

Amended and Restated
March 15, 2021

**KENEL FARM
NON-RESIDENTIAL
MIXED USE DEVELOPMENT (MXD)
REZONING APPLICATION
JUSTIFICATION STATEMENT**

SJP Acquisitions, LLC (the “**Applicant**”) hereby submits this Justification Statement in support of Zoning Map Amendment Application (this “**Application**”) for the rezoning of 19.662 acres +/- located at 6126 Jefferson Pike, in Frederick, Maryland (Tax Map 76, Parcel 91, Tax ID # 23-442809) (the “**Property**”) from Agricultural (A) to the non-residential Mixed Use Development floating zone (MXD). The Property is fronted by Jefferson Pike on its southeastern border and by Interstate 70 (I-70) along its northern border. Under the Frederick County Comprehensive Plan Map adopted September 13, 2012 that was re-adopted as part of the Livable Frederick Master Plan on September 3, 2019 (collectively, the “**Comprehensive Plan**” or the “**LFMP**”) the Property has a Land Use Plan designation of **Office/Research Industrial (“ORI”)**. The Property had the same ORI Land Use Plan designation in the 2002 Comprehensive Plan and in the 2010 Frederick County Comprehensive Plan adopted April 8, 2010. The requested rezoning will facilitate the long-planned and intended development of the Property with a true mixture of flex space/research & development, office/industrial/warehouse, commercial services and other similar uses (the “**Project**”).

Below are the applicable criteria requiring written justification, quoted from the Frederick County Zoning Ordinance (the “**Zoning Ordinance**”) in bold typeface, with the Applicant’s responses and proposed findings of fact.

This Justification Statement is provided in support of the other materials, plans, maps and exhibits submitted by or on behalf of the Applicant with this Application.

§ 1-19-10.500.2. SIZE AND LOCATION.

(B) The MXD District may only be established where the tract of land receiving the MXD District has a County Comprehensive Plan Land Use designation of Mixed Use Development, Office Research Industrial, or Limited Industrial except as provided in § 1-19-10.500.2(D) below.

APPLICANT’S RESPONSE AND PROPOSED FINDINGS OF FACT: As stated above, the Property has a Comprehensive Plan Land Use designation of Office/Research Industrial and is located within the Ballenger Creek Community Growth Area. The Ballenger Creek Community Growth Area adjoins the Frederick Growth Area to the north, generally along I-70.

The Livable Frederick Master Plan (“**LFMP**”) confirms the location of the Property within the Ballenger Creek Community Growth Area (10) in the Central District within the Primary Growth Sector (LFMP at 39), between the Rail Corridor (*Id.* at 43) and the Interstate Corridor (*Id.* at 45). The Rail Corridor is:

A concentration of growth within a development corridor in the southern portion of the county along the existing CSX/MARC rail line that runs from the Downtown Frederick

Transit Center to Point of Rocks. Growth along the Rail Corridor will occur in the form [of] new development and redevelopment in a transit-oriented, mixed-use fashion...

The Interstate Corridor is:

a corridor for growth and development along Interstate 270 leading from central Frederick City, through the Ballenger Creek Community Growth Area and continuing along I-270 through the Urbana Community Growth Area and terminating at the northern edge of Hyattstown . . . This corridor emphasizes transit-oriented, mixed-use development to be served by a practical and affordable transit line (e.g., Bus Rapid Transit, Transitway) . . . that parallels Interstate 270 and takes advantage of public and private infrastructure improvements extended to the Urbana Community Growth Area in recent decades. Additionally, the Interstate Corridor will continue to capitalize on significant access to regional employment centers by supporting policies that facilitate the development of this area as a prime employment corridor enhanced by livable, mixed-use neighborhoods between the City of Frederick and northern Montgomery County. (Emphasis added).

Therefore, as discussed more fully herein, the proposed mixture of flex space/research and development, office/industrial/warehouse, commercial services and other similar uses to be provided in the Project is consistent with the applicable designations, visions, goals and policies of the Comprehensive Plan.

(C) The Planned Development Districts may only be established where the tract of land receiving the Planned Development District has a category of Planned Service or higher as shown on the Frederick County Water and Sewerage Plan.

