

IN THE MATTER OF	:	BEFORE THE
Waverly Investors, LLC	:	HOWARD COUNTY
Petitioner	:	BOARD OF APPEALS
	:	HEARING EXAMINER
	:	BA Case No. 25-018C

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DECISION AND ORDER

On November 5, 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 Waverly Investors, 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. Christopher DeCarlo, Esq. represented the Petitioner. Samar Alomer, civil engineer, and Carl Wilson, traffic engineer, testified on behalf of the Petitioner. Ken Ververs and Lisa Jensen questioned

the two witnesses and were generally supportive of the revised site plans. Ms. Jensen requested a façade change for several of the units and Petitioner agreed to make the changes if feasible. No one appeared in opposition.

Petitioner introduced into evidence the following Exhibits:

1. Conditional Site Plan (9/8/25)
2. Revised Landscape Plan with Type C Buffer (Sheet 3)
3. Sight Distance Plan
4. Speed Study
5. GIS Aerial
6. DAP Summary and Responses (7/23/25)
7. Petitioner responses to HPC Comments
8. Environmental Concept Plan approval letter (7/28/2025)
9. GIS Topo Aerial
10. Google Earth Streets Views
11. Google Earth Aerial
12. Historic Preservation Minutes (5/1/25)

FINDINGS OF FACT

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

1. Property Identification. The Property consists of 7.88 acres, is located in Council District 1, Tax Map 18, Grid 7, Parcel 19, Lots 1 & 2, and is collectively identified as 8501 and 8507 Old Frederick Road, Ellicott City, Maryland. The Conditional Use site

is comprised of two (2) subdivided lots that are zoned R-20 (Residential: Single). Lot 1 is an unimproved lot adjacent to Old Frederick Road. Lot 2 is developed with a single-family detached dwelling and accessory structures that have individual driveway access to Old Frederick Road. There is existing tree cover along the southeastern boundary of the site with 2.4597 acres within a protected Forest Conservation Easement. There is also a stream buffer area that traverses the eastern portion of Lot 2, wetland system and steep slopes. The site rises from an elevation of 404 feet at the southeastern corner to 454 ft at the northwestern border.

2. Vicinal Properties.

Direction	Zoning	Land Use
North	R-20	Single-Family Detached Residences
South	R-20	Single-Family Detached Residences
East	R-20	Open Space/Single-Family Detached Residences
West	R-20	Old Frederick Road/Single-Family Detached Residences

3. Roads. Old Frederick Road has two travel lanes within a variable width right-of-way. The speed limit is 25 miles per hour. There is no Average Annual Daily Traffic count for this portion of Old Frederick Road.

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. Old Frederick Road is designated as a Major Collector.

6. Reported Agency Comments. There are no Agency or Department comments in objection to the Petition.

The Health Department stated that "Health has no objections to the conditional use. The existing conditions page was significantly lacking the on information about the existing well & septic components. I could not find records which showed that 8507 Old Frederick Rd was connected to public water and public sewer. I am bringing attention now stating that the private W&S components will need to be located and properly abandoned prior to demo permit release."

The Development Engineering Division takes "NO EXCEPTION to the request for an Age Restricted Adult Housing 26 Units (10 Semi-attached, 16 attached) (*sic*) based on the justification presented in the application. The proposed development shall meet all current design requirements including APFO, stormwater management, noise and sight distance requirements."

The Dept. of Recreation & Parks "Takes no exception to the conditional use proposed. When the site plan is submitted for this project we would like to see the Forest Conservation easement expanded to include the entirety of the stream buffer area."

The Division of Land Development found:

CRITERIA: Potential to comply with all technical requirements in subsequent Subdivision and Site Development Plan stages of Review:

- Approval of necessary plans by the Department of Planning and Zoning will be

required prior to the issuance of the required grading and building permits. A new site development plan is required to show the proposed age restricted attached dwelling units, road network, grading, stormwater management, site amenities, and landscaping.

- Access to the proposed site will be provided from the current access location at the intersection of Holly Springs Court.
- The applicant has completed and responded to the DAP motions that were made at the July 23, 2025 DAP Meeting. The applicant will make efforts to address the DAP motions with the submissions of subsequent final plan and site development plan stages.

CRITERIA: 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:

- The Landscape and screening requirements will be reviewed and evaluated at the SDP stage.
- Landscaping screening required for the proposed development of the residential buildings should be a Type C buffer for single family attached units adjacent to single family detached units. The perimeter landscaping requirements will need to be updated to be more in line with the Howard County Landscape Manual requirements. Preservation of existing vegetation can support or be used as credit in accordance with the Howard County Landscape Manual. (Petitioner has made this amendment on the revised Landscape Plan, Sheet 3)
- The Design Advisory Panel made the motion to Specify tree species with non-extensive root growth and avoid using trees that have potential to fail (e.g., silver maple). This guideline should be followed with plant selections at the SDP plan stage.

