

THE EFFECTIVE DATE OF THIS ORDINANCE IS JUNE 28, 2022

ORDINANCE NO. 22-04-004

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

**RE: Park Place at Ballenger PUD
REZONING CASE R-21-01**

OPINION/FINDINGS

I. HISTORY

DR Acquisitions, LLC (“Applicant”) filed this application to change the zoning classification of 2.978 acres, more or less (Property) from Agricultural (A) to Planned Unit Development (PUD) in order to develop 29 single-family attached (townhouse) dwelling units. The property is located on the west side of Ballenger Creek Pike, between Tuscarora High School and Ballenger Creek Park, south of the City of Frederick.

The Property is located within the Ballenger Creek Community Growth Area and represents an opportunity for Suburban Retrofit, as identified in the Livable Frederick Master Plan. This concept focuses on making the existing infrastructure more multi-modal and finding opportunities for higher density redevelopment.

The Frederick County Planning Commission considered this request in a public hearing on March 23, 2022 and recommended approval of the application with one condition of rezoning.

The County Council of Frederick County, Maryland, held a public hearing on the application on June 7, 2022. The County Council discussed the rezoning request on June 21, 2022. The application was approved by a majority vote of the County Council (6-1) on June 21, 2022.

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 Park Place at Ballenger PUD proposes the development of 29 market rate single-family attached homes (townhouses) on a 2.978 acre site. The conceptual layout of the site shown on the Concept Plan illustrates multi-fingered, short, local streets serving the 29 homes, the majority of which front upon or face Ballenger Creek Pike. A small stormwater facility faces the intersection of Ballenger Creek Pike and the Tuscarora High School driveway entrance. A public sidewalk is shown as extending along the frontage of the site, with pedestrian connections provided into the interior of the proposed development. The sole vehicular access to the project is shown conceptually as connecting directly onto Ballenger Creek Pike, a minor arterial roadway maintained by Frederick County. A compact trail system is illustrated as extending the interior pedestrian network and making a direct connection with the trail system in the adjacent Ballenger Creek Park (a County facility).

The proposed land use confirms general conformity with the PUD regulations, demonstrating that the residential density derived from this Concept Plan will result in a project density that meets the requirements for Medium Density Residential uses as described in the Zoning Ordinance.

2. Phasing Plan

The application proposes a single-phase project of 29 townhouses and their accompanying on-site amenities and infrastructure. 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). The Applicant will be responsible for constructing the necessary connections to water and sewer infrastructure, which is already operating in close proximity to the site.

3. Land Use Proposal

The site, with a gross acreage of 2.978 acres and with the proposed maximum of 29 dwellings, would have a gross density of 10.3 dwellings/acre. A net density calculation, based on the residential area (minus open space/green areas) of 2.06 acres, would result in a net density of 14.1 dwellings/acre. The gross density is consistent with the Comprehensive Plan range for Medium Density Residential of 6-12 dwellings/acre.

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 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 Ballenger Creek Community Growth Area as playing a significant role in the development, and redevelopment, of the County's Primary Growth Sector, and

allowing Frederick County to grow its population while taking advantage of existing and improved community infrastructure. The property is located within the Ballenger Creek Community Growth Area and represents an opportunity for “Suburban Retrofit”. Emphasis in this area will focus on finding opportunities for higher density redevelopment. The application for PUD zoning with a gross density of 10.3 dwellings/acre is consistent with the Medium Density Residential plan designation and is within the 6-12 dwellings/acre gross density range.

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 the Ballenger Creek Park to the north, Tuscarora High School to the south and west, the Ballenger Crossing and Ballenger Run PUD projects to the east, and a re-routing of Ballenger Creek Pike.

6. Availability of Public Facilities and Services

The proposed residential development will be adequately served by the current parks, libraries and public safety facilities. For water/sewer service, the property is currently designated Planned Service (PS). Access to the existing public water and sewer line mains exists in close proximity to the property.

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 Medium Density Residential land use plan designation on the current Comprehensive Plan Map within the Ballenger Creek Community Growth Area. The proposed residential use would support the compact and efficient use of existing infrastructure and public services in the vicinity.

(2) Availability of current and planned public facilities;

The proposed PUD rezoning will likely constitute a minimal impact on schools, and will not significantly impact parks, public safety, or library facilities. Water is supplied by the

New Design Water Treatment Plant. Sewer is treated by the Ballenger McKinney Wastewater Treatment Plant. Both systems currently have adequate treatment and supply capacity to serve the proposed residential uses, although capacity is not guaranteed until purchased.

