

IN THE MATTER OF	:	BEFORE THE
DMR CEDAR OVERLOOK, LLC	:	HOWARD COUNTY
Petitioner	:	BOARD OF APPEALS
	:	HEARING EXAMINER
	:	BA Case No. 24-009C

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DECISION AND ORDER

On August 20, 2025, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, held the evidentiary hearing for the Petition of DMR Cedar Overlook, LLC (Petitioner) for an Age-Restricted Adult Housing, General (ARAH) Conditional Use in a R-20 (Residential: Single) Zoning District, filed pursuant to Section 131.0.N.1 of the Howard County Zoning Regulations (HCZR).

The 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. Sang Oh, Esq. represented the Petitioner. Robert Vogel, civil engineer, and Carl Wilson, traffic engineer, testified on

behalf of the Petitioner. Howard Edwards, Maurene Jamison, Kimberly Edwards, Austin Edwards, Robert Meushaw, Eileen Eisenberg and Richard Mayhew testified in support of the Petition. No one appeared in opposition.

Petitioner introduced into evidence the following Exhibits:

1. Illustrative Site Plan via satellite overview
2. 3D Perspective
3. Revised Conditional Use and Landscape Plan (June 8, 2025)
4. Wilson CV
5. Intersections and front setbacks

Supporters introduced into evidence the following Exhibits:

- 6(a). Clemons West neighborhood
- 6(b). Edwards testimony
- 6(c). 10 photos

FINDINGS OF FACT

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

1. Property Identification. The Conditional Use site is comprised of two properties, and together, these lots form an irregularly shaped site. One property is

developed with a single-family home and the other property is unimproved. There is existing tree cover on the majority of the site. The site rises from an elevation of 337 feet at the western corner to 411 feet at the eastern border. The Property encompasses 8.92 acres of land, is located in Council District 4, at Tax Map 35, Grid 17, Parcels 111 and 234 and is collectively identified as 6547 Cedar Lane, Clarksville, Maryland.

2. Vicinal Properties.

Direction	Zoning	Land Use
North	R-20	Cedar Lane/Single-Family Detached
South	R-20/NT	Single-Family Detached
East	R-20/NT	Single-Family Detached/Open Space
West	R-20	Cedar Lane/Single-Family Detached

3. Roads. Cedar Lane has four travel lanes, and a center turn lane within an 105-foot right-of-way. The speed limit is 35 miles per hour. There is no Average Annual Daily Traffic count for this portion of Cedar Lane.

4. Water and Sewer Service. The Property is within the Planned Service Area for Water and Sewer and is served by public water and sewer.

5. The General Plan. The Property is designated Single-Family Neighborhood on the Future Land Use Map of HoCo by Design. Cedar Lane is designated as a Minor Arterial.

6. Reported Agency Comments. There are no Agency or Department comments in objection to the Petition. However, comments were provided by the Division of Land Management regarding the need for further analysis in certain areas should the Conditional Use be approved.

1. Certification that the development shown on the plan has the potential to comply with all technical requirements in subsequent Subdivision and Site Development Plan stages of review.
 - a. If the Conditional Use Petition is approved, the applicant will be required to obtain approval of a Site Development Plan from the Department of Planning and Zoning prior to the issuance of building permits for the proposed use. As shown on the plan exhibit, the development has potential to comply with the technical requirements in subsequent plan stages. The project details will be reviewed for access requirements parking, landscaping, forest conservation, etc. in subsequent plan stages.
2. The nature and extend 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.
 - a. Landscape requirements will be reviewed and evaluated at the SDP phase of the development process.
 - b. The landscape edge types in the Schedule A Chart comply with the Landscape Manual.

- c. The conceptual landscape plan proposes credit for existing vegetation located within proposed forest conservation easement.
 - i. The Howard County Landscape Manual allows the landscaping requirements to be met by preserving existing vegetation. A minimum buffer width of 20 feet of existing vegetation must be preserved in single family attached developments. For preservation areas of lesser widths, a tree preservation plan showing the location of trees within the preserved area must be provided. In any case, the Department of Planning and Zoning may require the applicant to provide supplemental planting if existing vegetation cannot provide adequate screening or buffering.
 - ii. Forest Conservation reforestation may not be credited towards landscaping requirements unless such plantings meet both the 2-2.5" caliper size, location criteria and surety requirement for landscaping described in the

Howard County Landscape Manual.

