TITLE: Ballenger Run PUD

FILE NUMBER: S-1143 SP-14-18 (AP14623, APFO14625, FRO14626, SWM14624)

REQUEST: Combined Preliminary Subdivision/Site Development Plan Approval
The Applicant is requesting Combined Preliminary Subdivision/Site Development Plan approval for a total of 447 lots consisting of 174 front loaded single family dwellings, 33 rear loaded single family dwellings, 85 front loaded townhouses, 151 rear loaded townhouses, 2 multifamily lots, 1 CCRC/assisted/independent living lot, and 1 clubhouse/community center lot on a 197 acre site.

PROJECT INFORMATION:
ADDRESS/LOCATION: East side of Ballenger Creek Pike, north of Ballenger Creek
TAX MAP/PARCEL: Tax Map 86 Parcels 53, 54 & 243
COMP. PLAN: Medium Density Residential & Natural Resource
ZONING: Planned Unit Development (PUD) & Agricultural (A)
PLANNING REGION: Frederick
WATER/SEWER: W3/S3

APPLICANT/REPRESENTATIVES:
APPLICANT: RGB Family, LLC
OWNER: RGB Family, LLC
ENGINEER: Harris, Smariga & Associates, Inc.

STAFF: John Dimitriou, RA, Principal Planner

ATTACHMENTS:
EXHIBIT 1 - Preliminary Subdivision/Site Plan Rendering
EXHIBIT 2 – Alternate Street Tree Planting and Parking Modification Requests
STAFF REPORT

ISSUE

-Development Request-

The Applicant is requesting Combined Preliminary Subdivision/Site Development Plan approval for a total of 447 lots consisting of 174 front loaded single family dwellings, 33 rear loaded single family dwellings, 85 front loaded townhouses, 151 rear loaded townhouses, 2 multifamily lots, 1 CCRC/assisted/independent living lot, and 1 clubhouse/community center lot on a 197 acre site (the Project). The Project is subject to the requirements of the Frederick County Code, specifically Chapter 1-16 Subdivision Rules and Regulations for the Preliminary Subdivision Plan review, and Section 1-19-3.300 through 1-19-3.300.4 for the Site Development Plan review. The Site Plan portion of the Project is being reviewed as a residential land use under the heading of Townhouse per §1-19-5.310 Use Table in the Zoning Ordinance and is a permitted use in the PUD Zoning District subject to site development plan approval.

BACKGROUND

-Development History-

This Site was rezoned to Planned Unit Development (PUD) on September 28, 2006 with rezoning case R-05-09. This case rezoned 130.8 acres from Agricultural (A) to Planned Unit Development (PUD) and included 970 age-restricted dwelling units. With only age-restricted dwelling units, the 2006 PUD was exempt from the Adequate Public Facilities Ordinance test for school adequacy and no school impact mitigation was required. A portion of the age restricted development progressed through the development review process in the form of a Preliminary Plan approval granted on February 21, 2008 for 609 of the total approved 970 units. This review included Adequate Public Facilities Ordinance (APFO) and Forest Resource Ordinance (FRO) review and approvals for the 609 dwelling units. No final plats were recorded, and Preliminary Plan expiration date is 2/21/2016.

In 2013, the zoning was amended by Ordinance 13-20-648(2013 Ordinance). The primary issues in this case were the build out of the Ballenger Creek Trail per County plans, provision of an elementary school site as one form of mitigation for the change to all age dwellings, interconnectivity of the Project to surrounding transportation systems, and elimination of the age restriction requirement for dwellings.

The 2013 Phase I plan eliminated the age restriction for dwellings, and reduced the total number of dwellings to 855, including a 200 unit Continuing Care Retirement Community (CCRC) for assisted/independent living. The plan relocated a 9.7 acre school site in the northeastern corner of the property to a new 13.3 acre school site on the southwestern corner of the property adjacent to Ballenger Creek Pike. The approval relative to the Ballenger Creek and Pike Branch trails did not change, which includes the construction of the Ballenger Creek Trail through the Site, construction of a trail along Pike Branch, and dedication of parkland to the County.
**Existing Site Characteristics**

The Project Site is zoned PUD, with Agricultural (A) zoning within the area of FEMA 100 Year Floodplain. Adjoining the property to the west of the Project Site across Ballenger Creek Pike is Tuscarora High School, with Ballenger Creek District Park to the north of the high school. To the east of the Site is the Kingsbroook residential subdivision, where the Ballenger Creek Elementary School site is located immediately adjoining the Project Site. The Ballenger Crossing residential subdivision is directly to the north of the Project Site, with the Ballenger Creek Middle School to the north of that. The adjoining properties directly to the south include the residential subdivisions of Wellington Trace and Robin Meadows. Tuscarora Elementary School is located within Wellington Trace adjacent to Ballenger Creek Pike. Further south are the Linton and Younkins residential subdivisions, currently in varying stages of development.

