

IN THE MATTER OF : BEFORE THE  
**Pleasants Development, LLC** : HOWARD COUNTY  
Petitioner : BOARD OF APPEALS  
 : HEARING EXAMINER  
 : Case No. BA-22-035C

.....

DECISION AND ORDER

On August 9, 2023, 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 Pleasants Development, LLC (“Petitioner”) for Conditional Use for Age-Restricted Adult Housing in an R-20 (Residential: Single) Zoning District, filed pursuant to Section 131.0.N.1 of the Howard County Zoning Regulations (“HCZR”).

Petitioner certified to compliance with the notice and posting requirements of the Howard County Code. The Hearing Examiner viewed the subject property as required by the Hearing Examiner Rules of Procedure. Petitioner was represented by Christopher DeCarlo, Esq.

The following testified in support of the Petition: Carlton K. Gutschick, Principal, P.E., Gutschick, Little & Weber, P.A.; Nick Driban, Associate V.P., Lenhart Traffic Consulting, Inc.; Lisa Jenson, Historic Preservation Consultant, Preservation Consulting LLC; and Clark Wagner, Member, Pleasants Development, LLC.

The following persons appeared in opposition: Linda Custer, 8579 Old Frederick Road; and Mary Arsenault, 8535 Old Frederick Road. Bruce Penn of 2253 Daniels Road appeared to ask questions but did not testify.

### FINDINGS OF FACT

Based upon the evidence of record, the Hearing Examiner finds the following facts:

1. Property Identification. The subject property (“Property”) is an amalgam of six lots located at the corner of North Rogers Avenue and Old Frederick Road in Ellicott City, all located in the 2nd Election District, and in Council District 1, identified as:

8645 Old Frederick Road  
Tax Map 17, Grid 18, Parcel 90

E Route 105  
Tax Map 17, Grid 18, Parcel 526

2617, 2625, 2605, & 2609 North Rogers Avenue  
Tax Map 17, Grid 18, Parcel 728 Lots 1 and 2, Parcel 429, Parcel 205

2. Property Description. The 14.33-acre Property is irregular in shape, containing four separate single-family dwellings, two undeveloped lots and mature trees. The site rises from an elevation of 420 feet at the southeast corner to 482 feet at the northwest corner. See, DPZ Technical Staff Report.

3. Vicinal Properties. Vicinal properties to the north, east and west are in the R-20 Zoning District and improved with Single-Family Detached Residences. To the south is Interstate 70 and a religious facility. See, DPZ Technical Staff Report.

4. Roads. Old Frederick Road has two lanes within a 30-foot right of way. The posted speed limit is 25 miles per hour. According to the State Highway Administration of the Maryland Department of Transportation, the 2022 Annual Average Daily Traffic for Old Frederick Road was 9,451. The 2022 Annual Average Weekday Traffic was 10,021. See, DPZ Technical Staff Report.

5. Water and Sewer Service. The Property is served by public water and sewer and is located within the Public Service Area for water and sewer and in the Metropolitan District.

6. Zoning History.

There are no zoning cases for the Property.

7. The General Plan. PlanHoward 2030 depicts the Property as "Established Community" on the Designated Place Types Map. Old Frederick Road is designated as a Major Collector and North Rogers Avenue is a Local Road.

8. Proposed Conditional Use. The Petitioner proposes an Age-Restricted Adult Housing (ARAH) development consisting of 13 single family detached (SFD) dwellings that will be approximately 2,400 square feet, 50 single-family attached (SFA) dwellings that will be approximately 1,792 square feet, and a 1,980 square foot community building with an outdoor recreation area. All dwellings will incorporate features from the Universal Design Guidelines. A condominium/homeowner's association will be responsible for maintaining the common areas and enforcing covenants.

9. Petition and Conditional Use Plan. Petitioner filed a Petition and Narrative Summary on May 10, 2023 ("Petition") along with plans and revised plans ("Plan") dated April 2023.

