

THE EFFECTIVE DATE OF THIS ORDINANCE IS March 14, 2018

ORDINANCE NO. 18-02-002

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

**RE: BALLENGER RUN PUD
REZONING CASE R-05-09(B)**

OPINION/FINDINGS

I. HISTORY

The Ballenger Run PUD was initially rezoned (Case No. R-05-09) to PUD in 2006 (Ordinance No. 06-33-429 effective September 28, 2006) and was approved for 970 dwellings and conditioned to be age-restricted. This case included conditions to construct the main Ballenger Creek Trail and the spur trail to the north but did not include any timing thresholds, which were to be determined at the Phase II review.

In 2013 the Ballenger Run PUD amended its Phase I Plan (Case No. R-05-09(A), Ordinance No. 13-20-648, effective October 17, 2013) with the following revisions:

- Reduced the total approved dwelling units from 970 to 855 dwelling units. This total includes 655 all age dwellings and 200 dwellings units that may be age-restricted dwellings or an assisted living/CCRC use with the same number of equivalent beds.
- Removed the age restriction condition.
- Included a 13-acre elementary school site.

- Added building permit thresholds for the construction of the trails.

The PUD received Phase II approval (preliminary subdivision/site plan) for the first section of 443 lots in 2014. This first section included 207 single-family lots and 236 townhouses. The remaining part of the development will include 212 multi-family units, which will still need to go through a site plan review.

The current PUD application proposes revisions to two conditions of approval from Case No. R-05-09(A) effective October 17, 2013 per Ordinance No. 13-20-648. The request proposes to amend the conditions that require the construction of the Ballenger Creek Trail and a spur trail by specific building permit issuance thresholds.

The Frederick County Planning Commission considered this request in a public hearing on October 11, 2017 and recommended approval of the application.

The County Council of Frederick County, Maryland, considered the request in a public hearing on December 5, 2017 and unanimously approved the application.

Based upon all of the evidence submitted in this case, the County Council makes the following specific findings of fact on each of the items below as identified in the Ann. Code of Md., Land Use Article §4-204(b) and included in Chapter 1-19 of the County Code:

II. PROPOSED DEVELOPMENT

A. Concept Plan

There are no changes proposed in the current Phase I Concept Plan.

B. Phasing Plan

The Phase I Plan amendment in 2013 did not include any detail other than to indicate that the development would be built out over an approximately 12-year period. The Letter of Understanding (LOU) does include building permit and lot recordation thresholds relative to various road improvement requirements.

C. Land Use Proposal

The mix of land uses approved in 2013 is not proposed to change. There are no proposed changes to the land use, design, or density of the current Phase I Plan.

D. Consistency with the County Comprehensive Plan

The 2010 County Comprehensive Plan, as amended in 2012, does not specify trail locations or the schedule for their construction. The Plan supports the development of trails and opportunities for pedestrian and bicycle access to schools, parks, and employment areas.

The proposed revisions to the conditions are consistent with the Comprehensive Plan as they only shift the schedule for construction of the trails.

E. Compatibility with Adjoining Zoning and Land Uses

The proposed condition amendments will not affect the compatibility of the proposed development with any adjoining uses or zoning.

F. Availability of Public Facilities and Services

This proposed amendment to the conditions will not have any impacts on either existing or planned public facilities or services, except for the timing of construction of the Ballenger Creek Trail.

The Letter of Understanding (LOU), executed on October 17, 2013, does include building permit and lot recordation thresholds relative to various road improvement requirements.

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

(1) Consistency with the comprehensive plan;

Staff finds that the proposed amendment to the conditions to shift the timing of the trail construction is still consistent with the Comprehensive Plan.

(2) Availability of public facilities;

The proposed condition amendments will not affect the adequacy of public facilities.

(3) Adequacy of existing and future transportation systems;

The proposed condition amendments will not affect existing and future road networks. The trails will provide a significant link within the Ballenger Creek community.

(4) Compatibility with existing and proposed development;

The proposed amendments to the conditions will not affect the compatibility with surrounding development.

(5) Population change; and

There will not be any population change as a result of this proposed amendments to the conditions.

(6) The timing of development and facilities.

The proposed amendments to the conditions will move back the timing of the construction of the trails. This shift in timing will not adversely affect ability for the trails to serve the development.

§ 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 amendments to the conditions do not propose any changes in the design of the development.

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

The proposed amendments to the conditions do not propose any changes in the design of the development.

(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;

The proposed amendments to the conditions will not affect compatibility of the development with adjoining land uses.