Within the Project Site, a significant portion of land along Ballenger Creek and Pike Branch is within the FEMA 100 year floodplain. With the exception of land along Ballenger Creek, the Site is largely deforested and is currently used for farming. The topography of the land outside of the FEMA floodplain is level, with steeper slopes adjacent to the waterbodies. The southwestern corner of the Site, outside of the FEMA floodplain, has a portion of flooding soils. Other than this, the remainder of the soil on the Site outside the FEMA floodplain is classified as Non-Restricted. Wet soils roughly align with the FEMA Floodplain with the exception of the southwest corner of the Site where the “wet” soils extend to the north to Ballenger Creek Pike.
ANALYSIS

-Summary of Development Standards Findings and Conclusions-

Staff finds that the Project does not adequately meet certain standards of the Frederick County Code and therefore recommends denial of the application for the following reasons:

Per condition #7 of the 2013 Ordinance, the Applicant is required to convey to the Frederick County Board of Education (“BOE”), in fee simple, with no monetary consideration paid, a public school site totaling a minimum of 13+/- acres, to serve the Project and the surrounding regions. In order to ensure implementation of this condition, an outlot plat for the BOE school site must be submitted, reviewed, and recorded prior to final Combined Preliminary/Site Plan Approval. Conveyance of the school site to the BOE must occur upon; i) the recordation of the first subdivision plat for the lots in the Project; and ii) BOE’s acceptance of the conveyance of land for the public school site. The proposed Ballenger Run Combined Preliminary/Site Plan includes a note identifying the school site as an outlot. However, as of the date of drafting this staff report, the outlot plat identifying the BOE school site has not been submitted for review and approval by the Community Development Division. Since this has not yet occurred, Staff’s recommendation of denial is also contingent on the timely resolution of this issue.

The proposed Project contains one dead end street system (on the east side of Pike Branch) encompassing approximately 4,500 linear feet of roadway and serving 95 single family detached dwellings. This configuration exceeds the standard maximum of 1,800 feet and 30 lots provided in section 1-16-236(k) of the County Subdivision Regulations. Although the Subdivision Regulations provide that the length of cul-de-sac or dead end street(s) may vary within the PUD zoning district based on several factors, it also states that the Planning Commission shall consider the goals and principles of §1-16-234 of the Subdivision Regulations when considering the length and density of streets under this subsection. Staff has expressed concerns to the Applicant regarding a satisfactory secondary access/egress point to serve this land bay based on the principles and standards identified in 1-16-234 and 1-16-236 of the Subdivision Rules and Regulations.

Staff believes that the the dead end system as originally presented is inconsistent with the following provisions in §1-16-234:

In designing highways, streets, roads, or common driveways, the subdivider shall be guided by the following principles…

...(B) Design for opportunities to create interconnections between adjoining parcels...

...(G) Provide for safety, efficiency, and convenience of all users of the transportation system...

...(J) Be suitably located and designed/improved to accommodate prospective traffic, emergency service vehicles, and road maintenance equipment…"

Of primary concern is site access should the proposed stream crossing over Pike Branch be rendered impassible due to flooding or other forms of obstruction. In response to Staff concerns and the Subdivision Regulation requirements, the Applicant has proposed a monumented cross section at the bridge over Pike Branch with a current median of 8’ in width. In addition, the Applicant presented, and received conceptual approval for, an emergency access/pedestrian/bike path across the Ballenger Creek Elementary School property to connect the proposed Ballenger Run development with the school driveway and Kingsbrook Drive. A final layout of the pedestrian path/emergency access must be brought back before the Board of Education for their approval.
COMBINED ANALYSIS OF SUBDIVISION AND SITE DEVELOPMENT PLAN REVIEW
Preliminary Plan Subdivision approval is granted based upon the requirements found in Chapter 1-16 of the Frederick County Code. Site Development Plan approval shall be granted based upon the criteria found in §1-19-3.300.4 Site Plan Review Approval Criteria of the Frederick County Zoning Ordinance.

SITE DEVELOPMENT

☐ Land Requirements §1-16-217(A)

The land use pattern of the comprehensive development plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the proposed subdivision.

The subdivision design shall take advantage of the uniqueness of the site reflected by the topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivision and land uses, both proposed and existing.

The Comprehensive Plan designation for this Site is Medium Density Residential and Natural Resource within the area designated FEMA Floodplain. The Frederick County Comprehensive Plan states that the Medium Density Residential designation is intended to accommodate attached dwellings such as townhouses as well as smaller detached homes at a density of 6 – 12 dwellings/acre with public water and sewer service. The Natural Resource designation is generally applied to environmental features including 100-year floodplain, large contiguous tracts of woodlands, and steep slopes. The Ballenger Run development meets the intended land use patterns and characteristics identified in the County Comprehensive Plan.

