

**BOROUGH OF FLORHAM PARK
ORDINANCE #04-02**

AN ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF FLORHAM PARK, IN THE COUNTY OF MORRIS, AND STATE OF NEW JERSEY, AMENDING CHAPTER 212, SUBDIVISION AND SITE PLAN REVIEW TO ESTABLISH GENERAL DEVELOPMENT PLAN PROCEDURES AND TO AMEND CHAPTER 250, ZONING, TO ESTABLISH THE PLANNED OFFICE DISTRICT NORTH (POD-N) ZONE AND PLANNED OFFICE DISTRICT SOUTH (POD-S) ZONE OF THE CODE OF THE BOROUGH OF FLORHAM PARK.

WHEREAS, the purpose and intent of this ordinance is to establish general development plan procedures and to establish the Planned Office District North (POD-N) Zone for that property designated on the tax map as Block 1402, Lot 1, consisting of 224.88 acres, and to establish the Planned Office District South (POD-S) Zone for that property designated on the tax map as Block 1401, Lot 1, consisting of 259.97 acres, consistent with and implementing the recommendations of the Master Plan; and

WHEREAS, Block 1402, Lot 1 and Block 1401, Lot 1 are currently zoned C-1 and at all times relevant have been owned by the Exxon Corporation and its subsidiaries or related entities; and

WHEREAS, in or about 1995 analyses were conducted by the Borough of Florham Park and by the Exxon Corporation as part of a tax appeal filed by Exxon. The Exxon Corporation also owned at the time of the tax appeal what is now known as Block 1401, Lot 3 consisting of 62.8209 acres and Block 1401, Lot 4 consisting of 81.7359 acres. In the analyses conducted by Exxon, they concluded that in addition to the approximately 600,000 square feet of office space then existing on a portion of their property that an additional 1,500,000 square feet of office space floor area could be developed, although that was further constrained by the limits on traffic on the surrounding roads and intersections, so that only an additional 500,000 square feet of additional office space floor area could be constructed; and

WHEREAS, since the above stated estimates and analyses were provided, Exxon subdivided its property to create the

aforementioned Block 1401, Lot 3 consisting of 62.8209 acres and Block 1401, Lot 4 consisting of 81.7359 acres. Further, the Borough of Florham Park granted approvals for the construction of approximately 595,000 square feet of new office space floor area on Block 1401 Lot 3 and Block 1401, Lot 4 where 240,000 square feet of office space floor area already existed.

WHEREAS, a significant portion of Block 1402, Lot 1 is occupied by wetlands and wetlands transition areas; and

WHEREAS, pursuant to the recommendations made in the Master Plan, the Borough of Florham Park seeks to condition the further development of the aforementioned properties requiring a linked land use plan and circulation plan in order to manage the traffic generated by any future development; to protect environmentally sensitive areas; to provide incentive to landowners for the creation of new open space and for the preservation of open space on their property; to protect the Borough's water supply; to protect the residential areas of the Borough and of neighboring municipalities from increased vehicular traffic; and

WHEREAS, in furtherance of these goals and consistent with the recommendations of the Master Plan, the Borough of Florham Park by way of this ordinance seeks to establish two new zones for Block 1402, Lot 1 and Block 1401, Lot 1; to establish floor area ratios for each zone to limit further development; to allow additional development of Block 1401, Lot 1, consistent with the floor area ratio established to be limited to replacement of the existing 600,000 square feet of office space floor area and to the establishment of a hotel/conference center; to allow additional development of Block 1402, Lot 1 consistent with the floor area ratio established but to provide incentive to the developer of said property to, as part of a general development plan, cluster development from the noncontiguous lots from Block 1402, Lot 1 to Block 1401, Lot 1 and to preserve the majority of Block 1402, Lot 1 as open space; to condition additional development of Block 1401, Lot 1 beyond a hotel and the existing 600,000 square feet of office space floor area and any transferred development from Block 1402, Lot 1 to the establishment of a direct two-way access to State Highway Route 24; to control the impact of a direct two-way access to State Highway Route 24 on the residential areas of the Borough of Florham Park and neighboring municipalities; to establish

procedures for the submission and hearing of a general development plan; to establish an application fee and escrow deposit procedure for the consideration of general development plans and related approvals;

NOW THEREFORE BE IT ORDAINED, by the Mayor and Council of the Borough of Florham Park, County of Morris and State of New Jersey, as follows:

SECTION 1. Chapter 212, **Subdivision and Site Plan Review** of the Code of the Borough of Florham Park is amended and supplemented by the addition of a new Article IX, "General Development Plans", to read as follows:

ARTICLE IX, General Development Plans.

