

IN THE MATTER OF	:	BEFORE THE
<b>ROCK BURN, LLC</b>	:	HOWARD COUNTY
Petitioner	:	BOARD OF APPEALS
	:	HEARING EXAMINER
	:	BA Case No. 14-014C

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**DECISION AND ORDER**

On June 16, 2014, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the petition of Rock Burn, LLC, (Petitioner) for a conditional use to construct Age-restricted, Adult Housing, General in an R-20 (Residential: Single) zoning district pursuant to § 131.N.1 of the Howard County Zoning Regulations.

The Petitioners certified that notice of the hearing was advertised and that the subject property was posted as required by the Howard County Code. The Hearing Examiner viewed the subject property as required by the Hearing Examiner Rules of Procedure.

Sang Oh, Esq., represented the Petitioner. Jacob Hikmat testified in support of the petition. Area resident Joseph Woody appeared for the hearing and testified but not in opposition to the petition.

At the outset of the hearing, Mr. Oh explained that the purpose of the petition is compliance with Condition No. 4 in Board of Appeals Case No. 11-026C, which approved 46 attached and semi-attached Age-restricted Adult Housing units in a similar arrangement subject on the Property in part to the condition that “[a] change in ownership from a condominium regime to fee-simple lots shall be considered a substantive, material change, requiring the

Petitioner to submit a new conditional use plan.” Mr. Oh then rested Petitioner’s case, agreeing with the Technical Staff Report’s evaluation of the petition and its recommendation that it be approved.

### FINDINGS OF FACT

Based upon the preponderance of evidence presented at the hearing, the Hearing Examiner finds the following facts:

1. Property Identification. The subject properties are located on the north side of Montgomery Road, about 100 feet west of Parkview Court in the 1<sup>st</sup> Election District. The subject properties are officially identified as Tax Map 37, Grid 5, part of Parcels 52, 53 & 54 and are also known as 6311, 6329 and 6343 Montgomery Road (the Property). The Property is 18.3 acres in area.

2. Property and Site Description. The three parcels comprising the 18.3-acre Property are long and narrow. They front on Montgomery Road and run at least 1,600 feet in length to the rear property line. Each parcel is improved with a single-family detached dwelling located near and with access to Montgomery Road. According to the Conditional Use Plan (CUP), the Conditional Use Site comprises 12.42 acres in the rear section of the Property.<sup>1</sup> The rear portion of the Site is encumbered with wetlands and this environmentally area is heavily wooded. The Site has stands of trees in the southwest portion, the front central portion and along the east side.

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<sup>1</sup> Footnote 1 of the Technical Staff Report (TSR) notes that while the petition shows the total land area of the Site as 11.94 acres, the CUP shows the apparently correct acreage as 12.42 gross acres. There are 1.14 acres in floodplain, and for the purposes of § 131.0.N.1.(6) (see Conclusions of Law, Part II), the net acreage is 11.28 acres.

3. Vicinal Properties. All adjacent parcels are also zoned R-20. The eastern Parcel 325 along Montgomery Road is improved with a single-family detached dwelling. The remainder of the Property's eastern boundary is bordered by the Rockburn Manor subdivision and Open Space Lot 1. Lots 2-11 are about 14,000-16,000 square feet in size and each lot is improved with a single-family detached dwelling. Lot 12 abuts the northeast portion of the Property. The dwellings on Lots 5 and 6 lie about 120 feet from the closest proposed unit on the Site.

East of the Rockburn Manor subdivision are several parcels, most of which are improved with a single-family detached dwelling. Some 1,300 feet east of the site along Montgomery Road is a 21-unit age-restricted adult housing community on Koffel Court approved through Board of Appeals Case No. 00-037E and Site Development Plan No. 02-051. To the west is the Rockburn Run subdivision, whose lots are each improved with a single-family detached dwelling. Lots 10-16 adjoin the southern portion of the Property and Open Space Lot 9 adjoins the northern portion. To the north is Parcel 235, the site of the Rockburn Branch Park, which is owned by the Howard County Department of Parks and Recreation. The closest age-restricted dwelling would be sited about 400 feet from the Site's north (rear) property line and about 600 feet from park ball fields. To the south, across Montgomery Road, the parcels are mostly developed with single-family detach dwellings.

