

THE EFFECTIVE DATE OF THIS ORDINANCE IS NOVEMBER 10, 2020

ORDINANCE NO. 20-05-005

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

**RE: CROMWELL PUD
REZONING CASE R-19-01**

OPINION/FINDINGS

I. HISTORY

Cromwell Investments, LLC (“Applicant”) filed this application to change the zoning classification of 160.87 acres, more or less (Property) from Agricultural (A) to Planned Unit Development (PUD) in order to accommodate a 600-unit age-restricted (55 or older) residential community. The property is located east of the intersection of Meadow Road and Hall Road, north of the Old National Pike.

The Property is located within the Linganore Community Growth Area and represents the last major undeveloped land within the growth area. It has been designated for Low Density Residential development since the adoption of the 1984 New Market Region Plan.

The Frederick County Planning Commission considered this request in a public hearing on January 22, 2020 and recommended approval of the application, with a number of recommended conditions.

The County Council of Frederick County, Maryland, held public hearings on the application on September 8 and September 10, 2020. The County Council further discussed the request on September 15 and September 22, 2020. The application was approved by a majority vote of the County Council (5-2) on September 22, 2020.

Based upon all of the 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 in Chapter 1-19 of the County Code:

II. PROPOSED DEVELOPMENT

A. County Plans and Regulations

1. Concept Plan

The Cromwell PUD Concept Plan proposes a residential development, with an age-restriction, and a maximum of 600 dwelling units. The application proposed a mix of dwelling types including: single-family detached, single-family attached (villas), multi-family (condos), and multi-family (tentative). The Concept Plan does not identify how many units of each dwelling type would be developed, but leaves that open to be determined at the Phase II subdivision/site plan stage.

A 4-acre public use site on the south side of proposed Lake Linganore Boulevard is identified in the Concept Plan and will be transferred to the County. The Applicant proposed this Site for a regional library.

With a gross area of 160.87 acres, the open space requirement under Chapter 1-19 is 30% or 48.2 acres. The Plan designates open space along the entire eastern boundary of the Property (15.5 acres), which incorporates the existing woodlands, steep slopes, and several stream corridors. The perennial stream along the eastern property line flows into Lake Linganore. This open space also extends into the middle of the property (13.5 acres) encompassing two intermittent streams and their buffers. A smaller open space area (3.5 acres) is in the southwestern part of the Property encompassing existing woodlands and wetlands. The third

open space area (11 acres) encompasses the parcel on the west side of Meadow Road that is wooded with moderate and steep slopes.

A 1-acre pocket park is shown on the south side of proposed Lake Linganore Boulevard, and a 4-acre site is shown at the entry corner. Together these open space areas would total approximately 48.5 acres.

2. Phasing Plan

The application does not propose a specific phasing plan. The project will be dependent on proposed Lake Linganore Boulevard for access, and the Applicant will be responsible for constructing that roadway. The Applicant will also be responsible for constructing the necessary water and sewer infrastructure, which is already in the vicinity of the Property.

3. Land Use Proposal

The Property, with a gross acreage of 160.87 acres and with the proposed maximum 600 dwellings, would have a gross density of 3.7 dwellings/acre. A net density calculation, based on the residential area of 104.4 acres, would result in a net density of 5.7 dwellings/acre. These densities are consistent with the Comprehensive Plan range for Low Density Residential of 3-6 dwellings/acre.

4. Consistency with the County Comprehensive Plan

The application is consistent with the County Comprehensive Plan. The Property is located within the Linganore Community Growth Area and represents the last major undeveloped land within the growth area. It has been designated for Low Density Residential development since the adoption of the 1984 New Market Region Plan.

The application for PUD zoning with a gross density of 3.7 dwellings/acre is consistent with the Low Density Residential plan designation and is within the 306 dwelling/acre density range.

The application is also consistent with the broad 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 residential and service needs of an increasingly older population, either through redevelopment or new development in communities and neighborhoods located within designated Community Growth Areas.

5. Compatibility with Adjoining Zoning and Land Uses

The proposed PUD zoning is compatible with adjoining zoning and land uses. The area surrounding the Property includes, on the west side of Meadow Road, large-lot, well/septic residential uses that were developed primarily in the 1960's, 70's, and 80's. To the north and east is the Lake Linganore/Eaglehead PUD, including the Alpine area to the north, which has not yet developed, and the Linganore Town Center area to the east, which is under construction.

6. Availability of Public Facilities and Services

The proposed age-restricted residential development will be adequately served by the current parks, libraries and public safety facilities. Schools will not be impacted due to the age-restriction of 55 years of age and older for residents, as well as the minimum age restriction of 19 years. For water/sewer service, the proposed 600 dwellings can be served by the existing water/sewer facilities after the extension of lines to the property by the Applicant.