APPLICANT'S RESPONSE AND PROPOSED FINDINGS OF FACT: The Property has a Planned Service DEV category for water and a Planned Service DEV category for sewer on the Frederick County Water and Sewerage Plan. The Property can access existing public water and sewer lines within the adjacent public road right of ways.

§ 1-19-10.500.3. APPROVAL CRITERIA.

The County Council may approve or disapprove a request for rezoning of property to a Planned Development District if persuaded that granting the request is appropriate and serves the public interest. The approval or disapproval of a request for the application will be determined through evaluation of several criteria to establish whether the proposed project meets the purpose and intent of the zoning district. In addition to the requirements in § 1-19-3.110.4, the Planning Commission and County Council must find that the project adequately addresses the following criteria:

(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;

APPLICANT'S RESPONSE AND PROPOSED FINDINGS OF FACT: The Project will incorporate an efficient arrangement and range of diverse and compatible uses including, without

limitation, flex space/research and development, office/industrial/warehouse, commercial services and other similar uses, generally oriented to optimize vehicular and pedestrian movement throughout the Project and the surrounding area. The MXD Land Use Plan (the “**Concept Plan**”) and other exhibits submitted as part of this Application illustrate the planned general orientation, transition and progression within and around the Property from flex space/research and development to office/industrial/warehouse and other commercial services, although the number of buildings and sizes within the Project will vary. In particular, the Project layout takes advantage of seamless integration with the established development patterns in the area, existing roadway and pedestrian infrastructure serving Jefferson Pike, Jefferson Commons Way and Jefferson Technology Boulevard. Additional sidewalk and road improvements will also be constructed to closely integrate the Project with the surrounding existing improvements and developments.

It is the Applicant’s intent, as a business park developer, owner and manager in Frederick County for twenty-five (25) years, to develop the Property and construct buildings that are similar and consistent with their long-established standard product consisting of attractive one-story buildings, with significant glass treatments, that are very professional in appearance and well landscaped, screened and maintained. As part of this Application, the Applicant has submitted examples of their building product in other Frederick County business parks.

As stated, the Property fronts the north side of Jefferson Pike (MD Route 180), which is an Arterial classification roadway under the Comprehensive Plan. As Jefferson Pike extends to the northeast, it provides the Property with virtually direct access/egress to I-70, I-270, and U.S. 15 at the confluence of those three major highways. That direct access/egress is provided by way of a series of ramps and intersections, several of which have recently been improved at Himes Avenue, Butterfly Lane, Solarex Court, Ballenger Center Drive, and Mt. Zion Road. Route 180 also provides direct access to Frederick City.

With this existing public road system, the Project will efficiently utilize the existing road network. This finding is supported by the Traffic Impact Analysis prepared by The Traffic Group and submitted as part of this Application (the “**Traffic Study**”).

With the existing public water and sewer lines within Jefferson Pike to the Property boundaries, the Project will optimize its efficient use of existing water and sewer infrastructure.

The United Steam Fire Engine Company #3, local emergency medical services, the Frederick County Sheriff’s Office, and Maryland State Police already adequately serve the Property and the surrounding area and have the capacity to accommodate their efficient extension to the development of the Project. The Applicant maintains that employment and commercial development places less demand upon public safety services than do residential developments.

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

APPLICANT’S RESPONSE AND PROPOSED FINDINGS OF FACT: As illustrated by the Concept Plan and other exhibits submitted as part of this Application, the Project’s development design and building siting are in accordance with the County Comprehensive Plan and applicable

provisions of the LFMP. The Project's ORI designation "allows for the application of the Mixed Use Development (MXD) floating zone" (LFMP at p.201).

The Comprehensive Plan Land Use Map designation of ORI for the Property also matches the designation of the adjoining property to the south, south east and southwest extending northeasterly toward I-70 which contains the Jefferson Technology Park MXD. Compatibility of land uses and structures in terms of design, access, walkability, environmental sensitivity, efficient use of land and public facilities and architecture are pervasive themes of the LFMP. These will be implemented in the design and siting of the buildings for this Project and will be consistent and compatible with those in Jefferson Technology Park. The Applicant's other business parks in Frederick County are excellent examples of how these themes and principals will be addressed with the development of this Project.

