

**THE EFFECTIVE DATE OF THIS ORDINANCE IS JUNE 28, 2022**

**ORDINANCE NO. 22-05-005**

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

**RE: KENEL FARM MXD  
REZONING CASE R-22-01**

**OPINION/FINDINGS**

**I. HISTORY**

SJP Acquisitions, LLC (“Applicant”) filed this application to change the zoning classification of 19.662 acres, more or less, from Agricultural (A) to Mixed Use Development (MXD) in order to accommodate a proposed mix of employment and commercial land uses. The Site is located in close proximity to the Jefferson Technology Park MXD and the Jefferson Pike Business Park.

The Frederick County Planning Commission considered this request in a public hearing on May 25, 2022 and recommended approval of the application, with recommended conditions.

The County Council of Frederick County, Maryland, considered the request in a public hearing on June 14, 2022. The application was approved unanimously by the County Council on June 21, 2022.

Based upon all of the evidence submitted in this case, the County Council makes the following specific findings of fact of 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 19.662 acres (Site) from Office/Research/Industrial (ORI) to Mixed Use Development (MXD). The Site is proposed for both employment and commercial uses on nearly 16 acres, or 80% of the Site's land area. The application does not identify all specific employment or commercial uses for the Site, other than a reference to uses typically present in similar projects developed by St. Johns Properties (SJP) such as flex space/research and development, office/industrial/warehouse, and commercial services. The application did not include a residential component.

## **2. Phasing Plan**

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 2 site development plan (e.g. road and intersection improvements or payments into escrow accounts). Phase 2 conditions will likely indicate the need to provide improvements concurrent with, or prior to, the establishment of the proposed uses. The Applicant indicates no specific phasing of the project buildup.

## **3. Land Use Proposal**

The Site has a land use plan designation of Office/Research/Industrial (ORI) and is within the Ballenger Creek Community Growth Area. An ORI land use plan designation permits the application of the MXD floating zone district. The ORI (originally 'Office/Research') land use plan designation was applied on this Site in the 2002 Frederick Region Plan. In the prior plan from 1992, the parcel had been designated for Low Density Residential uses. The application of MXD zoning is consistent with the Comprehensive Plan Land Use Map as it allows for employment uses while providing flexibility for commercial uses to serve the revolving mixed

use communities in and around the Jefferson Technology Park, the Jefferson Business Park, and other development along the US15/US340 corridor.

#### **4. Consistency with the County Comprehensive Plan**

The Application is consistent with the general growth policy described in the Thematic Plan section of the Livable Frederick Master Plan (LFMP), the policies and goals described in the Action Framework of the Livable Frederick Master Plan (LFMP), and the Comprehensive Plan Map.

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 LFMP policies that seek to establish land uses which are generally supportive of the compact and efficient development patterns necessary to support community infrastructure and services. The LFMP identifies this area – within the Ballenger Creek Community Growth Area - as part of the County's Primary Growth Sector, seeking to take advantage of the site's location at the top of the US340 corridor which links the Brunswick and Jefferson Community Growth Areas, the City of Frederick (on the east), and communities in West Virginia and Northern Virginia beyond County borders. 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 and commercial, would be appropriate in supporting the employment and residential uses in the vicinity. The addition of a non-residential MXD project on the north side of Jefferson Pike (MD180) remains consistent with both the underlying land use designation for the Site and the general guidance provided in the Livable Frederick Master Plan.

#### **5. Compatibility with Adjoining Zoning and Land Uses**

The Site has been zoned Residential (R1) and Agricultural (A) at various times in past decades but was most recently zoned Agricultural (A) as part of the Frederick Region Plan update adopted in 2002. The surrounding neighborhood includes a mix of zoning ranging from Agricultural-zoned parcels to the west, to MXD and ORI-zoned lands that have been in active development for 10 years on the south side of Jefferson Pike. The proposed MXD zoning is generally compatible with surrounding zoning and land uses.

## **6. Availability of Public Facilities and Services**

No residential land use is proposed within the MXD; therefore schools will not be directly impacted by this project. The proposed rezoning would not impact library facilities, parks, or recreation facilities. There are existing water and sewer lines in the vicinity of the Site. Water is supplied to the Site from the New Design Water Treatment Plant. Sewage treatment is provided by the Ballenger-McKinney wastewater treatment plant.

The Site is served by the United Fire Company (Station #3) which is approximately 3.3 miles from the Site. In the future, this Site will be served by the Jefferson Tech Park Fire Station, which is currently funded for design in FY 2027. Police protection would be provided by the 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 and commercial, would be appropriate in supporting the employment and residential uses in the vicinity.

#### ***(2) Availability of public facilities;***

The proposed MXD rezoning will not affect the adequacy of public facilities, including schools, parks and library facilities.