3. Internal landscaping is required within all new single family attached developments. One shade tree is required per unit. A minimum of 15-foot-wide landscaped area shall be provided between common parking areas and any adjacent residential structure.
4. 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.
 - a. The Zoning Regulations require 2 parking spaces per single-family dwelling unit in an age-restricted adult housing development, and an additional 0.3 spaces per dwelling unit must be provided for visitor parking (81 total parking spaces). Community centers that are in a separate building from the residential units should provide 10 parking spaces per 1,000 SF of building (an additional 7 parking spaces). The plan does not appear to meet the community center parking requirement. Details of the visitor parking spaces will

be reviewed in detail at the SDP stage.

- b. The plan exhibit does not indicate a refuse collection area and it is unclear how trash and recycling will be collected for the proposed private road community.
5. The proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere (streams, wetlands, floodplain, forest conservation, etc.).
 - a. There do not appear to be environmental impacts within the Limit of Disturbance as shown on the conditional use exhibit, except for specimen tree removal. An Environmental Concept Plan for the site must be approved prior to the site development plan to identify any impacts to streams, wetlands, and their buffers, floodplain, steep slopes and specimen trees on site which are protected from disturbance per the Subdivision and Land Development Regulations.
 - i. The natural environmental conditions of the subject site must be thoroughly assessed by an environmental professional and findings must be provided with the forthcoming site development

plan.

- ii. Storm water management and suitable drainage requirements will be reviewed at both the ECP and SDP phase.

- b. This project must comply with Section 16.1200 of the Howard County Code for Forest Conservation. The project will be reviewed for compliance with the forest conservation regulations at the site development plan stage.

- i. Residential developments with more than one acre of obligation shall meet a minimum of 75% of their forest conservation obligation on site by reducing lot sizes, clustering lots and maximizing open space to the maximum extent permitted by the Subdivision and Land Development Regulations.

- ii. Approval of an alternative compliance application is required for the removal of any specimen tree if needed. If approval is granted, the required mitigation will be determined as part of the alternative compliance application

- iii. Please be informed that approval of a

Conditional Use plan and specific site design does not serve as unwarranted hardship justification for any potential alternative compliance requests to the Subdivision and Land Development Regulations. Future review of the site development plan for compliance with the Forest Conservation regulations may cause changes to the plan layout. If such changes do not constitute "minor modifications" as defined in Section 131.0.1.2.c, these changes may require a new hearing by the Hearing Authority, unless otherwise specified in the Decision and Order.

6. Design Advisory Plan Review.

- a. The applicant is still processing the plans through the DAP process. The project was reviewed by the DAP on January 25, 2023, and the DAP has three motions for the applicant to consider as the project moves through the design process.

- i. Motion #1: The applicant explore reducing the

height of the large retaining wall, if possible.

1. The CU plans do not provide the proposed wall heights and cannot be verified.
2. Design measures should be taken to reduce the proposed wall height(s) as much as possible.

ii. Motion #2: The applicant add more street trees and landscape plantings in the areas between the units in the middle of the project.

1. Perimeter landscaping is shown on the proposed exhibit; however, the DAP motion does not appear to be met.
Additional plantings shall be provided to better address the DAP motion at the SDP stage.

iii. Motion #3: The applicant should submit a finalized landscape plan to DPZ and the Panel for comment.

1. The applicant will be required to submit a landscape plan as part of the Site

Development Plan process. DPZ will forward this proposed plan to the Design Advisory Panel for comments to be included in the final design.

2. The submitted landscape plan should address the DAP's comments and motions to better address the landscaping issues involved with the proposed design.