Development density within the PUD zoning district is set at Phase I rezoning and is a function of the Comprehensive Plan land use designation, site characteristics and meeting the required parking, landscaping, other design requirements, and bulk standards. The lot yield for Ballenger Run PUD was established at maximum of 855 dwelling units through the PUD Phase I, DRRA and APFO LOU approvals (Ordinance No. 13-20-648) in 2013. The density proposed for the Ballenger Run Preliminary Plan is follows:

Gross Ballenger Run Proposed Density: 443 Dwelling Units (DU)/197 acres = 2.2 DU/acre

However, it should be noted that although the total Project is 197 acres, there is considerable area that is not proposed for development as part of this application, or will not be available in the future for development, due to school dedication and current Natural Resource designation. The proposed Preliminary Plan cover sheet includes a breakdown of land use which shows that 57.23 acres are proposed in the current submission for development with residential lots. The multi-family and CCRC/Assisted/Independent Living lots total 32.5 acres and are not included in the current density since the number of units is unknown at this time. As noted on the plan, separate Site Development Plan approval will be required for the elementary school site, the multi-family site, and the CCRC/Assisted/Independent Living site.

Net Ballenger Run Proposed Density: 443 DU/57.23 acres = 7.7 DU/ac
**Block Shape §1-16-218**

The maximum block dimension shall be 1,800 feet.

The block design generally provides convenient access, circulation control and safety of street traffic. No block dimension is greater than 1,000 feet. Residential blocks are of sufficient depth to accommodate 2 tiers of lots of minimum depth.

**Lot Size and Shape §1-16-219**

The size, width, depth, shape, orientation and yards of lots shall not be less than specified in the zoning ordinance for the district within which the lots are located and shall be appropriate for the type of development, the use contemplated and future utilities.

The size, width, depth, shape, orientation and yards of lots are appropriate for the type and density of development, the use contemplated and future utilities. The relation of the depth of any single-family lot to its width at the building restriction line is not greater than 5 to 1. No panhandle lots are proposed.

Within the PUD District, dimensional requirements are approved by the Planning Commission at Phase II and governed by §1-19-10.500.6(H)(2). Setbacks and building heights must also be consistent with the General Development Standards described in §1-19-10.500.9. The Applicant has proposed the following minimum setbacks and maximum height for the Ballenger Run Combined Preliminary Subdivision/Site Development Plan:

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<td>Minimum Lot Area:</td>
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<td>Minimum Lot Width</td>
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<td>42'</td>
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<td>Front Yard Setback</td>
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<td>3'</td>
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<td>Rear Yard Accessory</td>
<td>3'</td>
<td>3'</td>
<td>3'</td>
<td>3'</td>
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<tr>
<td>Side Yard Setback</td>
<td>7'</td>
<td>5'</td>
<td>5' (end unit)</td>
<td>5' (end unit)</td>
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<tr>
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<td>0'</td>
<td>0'</td>
<td>0'</td>
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<tr>
<td>Maximum Height</td>
<td>40'</td>
<td>40'</td>
<td>35'</td>
<td>40'</td>
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The proposed setbacks correspond to typical dimensions in urban settings, are similar to dimensions approved by the Planning Commission for other PUD projects in the Ballenger Creek Growth Area, and are appropriate for this Project in that it is designed with an urban density range and style of layout.

**Site Development §1-19-3.300.4 (A):** Existing and anticipated surrounding land uses have been adequately considered in the design of the development and negative impacts have been minimized through such means as building placement or scale, landscaping, or screening, and an evaluation of lighting. Anticipated surrounding uses shall be determined based upon existing zoning and land use designations.

The proposed setbacks as indicated on the application cover sheet are appropriate for the type of development proposed, the use contemplated, and future utilities.

A modification request has been submitted by the Applicant regarding the street tree requirements of the Zoning Ordinance. The required number of trees are being provided, however they are not regularly spaced at 35' and the required planting strip is less than 7'.
Due to the similarity between the existing and proposed land uses no buffering or screening is proposed to separate the residential developments. However, at the time that the school site, multi-family, and/or CCRC/Assisted/Independent Living lots are developed, the need for buffering and screening will be re-evaluated.

No lighting or signage is proposed at this time. Should lighting or signage be proposed in the future, the Applicant shall submit and receive separate site development plan approval for these improvements prior to installation.

TRANSPORTATION AND PARKING

□ Street, Common Driveway and Sidewalk Construction §1-16-109

The project shall provide for the complete construction of street improvements, including drainage facilities as provided in §1-16-234 through §1-16-241 of the Subdivision Regulations and in accordance with the Frederick County Design Manual.

The proposed development will be served by a combination of public and private roads as well as private alleys. Proposed streets are closed section with curb and gutter, and are designed according to County specifications. The Plan proposes sidewalks 5-ft in width with marked street crossings at appropriate locations. The sidewalk network provides internal pedestrian mobility and facilitates movement to and from adjacent land uses. Alleys are provided for dwellings with rear access garages.

□ Right of Way and Paved Surface Widths §1-16-235

Whenever a proposed subdivision includes or abuts streets designated on the Highway Plan section of the Comprehensive Plan, the Planning Commission shall require, by dedication to public use, adequate right-of-way for the coordination of roads within the subdivision with other existing, planned or platted roads.