4. Roads. Montgomery Road has two travel lanes and a variable paving width within a variable width right-of-way (ROW). According to Department of Public Works Data, the traffic volume on Montgomery Road west of US 1 is 12,943 average daily trips as of February

2007.

5. Water and Sewer. The proposed development will be served by public water and sewer.

6. The General Plan. PlanHOWARD 2030 designates the Property as "Established Community" on the Designated Pace Types Map. The Plan's Functional Road Classification Map depicts Montgomery Lane as a local road.

7. Zoning History. In Board of Appeals Case No. 11-026C, the Hearing Examiner on March 19, 2012 granted Rock Burn, LLC's petition for conditional use approval of a 46-dwelling unit Age-restricted Adult Housing development subject to five conditions:

1. The conditional use shall be conducted in conformance with and shall apply only to the proposed Age-Restricted Adult Housing development as described in the petition and depicted in the February 2012 Amended Conditional Use Plan for "Enclave at Park Forest," and not to any new structures or uses on the Site or any additions thereto.
2. The Petitioner shall relocate one of the five attached units in the 140-foot, five-unit grouping facing the eastern perimeter to the three-unit grouping next to the community center. No portion of the walking trail depicted on the Amended Plan shall be disturbed. If the attached unit cannot be relocated to this area, the number of units shall be reduced to 45.
3. The five-unit grouping that is to be reduced to four units shall be reconfigured as two, semi-detached groupings (four dwellings.)
4. A change in ownership from a condominium regime to fee-simple lots shall be considered a substantive, material change, requiring the Petitioner to submit a new conditional use plan.
5. The Petitioner shall erect a gazebo to the north of the community center, within the area of the walking trail depicted on the Amended Plan. The gazebo shall be accessible to persons with mobility or functional limitations through a no-step design and shall have permanent seating areas, as well as sufficient area for several persons with mobility or functional limitations to accommodate any walking assistance equipment.

8. Design Advisory Panel (DAP) Comments. By April 18, 2014 electronic correspondence from Dace Blaumanis to Zan Koldewey, the Department of Planning and Zoning





staffer who prepared the TSR, the Panel informed DPZ that the petition need not return to DAP for review, as the site layout remains substantially the same and some site plan improvements have been made to comply with certain DAP recommendations.

9. The Conditional Use Proposal. Pursuant to § 131.0.N.1.a , the Petitioner is seeking conditional use approval for an Age-restricted Adult Housing, General development consisting of 45 two-story, 28' x 60' dwelling units with two-car garages and known as the "Enclave at Park Forest." The CUP depicts 27 single-family attached and 18 semi-attached units arranged in groups along the inside and outside perimeters of an internal circular road. Ten percent of the dwellings (five dwelling units) would be moderate-income housing units. Two attached unit groups are each proposed to be 140 feet in length. These units will be located on the Property's western side next to an open space lot. Petitioner intends to use the same guidelines underlying the Hearing Examiner's approval in the prior case, including proposed architectural design and a Type D landscape buffer, to render the project compliant with § 131.0.N.1.a.(5)(g) (see Part II below). These measures include staggered setbacks, changes in elevation through roofline and façade treatments, similar muted exterior colors and changes in materials. The site design also incorporates DPZ and DAP recommendations.

The terminus of the Monterey Road cul-de-sac on the Site's east side will be extended to connect with the internal circular road. On the outside of the internal circular road, the following is proposed: one group of semi-attached units and one group of five attached units on the west side and one group of three attached units on the north end. A 1,012sf community center building is proposed to be located on the east side of this three-unit grouping.

On the inside of the internal circular road, the following is proposed: one group of four attached units and one group of three attached units on the south and north ends and two semi-attached groups on the east side. One five-unit attached group is proposed on the west side.

In the interior of the circular road, a stormwater management/recreational area and a walking trail are proposed. The walking trail will loop through the rear of the Site. A five-foot wide sidewalk is depicted along both sides of the circular road. A gazebo would be located in the looped trail area.

Two parking spaces per unit are required and the Petitioner is proposing four spaces per unit, two within each garage and two in each driveway (180 spaces). Four spaces will be provided on the east side of the community center. An additional 10 spaces are provided throughout the site for a total of 194 spaces.

Landscape buffers in excess of Landscape Manual requirements are proposed along property lines adjacent to existing residential development.

The CUP is similar to that approved in Board of Appeals Case No. 11-026C, with the following revisions.

