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# FREDERICK COUNTY PLANNING COMMISSION

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August 14, 2019

**TITLE:** Ballenger Run PUD Land Bay D  
Preliminary Subdivision Plan

**FILE NUMBER:** S 1143, AP#19516, FRO 19518

**REQUEST:** **Preliminary Subdivision Plan Approval**  
The Applicant is requesting Preliminary Subdivision Plan approval to create 36 townhouse lots (age restricted) on a 5.975 acre lot within the Ballenger Run PND known as Land Bay D.

**PROJECT INFORMATION:**

**ADDRESS/LOCATION:** Located on the north side of the intersection of Ballenger Run Blvd. and Ballenger Creek Pike in Ballenger Run PUD.  
**TAX MAP/PARCEL:** Tax Map 86, Parcel 274  
**COMP. PLAN:** Medium Density  
**ZONING:** PUD Planned Unit Dev  
**PLANNING REGION:** Frederick  
**WATER/SEWER:** W-3/S-3

**APPLICANT/REPRESENTATIVES:**

**APPLICANT:** SED Md. Development LLC  
**OWNER:** Same  
**ENGINEER:** Harris, Smariga and Assoc.  
**ARCHITECT:** N/A  
**ATTORNEY:** N/A

**STAFF:** Jerry Muir, Principal Planner I

**RECOMMENDATION:**

Conditional Approval

**ATTACHMENTS:**

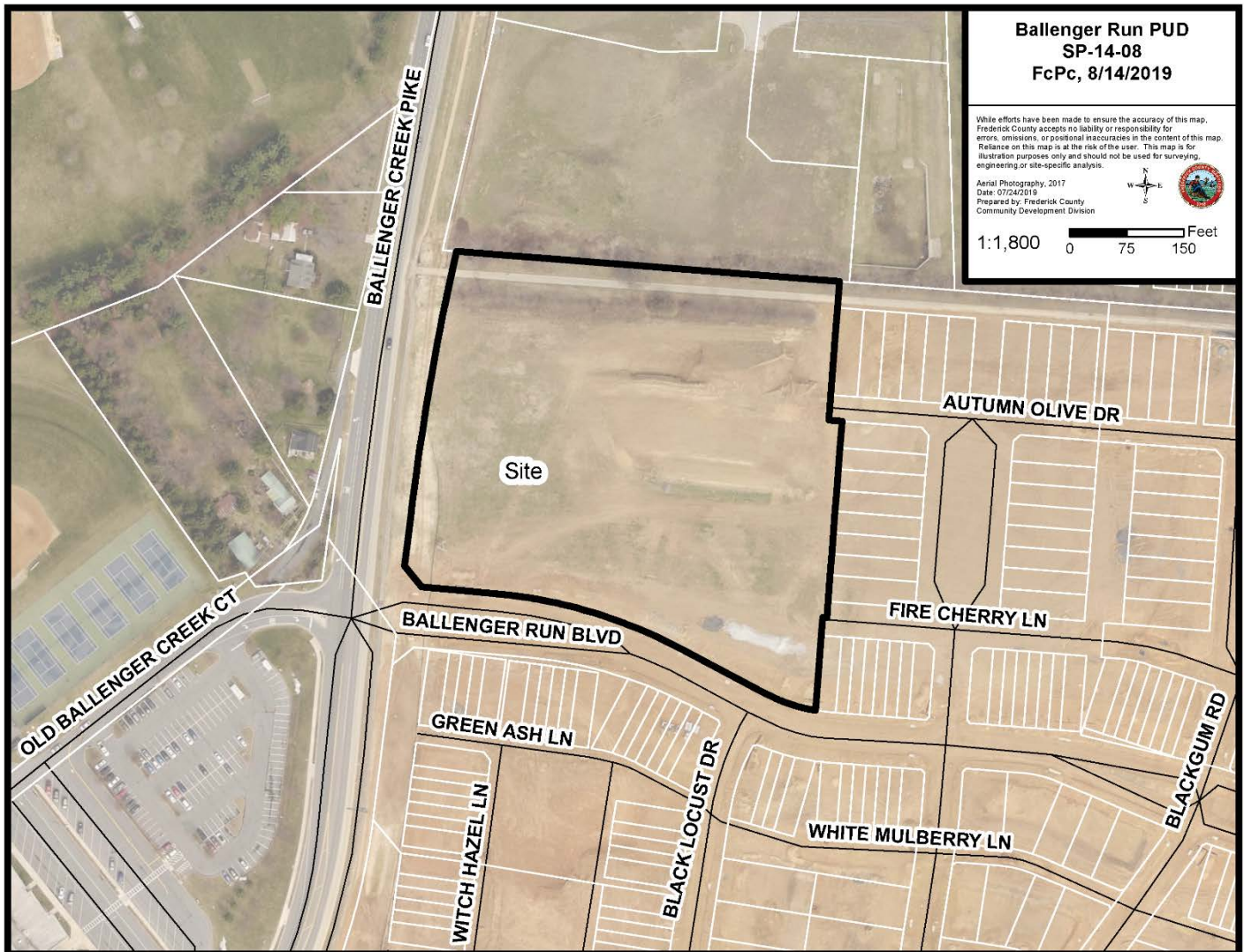
Exhibit 1 – Rendered Subdivision  
Exhibit 2 – Lighting Modification

