUNTY COUNCIL OF
FREDERICK COUNTY, MARYLAND




Ragen Cherney
Council Chief of Staff

By:  CK

Brad Young, President




Kavonte Duckett, Vice President



M.C. Keegan-Ayer, Council Member



Renee Knapp, Council Member




Mason Carter, Council Member

Council Members Jerry Donald and Steve McKay did not vote in favor of this rezoning.

Received by the County Executive on May 10, 2024.

County Executive Action: ✓ Approved _____ Vetoed _____ No Action



Jessica Fitzwater, County Executive
Frederick County, Maryland

5/13/24

Date