§212-44. General Development Plans.

A. References; Objectives; Approval Authority

(1) **Statutory reference.** These procedures are established pursuant to the authority of the Municipal Land Use Law. Prior to approval of a planned commercial development, the Planning Board shall make such findings and conclusions as are required by N.J.S.A. 40:55D-45.

(2) **Objectives.** The purpose of this section is to establish procedures for approval of all general development plans.

(3) **General Development Plan Procedures.** Any developer of a property within the POD Zone Districts for which the developer is seeking approval of a planned commercial development may submit a general development plan to the Planning Board prior to the granting of preliminary approval of that development by the Planning Board as provided by this section. In addition to the procedures for filing, completeness determination and review provided by this section, the following provisions shall apply to general development plans:

A. The term of the effect of the general development plan approval shall be determined by the Planning Board using the guidelines set forth in paragraph B below, provided that the term of the effect of the approval shall not exceed ten (10) years from the date upon which

the developer receives final approval of the first section of the planned commercial development pursuant to this chapter.

- B. In making its determination regarding the duration of the effect of approval of the general development plan, the Planning Board shall consider: the amount of nonresidential floor area to be constructed, prevailing economic conditions, the timing schedule to be followed in completing the development and the likelihood of its fulfillment, the developer's capability of completing the proposed development, and the contents of the general development plan and any conditions which the Planning Board attached to the approval thereof.
- C. In the event that a developer who has general development plan approval does not apply for preliminary approval for the planned commercial development which is the subject of that general development plan approval within five (5) years of the date upon which the general development plan has been approved by the Planning Board, the Planning Board shall have cause to terminate the approval. This limitation shall not apply to portions of the general development plan requiring completion of the Route 24 Interchange.
- D. Notwithstanding any provision of this chapter, the Municipal Land Use Law, or any ordinance or regulation adopted pursuant thereto after the effective date of the approval, the planned commercial development shall be developed in accordance with the general development plan approved by the Planning Board.
- E. Upon the completion of each section of the development as set forth in the approved general development plan, the developer shall notify the Planning Board Secretary, by certified mail, as evidence that the developer is fulfilling his obligations under the approved plan. For the purpose of this subsection, "completion" of any section of the development shall mean that the developer has acquired a certificate of

occupancy for every nonresidential structure, as set forth in the approved general development plan and pursuant to Section 15 P.L. 1975, c. 217. If the Planning Board does not receive such notification at the completion of any section of the development, the Planning Board shall notify the developer, by certified mail, in order to determine whether or not the terms of the approved plan are being complied with.

- F. If a developer does not complete any section of the development within eight (8) months of the date provided for in the approved plan, or if at any time the municipality has cause to believe that the developer is not fulfilling his obligations pursuant to the approved plan, the Planning Board shall notify the developer, by certified mail, and the developer shall have ten (10) days within which to give evidence that he is fulfilling his obligations pursuant to the approved plan. The Planning Board thereafter shall conduct a hearing within thirty (30) days to determine whether or not the developer is in violation of the approved plan. If, after such a hearing, the Planning Board finds good cause to terminate the approval, it shall provide written notice of same to the developer and the approval shall be terminated thirty (30) days thereafter.

- G. In the event that a development which is the subject of an approved general development plan is completed before the end of the term of the approval, the approval shall terminate with the completion of the development. For the purposes of this subsection, a development shall be considered complete on the date upon which a certificate of occupancy has been issued for the final nonresidential structure in the last section of the development in accordance with the timing schedule set forth in the approved general development plan and the developer has fulfilled all of his obligations pursuant to the approval.