# STAFF REPORT

## ISSUE

The Applicant is requesting Preliminary Subdivision Plan approval to create 36 age restricted Townhouse lots in Land Bay D of the Ballenger Run PUD. The development encompasses 5.975 acres. The Plan is being reviewed per Sections 1-16-71 and 1-16-72 of the Frederick County Subdivision Rules and Regulations. Further requirements are listed in Section 1-19-10.500.9 "General Development Standards in the Planned Development Districts" and Section 1-20-7(F) of the APFO ("housing for older persons").

**Figure 1: Site Vicinity Map – Aerial Image**



**BACKGROUND**

**Development History:** The Ballenger Run PUD was initially approved in September of 2006 as an age restricted development. The removal of the age restriction and other various amendments to the PUD were approved in October 2013. A DRRA and an LOU for the development were also approved as part of the amendment process. This Site was identified on the approved Preliminary Plan/ Site Plan (S-1143/ SP 14-08) approved on October 8, 2014.

A First Amendment to the DRRA was approved in 2016 to allow revisions to unit types, moderately priced dwelling units and age restrictions originally approved in 2014. Land Bay D was identified as a 200 unit Continuing Care Community or as a 200 unit multi-family age restricted section.

Following that amendment, an MPDU agreement was approved to establish the construction of the PUD’s MPDU requirement of 107 units in the multi-family section “B”, which is currently under construction.

In June of this year, amendments to the DRRA and to the Phase I PUD zoning were approved. This allowed the developer to develop Land Bay D with up to 200 age restricted units of any type.

**Existing Site Characteristics:** The Site is currently mass graded, but undeveloped.

**Surrounding Land Uses:** This Site is in an approved Planned Unit Development and is (or will be) surrounded by a mix of residential unit types, with additional open space and FRO areas to the east. A future multi-family section is planned in the rear and west of the Site.

**ANALYSIS**

**Land Use and Bulk Requirements:**

The proposed townhouse lots are consistent in their dimensional requirements with other townhouse units within the PUD.

Per 1-19-10.500.6, the Planning Commission establishes the setbacks and height in PUDs. Townhouse Section setbacks were previously established in the PUD in earlier sections.

The setbacks for townhouses are as follows:

	Proposed
Lot Area	1,440 SF
Lot Width	28'
Front Yard	25'
Rear Yard	15'
Side Yard	5'
Bld. Hgt.	35'
Rear Accessory	5'
Side Accessory	0'

The proposed townhouses meet the established setback dimensional requirements and exceed the minimum lot area (propose 3,220 SF).

### **Access/Circulation:**

The plan indicates 36 townhouse lots to be served by private streets within the PUD. The Plan indicates a paving width of 24' and shows additional on-street parking bays of 7' in width on Autumn Olive Drive. The section is well connected to the rest of the PUD with a main entrance off Ballenger Run Blvd and secondary connections Fire Cherry Lane and Autumn Olive Drive.

### **Environmental Features and Restrictions:**

As noted, the site has been mass graded and there are no significant environmental features of note on site. The applicant does propose to move two large River Birch trees and retain two large trees on the northern property line.

### **Parking:**

The parking note on the plan is correct. Townhouse parking is calculated as one space per unit and one half space per bedroom. Counting the double garage as one space, the two driveway spaces could accommodate a four bedroom home. There are an additional 22 on-street parking spaces provided on Autumn Olive Drive.

### **Landscaping/Screening:**

Street trees are shown on the Preliminary Plan. This subdivision will require eight street trees on Ballenger Creek Pike and eight are provided.

**The note regarding the River Birch relocation must be removed from this Plan as it is a site plan issue.**

### **Utilities:**

The site is classified as W-3, S-3. Water and sewer lines are directly adjacent to the site and will be extended to serve the townhouse lots.

### **Street lighting:**

A street lighting plan has been submitted as part of this application. The Plan proposes five pole mounted street lights for the development. The Applicant requests two modifications related to the lighting plan. The first is to allow a pole height of 15.4' rather than the 14' normally permitted in a PUD. The Applicant has pointed out that all the other sections of the PUD use this same light pole and wishes to remain consistent. The second modification is for light spillage into the front yards of lots 525, 526, 530, 531, 501 and 502 and into the side yard of 536. The pole on the south side of Autumn Olive Drive has been adjusted once to remove spillage into the rear yard of lot 525 (as evidenced by the stray light pole leader note). **Staff believes this light can be adjusted to eliminate side yard encroachment; particularly as this is a corner high visibility lot which will have side windows.**

### **Age Restricted Amenities**

Section 1-20-7(F) of the APFO requires “a full program of amenities and other activities for older persons”. The code lists trails, walking paths, sidewalks, clubhouse, active recreational open space (such as swimming pools and Bocce courts), and passive recreational open space for pocket parks, gazebos, etc.