The Project will orient its interior streets and sidewalks/walking trails in a way that optimizes pedestrian, bicycle, and other non-motorized travel throughout the Project to its mix of uses and to the surrounding uses. By providing built pathways and sidewalks through the Property where such pathways and sidewalks do not currently exist, the Project's development design and building siting further assist in meeting the LFMP initiatives for the surrounding area. There is no current community or corridor plan applicable to the Property. The Property is near to but not within the South Frederick Corridor Plan 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 plans;

APPLICANT'S RESPONSE AND PROPOSED FINDINGS OF FACT: A commercial wholesale nursery and landscaping operation exist on the Property. The City of Frederick's Westside Regional Farm (formerly Hargett Farm) off of Butterfly Lane lies opposite the Property on the other side of I-70 to the north. East of the Property is a single-family house. South of the Property is the Jefferson Technology Park MXD mixed-use community with residential development. To the west, are residences and agricultural land, and beyond is the Jefferson Pike Business Park.

This rezoning neighborhood is becoming mixed use in character as planned by the County. The Project will provide a missing element to the current mixture with more commercial-oriented services and uses. The Project's uses and structures will blend compatibly with the architecture and scale of existing Jefferson Technology Park and neighboring development that currently includes high and medium density residential, large scale industrial warehouses, employment, and general retail uses. The Project will provide a product that in size, scale and use is not represented in the neighborhood. It provides a balance between the larger industrial and smaller residential structures and maintains compatibility through its high-end design elements and single-story low-impact buildings, as well as significant landscaping and open spaces. The Applicant has successfully built and maintains numerous other business parks similar to the Project that are surrounded by very similar neighboring uses throughout Frederick County, the State of Maryland and Northern Virginia.

(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;

APPLICANT'S RESPONSE AND PROPOSED FINDINGS OF FACT: As shown in this Application (including the Overall Land Use & Transportation Map exhibit submitted as part of this Application), the rezoning request for the Property integrates with the adjacent Jefferson Technology Park and the larger Ballenger Creek Community Growth Area. The proposed arrangement of land use, buildings, infrastructure and transportation circulation will complement and tie into the adjacent Jefferson Technology Park MXD and the neighborhood via a connection of the newly developed sidewalk system and a pedestrian path system, that will be incorporated within the final site design along with landscaping and hardscape amenities.

The Project is a natural evolution and completion of the area's long-planned development patterns. The access road through the Project will create a spine road and path system that will connect all of the buildings and create outdoor activity opportunities for employees and visitors within the Project and for those in local residences outside the Project. This will optimize pedestrian, bicycle and other non-motorized travel throughout the Project and to the surrounding areas and provide built pathways and sidewalks through the Property where such pathways and sidewalks do not currently exist. Additionally, the Project will provide a home for local amenities such as recreational and educational tenants, retail shops, day cares, and community services/businesses within walking distance of the local residences.

(E) The transportation system is or will be made adequate to serve the proposed development in addition to existing and pipeline uses in the area. Factors to be evaluated include: roadway capacity, level of service and safety, on-street parking impacts, access requirements, neighborhood and natural resource impacts, projected construction schedule of planned improvements, pedestrian and bicycle safety, and results of travel demand modeling assessing the change in future daily travel volumes, with and without the proposed development;

APPLICANT'S RESPONSE AND PROPOSED FINDINGS OF FACT: As more fully discussed and described in the Traffic Study submitted as a part of this Application, the transportation network is currently adequate to serve the proposed development of the Project and planned pipeline development that will impact the same roads. The Traffic Study references a possible new traffic signal at the Project entrance and Jefferson Commons Way. This will be predicated on the State-mandated warrant analyses, the phasing of the proposed Project, and other new developments in the Ballenger Creek Community Growth Area. By providing more employment opportunities in the County, the Project will encourage more community traffic capture to reduce the number of residents now traveling on the highways to their jobs located outside Frederick. The Project will also feature trails and bike racks for cyclists.

There is the possibility of a new Connector bus stop for TransIT of Frederick County to

extend its Brunswick Jefferson Shuttle line to the frontage of the Property thereby providing connection to the MARC station in Brunswick and the rest of the TransIT network. Similar bus stops have been added to other business parks of the Applicant including Westview Business Park. This would optimize public transportation for the Project, but also for the overall Ballenger Creek Community Growth Area.