- H. The following provisions shall apply to the modification of an approved general development plan:
- a. Except as provided hereunder, once a general development plan has been approved by the Planning Board, it may be amended or revised only upon application by the developer and approval by the Planning Board after a new hearing.
 - b. A developer, without violating the terms of the general development approval, may, in undertaking any section of the planned commercial development, reduce the amount of nonresidential floor space by no more than fifteen (15%) percent or reduce the nonresidential floor area ratio by no more than fifteen (15%) percent.
 - c. In the event that the developer seeks to vary the location of land uses within the planned commercial development in any section of the planned commercial development, such modification shall require the approval of the Planning Board.
 - d. In the event that the developer seeks to modify the proposed timing schedule of the approved general development plan, such modification shall require the approval of the Planning Board. The Planning Board shall, in deciding whether or not to grant approval of the modification, take into consideration prevailing economic and market conditions, anticipated and actual needs for nonresidential space within the Borough and the region, and the availability and capacity of public facilities to accommodate the proposed commercial development.

§212-45. Submission Requirement. In addition to the requirements indicated in subsection 212-21, the following information shall be submitted for all general development plans:

- A. A general land use plan indicating the tract area and general locations of the land uses to be included in the planned commercial development. The amount of nonresidential floor area to be provided and proposed land area to be devoted to nonresidential use shall be set forth. In addition, the proposed types of nonresidential uses to be included in the planned commercial development shall be set forth, and the land area to be occupied by each proposed use shall be estimated. The density and intensity of the use of the entire planned commercial development shall be set forth and a nonresidential floor area ratio shall be provided. The land use plan shall be at scale consisting of no more than two hundred (200) feet per inch.
- B. A circulation plan showing the general location and types of transportation facilities, including facilities for pedestrian access within the planned commercial development and any proposed improvements to the existing transportation system outside the planned commercial development.
- C. An open space plan showing the proposed land area and general location of parks and any other land areas to be set aside for conservation and recreational purposes and a general description of improvements proposed to be made thereon, including a plan for the operation and maintenance of parks and recreational lands.
- D. A utility plan indicating the need for and showing the proposed location of sewage and water lines, any drainage facilities necessitated by the physical characteristics of the site, proposed methods for handling solid waste disposal, and a plan for the operation and maintenance of proposed utilities.
- E. A storm water management plan setting forth the proposed method of controlling and managing storm water on site.

- F. An environmental inventory including a general description of the vegetation, soils, topography, geology, surface hydrology, climate and cultural resources of the site, existing man-made structures or features and the probable impact of the development on the environmental attributes of the site.
- G. A community facility plan indicating the scope and type of supporting community facilities which may include, but not be limited to, educational or cultural facilities, historic sites, libraries, hospitals, firehouses, EMS facilities and police stations.
- H. A local service plan indicating those public services which the applicant proposes to provide and which may include, but not be limited to, water, sewer, cable and solid waste disposal.
- I. A fiscal report describing the anticipated demand on Borough services to be generated by the planned commercial development and any other financial impacts to be faced by the Borough or applicable school districts as a result of the completion of the planned commercial development. The fiscal report shall also include a detailed projection of property tax revenues which will accrue to the county, municipality and school district according to the timing schedule provided under paragraph J. of this subsection, and following the completion of the planned commercial development in its entirety.
- J. A proposed timing schedule in the case of a planned commercial development whose construction is contemplated over a period of years, including any terms or conditions which are intended to protect the interests of the public and of the residents who occupy any section of the planned commercial development prior to the completion of the development in its entirety. The timing schedule shall indicate the number of dwelling units and nonresidential floor area proposed to be constructed in each section of the development, and shall detail how the sub-plans

and impacts described in paragraphs A. through I. above will be implemented and affected for each section of the development.

K. The location and identification of any subdivision proposed for lands within the general development plan shall be indicated. Any subdivision within the planned commercial development shall be pursuant to the GDP. Changes to proposed subdivisions shall be incorporated into the approved general development, but such subdivision changes shall not be deemed to be amendments of the GDP and shall not require the payment of new GDP application or escrow fees. Floor area ratio limits shall not apply to individual lots in the POD Zones, but shall apply to the total floor area (other than excluded floor area as defined in Section 250-122 below) within a planned commercial development.

L. If the planned commercial development is to be constructed in phases, the general development plan shall show a minimum contiguous lot area of not less than 100 acres for the initial phase of development. The initial phase of development may also include other, smaller, noncontiguous tracts for sewer, water, or other utility facilities intended to serve the initial phase of development.