10. DPZ Technical Staff Report. The Department of Planning and Zoning, on July 25, 2023, issued a Technical Staff Report that is part of the record ("DPZ Technical Staff Report"). Where stated, facts cited in the DPZ Technical Staff Report are adopted herein.

11. Testimony.

- **S Carlton K. Gutschick, Principal, P.E., Gutschick, Little & Weber, P.A.**

Mr. Gutschick testified generally that the Plan meets the general requirements for a conditional use and the specific requirements of a conditional use for an age-restricted community in the R-20 district. He explained that the plan includes 13 single family homes and 50 villa style townhomes. He stated that the current design and layout of the community was responsive to concerns of the community and the Design Advisory Panel (“DAP”). He testified about the November 16, 2022, DAP meeting at which the project was reviewed and, in particular, pointed out that the DAP was supportive generally of buildings with up to 7 villas “if a more refined design could be achieved,” and that the DAP supported a neighborhood square. (The minutes of the November 16, 2022, DAP meeting were marked as Petitioner’s Exhibit 1 and entered into the record.) He stated that the design of the villas is such that there are “jogs” to break up and mitigate the length of the buildings.

Mr. Gutschick testified that the house at the northwest corner of the Property would remain, as the home is an historic building. He also testified that there will be a berm along North Rogers Avenue to buffer the view of the new community from the historic homes along North Rogers Avenue.

He testified as to each of the specific criteria for an age-restricted development in the R-20 district and stated that all criteria were met.

He was asked by Linda Custer about traffic in and out of the community and he stated that the egress onto Old Frederick Road would be a right only exit and that in order to travel

east on Old Frederick Road from the community, one would exit the community onto Sunell Lane via a new ingress/egress point, then travel north on Sunell Lane and west on Old Frederick from Sunell Lane.

Mimi Arsenault questioned Mr. Gutschick about the number of units and density and asked him to compare the proposed number of units with the number that would be allowed in general in the R-20 zone. He was also asked about a cemetery on the Property and he testified that the cemetery is not located on the Property but is located on a lot directly adjacent thereto.

Bruce Penn asked questions about a potential deceleration/turn lane and a concern about traffic backing up to get into the site. He also asked questions about the location of the stormwater management facilities.

- **Nick Driban, Associate V.P. Lenhart Traffic Consulting, Inc.**

Mr. Driban is a traffic engineer and testified that, in general, an age-restricted community would be a low traffic generator in peak hours. He explained that the trip generation calculations showed 19 cars out and 9 cars in during the AM peak hour, and 20 cars in and 12 cars out during the PM peak hour. He opined that the trips would generally not conflict with school bus routes or rush hour traffic.

- **Lisa Jenson, Historic Preservation Consultant, Preservation Consulting LLC.**

Ms. Jenson testified that she is an architectural historian with years of experience. She stated that there are 2 historic structures on the west side of the Property along North Rogers Avenue. She provided photos that were marked as Petitioner's Exhibit 2.

1. 2605 North Rogers Avenue is a 1920's house that she recommended be retained.
2. 2625 North Rogers Avenue, in her view, has been drastically altered over the years such that it has lost its historic significance. She stated that this dwelling will be removed.

- **Clark Wagner, Member, Pleasants Development, LLC.**

Mr. Wagner is a member of the LLC that owns/develops the Property. He was asked questions about the age restrictions for the project. He stated that no one under the age of 18 years is entitled to live in an age-restricted community, meaning that school-age children are not allowed to live there. The restrictions will be set forth in the covenants of the owner association that will be recorded in the land records.

- **Linda Custer.**

Ms. Custer opposed the development and stated her primary concerns are the roads and traffic. She stated that there a lot of speeders on that stretch of Old Frederick Road and that, in her view, the sight distance is not sufficient without turn lanes.