Proposed streets meet minimum right-of-way and paved surface width requirements as stated in the Frederick County Design Manual. Residential local access streets require a 50’ wide right of way with a minimum of 26’ of pavement width. All proposed residential local access streets provide a 50’ wide right of way and 27’ of pavement width. Residential collector streets require a 60’ wide right of way with a minimum of 28’ of pavement width. The proposed residential collector provides a 60’ wide right of way and 36’ of pavement width.

Due to the location of the Project Site in a developed residential area, and adjacent to significant environmental features, there are very limited opportunities for interconnectivity. The County Comprehensive Plan does not depict new proposed streets to be extended through the Site or streets to be connected to existing development on the Highway Plan. Therefore interconnectivity is achieved through planned connections between residential land bays as well as between the residential lots and the future school site. In addition, sidewalks and the extension of Ballenger Creek Trail provide increased opportunities to travel from one development to another without utilizing a vehicle. Adequate right-of-way is provided along Ballenger Creek Pike.

□ Other Street Requirements §1-16-236(K)

Subdivisions on cul-de-sac or dead end streets shall be permitted only if approved by the Planning Commission. In the PUD zone, the length of cul-de-sacs and dead end streets may vary based on the density in the development section or land bay, property shape and size, topography, environmental constraints, lot sizes, unit types, and proposed land use. The density and length of cul-de-sac or dead end streets shall be reviewed by the Planning Commission and
approved on a case by case basis. The Planning Commission shall consider the goals and principles of §1-16-234 when considering the length and density of streets.

§ 1-16-234: In designing highways, streets, roads, or common driveways, the subdivider shall be guided by the following principles.
(A) Design to consider the context of the proposed land use, including the existing and proposed land development patterns on adjacent parcels.
(B) Design for opportunities to create interconnections between adjoining parcels.
(C) Provide for adequate vehicular and pedestrian access to all parcels.
(D) Design local residential street systems to minimize through traffic movement and to discourage excessive speed.
(E) Provide reasonable direct access from local street systems to the primary transportation system.
(F) Local transportation systems and land development patterns shall not conflict with the efficiency of bordering arterial routes.
(G) Provide for safety, efficiency, and convenience of all users of the transportation system.
(H) Pedestrian-vehicular conflict points shall be minimized.
(I) Design to preserve, enhance, or incorporate natural, community, and historic resources.
(J) Be suitably located and designed/improved to accommodate prospective traffic, emergency service vehicles, and road maintenance equipment.
(K) Sidewalk, street design, right-of-way and paving shall be in accordance with these regulations and the County Design Manual.

The proposed Project contains one dead end street system encompassing approximately 4,500 linear feet of roadway and serving 95 single family detached dwellings on the east side of Pike Branch.

This configuration exceeds the standard of 1,800 feet and 30 lots used in other portions of the ordinance. Although the Subdivision Regulations provide that the length of cul-de-sac or dead end street(s) may vary within the PUD zoning district based on several factors, it also states that the Planning Commission shall consider the goals and principles of §1-16-234 of the Subdivision Regulations when considering the length and density of streets under this subsection. Staff expressed concerns to the Applicant regarding a satisfactory secondary access/egress point to serve this land bay based on the principles and standards identified in sections 1-16-234 and 1-16-236 of the Subdivision Rules and Regulations.

During review of the Project, the Applicant expressed concern that the Phase I concept plan was approved with a single stream crossing over Pike Branch which resulted from consideration of alternate transportation layouts. However, in response to Staff concerns and the Subdivision Regulations requirements, the Applicant has proposed a monumented cross section at the bridge over Pike Branch with a current median of 8' in width. In addition, the Applicant presented, and received conceptual approval for, an emergency access/pedestrian/bike path across the Ballenger Creek Elementary School property to connect the proposed Ballenger Run development with the school driveway and Kingsbrook Drive. A final layout of the pedestrian path/emergency access must be brought back before the Board of Education for their approval.

In order to address the provisions in §1-16-234 of the Subdivision Regulations regarding the design of highways, streets, roads, or common driveways, to
…(B) Design for opportunities to create interconnections between adjoining parcels...
…(G) Provide for safety, efficiency, and convenience of all users of the transportation system...
…(J) Be suitably located and designed/improved to accommodate prospective traffic, emergency service vehicles, and road maintenance equipment…"
Due to the environmental constraints associated with this Project and the limited opportunities for roadway connectivity to adjoining parcels, the Applicant should provide a combination of a monumented cross section at the bridge over Pike Branch with a median a minimum of 10’ in width and provide a emergency access/pedestrian/bike path across the Ballenger Creek Elementary School property to connect the proposed Ballenger Run development with the school driveway and Kingsbrook Drive.

Transportation and Parking §1-19-3.300.4 (B): The transportation system and parking areas are adequate to serve the proposed use in addition to existing uses by providing safe and efficient circulation, and design consideration that maximizes connections with surrounding land uses and accommodates public transit facilities. Evaluation factors include: on-street parking impacts, off-street parking and loading design, access location and design, vehicular, bicycle, and pedestrian circulation and safety, and existing or planned transit facilities.