7. Zoning History. There is no record of a Board of Appeals, Zoning Board, or any other Zoning cases for the Property.

8. Design Advisory Panel (DAP). DAP reviews and makes recommendations on developments of Age-Restricted Adult Housing pursuant to Title 16, Subtitle 15 of the Howard County Code. HCZR §131.O.N.a.18 requires that "the Conditional Use Plan and the architectural design of the building(s) shall have been reviewed by the Design Advisory Panel...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." Section 16.1504 sets forth the recommendations the Panel shall make consistent with the compatibility criteria for Age-Restricted Adult Housing including, but not limited to, the design for buildings, vehicular circulation and access, pedestrian access and linkages, parking, existing trees, landscaping, and walls and fences. The Panel shall also address scale, massing, and compatibility of building in

relation to the surrounding area as well as the architectural style, materials, entrances, windows, roof design, and colors of the proposed structures. Proposed open space including pathways, public spaces, amenity areas, and similar features are also to be considered by the Panel.

DAP reviewed the proposed Conditional Use Plan at its June 25, 2025 meeting, and made the following motions:

- 1) For the applicant to incorporate some kind of railing with the 4-foot retaining wall that is protective but also decorative in nature.
- 2) For the applicant to incorporate heavy plantings of street trees to really define the circulation routes and to help preserve and complement the existing trees.
- 3) The applicant look at the clubhouse a bit more to connect the inside and outside spaces and to make sure it meets the kinds of community capacity that there might be.

Petitioner agreed to comply with the DAP recommendations during the design stage. A builder has not yet been selected.

9. Supporter Comments. Howard Edwards made the following comments, which were adopted by the other supporters:

As an adjoining resident of the Clemens West subdivision, I submit this testimony in support of the *revised* development plan for Cedar Overlook (Amended CU Plan 2025.06.08}.

While our preference would be for no development or for single-family detached homes as currently zoned, I recognize the applicant's right to develop the

property. I also recognize that the revised plan represents a substantial improvement over the previous plan submitted with the original application. The developer, through several meetings and onsite visits listened to the concerns of the adjacent neighbors and, at significant cost and delay, the applicant incorporated many of our recommendations.

Key Improvements in the Revised Plan

- **Improved Circulation** - Elimination of dead-end streets and creation of a safer, more logical circulation pattern for residents, service vehicles, and emergency response.
- **Thoughtful Site Repositioning**- Westward shift of the development from the site's high point, reducing grading and blending more naturally with the topography.
- **Tree Preservation and Enhanced Buffering**- Retention and enhancement of the tree buffer between the proposed multi-family units and existing Clemens West homes, ensuring both physical separation and visual screening.
- **On-Site Forest Conservation Compliance** - Full accommodation of forest conservation requirements without off-site mitigation.
- **Reduction in Retaining Walls**- Removal of hundreds of feet of retaining walls from the prior plan, avoiding excessive construction, maintenance burdens, and long-term HOA expense.
- **Increased Setbacks and Buffers** - No waivers required; setbacks fully meet

applicable zoning standards.

- **Improved Community Focal Point-** Relocation of the clubhouse to a central, visible location for improved aesthetics and accessibility.
- **More Compatible Building Massing-** Single-story rear facades for uphill townhouse units backing to single-family homes; limitation of four-unit groupings to three locations, with two of those groupings set back approximately 135 feet from the nearest property line.

I commend the applicant for these revisions and concur with the Department of Planning and Zoning's (DPZ) technical staff report and we recommend for approval of the revised Conditional Use Plan (June 8, 2025). Mr. Edwards also requested certain environmental conditions, which were agreed to by Petitioner, and which will be incorporated in the instant Decision and Order.

9. Conditional Use Proposal. The Petitioner proposes an Age-Restricted Adult Housing (ARAH) development consisting of 35 units: 8 single-family semi-detached ("SFSD") and 27 single-family attached ("SFA"). The development would include a 720-square-foot community center and a 400-square-foot community patio surrounded by an open space lot. All units will incorporate features from the Universal Design Guidelines. A condominium association will be responsible for maintaining the common areas and enforcing the age restrictions through a Declaration of Covenants.