- **Mary Arsenault.**

Ms. Arsenault opposes the development for several reasons. She first stated that the density will be over twice what it would be if developed as non-age-restricted units – 29 units rather than 63 units. She also stated that she has a concern about the increase in traffic. She then stated that she felt that the number of people eligible to live in an age-restricted community would decrease throughout the years (and that the units would thus be used for

other age groups that include school-age children).

## CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, I conclude as follows:

- A. General Criteria for Conditional Uses (Section 131.0.B of the Howard County Zoning Regulations).**
- 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.**

Per the DPZ Technical Staff Report, the proposed use is in harmony with the following PlanHoward 2030 policies that encourage housing options for residents at diverse income levels and life stages:

- Policy 9.2: “Expand full spectrum housing for residents at diverse income levels and life stages, and for individuals with disabilities, by encouraging high quality, mixed income, multigenerational, well designed, and sustainable communities.
- Policy 9.4: “Expand housing options to accommodate the County’s senior population who prefer to age in place and people with special needs.”

*Thus, the proposed use will be in harmony with the Howard County General Plan and PlanHoward 2030.*

- 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.**

The Petitioner proposes 63 dwelling units on 14.33 net acres, which equates to 4.39 dwelling units per net acre. This is less than the maximum density of five (5) dwelling units per

net acre allowed for an ARAH development in R-20, which would allow 71 dwelling units. See, DPZ Technical Staff Report.

The Functional Road Classification Map of PlanHoward 2030 depicts Old Frederick Road as a Major Collector which is an appropriate classification for the number and types of vehicles associated with the proposed use. See, DPZ Technical Staff Report.

The development complies with all bulk regulations (except for the building length of the single family attached villas which will be addressed later in this D&O) and provides 42.2% open space, which exceeds the 35% open space requirement. There is a required 1,980 square foot community building which exceeds the 1,260 square foot requirement. See, DPZ Technical Staff Report.

*Therefore, 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 is appropriate for the site.*

**3. 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 not be greater at the proposed site than it would generally be elsewhere in the same zoning district or other similar zoning district.**

There is no evidence of adverse effects such as excessive noise, dust, fumes, odors, vibrations, increased lighting, hazards, or other physical conditions that would be greater at the subject site than generally elsewhere in the R-20 district. The use will be 63 homes designed for adults aged 55 and over, along with a 1,980 SF community building. Any noise from the community square would be limited to the Property.



*Therefore, the impact of adverse effects will not be greater at the proposed site than it would generally be elsewhere in the R-20 zoning district.*

- 4. 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.**

The proposed buildings and structures comply with all setback and height requirements in Sec. 131.0.N.1.a.7. The development will include the required landscaping along the perimeter, street trees along Old Frederick Road and North Rogers Avenue, and an additional berm along North Rogers Avenue, as well as on-site landscaping.

*Therefore, the use will not hinder or discourage the development and/or use of adjacent land and structures more at the subject site than generally elsewhere.*

- 5. 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.**

The parking requirement for ARAH single-family semi-detached dwellings is two (2) parking spaces per dwelling unit (**128 spaces for the 64 units - 63 new units plus existing house**) and 0.3 parking spaces per dwelling unit for visitors (**20 spaces**). Additionally, the parking requirement for the community building is 10 spaces per 1,000 square feet or twenty (**20 spaces**) spaces for the 1,980 square foot community building. Thus, the total number of parking spaces required is **168**.

Each dwelling unit will have four (4) parking spaces - two (2) garage spaces and two (2) driveway spaces - for a total of **256 spaces**. There will be approximately **45 spaces** for the community building and visitors for a **grand total of 301 spaces** – far more than the number

required.

The petitioner is not proposing any loading or refuse areas.