The transportation system as well as on-street and off-street parking are safe and efficient. The Applicant worked with Staff to utilize a grid transportation network wherever possible to provide for efficient circulation within the environmentally constrained site. Clearly delineated pedestrian crosswalks, sidewalks, and walkways are provided that allow safe, convenient, and direct access within parking areas, and from parking areas to building entrances. The Applicant proposes a combination of on-street and off-street parking to address zoning ordinance requirements:

Parking Requirements:
- Single Family Detached Dwellings:
  2 for each dwelling X 207 dwellings = 414 spaces

- Townhouse Dwellings:
  (1 per dwelling + (½ per bedroom X 3 bedrooms)) = (1 + 1.5) = 2.5 per dwelling
  2.5 spaces per dwelling X 236 dwellings = 590 spaces

Total parking spaces required = 1,004 spaces

Parking Provided:
- On-site parking spaces:
  Garage spaces = 676 garages X .5 = 338 credited spaces
  Driveways = 623 spaces
  Total on-site provided = 961 spaces

- Off-site parking spaces:
  On street and private bays = 491 spaces

Total parking spaces provided = 1,452 spaces

Given the total number of on-site parking provided (961 spaces) is 43 spaces less than the required amount (1,004 spaces), the Applicant has submitted a modification request to allow a reduction in the required number of off-street spaces and to supplement parking with on-street spaces. Staff has no objection to the modification given that additional spaces are provided off-site that bring the overall total available parking to well in excess of the requirement. Specifically, an additional 44% of the required number of spaces is provided. Additionally, on-street parking implemented in an “urban format”, as proposed in this Project, provides benefits in terms of efficiency and traffic calming.
PUBLIC FACILITIES AND UTILITIES

Public Facilities - Road Adequacy/Water and Sewer Facilities §1-16-12

The proposed subdivision has direct access to Ballenger Creek Pike at two points, and has adequate sight distance at proposed entrances. The County Comprehensive Plan classifies Ballenger Creek Pike as Major Arterial.

The Site is within the Westview/United Fire Company service area boundary. Emergency response would utilize Ballenger Creek Pike to access the subject property.

The Project will primarily be served by an east/west residential collector road identified on the plan as “Ballenger Run Boulevard”. This is 2 lane road, which is a paved public street with a varying ROW width either meeting or in excess of the collector road 60’ standard. All Internal and external access public streets meet the minimum of at least 20’ in width.

Parks §1-16-111

Gross acreage for parks and open space requirements were reviewed and approved with the Phase I Concept Plan at rezoning (R-05-09(A), Ordinance 13-20-648).

Conditions 3, 4, 5, and 8 of the Phase I rezoning discuss various aspects of dedication and construction of various portions of the Ballenger Creek Trail. Condition 8 specifically states that the dedication of 34.3 +/- acres of parkland subject to acceptance by the County for a linear use park along Ballenger Creek. The condition provides that alternately, easements for a trail system in this same location may be conveyed, at the discretion of the County. The Division of Parks and Recreation reviewed and commented on the proposed Ballenger Creek Trail elements within the Preliminary Plan and determined that title must be conveyed to the County upon recordation of the first residential plat, per condition 8 of the rezoning ordinance.

Additionally, as the trail continues to Ballenger Creek Pike, it will be designed with a spur that leads north on the east side of Ballenger Creek Pike to connect with the elementary school site frontage and also allow a crossing of Ballenger Creek Pike to the park and the high school on the west.

Total open space acreage provided by the Project is 85.78 acres, including 34.3 acres of passive recreation space along the Ballenger Creek corridor. The total open space acreage as well as the area in park exceed the acreage requirements as conditioned in the Phase I rezoning. Also, additional active park areas are proposed ranging from 10 to 20,000 square feet in size that are distributed throughout the development and not encumbered by stormwater management facilities.

Public Utilities §1-19-3.300.4 (C): Where the proposed development will be served by publicly owned community water and sewer, the facilities shall be adequate to serve the proposed development. Where proposed development will be served by facilities other than publicly owned community water and sewer, the facilities shall meet the requirements of and receive approval from the Maryland Department of the Environment/the Frederick County Health Department.

The Site is to be served by public water and sewer and is classified W-3/S-3. Treated water is supplied by the New Design Water Treatment Plant. Sewage from this Site is treated at the Ballenger/McKinney Wastewater Treatment Plant.
NATURAL FEATURES

- **Land Requirements §1-16-217(B):** The subdivision design shall take advantage of the uniqueness of the site reflected by the topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivisions and land uses, both proposed and existing.

Unique features of the Site include Ballenger Creek along the southern border and Pike Branch running north/south and bisecting the eastern portion of the property. The Ballenger Creek Trail Master plan proposed a portion of an east/west trail network along this creek. This feature is being employed in the design of the Project as an open space and recreational area, and as previously noted the Applicant will construct the portion of the trail associated with this development. FRO easements are primarily provided along Pike Branch. Waterbody buffers are provided along Ballenger Creek and Pike Branch, and no buildings or structures are proposed within them.

