TITLE: Ballenger Run PUD

FILE NUMBER: R-05-09 (C)

REQUEST: Amend a condition of rezoning Ordinance 13-20-648 regarding age-restricted development in Land Bay D.

PROJECT INFORMATION:
LOCATION: east side Ballenger Creek Pike
ZONE: PUD
REGION: Frederick
WATER/SEWER: S-3/W-3
COMP. PLAN/LAND USE: Medium Density Residential

APPLICANT/REPRESENTATIVES:
APPLICANT: SeD Maryland Development, LLC
OWNER: SeD Maryland Development, LLC
ENGINEER:
ARCHITECT:
ATTORNEY: Bruce Dean

STAFF: Jim Gugel, Planning Director

RECOMMENDATION: Approval

ATTACHMENTS:
Staff report
Application
Zoning Map Amendment

CASE NUMBER: R-05-09 (C)

APPLICANT: SeD Maryland Development, LLC

REQUEST: To amend condition #9 of rezoning Ordinance # 13-20-648, (effective Oct. 17, 2013) to delete reference to age-restricted multi-family dwellings to allow other age-restricted dwelling types within Land Bay D.

LOCATION: east side of Ballenger Creek Pike
I. Background

Rezoning and Amendment History

2006 – Initial rezoning (Case # R-05-09) to PUD (Ordinance # 06-33-429 effective September 28, 2006).

- Approved for 970 dwellings and conditioned to be age-restricted.
- Included a 9-10 acre public use site adjacent to Ballenger Creek Elementary school.

2013 – Phase I Plan amendment (Case # R-05-09 A, Ordinance # 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 along Ballenger Creek Pike.
- Added building permit thresholds for the construction of the trails.

2017 – Amendment (Case # 05-09 B, Ordinance #18-02-002 effective on March 14, 2018)

- Requested an amendment of the language of a condition, from Ordinance #13-20-648, regarding the timing of construction for the Ballenger Creek trail. This amendment did not change the Concept Plan.

Current Development Status

Ballenger Run received Phase II approval (preliminary subdivision/site plan) for the first section of 443 lots in 2014. This first section includes 207 single-family lots and 236 townhouses. The proposed 212 affordable multi-family units received site plan approval in 2018.

As of October 2018 Ballenger Run has developed/permitted 325 dwellings.
II. Applicant’s Proposal

This application proposes revisions to condition #9 from Case # R-05-09 (B) effective October 17, 2013 per Ordinance # 13-20-648. The request proposes to amend the condition that refers to Land Bay D of the development that is proposed to be developed either as a 200-bed Continuing Care Retirement Community (CCRC) or with up to 200 multi-family age-restricted dwellings.

The proposed language is shown in UPPERCASE and language to be deleted is shown with a strikethrough.

9. The 6.0 acres of land intended to be developed as a 200-unit CCRC independent/assisted living facility may, AT THE DISCRETION OF THE APPLICANT, be developed WITH A MAXIMUM OF as 200 age-restricted multi-family DWELLING units. THE APPLICANT SHALL PROVIDE ONE (1) ACTIVE RECREATIONAL AMENITY WITHIN LAND BAY D. The Planning Commission as part of its review and approval of a Phase II (Execution) plan for the project, SHALL APPROVE THE TYPE AND MIX OF DWELLING UNITS, AND LOCATION, SIZE, AND TYPE OF RECREATIONAL AMENITY TO BE CONSTRUCTED WITHIN LAND BAY D.