(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;

APPLICANT’S RESPONSE AND PROPOSED FINDINGS OF FACT: The proposed buildings for the Project will be oriented in a way to safely provide walking and biking opportunities with abundant sidewalks in front of the buildings, trails at the perimeter of the buildings, screened service court areas for automobiles and trucks, and safe, clearly marked crosswalks through internal access roads. The Project has the potential to significantly improve and complete the walking, biking and public transit network of the area, where desirable, through possible connections to the Jefferson Technology Park network of trails and the proposed Connector bus stop of TransIT of Frederick County. The Overall Land Use & Transportation Map exhibit submitted as part of this Application illustrates the Comprehensive Plan alignment as currently proposed.

(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;

APPLICANT’S RESPONSE AND PROPOSED FINDINGS OF FACT: Based on available information, the fire and emergency services to the Property (United Steam Fire Engine Company #3, local emergency services, Frederick County Sheriff’s Office, and Maryland State Police) will be adequate to serve the proposed development of the Project. Lot A-1 in the Jefferson Technology Park is proposed for dedication as a fire station or other community use. Several fairly recent improvements to the intersections of Jefferson Pike and Ballenger Creek Pike, all enhance the accessibility (and response time) of the Property to public safety services.

In the March 18, 2019 “Cost of Land Use Fiscal Impact Analysis” prepared for the City of Frederick and Frederick County by TischlerBise, that analyzed and considered projected tax revenue receipts and impacts to facilities such as roads, schools, utility demands, police/fire and other County services, it was concluded that only “*office and industrial land uses generate sufficient revenues to offset their cost impacts*” to the tax base. Other uses, such as residential and institutional are a significant drain to the tax base.

(H) Natural features of the site have been adequately considered and protected 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;

APPLICANT’S RESPONSE AND PROPOSED FINDINGS OF FACT: The Property is used as an active commercial wholesale nursery and landscape operation. No significant natural features exist on the Property. As shown on the Natural Features Map, Overall Land Use & Transportation Plan and Concept Plan exhibits submitted as part of this Application, the Project will meet the criteria of this section of the Zoning Ordinance in its design and planning. In addition, planned stormwater management conveyance systems (*i.e.*, drainage ditches and piping) will be designed to maximize the potential ESD benefits, while integrating their construction within the natural site features. Energy efficient site design will include tree plantings for a future tree canopy, energy-efficient buildings, abundant open space, and white building roofs to reduce heat island effects.

(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;

APPLICANT’S RESPONSE AND PROPOSED FINDINGS OF FACT: The ORI land use designation “allows for the application of the Mixed-Use Development (MXD) floating zone.” (*Id.*). Please see Applicant’s Response and Proposed Findings of Facts under Zoning Ordinance Section 1-19-3.110.4.(A).(1) below for additional commentary. There are no corridor plans currently pending for this area of the County. However, the Property has been land use designated ORI under the Comprehensive Plan since at least 2002. With the development and pending buildout of the Jefferson Technology Park on the opposite side of Jefferson Pike, the abutting major roadways, including major road improvements at intersections with Butterfly Lane, Himes Avenue, Solarex Court, Ballenger Center Drive, and Mt. Zion Road the Property is well suited for at this time to move closer through to its potential development by rezoning.

(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;

APPLICANT’S PROPOSED RESPONSE AND FINDINGS OF FACT: The Applicant submits this Application in view of the various public facility and utility improvements made in the area (*i.e.*, regional water and sewer upgrades, extension of public water and sewer to the Property, State and County road improvements) especially in conjunction with the overall Ballenger Creek Community Growth Area. As the proposed Project stands to have lesser impact on public facilities than would a residential development, the Applicant anticipates that existing public facilities will be adequate to serve the proposed development of this Project. The Traffic Study supports that finding of fact for this Project. The Applicant will apply for Adequate Public Facilities Ordinance (“**APFO**”) review and approval for water, sewer and roads at the appropriate development stage.

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

APPLICANT’S RESPONSE AND PROPOSED FINDINGS OF FACT: There are no sensitive environmental resources on the Property. Supplemented by the Applicant’s Response and Proposed Findings of Fact in this Application to Zoning Ordinance Section 1-19-10.500.3 (H), and as shown in the Application exhibits, to the extent sensitive environmental resources are located within the area of influence from the Project, the proposed development accounts for such resources.

