

**PARK PLACE AT BALLENGER
PLANNED UNIT DEVELOPMENT (PUD)
REZONING APPLICATION
JUSTIFICATION STATEMENT**

DR Acquisitions, LLC (“Applicant”) hereby submits this Justification Statement in support of its request for rezoning the +/- 2.978 acres located at Zimmerman Road/Ballenger Creek Pike (Tax ID #s 23-436213, 23-443135, 23-443163 & 12-438003) (the “Property”) from Agricultural (A) to Planned Unit Development (PUD). The requested rezoning will facilitate an intended plan for +/- 29 townhomes (the “Project”) on the Property.

Below are the applicable criteria requiring written justification, quoted from the Frederick County Zoning Ordinance in bold typeface, with responses.

This justification statement is in support of all of the application materials submitted (including all plans, maps and exhibits).

§ 1-19-10.500.2. SIZE AND LOCATION.

(A) The PUD District may only be established where the tract of land receiving the PUD District has a County Comprehensive Plan Land Use designation of Low Density Residential, Medium Density Residential, or High Density Residential except as provided in § 1-19-10.500.2(D) below.

RESPONSE: The Property has a County Comprehensive Plan Land Use designation of Medium Density Residential.

(C) The Planned Development Districts may only be established where the tract of land receiving the Planned Development District has a category of Planned Service or higher as shown on the Frederick County Water and Sewerage Plan.

RESPONSE: The Property has Planned Service (PS) categories for both water and sewer on the Frederick County Water and Sewerage Plan.

§ 1-19-10.500.3. APPROVAL CRITERIA.

The County Council may approve or disapprove a request for rezoning of property to a Planned Development District if persuaded that granting the request is appropriate and serves the public interest. The approval or

disapproval of a request for the application will be determined through evaluation of several criteria to establish whether the proposed project meets the purpose and intent of the zoning district. In addition to the requirements in § 1-19-3.110.4, the Planning Commission and County Council must find that the project adequately addresses the following criteria:

(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;

RESPONSE: The Project proposes an efficient arrangement of +/- 29 townhomes, oriented to optimize vehicular and pedestrian movement throughout the Project and the surrounding area. The Project layout also provides for efficient conveyance of stormwater, in conjunction with existing features and improvements.

The Property is directly on Ballenger Creek Pike, a Major Arterial Road, just south of Corporate Drive, a Minor Arterial Road. Thus, the Project efficiently utilizes the existing road network. With the Tuscarora High School adjoining the Property to the south and with the Ballenger Run PUD directly across Ballenger Creek Pike, the Project also will optimize efficient use of existing water and sewer infrastructure. Additionally, schools, fire/safety, and law enforcement facilities already serve the Property and the surrounding area, allowing for the natural, efficient extension of same to the Project.

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

RESPONSE: The Project's development design and building siting are in accordance with the County Comprehensive Plan and applicable provisions of the Livable Frederick Master Plan ("LFMP"). The Project's Medium Density Residential designation intends "a density range of 6 -10 dwellings/acre with public water/sewer, generally resulting in attached dwellings such as townhouses." (LFMP at p.200). The Applicant is proposing development design and building siting of townhomes with an approximate density of 9 units/acre.

The LFMP Action Framework → Category: Housing Design → Goal: Communities → Initiative: Active Living, seeks to: "Promote community design that encourages physical activity by providing walkable, interconnected streets where multiple modes of transportation are available and where non-motorized modes of travel are emphasized." (*Id.* at 110). The Project orients its dwelling units, interior streets and sidewalks/walking trails in a way that optimizes pedestrian, bicycle and

other non-motorized travel from the units to the adjoining schools, parks and proximate public transportation (TransIT Route 10-Ballenger Creek). By providing built pathways and sidewalks through the Property where such pathways and sidewalks do not currently exist, the Project's development design and building siting further assist in meeting the LFMP Initiatives for the surrounding area. There is no current community or corridor plan applicable to the Property.

(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;

RESPONSE: The Ballenger Run PUD is directly across Ballenger Creek Pike from the Property. The proposed townhomes will seamlessly integrate with the existing size and building scale of the Ballenger Run PUD townhomes across the street from the Project. The Project's design is such that, once constructed, the Property will appear seamlessly integrated with the larger Ballenger Crossing PUD.

(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;

RESPONSE: As shown in the application materials, the Property is an infill site, with Tuscarora High School and Ballenger Creek Park adjoining to the west, and the Ballenger Run PUD across Ballenger Creek Pike to the east. The proposed arrangement of land use, buildings, infrastructure and transportation circulation integrates with the surrounding neighborhood and completes and connects current gaps, especially with regard to pedestrian connectivity. The Project is a natural evolution and completion of the area's development patterns.