Soil type information is provided and appropriate boundaries are shown. Wet soils are present on the Site and residential structures are proposed within 100 feet of wet soils. A geotechnical report for this Site was prepared by Geo-Technology Associates, Inc. in December of 2006. No residential structures with basements are proposed within areas of wet soils.

- **Floodplain Developments §1-16-220**
  There is no residential, commercial, or employment development proposed in the mapped FEMA 100-year floodplain on the Site.

- **Natural features §1-19-3.300.4 (D):** Natural features of the site have been evaluated and to the greatest extent practical maintained in a natural state and incorporated into the design of the development. Evaluation factors include topography, vegetation, sensitive resources, and natural hazards.

Within the Project Site, a significant portion of land along Ballenger Creek and Pike Branch is within the FEMA 100 year floodplain zone AE. With the exception of land along Ballenger Creek, the Site is largely deforested and is currently used for farming. The topography of the land outside of the FEMA floodplain is level, with steeper slopes adjacent to the waterbodies. The southwestern corner of the Site, outside of the FEMA floodplain, has a portion of flooding soils. Other than this, the remainder of the soil on the Site outside the FEMA floodplain is classified as Non-Restricted. Wet soils roughly align with the FEMA Floodplain with the exception of the southwest corner of the Site where the “wet” soils extend to the north to Ballenger Creek Pike.
COMMON AREAS

☐ Common Areas §1-19-3.300.4 (E): If the plan of development includes common areas and/or facilities, the Planning Commission as a condition of approval may review the ownership, use, and maintenance of such lands or property to ensure the preservation of such areas, property, and facilities for their intended purposes.

Open space provided along Pike Branch will be owned by the homeowners association of this Project. Additional HOA owned and maintained active park areas are proposed within the residential portion of the development roughly 20,000 square feet in size that are distributed throughout the development and not encumbered by stormwater management facilities.

-Other Applicable Regulations-

Moderately Priced Dwelling Units – Chapter §1-6A:
Per section 1-19-8.620.2, all residential developments consisting of 25 units or more on public water and sewer are required to provide no less than 12.5% of the total units as MPDU’s. The proposed Project includes 443 dwelling units and therefore would be required to provide 56 MPDUs. General note 5 on sheet 1 of the Preliminary Plan states that the Applicant will either pay the fee in lieu of construction or will provide the MDPUs on another portion of the Site.

Stormwater Management – Chapter 1-15.2:
A stormwater management concept plan was conditionally approved on August 27, 2014. Stormwater Development and Improvement Plans must be approved prior to final Preliminary Plan approval.

APFO – Chapter 1-20:

- Schools
The Project is projected to generate 127 elementary school students, 70 middle school students, and 79 high school students at the time of full build-out. Based on these numbers and considering enrollment projections from pipeline development, The Project fails the school adequacy test at the elementary or high school levels. Accordingly, the Applicant has elected the option to mitigate the public school capacity by paying the School Construction Fees for the elementary and high school levels in accordance with the criteria set forth in Section 1-20-62 of the APFO (and in accordance with the DRRA).

Per the conditions of rezoning ordinance 13-20-648, the Ballenger Run PUD must convey in fee simple ownership with no monetary consideration paid, a public school site upon recordation of the first subdivision plat for lots in the Project and the Board of Educations acceptance of the Site. A Memorandum of Understanding (MOU) between the Board of Education and the Applicant was approved by the BOE on September 24, 2014.

- Water/Sewer
The Property has a water and sewer classification of W-3 Dev./S-3 Dev., indicating that public water and sewer service is planned within 1-3 years. The Division of Utilities and Solid Waste Management (DUSWM) has conditionally approved the adequacy of the public sewer and water facilities to serve the Project. The Project will be served by a network of existing public water and sewer mains and service connections. Programmed improvements to the County's water and sewer systems serving this region will be provided to the Project through the following developer-funded and County CIP improvements:
Two water projects, which have recently been constructed as County CIP projects, will provide adequate service for the build-out of the Project:

1. The completion of the Potomac River Water Transmission Main; and
2. The expansion of the New Design Water Treatment Plant.

Additionally, the Applicant will also be responsible for other water and sewer improvements as outlined in the signed APFO LOU dated October 17, 2013.

Sewer service is proposed to be provided by way of connections to two existing interceptor sewer lines that follow the alignment of Ballenger Creek; a 30" interceptor sewer that follows the alignment of Ballenger Creek west to the confluence with Pike Branch, and a 24" interceptor sewer that has been extended west along Ballenger Creek to Ballenger Creek Pike. Sewer service necessary to serve the full build-out of the Project will be dependent upon available treatment capacity at the Ballenger-McKinney Wastewater Treatment Plant (Phase I), which is already fully funded in the County's CIP for design, and is scheduled for construction completion (publicly funded) in 2014. Sanitary sewer lines to serve the Project will be appropriately sized per DUSWM requirements and connected at appropriate connection points, as will be further identified and engineered as the Project progresses through the development approval process.