1. The number of units is reduced from 46 to 45. A five-attached unit row depicted on the Property's eastern side is replaced by two, semi-attached groups.
2. The community center is increased from 920sf to 1,1012sf.
3. A gazebo is depicted on CUP sheet 2.
4. Two units near the Site's southwestern corner are rotated to have their fronts facing south rather than east, as was shown in the prior CUP.
5. The floodplain area is increased in size pursuant to an approved floodplain study prepared as part of the site development plan process.
6. The project area is increase by 0.48 acres to mitigate the increase floodplain area.
7. Several units are shown with optional building extensions.



8. Proposed stormwater management is revised in accordance with site development plan approvals.
9. Anticipated fee-simple lot lines are shown, with reserved space for decks.
10. Public water and sewer easements are shown.

### **CONCLUSIONS OF LAW**

#### **I. General Criteria for Conditional Uses (§ 131.0.B)**

Based upon the foregoing Findings of Fact and background issues, the Hearing Examiner concludes as follows:

**1. The proposed Conditional Use plan will be in harmony with the land uses and policies in the Howard County General Plan which can be related to the proposed use.**

The Howard County General Plan designates the area in which the Property is located as "Established Community." Age-restricted adult housing developments are commonly found in residential areas and are presumptively compatible with residential land uses. The TSR did not identify any specific policy that can be related to the proposed use. Absent any specific policy that the use would be inharmonious with the Plan, the proposed use is generally harmonious with the Plan.

**2. The nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site are such that the overall intensity and scale of the use(s) are appropriate for the site.**

Section 131.0.B.2 is an on-site evaluation of the proposed Conditional Use. The Site will be accessed from an extended cul-de-sac providing access to Montgomery Road. Because the intensity of use is much greater than vicinal residential properties, the Petitioner is proposing several measures to enhance the landscape character of the project and harmonize the visual impact of the units with surrounding residential uses. These include staggered

setbacks, changes in elevation through roofline and façade treatments, similar muted exterior colors and changes in materials. While not approved by the Hearing Authority, the architectural designs appear to be appropriate for the longer building lengths. As a result, the nature and intensity of use, as well as the scale of the uses, and the location of streets providing access, are appropriate for the site.

**3. The proposed use at the proposed location will not have adverse effects on vicinal properties above and beyond those ordinarily associated with such uses. In evaluating the proposed use under this standard, the Hearing Authority shall consider whether or not:**

Unlike §§ 131.0.B.1 and 2, which concern the proposed use's harmony or compatibility with the General Plan and the on-site characteristics of the proposed use, compatibility with the neighborhood is measured under § 131.0.B.3's six "adverse effect" criteria: (a) physical conditions; (b) structures and landscaping; (c) parking areas and loading, (4) access, (5) impact on environmentally sensitive area; and (6) impact on the character and significance of historic sites. These six adverse impact tests gauge the off-site effects of the proposed conditional use.

Inherent in the assessment of a proposed conditional use under these criteria is the recognition that virtually every human activity has the potential for adverse impact. The assessment therefore accepts some level of such impact in light of the beneficial purposes the zoning body has determined to be inherent in the use. Thus, the question in the matter before the Hearing Examiner is not whether the proposed use would have adverse effects in an R-20 district. The proper question is whether there are facts and circumstances showing the particular uses proposed at the particular location would have any adverse effects above and beyond those inherently associated with such a special exception [conditional] use irrespective

of its location within the zones. People's Counsel for Baltimore County v. Loyola College in Maryland, 406 Md. 54, 956 A.2d 166 (2008); Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319 (1981); Mossburg v. Montgomery County, 107 Md. App. 1, 666 A.2d 1253 (1995).

For the reasons stated below, and as conditioned, the Petitioner has met its burden of presenting sufficient evidence under §131.0.B.3 of the Zoning Regulations to establish the proposed uses will not have adverse effects on vicinal properties beyond those ordinarily associated with an Age-restricted Adult Housing, General development in the R-20 zoning district.

**a. The impact of adverse effects such as, but not limited to, noise, dust, fumes, odors, intensity of lighting, vibrations, hazards or other physical conditions will be greater at the proposed site than it would generally be elsewhere in the same zoning district or other similar zoning districts.**

There is no evidence of record regarding atypical adverse effects on vicinal properties from dust, fumes, and odors, noise, intensity of lighting or hazards.