(3) Adequacy of existing and planned 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 Ballenger Creek Community Growth Area.

(4) Compatibility with existing and proposed development;

The proposed medium density residential uses are compatible with the existing and planned mix of residential, institutional, employment, and commercial uses in the larger neighborhoods surrounding the site.

(5) Population change;

The proposed rezoning would likely result in a modest number of new residents in the area. Accounting for the replacement of the two existing homes on the site, the proposal is projected to generate a new population of 69 persons.

(6) The timing of development and facilities;

The application does not propose a specific schedule for development of the site. There is existing road access and capacity to allow development of the site to occur quickly after entrance improvements are approved and completed and escrow funds have been deposited. There is water and sewer infrastructure existing or nearby. The site will be subject to subsequent subdivision, site plan and APFO approval.

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

The site of the proposed rezoning is currently developed. Any applicable regulations regarding Environmental Site Design, Forest Resource Ordinance (FRO), or other sensitive natural resources will be addressed at the time of subdivision and site plan review.

(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 development will have a relatively compact development due primarily to the small size of the parcel as well as the man-made site constraints put in place by surrounding development in the area. The area has extensive existing infrastructure including water/sewer lines, school facilities, park facilities, and road improvements that would support the residential 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 proposed PUD zoning reflects similar patterns in the nearby PUDs. There are no Community or Corridor Plans 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 is similar to recent development in the vicinity of the site. Subsequent site plan review would address detailed design issues such as parking, landscaping, screening, trail connections, building orientation, 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;

Subsequent site development plan review will evaluate the safety and efficiency of the arrangement of on-site buildings and infrastructure.

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

Transportation network adequacy will be achieved through a combination of planned improvements and site access modification 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 Concept Plan does indicate the potential for a direct trail connection between this development and the adjacent Ballenger Creek Park. Primary pedestrian access will occur along Ballenger Creek 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 Westview/United Fire Company (Station #31) is approximately 1.8 miles from the property. Police protection would be provided by the Frederick County Sheriff's Office.

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

The natural features of the site will be incorporated into the planned open space/green space in the PUD. No sensitive environmental resources are mapped on the proposed rezoning site.

(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 Medium Density Residential which allows for the application of the PUD floating zone. The application of PUD zoning with a gross density of 10.3 dwellings/acre is consistent with the Medium Density Residential plan designation and falls within the 6-12 dwellings/acre gross density range. No Community or Corridor Plan has been adopted for this growth area.

(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 public infrastructural systems are adequate, or can be made adequate, to support the proposed development as described in this rezoning application. The site will be subject to subsequent subdivision, site plan, and APFO review.

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

The site of the proposed rezoning is currently developed. Any applicable regulations regarding Environmental Site Design, FRO, or other sensitive natural resources will be addressed at the time of subdivision and site plan review.

(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-21-01, with the condition listed below.

ORDINANCE

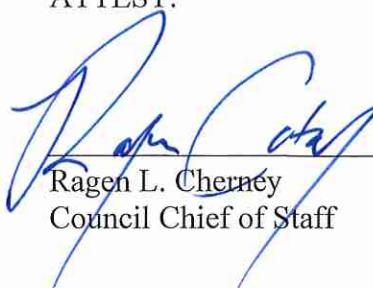
BE IT ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND, that for the reasons set forth above, the rezoning of 2.978 acres of land (as depicted in the application) to PUD is hereby granted, subject to the following condition:

1. The Applicant shall develop the site with no more than twenty-nine (29) dwelling units. (This represents a net total of twenty-seven (27) dwelling units after accounting for the two (2) existing single-family dwellings to be demolished as a result of this development.)

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 28th day of June, 2022.

ATTEST:



Ragen L. Cherney
Council Chief of Staff

COUNTY COUNCIL OF
FREDERICK COUNTY, MARYLAND

By: 

M.C. Keegan-Ayer, President



Michael Blue, Vice President



Phil Dacey, Council Member



Jessica Fitzwater, Council Member



Kai Hagen, Council Member



Steve McKay, Council Member

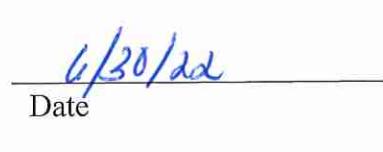
Council Member Jerry Donald did not vote in favor of this rezoning.

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