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

Existing planned projects, as well as modest improvements in the immediate vicinity of the proposed rezoning Site, will provide adequate functionality to the transportation network in the northwestern portion of the Ballenger Creek CGA. Limited transit service is available in the nearby Jefferson Technology Park.

***(4) Compatibility with existing and proposed development;***

The proposed employment and commercial uses are compatible with the existing and planned mix of residential, employment, and commercial uses in the area of the Site.

***(5) Population change;***

As no residential development is proposed, there would not be a population change resulting from the development of the Site. Furthermore, this project would not occupy land planned for future residential growth.

***(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 environments resources have been identified and impacts to these resources are avoided or minimized to the maximum extent practicable;***

No sensitive environmental resources have been identified on the Site.

***(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 associated with the area proposed for rezoning.

**§ 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 area due primarily to the small size of the parcel as well as man-made constraints (roadways and parcelization). The area has extensive existing infrastructure capacity 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 presents a clear visualization of the planned design for the development as well as for buildings to be constructed. The proposed design is not in conflict with any goals or initiatives put forth in the County's planning documents. 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 employment and commercial use is compatible with existing and planned development in the surrounding area. The low profile of the proposed structures is respectful of taller residential structures located in the JTP MXD on the south side of Jefferson Pike. A significant open space buffer is illustrated in the Concept Plan, providing additional physical separation between the proposed employment/commercial uses and the residential neighborhoods under development. 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. The concentration of open space areas along the entire perimeter of the Site allows for considerable flexibility in the arrangement of buildings and infrastructure on the Site.

*(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 by the Applicant.

*(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 a specific employment or commercial use or layout of the Site. However, the Applicant indicates that pedestrian connections to adjacent neighborhoods will provide two-way access for those on foot. Primary pedestrian access to the Site will occur along Jefferson 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 situated approximately 3.2 miles from the United Steam Fire Engine Company (Station #3) on N. Market Street in Frederick and 3.3 miles from the Westview United Station (#31). Police protection would be provided by the 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;***

Any identified natural features of the Site will be incorporated into the planned open space areas.

***(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 employment and commercial uses are consistent with the intent of the MXD zone to provide the opportunity for employment and 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 this application.

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

No sensitive environmental resources have been identified on the Site.

***(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 associated with the area proposed for rezoning.

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-22-01, with the condition 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 19.662 acres of land (as depicted in the application) to Mixed Use Development (MXD) is hereby granted, subject to the following condition:

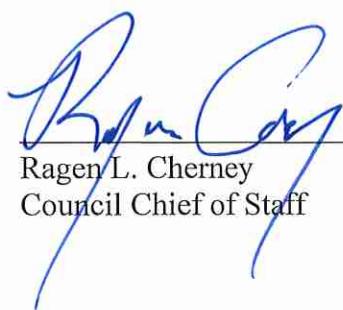
1. The Applicant shall establish and maintain no more than 70% of the gross project acreage for commercial uses at any given time on the Site.

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.

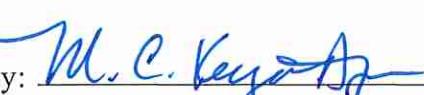
The undersigned hereby certify that this Ordinance was approved and adopted on the 28<sup>th</sup> day of June, 2022.

ATTEST:

COUNTY COUNCIL OF  
FREDERICK COUNTY, MARYLAND



Ragen L. Cherney  
Council Chief of Staff

By:  CK

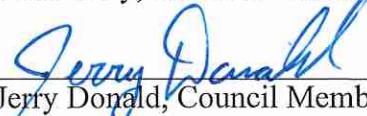
M.C. Keegan-Ayer, President



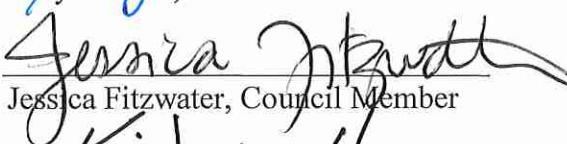
Michael Blue, Vice President



Phil Dacey, Council Member



Jerry Donald, Council Member



Jessica Fitzwater, Council Member



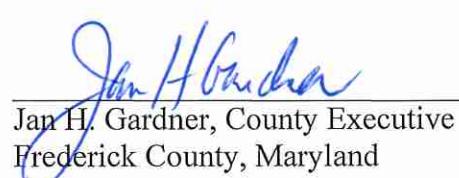
Kai Hagen, Council Member



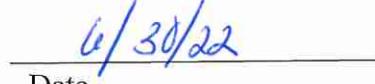
Steve McKay, Council Member

Received by the County Executive on 6/30/22.

County Executive Action: ✓ Approved \_\_\_\_\_ Vetoed \_\_\_\_\_ No Action



Jan H. Gardner, County Executive  
Frederick County, Maryland



Date