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

- 6. 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 ingress and egress for the Property will be via from Old Frederick Road and Sunell Lane. The DPZ Technical Staff report states:

“The Development Engineering Division (DED) commented that the current entrance does not appear to allow a left turn from the site onto Old Frederick Road. This configuration does not meet the county standard which could generate a waiver request or require reconfiguration of the site plan. If this divided entrance is being shown because of a lack of sight distance and southbound vehicles are expected to use Sunell Lane, it will not be a desired configuration because it will be difficult to enforce a “no left turn.”

Because the sight distance analysis is conducted and reviewed during the Site Development Plan review, this Decision and Order will be conditioned on the current configuration being approved during Site Development Plan review. If the current configuration is not approved, and if the Plan requires reconfiguration, the Petitioner will be required to come back before the Hearing Examiner for approval of a reconfigured Conditional Use Plan.

*Conditioned upon approval of the ingress and egress design during Site development Plan review, I find that this criterion has been met.*

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

The Property contains environmentally sensitive areas including wetlands. The proposed structures and uses are to be located outside of the required environmental buffers.

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

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

Two historic sites are located west of the Property across North Rogers Avenue. They are: Kendig House, HO-611, located at 2622 North Rogers Avenue and the Eklof House and Store (Brun House), HO-6 12 located at 2628 North Rogers Avenue. The Historic Preservation Commission (HPC) reviewed the proposed development on June 1, 2023, and determined that it will not have a greater potential to diminish the character and significance of these two adjacent historic sites than elsewhere. See, DPZ Technical Staff Report.

Ms. Jenson testified that there are 2 historic structures on the west side of North Rogers Avenue:

1. 2605 West Rogers Avenue is a 1920's house that she recommended be retained.
2. 2625 West Rogers Avenue, in her view, has been drastically altered over the years such that it has lost its historic significance. She stated that this dwelling will be removed.

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

**B. Specific Criteria for Age-restricted Housing in the R-20 District (Section 131.0.N.1.a)**

**C. 1.**

*1. Age-restricted Adult Housing*

*a. Age-Restricted Adult Housing, General*

*A Conditional Use may be granted in the RC, RR, R-ED, PGCC, R-20, R-12, R-SC, R-SA-8, R-H-ED, R-A-15, or R-APT 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 RC, RR, R-ED, R-20 and R-12 districts.*

64 total units – a mixture of single family detached and single family attached – are proposed.

- (2) *In the RC, RR, R-ED, PGCC, 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.*

64 total units – a mixture of single family detached and single family attached – are proposed.

- (3) *Only detached and semi-detached units are permitted in the RC and RR Districts.*

Not Applicable.

- (4) *The maximum density shall be as follows:  
[for 50 or more dwelling units, a maximum of 5 units per net acre]*

The Property is zoned R-20 and the proposed development consists of 63 dwelling units on 14.33 net acres, which equates to 4.39 dwelling units per net acre.

- (5) ***If the development results in increased density according to subsection (4) above, the site must have frontage on and direct access to a collector or arterial road designated in the General Plan.***

The proposed density of 4.39 dwelling units per net acre exceeds the maximum density of two (2) dwelling unit per net acre in the R-20 zoning district, thus resulting in an increase in density. The Property has frontage and direct access to Old Frederick Road, which is a designated major collector road.

- (6) ***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.***

The vicinal properties are predominately R-20 zoned single-family detached homes. The Petitioner proposes 6.14 acres of open area constituting 42.2% of the site. The proposed development includes perimeter landscaping that consists of a blend of street trees and evergreens along Old Frederick Road and North Rogers Avenue. trees throughout the interior will create a wooded scenery along the trail and the stream bed. Therefore, the landscape character of the site will blend with the adjacent residential properties. See, DPZ Technical Staff Report.

- (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.*

The Plan includes single-family detached dwellings along the west property perimeter across North Rogers Avenue from single family detached dwellings. The architectural renderings show five (5) single family detached house types that have wood/stone siding, pitched roofs, and fenestration that are similar to the existing buildings in the neighborhood. The single family detached buildings are similar in size/scale to buildings on the 11 adjacent properties, of which the median is 2,507 square feet. See, DPZ Technical Staff Report.