BURDEN OF PROOF

The Court of Appeals of Maryland has frequently expressed the applicable standards for judicial review of the grant or denial of a Conditional Use. The Conditional Use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The Conditional Use is a valid zoning mechanism that delegates to an administrative body a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any fact or circumstance negating this presumption. The legislative body has statutorily determined that a Conditional Use is compatible in a particular zoning district absent specific facts adduced to the contrary at a particular location. The duties given the hearing body are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the Zoning Plan.

The Applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. These prescribed standards and requirements are conditions precedent to the approval of a conditional use. If he shows to the satisfaction of the zoning body that the conditions precedent have been met and that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest

to a greater extent than if the proposed use were located elsewhere, he has met his burden.

The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the zoning body to decide. But if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a Conditional Use is arbitrary, capricious, and illegal. Turner v. Hammond, 270 Md. 41, 54-55, 310 A.2d 543, 550-51 (1973); Rockville Fuel & Feed Co. v. Board of Appeals of Gaithersburg, 257 Md. 183, 187-88, 262 A.2d 499, 502 (1970); Montgomery County v. Merlands Club, Inc., 202 Md. 279, 287, 96 A.2d 261, 264 (1953); Anderson v. Sawyer, 23 Md. App. 612, 617, 329 A.2d 716, 720 (1974).

These standards dictate that if a requested Conditional Use is properly determined to have an adverse effect upon neighboring properties in the general area, it must be denied. Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319, 1325 (1981). See also Mossberg v. Montgomery County, 107 Md. App. 1, 666 A.2d 1253 (1995).

The appropriate standard to be used in determining whether a requested Conditional Use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed and the particular location proposed would have any adverse effects above and beyond those

inherently associated with such a Conditional Use irrespective of its location within the zone. Turner v. Hammond, 270 Md. 41, 54-55, 310 A.2d 543, 550-51 (1973); Deen v. Baltimore Gas & Electric Co., 240 Md. 317, 330-31; 214 A.2d 146, 153 (1965); Anderson v. Sawyer, 23 Md. App. 612, 617-18, 329 A.2d 716, 720, 724 (1974). Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319, 1331 (1981). See also Mossberg v. Montgomery County, 107 Md. App. 1, 666 A2d 1253 (1995).

CONCLUSIONS OF LAW

1. General Criteria for Conditional Uses (Section 131.0.B)

HCZR Sections 131.0.B.1-3 require the Hearing Authority to evaluate whether the proposed Conditional Use will be in harmony with the landscape uses and policies indicated in the Howard County General Plan for district in which it is located through the application of three standards: harmony with the General Plan, overall intensity and scale of use, and atypical adverse impacts.

A. Harmony and Intensity of Use

Section 131.0.B.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.

While Howard County General Plan policies are not directly related to Conditional Use requests for ARAH, the proposed use is in harmony with the following

HoCo by Design policies that encourages housing options for residents at diverse life stages:

Policy DN 12: “Provide a range of affordable, accessible, and adaptable housing options for older adults and persons with disabilities.” Implementing Action #3 states “Encourage Age-Restricted Adult Housing (ARAH) developments to build small- to medium-scale housing units to include apartments, condominiums, townhomes, and missing middle housing.”

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.”

Section 131.0.B.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 proposed development consists of 35 dwelling units on 8.86 net acres, which equates to 3.95 dwelling units per net acre. This is less than the maximum density of four (4) dwelling units per net acre allowed for an ARAH development in the R-20 district, which would allow thirty-five (35) dwelling units. The development complies with all bulk regulations and provides 7.72 acres or 86.5% of the Property as open space, which exceeds the 35% requirement. The Petitioner proposes a 720 square foot community center, which meets the 700 square foot minimum requirement. The Functional Road Classification Map of *HoCo by Design* designates Cedar Lane as

a Minor Arterial, which is an appropriate classification for the types and number of vehicles associated with the proposed use.

Therefore, the nature and intensity of the use, the size of the Property in relation to the use, and the location of the site, with respect to streets that provide access, are such that the overall intensity and scale of the use are appropriate.