(D) The proposed development provides a safe and efficient arrangement of land use, buildings, infrastructure, and transportation circulation systems. Factors to be evaluated include: connections between existing and proposed community development patterns, extension of the street network; pedestrian connections to, from, and between buildings, parking areas, recreation, and open space;

The proposed amendments to the conditions do not propose any changes in the design of the development.

(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;

The proposed amendments to the conditions will not affect the road network adequacy. The trails will still be constructed to support the larger pedestrian/bicycle connections in the community.

(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 proposed amendments to the conditions will only shift the construction of the trails relative to the development of the PUD. The trails will still be constructed to complete the connections of the Ballenger Creek Trail.

(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 proposed amendments to the conditions will not affect the availability of public services.

(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 proposed amendments to the conditions will not affect natural features within the development.

(I) The proposed mixture of land uses is consistent with the purpose and intent of the underlying County Comprehensive Plan land use designation(s), and any applicable community or corridor plans;

The proposed amendments to the conditions will not change the approved mix of land uses for the PUD.

(J) Planned developments shall be served adequately by public facilities and services. Additionally, increased demand for public facilities, services, and utilities created by the proposed development (including without limitation water, sewer, transportation, parks and recreation, schools, fire and emergency services, libraries, and law enforcement) shall be evaluated as adequate or to be made adequate within established county standards.

The proposed amendments to the conditions will not affect the availability of public services.

The County Council determined, based upon the evidence in the record that it is appropriate to grant the request.

ORDINANCE

BE IT ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND, that for the reasons set forth above, the request to amend conditions 4 and 5 of Ordinance No. 13-20-648 for the Ballenger Run PUD, as follows:

- 4) Prior to issuance of the 500th building permit (or equivalent dwelling unit), the Applicant shall construct the Ballenger Creek Trail from the Kingsbrook development to Ballenger Creek Pike. The Applicant shall accommodate a safe crossing to bring the trail across Ballenger Creek Pike in a location acceptable to the Department of Parks and Recreation. The alignment and design of the trail shall be coordinated with the Division of Parks and Recreation.
- 5) Prior to issuance of the 600th building permit (or equivalent dwelling unit), the Applicant shall construct an 8-foot wide multi-use asphalt trail from the northern property line following Pike Branch to connect to the Ballenger Creek Linear Park trail and shall establish and record a +/- 16-foot wide, perpetual public access easement over this trail to Frederick County. This trail shall be constructed to meet requirements contained in the Frederick County Bikeway and Trails Design Standards and Planning Guidelines.

is granted subject to the following conditions:

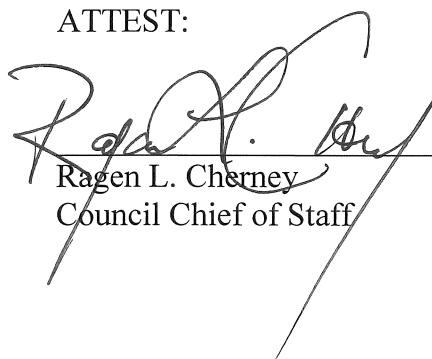
1. The amendments to the conditions meet the criteria as set forth in § 1-19-3.110.4; and
2. The amendments to the conditions adequately addresses the Planned

Development District Approval Criteria as set forth in § 1-19-10.500.3.

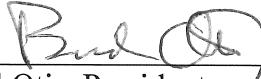
AND BE IT FURTHER ENACTED AND ORDAINED, that the Zoning Administrator is hereby authorized and directed to make the appropriate changes to the PUD Phase I Plan as reflected in this decision.

The undersigned hereby certify that this Ordinance was approved and adopted on the 14th day of March, 2018.

ATTEST:


Ragen L. Cherney
Council Chief of Staff

COUNTY COUNCIL OF
FREDERICK COUNTY, MARYLAND

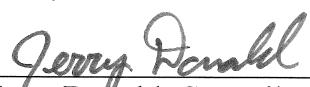
By: 
Bud Otis, President


M. C. Keegan-Ayer, Vice President

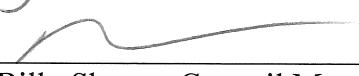
MJC 3/9/18


Tony Chmelik, Council Member


Kirby Delauter, Council Member


Jerry Donald, Council Member


Jessica Fitzwater, Council Member


Billy Shreve, Council Member

Received by the County Executive on March 15, 2018.

County Executive Action: ✓ Approved Vetoed

Jan H. Gardner
Jan H. Gardner, County Executive
Frederick County, Maryland

3-15-18
Date