Single family attached dwellings abut Parcel 25 to the southeast and the west side of Parcel 689 that is located east of the entrance from Old Frederick Road. A Forest Conservation area is located between the Property and Parcel 25 and a densely wooded area in the south/southeast portions of the Property is retained for additional buffering. The landscape plan depicts three (3) shade trees and six (6) evergreen trees (Perimeter 5) to screen the single family attached dwellings from Parcel 689.

The Design Advisory Panel (DAP) reviewed the initial design for this development on November 16, 2022, and advised the Petitioner to redesign the layout to create a central square and connect the pathways to create a loop and connect to neighboring community to the northeast. The original plan depicted single family attached dwellings adjacent to the clubhouse and those have been removed to create a central community green and recreation area. The revised pathway system creates a closed loop walking path and a sidewalk is

provided that extends up to the northeast corner of the Property. See, DPZ Technical Staff Report.

- (c) *For projects with less than 50 dwelling units in the RC, RR, R-ED, PGCC, 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.*

This development includes 63 units.

(7) **Bulk Requirements:**

(a) **Maximum Height:**

- (i) *Apartments .....40 feet  
Except in R-SA-8, R-A-15 and R-APT .....55 feet*
- (ii) *Other principal structures .....34 feet*
- (iii) *Accessory structures .....15 feet*

The maximum height of the proposed buildings will not exceed 34 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, PGCC, 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, PGCC, R-20, R-12 or R-SC .....30 feet*
- (iv) *From zoning districts other than RC, RR, R-ED, PGCC, R-20, R-12 or R-SC .....20 feet*

- (v) *in B-1 districts: .....*  
*Structures .....30 feet*  
*Parking and use .....10 feet*

All buildings comply with Section 131.0.N.1(7)(b) requirements consisting of a 40-foot setback from an external public street right-of-way, a 40-foot setback from lots in the R-20 zoning district for SFD, a 75 feet setback from in R-20 zoning for SFA, and a 30-foot setback for all structures from an open space lot.

- (c) *Minimum structure setback from interior roadway or driveway for units with garages .....20 feet*

All dwellings along the interior roadway contain garages and comply with the 20-foot setback.

- (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*

All single-family detached dwellings comply with the required setback from lot lines.

- (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*



All buildings comply with these requirements.

- (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***

Apartments are not proposed; therefore, this criterion does not apply.

- (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 Plan includes 28' wide units in the single-family attached buildings. The buildings containing units 39-46 and 24-27 each include 4 units and are under 120 feet in length. However, all the other single-family attached buildings include 5 or 6 units and exceed the maximum length of 120 feet. The Petitioner thus requests that the Hearing Authority approve the 5- and 6-unit buildings (which respectively would be 140 and 168 feet in length). The DAP addressed the request for longer units and stated that it would support longer lengths if “desirable design changes including a proposed neighborhood square could be achieved.” The Petitioner did include a community square in the revised Plan as well as design elements that visually mitigate the longer lengths such as “jogs” in the front elevations and varying

architectural features. Accordingly, the longer lengths as set forth in the Plan shall be approved.

- (8) *At least 50% of the gross site area in the RC, RR, R-ED, and PGCC Districts, at least 35% in the R-20, R-12, and R-SC Districts, and at least 25% 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.*

The Property is 14.56 acres; therefore, 5.10 acres (35%) of open space is required and 6.14 acres (42.2%) are provided. The open space/area will include a recreation area and a pathway for residents and their guests.

- (9) *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.*

A community center, a recreation area, and a pathway for residents and their guests are proposed.

- (10) *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*

The Plan includes 63 dwelling units, which requires a 1,260 square foot community building/interior community space and a 1,980 square foot community building is proposed.

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

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

No such areas are proposed.

(12) *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.*

Not applicable, as this development will not be built in phases.