COVENANTS SHALL RESTRICT 100% OF THE DWELLING UNITS IN LOT D OF THE BALLenger RUN PUD PROJECT TO BE AGE-RESTRICTED PER THE FEDERAL FAIR HOUSING ACT AND HOUSING FOR OLDER PERSONS ACT OF 1995. THERE SHALL BE A FURTHER LIMITATION ON THE MINIMUM AGE OF PERMANENT RESIDENTS BEING 19 YEARS OF AGE. THESE COVENANTS SHALL BE RECORDED PRIOR TO THE RECORDING OF THE FIRST SUBDIVISION PLAT IN LOT D. THE COVENANTS SHALL BE RECORDED AND MADE PART OF THE TITLE FOR EACH DWELLING UNIT IN LOT D. EVERY PROPERTY OWNER WITHIN THE AGE-RESTRICTED DEVELOPMENT (AND HOW) SHALL BE BENEFICIARIES OF THE COVENANTS WITH THE ABILITY TO ENFORCE THEM THROUGH AN ADMINISTRATIVE OR JUDICIAL PROCEEDING. THESE COVENANTS ARE TO BE REVIEWED BY THE COUNTY ATTORNEY’S OFFICE TO ENSURE THAT THE PUD ZONING SHALL BE INVALID IF THESE COVENANTS ARE NOT RECORDED AND DO NOT RESTRICT THE AGE OF RESIDENTS IN A BINDING AND ENFORCEABLE MANNER. THE REQUIRED BIANNUAL FEDERAL SURVEYS (PER 24 CFR 100.307) SHALL BE MADE AVAILABLE TO THE COUNTY FOR ITS REVIEW AND RECORDS.

Land Use Plan

The mix of land uses approved in 2013 is not proposed to change.

Concept Plan

There are no changes proposed in the current Phase I Concept Plan. The current Concept Plan is shown on the following page.

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.

Through October 2018 325 dwelling units have permitted/developed and a total of 338 lots have been recorded.

Ballenger Run Land Bay D – Final Plat Lot D – recorded April 19, 2018
III. Evaluation - County Plans and Regulations

Proposed Land Use, Design, and Density

There are no proposed changes to the land use, design, or density of the current Phase I Plan.

Consistency with the County Comprehensive Plan

The 2010 County Comprehensive Plan, as amended in 2012, designates the property as Medium Density Residential with an allowable density range of 6-10 dwellings/acre.

The proposed amendment to allow dwelling types other than multi-family would be consistent with the Comprehensive Plan.

Compatibility with Adjoining Zoning and Land Uses

The proposed amendment to condition No. 9 will not affect the compatibility of the proposed development with any adjoining uses or zoning. The property to the north is zoned PUD as part of the Ballenger Crossing PUD and is proposed for commercial use.

IV. Evaluation - Availability of Public Facilities and Services

This proposed amendment will not have any impacts on either existing or planned public facilities or services.

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

A. § 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 condition No. 9 is still consistent with the Comprehensive Plan.

(2) **Availability of public facilities;**
The proposed amendment to condition No. 9 will not affect the adequacy of public facilities.

(3) **Adequacy of existing and future transportation systems;**
The proposed amendment to condition No. 9 will not affect existing and future road networks.

(4) **Compatibility with existing and proposed development;**
The proposed amendment to the condition 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 amendment to condition No. 9.

(6) **The timing of development and facilities.**
The proposed amendment to condition No. 9 will not affect the timing of the construction of 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 amendment to condition No. 9 does 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 amendment to condition No. 9 does 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 amendment to condition No. 9 will not affect compatibility of the development with adjoining land uses. If anything the amendment, which will allow for other dwelling types such as single-family or townhouses would be more compatible with surrounding residential 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 amendment to condition No. 9 does 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 amendment to condition No. 9 will not affect the road network adequacy. The amendment to allow other dwelling types will result in fewer dwelling units than the allowable 200 units, which could only be achieved with multi-family dwelling types.

(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 amendment to condition No. 9 will not affect opportunities for walking, cycling, or transit access.

(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 amendment to condition No. 9 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 amendment to condition No. 9 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 amendment to condition No. 9 will allow for dwelling types other than multi-family in Land Bay D.

(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 amendment to condition No. 9 will not affect the availability of public services.
VI. **Staff Recommendation**

Staff recommends APPROVAL of the request to amend condition #9 of Ordinance # 13-20-648 for the Ballenger Run PUD based upon the following findings:

1. The proposed amendment to condition No. 9 meet the criteria as set forth in § 1-19-3.110.4; and
2. The amendment to condition No. 9 adequately addresses the Planned Development District Approval Criteria as set forth in § 1-19-10.500.3.