- Roads
  A traffic impact analysis (TIA) was prepared to address APFO requirements stemming from the additional vehicle trips associated with the Project (additional trips generated by the conversion from age-restricted to all-age dwelling units), and to propose mitigation and/or the funding of mitigation and a phasing schedule for required roadway facilities. The TIA has determined that the Project will generate 210 additional weekday a.m. peak hour trips and 259 additional weekday p.m. peak hour trips at full build out. Additional road improvements designed to enhance the safety and circulation of the road network serving the Project and the surrounding neighborhood have been identified and are set forth in the signed APFO LOU dated October 17, 2013.

Forest Resource – Chapter 1-21:
The Applicant has submitted a Preliminary Forest Conservation Plan for review. The Site contains 14.96 acres of forest. Forest mitigation requirements are being met by preserving 14.75 acres of forest and planting 20.31 acres of new forest on site. The Site also contains 74 specimen trees (trees that are 30" or greater in diameter). Per §1-21-40 of the FRO, nonhazardous specimen trees must be retained unless reasonable efforts have been made to protect them, the plan cannot reasonably be altered, and the FcPc finds that that the requirements for granting a modification have been met. Of the 74 specimen trees, 69 will be saved and protected during development. The remaining 5 trees are proposed to be removed. All 5 are considered hazardous trees as they exhibit significant cavities, rot, and major limb breakage, and 2 of the 5 are invasive/exotic species that are encouraged to be removed for ecological reasons. Hazardous trees and invasive/exotic species may be removed without a modification approval. The Preliminary Forest Conservation Plan must receive approval prior to preliminary subdivision plan approval. A Final Forest Conservation Plan must receive approval and mitigation must be provided prior lot recordation, grading permit application, or building permit application, whichever is applied for first.
Historic Preservation – Chapter 1-23:

Maryland Inventory of Historic Properties (MIHP) Forms were prepared for two historic sites located on the property being developed for the Ballenger Run PUD. The Applicant completed the MIHP forms in anticipation of the required Section 106 process for determining the impacts on historic resources by planned development activity.

In its review of the forms, the Maryland Historical Trust found both sites to be eligible for the National Register of Historic Places and advocated for the retention and sensitive treatment of all contributing structures on the two sites.

If wetlands permits, or other federal or state permits, are required of the Project, the Applicant must submit follow-up documentation of the planned treatment for the structures (renovation, demolition, etc) to MHT and the County Historic Preservation planner (Denis Superczynski – 301.600.1142) as well as photographs of the entire Project Site including the historic structures.

The affected properties as identified in the MIHP forms are:
- Lease-Myers Farm (MIHP #F-3-168)
- White Oak Springs Farm (F-3-230)

Condition #6 of rezoning ordinance 13-20-648 requiring documentation in the County Inventory of Historic Places prior to demolition has been met.
RECOMMENDATION

If the Planning Commission conditionally approves the Combined Preliminary Subdivision/Site Development Plan, the Preliminary Plan is valid for the lesser of 5 years from the date of Planning Commission approval or the period of APFO approval, and the Site Development Plan is valid for a period of three (3) years from the date of Planning Commission approval. Therefore, if approved, the Preliminary Plan will expire on October 8, 2019 and the Site Development Plan will expire on October 8, 2017.

If the Planning Commission conditionally approves the Combined Preliminary Subdivision/Site Development Plan based upon the findings and conclusions as presented in the staff report, Staff recommends the following conditions be added:

1. Comply with all Staff and agency comments as the project moves forward through completion.

2. Planning Commission approval of the dead end street system utilized on the east side of Pike Branch within Land Bay G as depicted on the 2013 Phase I rezoning Concept Plan (Ord. 13-20-648).

3. Planning Commission approval of the alternate landscaping plan to allow irregular tree spacing, and planting area width less than 7’.

4. Planning Commission approval of the parking modification request to allow 43 fewer on-site parking spaces than required.

5. Planning Commission approval of the public access to the linear use park/trail/system along Ballenger Creek.

6. Prior to recordation of residential lots of the Ballenger Run Preliminary Subdivision Plan, an Outlot plat must be submitted, approved, and recorded to provide for a 13 +/- acre future...
elementary school site in compliance with Ordinance No. 13-20-648 condition 7. Conveyance of the Outlot from the Applicant to the Frederick County Board of Education (BOE) shall be made in accordance with the approved Ordinance and as more fully described in the signed Memorandum of Understanding (MOU) between the Applicant and the BOE, approved on September 24, 2014.

7. Complete execution of the Memorandum of Understanding (MOU) between the Board of Education (BOE) and the Applicant as approved by the BOE on September 24, 2014. Should the Applicant terminate the MOU with the BOE, as outlined in item 4, Owner’s Contingencies to School Site Conveyance of the MOU, the 13 +/- school site dedication condition 7 of Ordinance No. 13-20-648, the DRRA, and the Phase II Plan, shall be deemed unmet and unsatisfied by the Applicant.

8. The Applicant shall provide a monumented roadway cross section at the bridge over Pike Branch with a median a minimum of 10’ in width.