**b. The location, nature and height of structures, walls or fences, and the nature and extent of the existing and/or proposed landscaping on the site are such that the use will not hinder or discourage the development and/or use of adjacent land and structures more at the subject site than it would generally elsewhere in the same zoning district or other similar zoning districts.**

No wall or fences are proposed. All structures will meet district zoning setback requirements. The two 140-foot unit groupings will be located near the open space lot and within the internal driveway interior, away from existing residences. Landscape buffers along property lines in common with existing residential development will exceed county requirements. Additionally, two units near the Site's southwestern corner are rotated to have their fronts facing south rather than east, as was shown in the prior CUP. The use will not

hinder or discourage the development and/or use of adjacent land and structures more at the subject site than it would generally elsewhere in the same zoning district or other similar zoning districts.

**c. The number of parking spaces will be appropriate to serve the particular use. Parking areas, loading areas, driveways and refuse areas will be appropriately located and buffered or screened from public roads and residential uses to minimize adverse impacts on adjacent properties.**

Two parking spaces per unit are required (90 spaces) for the residential units and 0.3 spaces per unit are required for visitor parking (180 spaces total). The CUP depicts 194 spaces, 14 more than required, in accordance with § 131.0.B.3.c.

**d. The ingress and egress drives will provide safe access with adequate sight distance, based on actual conditions, and with adequate acceleration and deceleration lanes where appropriate. For proposed Conditional Use sites which have driveway access that is shared with other residential properties, the proposed Conditional Use will not adversely impact the convenience or safety of shared use of the driveway.**

The proposed conditional use will utilize the existing access point off Monterey Road, a subdivision road previously approved and providing safe access.

**e. The proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere.**

There are no known environmentally sensitive areas in the vicinity. This section is inapplicable.

**f. The proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere.**

There are no known vicinal historic sites. This section is inapplicable.

**II. Specific Criteria for Age-Restricted Adult Housing, General (Section 131.0.N.1.a)****a. Age-Restricted Adult Housing, General**

A conditional use may be granted in the RC, RR, R-ED, R-20, R-12, R-SC, R-SA-8, or R-A-15 District, for age-restricted adult housing, provided that:

(1) Single-family detached, semi-detached, multi-plex, attached and apartment dwelling units shall be permitted, except that only detached, semi-detached, multi-plex and single-family attached units are permitted in developments with less than 50 dwelling units in the R-ED, R-20 and R-12 districts.

(2) In the R-ED, R-20, R-12, R-SC, R-SA-8, R-H-ED, R-A-15, or R-APT Districts the development shall have a minimum of 20 dwelling units.

(3) The maximum density shall be as follows:

Zoning District	Number of Dwelling Units in Development	Maximum Units Per Net Acre
R-ED and R-20	20-49	4
	50 or more	5
R-12	20-49	5
	50 or more	6
R-SC	20-49	7
	50 or more	8
R-SA-8	20 or more	12
R-H-ED	20 or more	10
R-A-15	20 or more	25
R-APT	20 or more	35

(4) Site Design: The landscape character of the site must blend with adjacent residential properties. To achieve this:

(a) Grading and landscaping shall retain and enhance elements that allow the site to blend with the existing neighborhood.

(b) The project shall be compatible with residential development in the vicinity by providing either:

(i) An architectural transition, with buildings near the perimeter that are similar in scale, materials and architectural details to neighboring dwellings as demonstrated by architectural elevations or renderings submitted with the petition; or

(ii) Additional buffering along the perimeter of the site, through retention of existing forest or landscaping, enhanced landscaping, berms or increased setbacks.

(c) For projects with less than 50 dwelling units in the R-ED, R-20 and R-12 Districts, setbacks from existing public streets shall be the same as the setback required for residential uses on adjacent properties.

Forty-five detached or attached units are proposed, in accordance with §§ 131.0.N.a.(1) & (2). The Site's net area of 11.28 acres permits up to 45 units and 45 are proposed, in compliance with § 131.0.N.1.a.(3).

For the reasons outlined heretofore, the Hearing Examiner concludes the project will be compatible with and blend with vicinal residential development. The units closest to vicinal residential development will be semi-detached units whose massing and design will be similar in scale, materials and architectural details to neighboring dwellings. Unit groupings exceeding 120 feet will be sited next to an Open Space Lot and within the internal driveway interior. A Type D landscape buffer is proposed along the eastern perimeter. Type C+ landscape buffers are proposed along the western and southern portions of the Site. The proposed use comports with §§ 131.N.1.a.(4).(a) & (b).