SECTION 2. §212-1, **Definitions** of Chapter 212 is amended to add the following definitions:

"GENERAL DEVELOPMENT PLAN" shall mean a comprehensive plan for the development of a planned commercial development, as provided by this chapter.

SECTION 3. §212-23, **Application; Deposit** required of Chapter 212 is amended by the addition of new subparagraph I, **Fees For General Development Plans** to read as follows:

"I. Fee and Escrow Requirements.

(1) Application Fees.

(a) Upon submission of an application for a planned commercial development, all applicants shall be required to submit specified fees in accordance with the following schedule at the Office of the Secretary of the Planning Board:

[1] Twenty-five dollars per acre, plus \$0.01 per square foot of gross floor area for each building, for general development plan. If any portion of the property comprising the general development plan is intended or proposed for dedication to the Borough of Florham Park, not comprised of any roadways to be established, the Borough may waive the aforementioned per acre charge for those acres.

[2] The escrow review deposit for a general development plan shall be calculated and paid in the same manner as provided for site plans.

[3] **Conditions of Approval to be Binding.** All conditions of general development plans, preliminary and final approval of any planned commercial development or all conditions of preliminary and final approval of a particular phase of a planned commercial development shall be binding upon all present and future owners, tenants, occupants, lessors, lessees, heirs, assignees, developers, contractors and subcontractors, and the same shall be set forth in a developer's agreement in recordable form and approved by the Borough Council.

SECTION 4. §250-2, **Definitions** of Chapter 250, Zoning, is hereby amended and supplemented by the addition of the following definition:

"FLOOR AREA RATIO" means the sum of all floor area of buildings or structures compared to the total area of the site.

"PLANNED COMMERCIAL DEVELOPMENT" - means a contiguous or noncontiguous area greater than 300 acres to be developed according to a plan as a single entity containing one or more structures with appurtenant common areas to accommodate commercial, office and such other uses

incidental to the prominent use as may be permitted by the Ordinance.

"POD PARKING SPACE" - An accommodation in the Planned Office District Zones for the parking off street of one operable, licensed vehicle, which shall be 9 feet wide and 18 feet long.

SECTION 5. §250-3 **Zones** established and enumerated of Chapter 250, Zoning, is amended by the addition of the following zone districts:

"POD-N Planned Office District-North"

"POD-S Planned Office District-South"

SECTION 6. §250-4, **Zoning Map**, of Chapter 250, Zoning is hereby amended by redesignating the zone for Block 1402, Lot 1 on the Tax Map of the Borough of Florham Park from C-1 to POD-N and redesignating the zone for Block 1401, Lot 1 on the Tax Map of the Borough from C-1 to POD-S.

SECTION 7. Chapter 250, Zoning, is amended by the addition of a new Article XVIII, **Planned Office District Zones** to read as follows:

ARTICLE XVIII
Planned Office District - Zones.

§250-113. Permitted Uses in the POD-N Zone.

The following uses are permitted in the POD-N Zone subject to a floor area ratio not to exceed 0.03.

- A. General Business Offices.
- B. Laboratories for non-hazardous research, experimentation or testing.
- C. Light, non-nuisance manufacturing.
- D. Planned commercial developments containing one or more of the uses permitted under A. through C. above.

Municipal facilities or uses, such as a park and ride facility, are permitted uses in the POD-N Zone and are not subject to floor area ratio restrictions.

§250-114. County Road or State Highway Access. Any application for development in the POD-N Zone shall provide direct two-way access to either Columbia Turnpike or State Highway Route 24. No access to Elm Street is permitted.

§250-115. Permitted Accessory Uses - All permitted accessory uses in C Zones are permitted in the POD-N Zone, including a utility servicing the uses in the POD-S Zone.

§ 250-116. Area, Yard and Building Height and Coverage Requirements in the POD-N Zone. All lot area, width, depth, yard and building and impervious coverage requirements for the POD-N shall be in accordance with the criteria for the C-1 Zone except as follows:

A. **Floor Area Ratio.** The maximum floor area ratio shall be 0.030 in the POD-N Zone.

B. **Open Space Organization.** Open space may be dedicated to the Borough or may be deeded to a corporation, association or other legal entity consisting of one or more of the property owners within the planned commercial development for their use, control, management and maintenance. Any agreement providing for private ownership shall be reviewed and approved by the Borough Attorney to ensure that adequate safeguards are included guaranteeing the continuance of the agreement in perpetuity and protecting the Borough from harm. In any event, the agreement shall give the Borough the right to perform maintenance and assess the cost to the property owners in the event that the property owners fail to maintain the property in accordance with the agreement. All provisions of N.J.S.A. 40:55D-43 of the Municipal Land Use Law shall govern the establishment of the open space organization.