B. Adverse Impacts (Section 131.0.B.3)

Unlike HCZR Section 131.0.B.1, which concerns the proposed use's harmony or compatibility with the General Plan, or Section 131.0.B.2, which concerns the on-site effects of the proposed use, compatibility of the proposed use with the neighborhood is measured under Section 131.0.B.3's six off-site, "adverse effect" criteria: (a) physical conditions; (b) structures and landscaping; (c) parking areas and loading; (d) access; (e) environmentally sensitive areas; and (f) impact on the character and significant historic sites.

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 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 Zoning District. The proper question is whether there are facts and circumstances showing the particular use 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*, 107 Md. App. 1, 666 A.2d 1253 (1995).

For the reasons stated below, Petitioner has met its burden of presenting sufficient evidence under HCZR Section 131.0.B.3 to establish the proposed use will not have adverse effects on vicinal properties beyond those ordinarily associated with an Age-Restricted Adult Housing, General, in the R-20 Zoning District.

Section 131.0.B.3.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.

The proposed development will consist of 8 single-family semi-detached and 27 single-family attached ARAH units with associated parking, a community building, patio and open space. The proposed lighting will be shielded, downward facing pole mounted lighting that will not exceed 14 feet in height. Some existing tree cover will be retained that will provide a buffer from adjacent uses. There is no evidence of atypical adverse effects such as noise, dust, fumes, odors, vibrations, increased lighting, hazards or other physical conditions that would be greater at the subject Property than generally elsewhere in the R-20 zoning district.

Section 131.0.B.3.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.

The proposed structures comply with all setback and height requirements in

Section 131.0.N.1.7. The proposed development will utilize existing vegetation along the perimeter, and additional on-site landscaping. Therefore, the use will not likely hinder or discourage the development and/or use of adjacent land and structures more at the subject Property than generally elsewhere in the R-20 zoning district.

Section 131.0.B.3.c. The number of parking spaces will be appropriate to serve the particular use. Parking areas, loading areas, driveways and refuse areas will be approximately located and buffered or screened from public roads and residential uses to minimize adverse impacts on adjacent properties.

The Zoning Regulations require two (2) parking spaces per single-family attached dwelling unit in an age-restricted adult housing development and an additional 0.3 spaces per dwelling unit for visitor parking. The detached community building requires 10 parking spaces per 1,000 square feet. A total of 89 parking spaces is required for 35 units and the 720 square foot community center. A total of 156 spaces are provided. Petitioner states that the ARAH units will utilize standard household trash containers with no dumpsters being proposed. The existing vegetation, topography and proposed landscaping will screen the parking/loading areas from adjacent properties and the public street right-of-way.

Section 131.0.B.3.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 ingress and egress will be via a new private driveway connecting to Cedar Lane, a designated minor arterial public road, which is an appropriate type of road for this use. The proposed entrance is approximately 850 feet north of the Corina Court and Cedar Lane intersection. The posted speed limit on Cedar Lane is 35 MPH. Precise sight distance measurements can only be determined by a detailed Sight

Distance analysis, which is typically conducted during Site Development Plan review. The use will not share access with any other properties.

Section 131.0.B.3.e The proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere.

There are no environmentally sensitive areas on the parcels. The site has existing tree cover along the southern and eastern perimeters. There is a stream and wetland area on the northern side of Cedar Lane. Therefore, the proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere in the R-20 zoning district.

Section 131.0.B.3.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 historic sites within 1,000 feet of the Property. Therefore, the proposed use will not have a greater potential to diminish the character and significance of historic sites in the vicinity than elsewhere in the R-20 zoning district.

2. Specific Criteria for Age-restricted Adult Housing (Section 131.0.N.1.a)

1.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.

The Property is zoned R-20 and Petitioner is proposing 8 single-family semi-detached ("SFSD") and 27 single-family attached ("SFA") in accordance with §131.0.N.1.a(1).

- (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.**

The Property is zoned R-20, and the Petitioner proposes 35 single family units. Therefore, this criterion is satisfied.

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

The Property is zoned R-20 and therefore this criterion does not apply.