The setback from detached dwellings for semi-attached dwellings is 40 feet. The setback from an Open Space Lot is 30 feet. The proposed conditional use comports with § 131.0.N.1.a.(4)(c).

#### **(5) Bulk Requirements**

##### **(a) Maximum Height:**

**(i) Apartments ..... 40 feet**

**Except in R-SA-8 and R-A-15 and R-APT..... 55 feet**

**(ii) Other Principal Structures ..... 34 feet**

**(iii) Accessory Structures ..... 15 feet**

##### **(b) Minimum Structure and Use Setback:**

**(i) From Public Street Right-of-way ..... 40 feet**

**(ii) From residential lots in RC, RR, R-ED, R-20, R-12 or R-SC Districts:**

**Apartments ..... 100 feet**

**Single-family attached ..... 75 feet**

**Single-family detached, semi-detached, and multi-plex ..... 40 feet**

**(iii) From open space, multi-family or non-residential uses in RC, RR, R-ED, R-20, R-12 or R-SC..... 30 feet**

- (iv) From zoning districts other than RC, RR, R-ED, R-20, R-12 or R-SC ..... 20 feet
- (c) Minimum structure setback from interior roadway or driveway for units with garages ..... 20 feet
- (d) Minimum structure setback from lot lines for single-family detached or multi-plex units
  - (i) Side ..... 10 feet
  - Except zero lot line dwellings ..... 0 feet

A minimum of 10 feet must be provided between structures

- (ii) Rear ..... 20 feet
- (e) Minimum distance between single-family detached and/or attached dwellings:
  - (i) For units oriented face-to-face ..... 30 feet
  - (ii) For units oriented side-to-side ..... 15 feet
  - (iii) For units oriented face-to-side or rear-to-side ..... 20 feet
  - (iv) For units oriented rear-to-rear ..... 40 feet
  - (v) For units oriented face-to-rear ..... 100 feet- (f) Minimum distance between apartment buildings or between apartment buildings and single-family dwellings:
  - (i) For units oriented face-to-face ..... 30 feet
  - (ii) For units oriented side-to-side ..... 15 feet
  - (iii) For units oriented face-to-side or rear-to-side ..... 30 feet
  - (iv) For units oriented rear-to-rear ..... 60 feet
  - (v) For units oriented face-to-rear ..... 100 feet- (g) Apartment buildings and groups of single-family attached units may not exceed 120 feet in length. However, the Hearing Authority may approve a greater length, up to a maximum of 300 feet in R-SA-8, R-A-15, and R-APT or 200 feet in other districts, based on architectural design that mitigates the visual impact of the increased length.

The CUP complies with all setback requirements. For the reasons set forth above, and as conditioned, the proposed conditional use comports with § 131.0.N.1.a.(5)(g). The proposed architectural design will mitigate the increased lengths.

- (6) At least 50 percent of the gross site area in the R-ED Districts, at least 35 percent in the R-20, R-12, and R-SC Districts, and at least 25 percent in R-SA-8, R-H-ED, R-A-15 and R-APT Districts, shall be open space or open area in accordance with the Subdivision and Land Development Regulations. The open space or open area shall provide amenities such as pathways, seating areas and recreation areas for the residents, and shall be protective of natural features.

Because the Property is zoned R-20, 35 percent of the Site must be open space (4.35 acres) and the CUP denotes a 53 percent area (6.32 acres). The CUP depicts a walking trail and gazebo. As a condition of approval, the gazebo shall be accessible to persons with mobility or functional limitations through a no-step design and shall have permanent seating areas, as well as sufficient area for several persons with mobility or functional limitations to accommodate any walking assistance equipment. Subject to these conditions, the proposed conditional use accords with § 131.0.N.1.a.(6).

**(7) Accessory uses may include social, recreational, educational, housekeeping, security, transportation or personal services, provided that use of these services is limited to on-site residents and their guests.**

No accessory uses are proposed.