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

modeling assessing the change in future daily travel volumes, with and without the proposed development;

RESPONSE: As more fully discussed and described in the application materials, particularly the [Memo/Brief] from The Traffic Group, Inc., the transportation network is adequate for the Project. As a small infill project following the now near-completed the Ballenger Run PUD, the significant transportation improvements already made or near-completion will serve the Project without issue.

(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;

RESPONSE: As discussed above, the Project will improve and complete the walking, biking and public transit network of the area. Currently, such connectivity through the Property is problematic. Once the Project is fully built, it will provide major improvements in the way of paths and sidewalks internal to the site and connecting to existing pedestrian infrastructure, including the existing sidewalk 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;

RESPONSE: As discussed above in the context of transportation infrastructure, the Project follows the near-build out of the larger Ballenger Run PUD, along with its attendant area improvements. The fire and emergency services to the greater Ballenger Creek area and Ballenger Run PUD (696 dwelling units) will be adequate for the Project's +/- 29 additional units.

(H) Natural features of the site have been adequately considered and protected 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;

RESPONSE: As illustrated in the application materials, the Project meets this criteria in its design and plan. The proposed dwelling units mostly are oriented towards the built environment of Ballenger Creek Pike. The balance of the Project integrates with the tree buffering and parkland to the west. The Project's planned trails and walking paths highlight the surrounding natural features. In addition, planned stormwater management conveyance for the Project also integrates with the natural features.

(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;

RESPONSE: As discussed above, the Project is consistent with the Medium Density Residential land use designation.

(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;

RESPONSE: The Applicant submits this rezoning application in view of the various public facility and utility improvements made in the area, especially in conjunction with the Ballenger Run PUD. As the Project is a small infill project, the Applicant anticipates that public facilities will be adequate. The Applicant will apply for Adequate Public Facilities Ordinance approval at the appropriate development stage.

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

RESPONSE: As discussed above and as shown in the application materials, to the extent sensitive environmental resources are within the area of influence from the Project, the proposed development accounts for such resources. However, the Applicant notes that, no forest, specimen trees, wetlands, streams, or hydrological surface features exist on the Property.

(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.

RESPONSE: Not applicable.

§ 1-19-3.110.4. APPROVAL CRITERIA.

(A) Approval or disapproval of a request for an individual zoning map amendment or floating zone reclassification shall be determined through review of several criteria. The Planning Commission and County Council review will include, but not be limited to:

(1) Consistency with the comprehensive plan;

RESPONSE: As discussed above, the Project is consistent with the County Comprehensive Plan's land use designation of Medium Density Residential. The LFMP explains that the intent of the Medium Density Residential designation is as follows:

This designation has a density range of 6 – 10 dwellings/acre with public water/sewer, generally resulting in attached dwellings such as townhouses. Corresponding zoning districts include R-8 and PUD. The R-8 zoning district permits all dwelling types, with smaller minimum lot sizes than the R-5 district. The PUD floating zone can be applied to upon this designation allowing a gross density of 6 – 10 dwellings/acre and a mix of dwelling types. LMFP at p. 200.

Consistent with this intent, the Applicant is seeking approval of a PUD floating zone to allow for the redevelopment of the Property with townhomes at a density of 9 units per acre. Additionally, the Project will be consistent with the other applicable recommendations of the LFMP, as follows:

- The LFMP encourages directing development to “Growth Areas,” including the Ballenger Creek Growth Area in which the Property is located:
 - *Therefore, while Ballenger Creek is identified as being within the Primary Growth Sector, emphasis in this area will be on a suburban retrofit growth strategy. This will include a focus on making the existing infrastructure more multi-modal, providing new infrastructure where needed to support multi-modal accessibility, and finding opportunities for higher density redevelopment - especially in the form of mixed-use opportunities in existing commercial areas. Additionally, limited extension of the Ballenger Creek Growth Area may occur (11). LMFP at p.42.*
 - *Support policies that direct growth to Growth Areas and that correspond to the growth strategies described in the Thematic Plan. Id. at. 95.*
 - *Ensure that residential development occurs in county designated growth areas with minimal harm to the environment and adequate water,*

sewer, transportation choices, schools, and other county infrastructure needed to support a high quality of life. Id. at 162.

The Project is a residential infill project within the Ballenger Creek Growth Area. The Project will utilize existing road, school, sewer and water infrastructure. It will complement and build upon existing development in Ballenger Creek, including the Ballenger Creek PUD located across Ballenger Creek Pike from the Property.