- (4) The maximum density shall be as follows:**

The Property is zoned R-20 and is 8.86 net acres. The proposed density is 3.95 dwelling units per net acre (35 dwelling units/8.86 net acres). Therefore, the proposal is in accordance with § 131.0.N.1.a(4).

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

The proposed development's density of 3.95 dwelling units per net acre exceeds the maximum density of two (2) dwelling unit per gross acre in the R-20 zoning district. The Property has frontage and direct access to Cedar Lane, which is a designated Minor Arterial at this location.

(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 existing neighborhood.**

The vicinal properties are zoned R-20 and developed with single-family detached dwellings. The revised Conditional Use Plan (June 8, 2025) proposes single-family semi-detached and single-family attached dwelling units. As shown on the Plan, the perimeter of the Subject Property will retain existing vegetation that will buffer the project from the residential uses in the vicinity and allow the project to blend with the existing neighborhood. The Plan is also required to comply with the Landscape Manual requirements at the Site Development Plan stage. Therefore, the landscape character of the site will blend with the adjacent residential properties.

- (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**

The Design Advisory Panel reviewed the initial design for this development on June 25, 2025, and made three motions for the Applicant to consider as the project moves through the design process. Petitioner provided responses as well as a Revised Conditional Use and Landscape Plan. These will be further reviewed at

the subsequent SDP stage.

DAP Motion #1: For the applicant to incorporate a railing with the 4-foot retaining wall that is protective and decorative in nature.

DAP Motion #2: For the applicant to incorporate heavy street tree plantings to define the circulation routes and help preserve and compliment the existing trees.

DAP Motion #3: For the applicant to explore a clubhouse design that connects the inside and outside spaces and meets potential capacity needs of the community.

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

As shown on the Revised Conditional Use and Landscape Plan, the Petitioner proposes to retain over 86% (7.72 acres) of the Property as open space, which will consist of existing forests and proposed landscaping.

- (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.**

The Petitioner proposes 35 dwelling units within the R-20 District. The submitted plans state that the setbacks to Cedar Lane are 40 feet; however, Cedar Lane was constructed prior to 1993 which would require a 50-foot setback from an arterial or

collector public street right-of-way pursuant to Sec. 108.0.D.4.a. These revised setbacks should not impact the design as the proposed structures comply with the required 50-foot setback from Cedar Lane and are 75 feet from Cedar Lane right-of-way.

(7) Bulk Requirements

(a) Maximum Height:

(ii) Other principal structures 34 feet

The proposal is for 28-foot-high single-family homes; therefore, the proposed structures will comply with this criteria.

(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: Single-family detached, semi-detached, and multi-plex40 feet

The placement of the proposed dwellings complies with the required 40-foot setback from a public street right-of-way, the 75-foot setback for single family attached units from residential lots, the 40-foot setback for single-family semi- detached from residential lots and the 30-foot setback from open space lots in the R-20 zoning district.

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

Petitioner is proposing single-family attached and single-family semi-detached dwellings with garages. The proposed structures comply with this criterion.

(d) Minimum structure setback from lot lines for single-family detached or multi-plex units**(i) Side 10 feet**
A minimum of 10 feet must be provided between structures**(ii) Rear 20 feet**

No single-family detached or multi-plex units are proposed and therefore, this criterion does not apply.

(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**

The proposed ARAH project is comprised of semi-detached and attached single-family dwellings. Units oriented face-to-face comply with the 30-foot setback. Units oriented side-to-side comply with the 15-foot setback. Units oriented face-to-side or rear-to-side comply with the 20-foot setback. Units oriented rear-to-rear comply with the 40-foot setback.

(f) Minimum distance between apartment buildings or between apartment buildings and single-family dwellings:**i. For units oriented face-to-face30 feet****ii. For units oriented side-to-side15 feet****iii. For units oriented face-to-side or rear-to-side30 feet****iv. For units oriented rear-to-rear60 feet****v. For units oriented face-to-rear100 feet****vi.**

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 proposed single family attached buildings do not exceed 120 feet in length. Therefore, the proposed SFA units comply with this criterion.