In addition to the sidewalks that are provided around this specific age-restricted land bay, and bocce court is also being provided adjacent to Lot 536. The overall PUD has significant area of active and passive open spaces, trails, and a community clubhouse with a swimming pool.

### **Moderately Priced Dwelling Unit (MPDU):**

As noted above, the five MPDUs required for this section will be provided in Land Bay B of the PUD

**Phasing:** Per Note 22, the site is to be constructed in one phase.

### **Other Applicable Regulations**

**Stormwater Management – Chapter 1-15.2:** A Concept Storm-water Plan has been submitted and is conditionally approved for this Application. Storm-water will be accommodated in an existing regional facility.

### **APFO – Chapter 1-20:**

This development has an approved and valid APFO Letter of Understanding that included up to 200 age-restricted units in land Bay D. The proposed 36 age-restricted townhouses are covered by the existing APFO approval.

### **Forest Resource – Chapter 1-21:**

Forest Conservation was previously mitigated for this property in 2015 (AP 15743) by providing forest conservation easements within the PUD. No additional FRO mitigation is required. No forest or specimen trees are present within the area of disturbance. Two larger trees on the northern property line will be retained.

## Summary of Agency Comments

<b>Other Agency or Ordinance Requirements</b>	<b>Comment</b>
<b>Public Works Development Review (PWDR):</b>	Conditional Approval
<b>Development Review Planning:</b>	Hold
<b>DUSWM:</b>	Conditional Approval
<b>Street Name Review</b>	Approved
<b>Health Dept.</b>	Approved
<b>Office of Life Safety</b>	Conditional Approval
<b>Traffic Engineering</b>	Approved
<b>APFO</b>	Approval
<b>BOE</b>	Conditional Approval

## Recommendation

Staff has no objection to conditional approval of this Preliminary Subdivision Plan. Should the Planning Commission conditionally approve the site development plan, the Plan is valid for a period of five (5) years from the date of Planning Commission approval (valid through August 14, 2024).

Based upon the findings, conclusions, and modifications as presented in the staff report, Staff finds that the application meets or will meet all applicable Zoning, APFO, and FRO requirements once the following modifications are granted and conditions met:

### Modifications requested by the Applicant for approval:

Section 1-19-6.500D: Applicant request for a modification to allow light spillage over property lines in the front yards of corner lots 501, 502, 525, 526, 530 and 531.

Section 1-19-6.500B Applicant request for a modification to allow 15'5" high light poles, rather than 14'.

### Staff-proposed conditions of approval:

1. Address all agency comments as the Plan proceeds through to completion.
2. In Note 9 include a land use table specific to this 5.97 acre parcel.
3. Adjust the light pole on the south side of Autumn Olive Drive to eliminate side yard light spillage into lot 536. Also correct the light pole leader location.
4. Remove the note on sheet P-2 regarding the River Birch relocation.
5. Record the utility easement and note the liber/folio reference on the Plan.
6. Remove "All Age" from notes 2 and 4.
7. Revise note 1 to read "The purpose of this plan is to build 36 age-restricted townhouses within Land Bay D." Reference previously approved plans in separate note.

8. Add a note to the plan stating "These 36 townhouses in Land Bay D must comply with the minimum age restriction, as stated in the Fair Housing Act requirements for housing for older persons and shall comply with the Age Restricted provisions of Chapter 1-20 of the County Code.
9. The age restricted covenants must be provided to the County and approved by the County Attorney prior to Preliminary Plan signature/approval. The covenants must be recorded in the Land Records prior to lot recordation and referenced on all plats.

**PLANNING COMMISSION ACTION**  
**MOTION TO APPROVE**

I move that the Planning Commission **APPROVE** S-1143, AP 19516 and FRO 19518 with the modifications and conditions as listed in the staff recommendations for the proposed Ballenger Run Land Bay D Preliminary Subdivision Plan, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.



# EXHIBIT 1 Rendered Site Plan





## EXHIBIT 2 Modification Letter



July 25<sup>th</sup>, 2019

Jerry Muir  
Frederick County Department of Community Development  
30 N. Market Street  
Frederick, MD 21701

Re: Request for Planning Commission Modification – Light pole height & light spillage  
Ballenger Run Land Bay D Site Plan (AP# 19516)

Dear Commission Members,

As allowed by the Zoning Ordinance, we would like to request a modification to permit light heights of 14'-8" to match those throughout the development.

Per code the light pole height is restricted to 14'. This modification would permit the light mounting height to match the streetlights used throughout the development at 14'-8". This site serves as a natural extension of the existing neighborhood, and as such, the light poles are designed to match the existing poles within the neighborhood.

Also, to facilitate connections to the existing neighborhood, it is necessary to request a modification to allow minor light spillage over the property lines.

Sincerely,

Jody Walker  
Designer. Harris, Smariga

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