(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.

APPLICANT’S RESPONSE AND PROPOSED FINDINGS OF FACT: Not applicable. There are no historic resources on the Property.

§ 1-19-3.110.4. APPROVAL CRITERIA.

(A) Approval or disapproval of a request for an individual zoning map amendment or floating zone reclassification shall be determined through review of several criteria. The Planning Commission and County Council review will include, but not be limited to:

(1) Consistency with the comprehensive plan;

APPLICANT’S RESPONSE AND PROPOSED FINDINGS OF FACT: Under Zoning Ordinance Section 1-19-10.500.2 (B), the MXD District may only be established where the tract of land receiving the MXD District has a County Comprehensive Plan land use designation of Mixed Use Development, Office Research Industrial, or Limited Industrial...” The LFMP states that the ORI designation “allows for the application of the Mixed Use Development (MXD) floating zone”. (LFMP at 201).

Consistent with these provisions, the Applicant is seeking approval of an MXD floating zone to allow for the development (or redevelopment) of the Property from a commercial wholesale nursery and landscaping operation to a business park containing up to 270,000 square feet +/- within several one-story buildings. Additionally, the Project will be consistent with the other applicable recommendations of the LFMP, as follows:

- The LFMP encourages directing development to “Growth Areas,” including the “Ballenger Creek Growth Area” (LFMP at 41 & 44) in which the Property is located:
 - *Support policies that direct growth to Growth Areas and that correspond to the growth strategies described in the Thematic Plan. Id. at. 95.*

The Project will utilize existing roads (and potential future road improvements as discussed in the Traffic Study), and sewer and water infrastructure. It will complement and build upon existing development in the Ballenger Creek Growth Area.

- The LFMP promotes land use patterns that will support multi-modal mobility:
 - *Promote land use patterns that support accessibility and diversified mobility*

through the geographic concentration of multi-functional uses, activities and destinations. Id. at 95.

- *Provide more transit service throughout the county with regular stops at senior centers, apartment complexes, shopping centers, medical services, and employment centers. Id. at 195.*

The Project supports accessibility and diversified mobility through the geographic concentration of multi-functional uses, activities and destinations. Specifically, the Project will incorporate interior streets and sidewalks/walking trails in a way that optimizes pedestrian, bicycle and other non-motorized travel from the Project to the adjoining properties.

- The LFMP promotes mixed-use development:
 - *Support the development of communities that are mixed use and higher density, where the distance between origins and destinations is compressed, thus allowing access by means other than automobiles. Id. at 140.*
 - *Support mixed-use commercial facilities that offer affordable options to small business owners. Id. at 168.*

The Project will provide a mixture of flex space/research and development, office/industrial/warehouse, and commercial uses. Specifically, the Project will include office use, other non-residential, and commercial space. Some of the commercial space will be collocated to provide a dynamic mixed-use community including significant opportunities for small business owners such as daycares, gyms, and some professional services. The Property is also uniquely located adjacent to a variety of uses including residential, industrial, employment, recreational and retail. These uses are all inter-connected and the Applicant's specific product type will only enhance the variety and mix of uses in the area. The Project will also provide local and accessible employment opportunities for the Ballenger Creek Community Growth Area and beyond which can reduce traffic on the interstate highways in the area.

- The LFMP encourages the incorporation of open and green space in development project:
 - *Provide and maximize native species natural landscaping and planting within street rights-of-way at commercial and residential development and within public and private open space as a part of community specific and corridor specific planning in the county. Id. at 141.*
 - *Protect critical open spaces within the built environment. Id. at 189.*

The Project will incorporate approximately 3.93 acres of open space (20% of the land area of the Property) primarily around the perimeter of the Property. This interconnected green network will provide recreational opportunities for the users of the Project and area residents. Other integrated greenspace can be accommodated in and around the internal workings of the Property as determined during the later stages of the design review process.

- The LFMP promotes economic development.