§250-117. Permitted uses in the POD-S Zone.

The following uses are permitted in the POD-S Zone as replacement of 600,000 square feet of floor area for existing development, subject to a floor area ratio not to exceed 0.053. If new buildings are constructed pursuant to this section, existing buildings containing the same floor area as the new buildings shall remain vacant and shall be razed during the term of the general development plan such buildings constitute a conditionally permitted use under

Section 250-119.B of this Ordinance. Removal and maintenance of the vacant structures shall be guaranteed pursuant to an agreement between the Borough and the owner of the structures, which agreement shall be a condition of any GDP approval. This agreement shall run with the land and bind all successor owners.

- A. General Business Offices.
- B. Laboratories for non-hazardous research, experimentation or testing.
- C. Light, non-nuisance manufacturing.
- D. Facilities for higher education.
- E. Childcare centers as part of a planned commercial development.
- F. Planned Commercial Developments containing one or more of the uses permitted under A-E above and/or uses under section 250-119 below.

§250-118. County Road or State Highway Access.

Any application for development in the POD-S Zone in excess of 0.053 FAR shall provide direct access to both Park Avenue and State Highway Route 24. Such direct access to Route 24 is not required for hotel development pursuant to Section 250-119A below. No access to Ridgedale Avenue is permitted with the exception of controlled access for emergency, police and fire vehicles.

§250-119. Conditional Uses in the POD-S Zone.

- A. A hotel and conference center is a conditional use in the POD-S Zone subject to the following standards:
 - 1. No hotel building shall exceed a maximum of sixty (60) feet in height, exclusive of roof tanks and supports, chimneys or enclosures for elevators or air conditioning machinery or other apparatus.
 - 2. No building shall be permitted closer to any property line, other than an abutting street right-of-way line, than two feet for every foot of

building height. No building shall be permitted closer to any abutting street right-of-way than three feet for every foot of building height; provided however, that no building shall be closer than 150 feet to any abutting street right-of-way line.

3. The part of the lot that is not covered with buildings, pavement, parking areas, sidewalks and like impervious material shall be not less than forty (40%) percent of the total lot area and shall be appropriately landscaped subject to Planning Board approval.
4. A hotel and conference center shall provide off-street parking at the rate of one (1) parking space for each guest room. Should the hotel and conference center include a restaurant and/or bar facilities parking for those facilities shall be provided as required in Section 250-105, in addition to those required for guest rooms. Should meeting space, ballrooms, and conference suites be provided as an ancillary use, parking should be provided at the rate of one (1) space for every 100 square feet of floor area of said meeting space facilities, in addition to the other requirements for the hotel.
5. A hotel shall only be permitted on a site containing a minimum area of ten (10) acres.
6. Any restaurant as an accessory use to a hotel operation shall only be permitted if it is located within the hotel building. Also permitted as an accessory use to a hotel operation, if located within the hotel building, are stores, shops and service facilities, primarily for the use and convenience of hotel guests.
7. Only one hotel and conference center shall be permitted which shall be restricted to 250,000 square feet.
8. Any hotel or conference center shall be part of a Planned commercial development and shall be included within the General Development Plan submitted by the developer.

B. Uses permitted in Section 250-117 which occupy a gross floor area in excess of 0.053 FAR or 600,000 square feet shall be deemed to be conditional uses in the POD-S Zone subject to the following regulations:

1. Requirement of Direct Connection to Route 24 for Development in the POD-S Zone Exceeding the Existing 600,000 square feet of Floor Area. Permitted uses in POD-S Zone in excess of the replacement of the existing 600,000 square feet of gross floor area as permitted under Section 250-117, up to a maximum floor area ratio of 0.135 are conditioned on direct connection providing two-way access from an interchanged access street in the POD-S Zone to Route 24. The gross floor area ratio maximum for the POD-S Zone may be increased to 0.165 pursuant to Section 250-119.B.3. below.