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

- Parking requirements and areas for the proposed age restricted residential development will be reviewed at the SDP Stage. The private road network will be constructed to serve the proposed development. Parking will be addressed through garage parking spaces within the individual units, the individual driveways, and off-street parking spaces provided near the entrance and the community building and historic house.
- The adjacent uses surrounding the development area are residential and some of

the buildings that are part of the existing neighborhood are in close proximity to the proposed site. The roads, parking areas, new units and their driveway areas shall be mitigated with adequate landscaping and screening to the best extent possible per the landscaping comments above.

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

- There appear to be some minor environmental impacts within the Limit of Disturbance as shown on the conditional use exhibit. An environmental concept plan for the site must be approved prior to the site development plan to identify any impacts to nearby 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. The existing natural environmental conditions of the subject site must be thoroughly assessed by an environmental professional and findings must be provided with the forthcoming SDP. Any proposed disturbances to protected environmental site elements may require approval of an alternative compliance request to the applicable Land Development Regulation.

CRITERIA: Design Advisory Panel Review:

- The proposed development is subject to Design Advisory Panel (DAP) review and was reviewed at the July 23, 2025 meeting. The DAP made motions toward the proposed designs which the applicant has responded to and completed the DAP process. The dap comments and motions made will be addressed under subsequent plan stages.

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 July 23, 2025 meeting.

Background

The 7.88-acre site is located at 8507 Old Frederick Road, Ellicott City, MD, and is zoned R-20 (Residential Single Cluster). As age restricted adult housing (ARAH) developments are not typically permitted in this zone, the subject property has been approved (*sic*) for Conditional Use. The property has frontage along Old Frederick Road and is surrounded by residential properties to its north, east, and south. The site contains open fields, forested areas, and a stream. There are two established lots; Lot 2 is currently developed with an existing house, barn, sheds, and outbuildings, and Lot 1 is undeveloped pastureland.

This project was previously reviewed by the DAP on June 11, 2025 and is back before

the panel with an updated design that reflects the panel's prior comments and suggestions, which focused specifically on the location of the community building, location of three clustered townhomes, and landscaping.

DAP Questions and Comments

Site Design

DAP thought this revised design was more effective than what was initially presented to them in June and were pleased to see additional internal landscaping as it will serve to visually soften the urban feeling site.

DAP suggested that the intersections of the proposed road and Old Frederick Road was a loop to get away from a dead end.

The applicant clarified that Howard County's Land Development Regulations prohibit this connection but said they will submit a request for Alternative Compliance to see if this can be made possible.

DAP asked if the now lone unit across from the Keyfauver house could be moved, and if it cannot, then to ensure that it will be only two stories so that the visual impact of the historic house remains dominant.

DAP suggested that shade trees be planted near some of the picnic tables but advised against using silver maple as they are soft and easily damaged. They also advised against using pine trees to fulfil perimeter landscaping as they have become an issue in this area. Variation in tree species selection was encouraged.

DAP reiterated the need for pedestrian connectivity and open space.

Architecture

DAP suggested that the architecture of the lone unit across from the Keyfauver house be related more to the historic house.

DAP liked the architecture of the two-story units but requested that the façade of the three-story units be reworked, and horizontally offset, to lessen the urban feel they currently provoke.

Landscape

DAP appreciated the proposed plant palette and felt their prior recommendations had been implemented.

DAP Motions for Recommendations

1. The applicant consider the waiver (Alternative Compliance) process to connect the street at Daniels to create a loop on the project's internal street.

Applicant Response: We will evaluate the additional entrance from a safety point of view. Once safety is confirmed we will pursue the alternative compliance with the initial SDP submission after the approval of the conditional use. Response accepted by DPZ.

2. Include unit pavers at the two intersections and at all street crosswalks.

Applicant Response: Pavers have been proposed and are shown on the CU exhibits and will be shown on the SDP. Response accepted by DPZ

3. Specify tree species with non-extensive root growth and avoid using trees that have potential to fail (e.g., silver maple).

Applicant Response: Proposed trees have been revised to comply with this motion. The revised tree proposal is part of the CU exhibits and will be part of the SDP. Response accepted by DPZ.

9. Historic Preservation Commission. On May 1, 2025 the Historic Preservation Commission provided Advisory Comments for the proposed development at 8501 and 8507 Old Frederick Road, Ellicott City. The Commission appreciated the efforts made to save the historic house. A summary of the Commission's comments and the public testimony are provided below. Several of the recommendations from the Commission like saving a Holly Tree and shifting house lots to the back of the historic house to open the view from the road were made and using the historic 1st floor as the community center were accommodated.