- The LFMP promotes land use patterns that will support multi-modal mobility:
 - *Promote land use patterns that support accessibility and diversified mobility through the geographic concentration of multi-functional uses, activities and destinations. Id. at 95.*
 - *Ensure commercial and residential development constructs shared-use paths and on-street bikeways designated in county nonmotorized transportation plans that pass through or are adjacent to their proposed development site. Id. at 101.*
 - *Promote community design that encourages physical activity by providing walkable, interconnected streets where multiple modes of transportation are available and where non-motorized modes of travel are emphasized. Id. at 110.*

The Project supports accessibility and diversified mobility through the geographic concentration of multi-functional uses, activities and destinations. Specifically, the Project will incorporate interior streets and sidewalks/walking trails in a way that optimizes pedestrian, bicycle and other non-motorized travel from the units to the adjoining schools, parks and proximate public transportation (TransIT Route 10-Ballenger Creek).

- The LFMP encourages infill development that can be supported by existing infrastructure:
 - *Prioritize development - especially infill development and redevelopment - that maximizes the use of, or extension of, existing infrastructure systems while minimizing the creation of new infrastructure and loss of existing natural resources. Id. at 96.*

The Project is an infill development project. It maximizes the use of existing road, school, water, and sewer infrastructure – particularly the existing infrastructure associated with the adjacent Ballenger Creek PUD. The Applicant anticipates minimal new infrastructure will be required to serve the Project.

- The LFMP recommends the expansion of homeownership opportunities across an array of demographics and incomes:
 - *Expand public and private development efforts across the county to create housing that is affordable to working households earning low to moderate incomes. Id. at 106.*
 - *Incentivize homeownership and rental housing opportunities for police, fire fighters, emergency services, teachers, nurses, and other essential workers in the community. Id. at 107.*
 - *Expand the range of housing and homeownership opportunities for county residents. Id. at 111.*
 - *Ensure that housing options are available and accessible for people of varying income levels desiring to live, work, raise a family, and retire in Frederick County. Id. at 162.*
 - *Ensure access to a variety of affordable and workforce housing options to meet the needs of a diversified workforce by enacting ordinances and regulations that encourage and support the development of these housing options near and around job centers and businesses. Id. at 162.*

The proposed townhomes will provide homeownership opportunities to families and individuals of varied incomes. Specifically, The Project will consist of +/- 29 townhomes that will be 16' in width. The Applicant anticipates that this product type will be affordable to individuals with moderate incomes, as well as seniors (65+) living on a fixed income.

- The LFMP broadly promotes development that will be in harmony with sensitive environmental resources:
 - *Critically examine the land use designations and zoning applied to Green Infrastructure and other sensitive environmental resources within Community Growth Areas. Id. at 187.*
 - *Preserve natural resources during the development process. Id. at 189.*
 - *During the development review and approval process, ensure that the functional viability and stability of wetlands will be maintained. Id. at 191.*

The Project accounts for sensitive environmental features on the Property. Applicant notes that, no forest, specimen trees, wetlands, streams, or hydrological surface features exist on the Property.

(2) Availability of current and planned public facilities;

RESPONSE: As discussed above, current and planned public facilities account for the Project.

(3) Adequacy of existing and planned future transportation systems;

RESPONSE: As discussed above and in the application materials, existing and planned future transportation systems are adequate for this infill project.

(4) Compatibility with existing and proposed development;

RESPONSE: As discussed above, the Project will be compatible with the Ballenger Run PUD.

(5) Population change, including availability and location of land zoned to meet the ten-year need for residential development;

RESPONSE: The LFMP states that in 4 years (2025) “the total number of adults age 65+ is projected to exceed the total number of school-age children (ages 5-19) in the county.” (LFMP at 134). The Project provides much-needed housing at affordable pricing points to meet the demand of the aging population, many of whom are, or will be on, fixed incomes.

(6) The timing of development, planned future transportation systems and planned public facilities;

RESPONSE: As discussed above, current and planned transportation and public facility improvements are or will be adequate to serve this infill project.

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

RESPONSE: As discussed above, if and where applicable, the Project accounts for sensitive environmental resources. Applicant notes that, no forest, specimen trees, wetlands, street, or hydrological surface features exist on the Property.

(8) Historic resources have been identified and impacts to these resources are avoided or minimized to the maximum extent practicable.

RESPONSE: Not applicable.

For the above reasons, and as further described and identified in the application materials, the Applicant submits the application meets the criteria to support rezoning. The Applicant will supplement the above and the application materials as needed, including with additional testimony during the public hearings on the application.