2. Except as provided in Paragraph 3 below, the floor area ratio for uses permitted by Section 250-118 shall not exceed 0.135.

3. Pursuant to N.J.S.A. 40:55D-39.c, and subject to the limitations of this paragraph, a developer may increase the concentration of development within the POD-S Zone if such increase is offset by a corresponding reduction of development in the POD-N Zone.

The developer shall be permitted to increase floor area ratio in the POD-S Zone to 0.165, provided that this increase is offset by elimination of the commercial development permitted in the POD-N Zone. An increased floor area ratio is only permitted if the entire development in the POD-N Zone is eliminated, excepting utilities to service the POD-S Zone.

§250-120. Permitted Accessory Uses - All permitted accessory uses in C Zones are permitted to the POD-S Zone.

§250-121. Area, Yard Setback and Building Height and Coverage Requirements in the POD-S Zone. All lot area, width, depth, height, yard and building and impervious coverage requirements for the POD-S shall be in accordance with the criteria for the C-1 Zone except as follows:

A. Permitted building height shall be 60 feet, with a maximum of 4 stories.

B. Minimum lot area for a childcare center in the POD-S zone shall be 1 acre.

C. Minimum front yard setback requirements shall be modified as follows:

i. Along Park Avenue and any public or private street in the POD-S Zone that provides a direct connection between a Route 24 interchange and Park Avenue (such a street is referred to herein as an "interchange access street"), the minimum front yard setback shall be 100 feet.

ii. Along any other street in the POD-S Zone designated on an approved General Development Plan (except Park Avenue and any interchange access street - as set forth in subsection i. above), the minimum front yard setback shall be 100 feet.

iii. Parking is permitted in the front yard, with buffering and subject to a setback of 150 feet from Park Avenue and 50 feet from all other streets.

iv. Notwithstanding the requirements of Ordinance Section 250-16.A., lots in the POD-S Zone may be developed without frontage on a public street so long as (a) such lot is provided with access to a public street by means of an improved private street or driveway measuring 30 feet in width, (b) the perpetual right to access and egress over the improved private street or driveway is granted by a recorded permanent easement, (c) such easement is reviewed and approved by the Planning Board Attorney and Borough Engineer to insure adequate provision for future maintenance of the private street or driveway, and (d) such private street or driveway is adequate to accommodate fire trucks and other emergency vehicles. On any such lot, the minimum front yard requirement shall be 100 feet, and the setback shall be measured from the nearest property line to the front of the building as identified on the general development plan. Such lots need not comply with minimum lot width requirements, but must meet all area, yard, setback, height, and coverage requirements applicable to the POD-S Zone.

§ 250-122. FAR Limits in POD Zones. The floor area ratio limits within the POD Zones shall not apply to (a) parking structures, including but not limited to buildings and/or structures related to park and ride facilities, (b) childcare centers, (c) freestanding buildings or structures for mechanical or utility equipment, including but not limited to sewage treatment facilities, and/or (d) hotels or conference centers. Within a planned commercial development, floor area ratio limits shall apply to the

total floor area (other than floor area which is excluded under this section, herein called "excluded floor area") within the planned commercial development, but shall not apply so as to limit the extent of floor area on individual lots. The gross floor area (other than excluded floor area) in the POD-S Zone may pursuant to a general development plan, equal but shall not exceed as a permitted use 600,000 square feet; and as a conditional use may equal 1,500,000 square feet. The total gross floor area (other than the excluded floor area) may equal but not exceed 1,800,000 square feet if permitted commercial development in the POD-N Zone is eliminated pursuant to Section 250-119(B)(3) of this Ordinance.

SECTION 8. All ordinances inconsistent with this Ordinance are hereby repealed with regard to such inconsistency.

SECTION 9. If any article, section, subsection, paragraph, phrase, or sentence is for any reason held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed separable.

SECTION 10. This Ordinance shall take effect upon final publication as provided by law.

INTRODUCED:
PUBLISHED:
ATTESTED:

**BOROUGH OF FLORHAM PARK
COUNTY OF MORRIS
STATE OF NEW JERSEY**

JUDITH B. BEECHER, Clerk

BARBARA B. DOYLE, MAYOR