B. Approval Criteria

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

(1) Consistency with the comprehensive plan;

The proposed PUD rezoning is consistent with the Low Density Residential land use plan designation on the current Comprehensive Plan Map within the Linganore Community Growth Area.

(2) Availability of public facilities;

The proposed PUD rezoning will not affect the adequacy of public facilities.

(3) Adequacy of existing and future transportation systems;

The proposed PUD rezoning should not affect the adequacy of existing and future road networks. The planned extension of Lake Linganore Boulevard from the Linganore Town Center will provide the primary access to the site. Having this road connect directly to the recently opened westbound ramp to I-70 will minimize the amount of trips having to use MD 144 to drive into the City of Frederick area.

(4) Compatibility with existing and proposed development;

The proposed PUD rezoning would be denser than existing residential uses to the west of Meadow Road. The density and dwelling types would be similar to the adjoining Oakdale Village and Linganore Town Center developments to the east.

(5) Population change;

Due to the age-restricted status of the proposed dwellings, and the likelihood of smaller household sizes throughout the development, the estimated population is likely higher than the actual population will be at buildout.

(6) The timing of development and facilities;

The application does not have a specific phasing plan for development. Development of the Site will not occur until Lake Linganore Boulevard is constructed, which is the responsibility of the Applicant. Water and sewer infrastructure is in the vicinity of the Property and will also be the Applicant's responsibility to extend to the Property.

§ 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 development is in a location where existing water/sewer infrastructure is in place and planned facilities such as the Lake Linganore Boulevard will provide access and connections to the surrounding community.

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

The proposed PUD zoning is consistent with the Low Density Residential plan designation of the County Comprehensive Plan. There is no 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 development would be denser than existing residential uses to the west of Meadow Road. The density and dwelling types would be similar and compatible with the adjoining Oakdale Village and Linganore Town Center developments to the east.

(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;

The proposed development will be able to connect with existing and planned infrastructure (water/sewer and roads) in the vicinity. The planned Lake Linganore Boulevard will connect this Property with the larger Linganore Town Center area to the east.

(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;

With the completion of the planned Lake Linganore Boulevard by the Applicant, the transportation system will be adequate to accommodate the development.

(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 Concept Plan does not have building design and location detail. The planned Lake Linganore Boulevard will connect the project to the Linganore Town Center development to the east.

(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 Spring Ridge Fire Station (Station #33) is approximately 1.5 miles from the Property. This station has professional staff and a full complement of fire and rescue equipment.

(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 including existing woodlands, moderate/steep slopes, and streams are incorporated into the open space areas of the development. The extent of the required stream buffers are also within the open space area. The open space area along the eastern boundary of the Property will adjoin an existing open space corridor, in the Linganore Town Center, centered along a stream.

(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 proposed age-restricted development will include a mix of dwelling types from single-family to multi-family with the specific proportions to be determined in Phase II.

(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.

The parks, libraries, and public safety facilities are currently adequate to serve the proposed age-restricted residential development. Schools will not be impacted due to the age-restriction of 55 years of age and older for residents, as well as the minimum age restriction of 19 years. For water/sewer service, the proposed 600 dwellings can be served by the existing water/sewer infrastructure in the vicinity of the Property.

§ 1-19-10.500.10. – Specific Development Standards within the Planned Development Districts

(1) Active and Passive Recreational Amenities

The project proposes to have a clubhouse with a pool and fitness center. Walking trails are also proposed within the project.

(2) Availability, sustainability and proximity of the development to planned support services

The nearest existing medical offices or facilities are located in the New Market shopping center approximately 3.5 miles to the east at MD 75; a Frederick Health Hospital facility in Urbana approximately 4.5 miles south; and at various locations in and around the City of Frederick approximately \pm 5 miles to the west. The adjoining proposed Delauter MXD (R-19-02) includes a commercial land use component that could provide an opportunity for medical offices and other support services.

(3) The amount of existing and approved age-restricted development in the county and in proximity to the proposed development.

There are two age-restricted developments in the County, Crestwood Village in the Ballenger Creek area and a portion of the Greenview PUD located on Old National Pike at Mussetter Road. Two planned developments in the County include a portion of the Ballenger Run PUD (36 dwellings) and the Woodlands at Urbana project (566 dwellings). One age-restricted project is proposed in the City of Frederick on the Crum Farm (Bloomfields) for up to about 1,500 dwellings.