9. The Applicant shall work with Staff and the BOE to finalize the design, details, and method of construction of the pedestrian path/emergency access across the Ballenger Creek Elementary School property to connect the proposed Ballenger Run development with the school driveway to Kingsbrook Drive. At a minimum the path shall be 12’ wide, with acceptable horizontal and vertical alignment, and sufficient paving detail to accommodate emergency vehicle traffic.

10. A separate MOU between the Applicant and the BOE shall be executed prior to recordation of the first residential lot in this PUD, which shall establish the final layout and location of the pedestrian path/emergency access across the Ballenger Creek Elementary School property to connect the proposed Ballenger Run development with the school driveway to Kingsbrook Drive. The pedestrian path/emergency access shall be constructed and open for use prior to recordation of the 31st lot in Land Bay G as depicted on the 2013 Phase I rezoning Concept Plan (Ord. 13-20-648).

11. Separate Site Development Plan approval shall be obtained prior to development of the elementary school Outlot, the multi-family lot, the clubhouse/community center, and the CCRC/Assisted Living/Independent Living lot.

12. The Applicant shall submit and receive approval from the Department of Planning and Development Review for any lighting or signage improvements prior to installation.

13. Prior to the issuance of the 200th building permit, the western stretch of the Ballenger Creek Trail will be constructed by the Applicant to allow for eventual continuation of the trail under Ballenger Creek Pike to points west. Additionally, the trail will be constructed by the Applicant to parallel Ballenger Creek Pike, heading north along the proffered school site frontage to a point along Ballenger Creek Pike that would allow for a pedestrian crossing to the west.

14. The Applicant shall dedicate 34.3 +/- acres of parkland, subject to acceptance by the County, for a linear use park along Ballenger Creek as described on the plan. Title to this parkland property shall be transferred to the County upon the recordation of the first residential lot in this PUD.

15. Green/park space identified on the amenities plan shall be unencumbered with stormwater management facilities and shall provide level play areas for recreational activities.

16. The Preliminary Forest Conservation Plan must receive approval prior to preliminary subdivision plan approval. A Final Forest Conservation Plan must receive approval and mitigation must be provided prior lot recordation, grading permit application, or building permit application, whichever is applied for first.
17. Tree separation & conflicts with water and sewer lines shall be further addressed at the IP stage. Revisions to address this issue may include, but not be limited to, realignment of water/sewer lines and species of trees.

18. Provide 11 bike racks distributed throughout the Site adjacent to townhouse dwellings without garages.
PLANNING COMMISSION ACTION

MOTION APPROVE

I move that the Planning Commission APPROVE Combined Preliminary Subdivision/Site Development Plan Subdivision S-1143 and Site Plan SP-14-18 with conditions and modifications as listed in the staff report, for the proposed approval of 447 lots and 443 dwellings on a 197 acre site based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.
September 1, 2014

John Dimitriou
Frederick County Development Review
30 N. Market Street
Frederick, MD 21701

Re: Modifications – Ballenger Run PUD Phase 2
Project Number 14623
HSA Job No. 7031

Dear John:

As discussed at the TAC, there are two modifications identified at this time associated with the Phase II plan for this project. One involves parking spaces and the other street tree landscaping. In both cases, we believe the requirements are adequately met for the overall project yet the modifications are limited to smaller areas within the site. The modifications are as follows:

1. Street Tree Requirements – Section 1-19-6.400 (A)
   Street trees are required to be planted in a 7’ strip adjacent to the road every 35 linear feet of roadway. In this project based on the linear feet of road, 390 trees are required. However, due to the urban streetscape design of the neotraditional neighborhood, the villa style single family units and the utility laterals to serve each unit, it is difficult to absolutely meet these requirements. The typical planting bed width is 5-6’ wide although there are a few areas where the planting bed is 4’ wide. The planting bed width is consistent with urban design and the tree species will be selected to thrive within this area. In terms of the number of trees, at least 390 street trees will be provided. However, because of utility laterals they cannot occur every 35’ on every street. We have shown that through open space plantings and adjusting street tree spacing we were able to plant additional trees on site. We would like to request that the street tree planter width and spacing be modified as described above to accommodate the design and constraints associated with the site.

2. Parking Policy
   As we have seen on many projects previously approved in the County, front load single family attached and detached products usually can meet the parking requirement on site. This situation is confirmed again in this project. The parking policy in which only half a space in a garage can be counted is more problematic on neotraditional products that do not have driveways with parking pads. On this project, we have both single family attached and detached homes that are served by alleys that cannot meet the more strict interpretation of the parking policy as it relates to garages. However, we have provided parking spaces on the lots in either garages or parking pads. Sheets 22 and 23 further show that the deficit in onsite parking per the policy is addressed via onstreet parking adjacent to the detached single
family homes or in private parking lots in the rear of the attached single family homes. The parking table on sheet SP-22 clearly shows that the deficit of parking per the policy is very small and if the onstreet and parking lot parking is counted towards the requirement there is a substantial surplus of parking for the facility.

We look forward to discussing this with the Planning Commission at the hearing.

Sincerely,

[Signature]

Chris Smariga
President

CC: NVR, Steve Oder, Bruce Dean

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