- (8) **At least 50% of the gross site area in the RC, RR, R-ED Districts, at least 35% in the R-20, R-12, and R-SC Districts, and at least 25% in the 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 8.92 gross acres and is zoned R-20. The required open space is 3.12 acres (35%), and the project proposes 7.72 acres of open space (86.5% of the site). This open space includes persevered forest areas and a community patio. The proposed Conditional Use satisfies this requirement.

- (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 and patio are the only accessory uses 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 Petitioner is proposing 35 ARAH units requiring a 700

square foot community building. As shown on the revised Conditional Use Plan, the Petitioner is proposing a 720 square foot community center with a community patio located near the entrance of the proposed development. Therefore, the proposed community building complies with this criterion.

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

This proposed development consists of 35 units; this criteria does not apply.

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

As indicated in the Conditional Use Plan, refuse collection will be at the curb for each unit. Trash removal for the dwelling units will be curbside pick-up. It is anticipated that the proposed ARAH units will utilize standard household trash containers. No trash loading and removal areas or central trash storage area is proposed in connection with the dwelling units or the community building.

(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.

The development will not be constructed in phases therefore this criterion does not apply.

(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

homeowner's association shall be established to maintain and enforce the age restrictions in addition to County enforcement of zoning regulations.

The age restriction will be established, implemented and maintained through a Declaration of Covenants administered by the condominium or homeowners association.

- (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 homeowner's association.**

A condominium association established by the Petitioner will be responsible for the maintenance of open space, open areas and common areas and related improvements in perpetuity.

- (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 proposed development will incorporate all of the required Universal Design Guideline features. In particular, the Petitioner proposes to incorporate the following universal design features in all units:

- No-step front access to the front entrance
- 36" wide front door with exterior lighting
- 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 toilets and shower
- Slopes of ramps on the exterior of units shall be in accordance with current Howard County regulations.

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

The Property is zoned R-20, thus 10% of the 35 dwelling units shall be Moderate Income Housing Units. The Petitioner stated that they will address this requirement at the SDP stage. The MIHU requirements would allow for an alternative compliance option to pay fee in lieu at the Site Development Plan stage.

- (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.**

A special exception (Conditional Use) for housing for the elderly has not been approved by the Board of Appeals for this Property, therefore, 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 revised Conditional Use Plan and architectural design of the buildings were reviewed by the Design Advisory Panel on June 25, 2025. The minutes of the meetings and recommendations are in the record as documentation of compliance with this criterion.

ORDER

Based upon the foregoing, it is this 22nd day of August, 2025, by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

That the Petition of DMR Cedar Overlook, LLC, LLC. for Age-Restricted Adult Housing, General, Conditional Use, in a R-20 (Residential: Single) Zoning District, Tax Map 35, Grid 17, Parcels 111 and 234, Council District 4, identified as 6547 Cedar Lane, Clarksville, Maryland, be and is hereby **GRANTED, subject to the following CONDITIONS**:

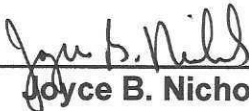
- (1) This development is subject to the County's Forest Conservation requirements in accordance with Section 16.1200 of the County Code and will be evaluated at the Site Development Plan stage. The following shall be specifically addressed at that time.
 - (a) Removal of excessive dead, dying, and fallen trees within the designated buffer areas to restore a safe, functional, and ecologically stable forest floor.
 - (b) Thinning or selective removal of over-dominant loblolly pines and invasive species, including *Elaeagnus angustifolia* (Russian Olive), with particular attention to dead and declining specimens, to facilitate replanting with native species appropriate to the Maryland Piedmont region.
 - (c) Supplemental planting, with emphasis on areas adjacent to existing residences, sufficient to reestablish and maintain an effective year-round

visual and ecological buffer.

- (d) A defined maintenance and replacement period to ensure the establishment, long-term viability, and replacement of new plantings as necessary.
- (e) Incorporation of the foregoing measures into the Forest Conservation Plan as binding criteria directly linked to the approved site development plan.

HOWARD COUNTY BOARD OF APPEALS

HEARING EXAMINER



Joyce B. Nichols

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.