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-19-01, with 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 160.87 acres of land (as depicted in the application) to PUD is hereby granted, subject to the following conditions:

1. A maximum of six hundred (600) residential, age restricted dwelling units will be allowed on the property.

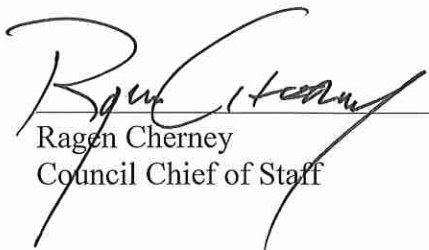
2. Covenants shall restrict 100% of the dwelling units of the project to be age-restricted per the Federal Fair Housing Act and the Housing for Older Persons Act of 1995. Covenants shall further limit the minimum age of permanent residents to 19 years of age. These covenants shall be recorded and made part of the chain of 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. The covenants are to be reviewed by and found acceptable to the County Attorney prior to recording. The PUD zoning is invalid if covenants as described herein are not recorded and do not restrict age of residents in a binding and enforceable manner. The required biannual federal surveys (24 CFR 100.307) shall be made available to the County for its review and records.
3. There shall be no direct motorized vehicle access to Meadow Road from the project.
4. Prior to recordation of the first residential subdivision plat, the developer shall: (1) subdivide and convey to the County, the +/- 4-acre public use site identified on the Concept Plan in a development-ready state (site graded, public water & sewer connections available to the site, and storm water management facilities (for quantity completed); or (2), or at the County's sole discretion, enter into a mutually agreeable Memorandum of Understanding to provide for the conveyance of the +/- 4-acre public use site and the condition(s) under which the public use site will be conveyed.
5. Prior to recordation of the first residential subdivision plat, the roadway identified as Lake Linganore Boulevard must be constructed in its entirety from the Linganore Town Center to Meadow Road and the I-70 ramp and open to traffic.

6. The connection of Neuville Street to Lake Linganore Boulevard shall not be open to traffic until Lake Linganore Boulevard is open to traffic from Meadow Road to its current terminus in Linganore Town Center.
7. If any historic structures are proposed for demolition, the Applicant shall provide the County with access to the structure(s) in order to document the house, outbuildings, and other related structures at least 90 days prior to the start of demolition.
8. The Applicant shall have a qualified professional investigate and locate any cemetery or burial ground that may be located on the site prior to the Preliminary Plan approval and prior to the issuance of a grading permit.
9. The Applicant shall address and resolve the issue of vehicular access to the property of Mary A. Stull & Martin E. Castle Sr. (TM 78, P. 0336).
10. During the Phase II process, the Applicant shall propose buffering and screening to mitigate noise and light pollution for property owners on Hutzell Road.
11. During the Phase II process, the Applicant shall propose substantial natural screening (a combination of berms and plants) to mitigate noise and light pollution for property owners on Meadow Road.
12. The Applicant shall preserve the existing forested areas to the greatest extent possible, and shall only clear those forested areas as required for providing water and sewer service to the site, and for the stream crossing planned in the northeast portion of the site.
13. No building permits shall be issued, except for model homes, until five (5) years after the effective date of this Ordinance.

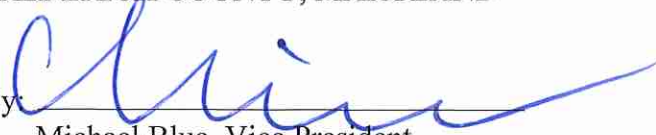
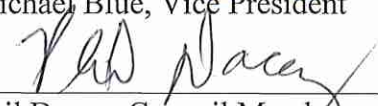
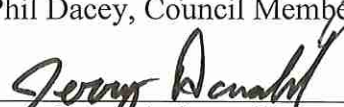
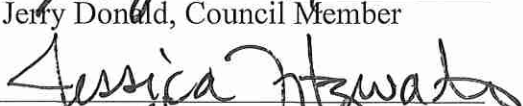

AND BE IT FURTHER ENACTED AND ORDAINED, that the Zoning Administrator is hereby authorized and directed to make the appropriate changes to the zoning map as reflected in this decision.

The undersigned hereby certify that this Ordinance was approved and adopted on the 10th day of November, 2020.

ATTEST:


Ragen Cherney
Council Chief of Staff

COUNTY COUNCIL OF
FREDERICK COUNTY, MARYLAND

By 
Michael Blue, Vice President

Phil Dacey, Council Member

Jerry Donald, Council Member

Jessica Fitzwater, Council Member

Kai Hagen, Council Member

Council Members M.C. Keegan-Ayer, President, and Steve McKay did not vote in favor of this rezoning.

Received by the County Executive on December 1, 2020.

County Executive Action: _____ Approved _____ Vetoed

Jan H. Gardner, County Executive
Frederick County, Maryland

Date

OK

No Action taken by County Executive
on 12/10/2020