(13) *The petition shall establish how the age restrictions required under the definition of this use will be implemented and maintained over time. 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 Petitioner will establish a homeowner's association that will enforce the age restriction requirements through recorded covenants and restrictions.

(14) *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.*

The Petition states that all open space, open area, common area and related improvements will be managed and maintained in perpetuity by a homeowner's association to be established by the Petitioner. See, DPZ Technical Staff Report.

(15) *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 Petitioner's Plan proposes to incorporate the following universal design features in the development: No-step front access to the front access where topography permits, otherwise no-step side or garage entry to the first floor; 36" wide front door with exterior lighting at the entrance; All exterior doorways at least 32" wide; Hallways at least 36" wide; Complete living area including master bedroom and bath on first floor; Lever handles on interior and exterior doors; Blocking for grab bars in bathroom walls near toilet and shower; ramps to exterior units will be in accordance with current Howard County regulations. See, DPZ Technical Staff Report.

**(16) *At least 10% of the dwelling units in the RC, RR, R-ED, R-20, R-12 and R-SC Districts, and at least 15% in the PGCC, R-SA-8, R-H-ED, R-A-15 and R-APT Districts, shall be Moderate Income Housing Units.***

Because the Property is zoned R-20, 10% of the 63 dwelling units shall be Moderate Income Housing Units ("MIHU"). Since fractional units are rounded up, seven (7) MIHU are required. According to the Petitioner, this requirement will be met alternatively through the fee-in-lieu process and will be addressed during Site Development Plan review.

**(17) *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 criterion does not apply.

*(18) 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 (DAP) reviewed the conditional use plan and the architectural designs on November 16, 2022. The Petitioner submitted the meeting summary as Petitioner’s Exhibit 1 to show compliance with this criterion.

## **ORDER**

Based upon the foregoing, it is this 8th day of September 2023, by the Howard County Board of Appeals Hearing Examiner:

**ORDERED**, that the Petition of Pleasants Development, LLC (“Petitioner”) for approval of a Conditional Use for Age-Restricted Adult Housing in an R-20 (Residential: Single) Zoning District, filed pursuant to Section 131.0.N.1 of the Howard County Zoning Regulations (“HCZR”), is hereby **GRANTED**; and it is further

**ORDERED**, that Petitioner’s request that the Hearing Authority approve, under Section 131.0.N.1.a.(7)(g), “a greater length, up to a maximum of . . . 200 feet . . . , based on architectural design that mitigates the visual impact of the increased length” of “groups of

single-family attached units” is hereby **GRANTED**; and it is further

**ORDERED**, that the longer lengths of the 5 and 6 unit single-family attached buildings as shown on the Plan shall be and hereby are approved.

Provided, however, that:

1. The uses shall be conducted in conformance with, and the conditional use shall apply only to the uses and structures as described in, the Petition and shown on the Plan, and not to any other activities, uses, structures or additions on the Property;
2. The design and layout and features of the development shall be as shown on the Plan and the Plan and development shall not be reconfigured without being approved by the Hearing Authority;
3. The longer lengths of the 5 and 6 unit single-family attached buildings as approved shall only apply to those 5 and 6 unit buildings as shown on the Plan and not to any other buildings;
4. The existing house located at the corner of Old Frederick Road and North Rogers Avenue, known as 2605 North Rogers Avenue, shall remain;
5. Because a sight distance analysis shall be conducted and reviewed during the Site Development Plan review, this Decision and Order will be conditioned on the current ingress/egress configuration on Old Frederick Road being approved during Site Development Plan review. If the current configuration is not approved, and if the Plan requires reconfiguration, the Petitioner will be required to come back before the Hearing Examiner for approval of a reconfigured Conditional Use Plan; and

- Petitioner shall comply with all federal, state, and local laws and regulations.

**HOWARD COUNTY BOARD OF APPEALS  
HEARING EXAMINER**

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Katherine L. Taylor

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

**NOTICE:** A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 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.