**(8) At least one on-site community building or interior community space shall be provided that contains a minimum of:**

**(a) 20 square feet of floor area per dwelling unit, for the first 99 units with a minimum area of 500 square feet, and**

**(b) 10 square feet of floor area per dwelling unit for each additional unit above 99.**

For the 45-unit project, a 1,012sf foot community building is proposed, in excess of the 900sf minimum, in accordance with § 131.0.N.1.a.(8).

**(9) Loading and trash storage areas shall be adequately screened from view.**

According to the CUP, no loading or trash areas are proposed.

**(10) For a development that will be built in phases, open space areas, recreational facilities and other accessory facilities shall be provided in each phase to meet the needs of the residents. The developer shall provide a schedule for the installation of facilities at the time the conditional use is approved.**

No phasing is proposed.



**(11) The petition shall establish how the age restrictions required under the definition of this use will be implemented and maintained over times. If the development will not be a rental community under single ownership, an entity such as a condominium association or homeowners association shall be established to maintain and enforce the age restrictions in addition to County enforcement of zoning regulations.**

The petition includes a document entitled "The Enclave at Park Forest Condominium Declaration," in accordance with § 131.0.N.1.a.(11).

**(12) All open space, common areas and related improvements shall be managed and maintained by a common entity, either the owner of the development, a condominium association, or a homeowners association.**

Petitioner has declared that that all open space, common areas, and related improvements will be maintained by the condominium association, in accordance with § 131.0.N.1.a.(12).

**(13) The development shall incorporate universal design features from the Department of Planning and Zoning guidelines that identify required, recommended and optional features. The petition shall include descriptions of the design features of proposed dwellings to demonstrate their appropriateness for the age-restricted population. The material submitted shall indicate how universal design features will be used to make individual dwellings adaptable to persons with mobility or functional limitations and how the design will provide accessible routes between parking areas, sidewalks, dwelling units and common areas.**

The petition addresses all universal design features required, in accordance with § 131.0.N.1.a.(13).

**(14) At least ten percent of the dwelling units in the R-ED, R-20, R-12 and R-SC Districts, and at least 15 percent in the R-SA-8, R-H-ED, R-A-15 and R-APT Districts, shall be moderate housing units.**

Five moderate housing units shall be provided, in accordance with § 131.0.N.1.a.(14).

**(15) Housing for the elderly special exceptions uses approved by the Board of Appeals on or prior to July 12, 2001 and constructed under the zoning regulations in effect at that time, may convert the existing dwelling units to age-restricted adult housing uses,**

with respect to minimum age restrictions only, without being subject to further hearing authority review and approval under current conditional use requirements, provided that the dwelling units are made subject to the new covenants and other legal means of enforcing the age-restricted adult housing minimum age restrictions, and that a copy of the recorded new covenants is submitted to the Department of Planning and Zoning to be filed in the original special exception case file

This section does not apply.

**(16) The conditional use plan and the architectural design of the building(s) shall have been reviewed by the Design Advisory Panel, in accordance with Title 16, Subtitle 15 of the Howard County Code, prior to the submission of the conditional use petition to the Department of Planning and Zoning. The Petitioner shall provide documentation with the petition to show compliance with this criterion.**

The Design Advisory Panel has determined the CUP revisions do not require DAP review, as the site layout remains substantially the same and some site plan improvements have been made to comply with certain DAP recommendations. The petition complies with § 131.0.N.1.a.(16).

**ORDER**


Based upon the foregoing, it is this **30<sup>th</sup> day of June 2014**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That the petition of Rock Burn, LLC, (Petitioner) for a conditional use to construct Age-restricted, Adult Housing General in an R-20 (Residential: Single) zoning district is hereby **GRANTED.**

**Provided, however, that:**

1. The conditional use shall be conducted in conformance with and shall apply only to the proposed Age-Restricted Adult Housing development as described in the petition and depicted in the April 18, 2014 Conditional Use Plan for "Enclave at Park Forest," and not to any new structures or uses on the Site or any additions thereto.
2. The gazebo shall be accessible to persons with mobility or functional limitations through a no-step design and shall have permanent seating areas, as well as sufficient area for several persons with mobility or functional limitations to accommodate any walking assistance equipment.
3. Petitioner shall comply with all agency comments.

**HOWARD COUNTY BOARD OF APPEALS  
HEARING EXAMINER**

  
\_\_\_\_\_  
Michele L. LeFaivre

**Date Mailed:** \_\_\_\_\_

**Notice:** A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 calendar days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.