The Project will provide significant a long-term sustainable fiscal impact to the County

through property tax collection, fees, and business taxes. Again, the March 18, 2019 “Cost of Land Use Fiscal Impact Analysis” prepared for the City of Frederick and Frederick County by TischlerBise, found that only “*office and industrial land uses generate sufficient revenues to offset their cost impacts*” to the tax base while other uses such as residential, create far more demands on public services that are not offset by the tax revenue they generate.

Beyond bolstering the County’s tax base, the Project will provide significant opportunities for small businesses, create new jobs, and will support existing businesses (all goals of the LFMP). At full occupancy, the Applicant’s development of the Property will provide an attractive, accessible, and high-quality location for up to 35 businesses and 350-540 jobs.

As with the Applicant’s other business parks in Frederick County, the Project will be attracting “targeted industries” with tenants such as technology firms, research and development facilities, and bio-science firms, as well as expanding traditional and existing small businesses. In addition to the benefits of more high-paying jobs in our County, the Project will create a home for the types of support businesses that are vital to attract and retain much larger firms in the City and County such as Astra Zeneca and Kite Pharma.

(2) Availability of current and planned public facilities;

APPLICANT’S RESPONSE AND PROPOSED FINDINGS OF FACT: Per the responses to Zoning Ordinance Sections 1-19-10.500.2(C) and 1-19- 10.500.3(A), (E), (F), (G) and (J) above, current and planned public facilities account for the Project.

(3) Adequacy of existing and planned future transportation systems;

APPLICANT’S RESPONSE AND PROPOSED FINDINGS OF FACT: Per the responses to Zoning Ordinance Sections 1-19-10.500.3(D), (E) and (F) above, and in the Traffic Study, the combination of existing and planned future transportation systems are adequate for this Project. The future APFO review of the Project will further evidence and ensure the adequacy of these facilities.

(4) Compatibility with existing and proposed development;

APPLICANT’S RESPONSE AND PROPOSED FINDINGS OF FACT: The Property has been planned for the type of development proposed by the Project for at least 20 years dating back to the 2002 Comprehensive Plan. Per the responses to Zoning Ordinance Section 1-19-10.500.2(B), 1-19-10.500.3(C) and (I) above, the Project will be compatible (including architecturally) with the adjacent Jefferson Technology Park and the overall Ballenger Creek Community Growth Area. It fits in well with the planned and developing mixed use character of the neighborhood around the Property. The overall Ballenger Creek Community Growth Area provides for a wide variety of product types. The Applicant’s product is uniquely positioned in the middle in terms of both size and scale. That being said, the architectural features, materials, landscaping and setbacks are consistent between all product types in the Applicant’s business parks.

(5) Population change, including availability and location of land zoned to meet

the ten-year need for residential development;

APPLICANT'S RESPONSE AND PROPOSED FINDINGS OF FACT: Not applicable. No residential development is proposed on the Property.

- (6) The timing of development, planned future transportation systems and planned public facilities;**

APPLICANT'S RESPONSE AND PROPOSED FINDINGS OF FACT: Per the responses to Zoning Ordinance Section 1-19-3.110.4(A) (2) and (3) above, planned transportation and public facility improvements are phased in if/when required and will be adequate to serve the Project as determined during the APFO review process.

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

APPLICANT'S RESPONSE AND PROPOSED FINDINGS OF FACT: Per the responses to Zoning Ordinance Sections 1-19-10.500.3(H) and (K) above, the Applicant will minimize impact to identified sensitive environmental resources.

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

APPLICANT'S RESPONSE AND PROPOSED FINDINGS OF FACTS: Not applicable. No historic resources exist on the Property.

(B) In addition to the criteria above, approval or disapproval of a request for an individual zoning map amendment shall be granted only where a finding has been made that there was:

- (1)** A substantial change in the character of the neighborhood where the property is located; or
- (2)** A mistake in the existing zoning classification.

APPLICANT'S RESPONSE No response or finding of fact is necessary as these criteria do not apply to a map amendment application for a MXD floating zone.

CONCLUSION

For the above reasons, and as further described and identified in this Application, the Applicant submits that this map amendment/rezoning request meets all of the applicable criteria for the requested MXD floating zone and its approval by the County Council would be appropriate and in the public interest of the Frederick County community. The Applicant will supplement the above and the Application as needed, including with additional testimony during the public hearings on the Application.

4858-2502-7602, v. 4