1. Viewshed/Lots 1-3 – A nearby homeowner with a professional background in historic preservation, said the view of the historic house from the road would not be preserved. She said lots 1-3 were shown as three stories high and would block the view of the historic house from the road and dominate the architectural character of the historic house, suggesting the developer move the block of lots 1-3 to the location of lots 5-7 and shift the other units around allowing lots 19-21 to be larger and setback further.

Commissioners concurred that moving lots 1-3 would open up the viewshed of the historic house.

2. Community Building – Citizen asked for the ground floor of the historic house to be used as the community building, suggesting the existing door opening would accommodate ADA.

The other Commissioners concurred with this suggestion of using the historic buildings

first floor as a community center. Commissioner also suggested moving the community building to the location of unit 26 and said that by putting a smaller building in that location it will provide some visual buffer room to the historic house, explaining that the bigger, taller units have the potential to overpower the historic home.

3. Historic House – The citizen said there was a generous amount of open space on the west side/Old Frederick Road side of the house and encouraged the developer to provide more space around the front and back of the house as well, suggesting lots 4-6 could be swapped for lots 1-3 and move three of them and shift the smaller units to where the community building is shown. Suggested removing the visible commercial buildings as they were not present on this historic road anywhere. If lots 1-3 were commercial, she said commercial buildings should not be visible from Old Frederick Road, but would be fine if it is tucked behind where lots 5-7 are located.

4. American Holly Tree – The citizen noted a large holly, likely an American Holly, to the south/southeast behind the historic house that was not shown to the HPC or in the photos and has historic significance and context to the historic house. Requested retaining the tree by shifting the three possible commercial properties down, giving a more historic context.

The Commissioners concurred with preserving the American Holly tree.

5. Lots 4-7 – Commissioner asked if lots 4-7 can be grouped together to give the historic house more room on the east side. Commissioners concurred with this suggestion and recommended the engineer re-evaluate, explaining they understand the 75-foot setback, but the shorter wider units may better fit in that location.

The Commission said it was important not to have structures crowding the historic house.

6. Parking Spaces – Commissioner recommended relocating the nine parking spaces next to the historic home throughout the site or shifting them on Road A opposite the historic house next to lot 26.

7. Materials – Commissioner said the stone veneer in the materials package looked fake and not compatible with the historic house. She appreciated the goal of trying to get a large granite stone, but said the proposed material looked like formstone. She recommended the developer use a higher quality stone veneer or suggested not replicating the look of the massive ashlar blocks of granite but instead using a fieldstone, something more delicate that has a realistic look to it. She said the proposed stone is not going to blend well. The other Commissioners concurred.

8. Archeology – The Commissioners suggested that some basic archeology should be done before construction to provide some historic understanding of the property.

9. Outbuildings – The Commissioners agreed the outbuildings to be demolished did not appear historic.

9. Conditional Use Proposal. The Petitioner proposes an Age-Restricted Adult Housing (ARAH) development consisting of 26 units: 10 single-family semi-detached (“SFSD”), 1 single-family detached (“SFD”), and 15 single-family attached (“SFA”). The development would include a 560-square-foot community center to be located within the existing historic house. 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 would consist of 26 ARAH dwelling units on 6.74 net acres, which equates to 3.86 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. The development provides 5.35 acres or 69% of the Property as open space, which exceeds the 35% requirement. The Petitioner proposes a 560 square foot community center, which meets the 520 square foot minimum requirement. The Functional Road Classification Map of HoCo By Design designates Old Frederick Road as a Major Collector, 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 26 dwelling units with associated parking, a community building, and open space in a residential zoning district. Some existing tree cover will be retained that will buffer 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 site 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 dwellings comply with all setback and height requirements. The Howard County Landscape Manual requires a Type C landscape buffer for single-family attached developments adjacent to single-family detached land uses and a Type C landscape buffer for the sides of single-family attached units adjacent to a roadway. The Landscape Plan (Sheet 3) has been revised to comply with the Landscape Manual requirements. 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) spaces per dwelling unit plus an additional 0.3 spaces per dwelling unit for visitor parking. The detached community building requires 10 spaces per 1,000 square feet of assembly area (Community Center). A total of 66 spaces are required for the 26 units and 560 square foot community center.

The Petitioner is proposing to provide two garage spaces and one driveway space per dwelling unit and 6 spaces adjacent to the community center for a total of 110 spaces provided. The proposed design will require landscaping around the entire perimeter of the Property and internal to the development that will appropriately buffer and screen the parking areas from adjoining properties.

Petitioner states that the ARAH units will utilize standard household trash containers with no dumpsters being proposed. 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 Old Frederick Road. The proposed entrance is approximately 290 feet southwest of the intersection of Old Frederick Road and Daniels Road. The posted speed limit on Old Frederick Road is 25 mph. The Conditional Use plan details the ARAH units to be served by an internal private drive. The proposed conditional use will not share access with other residential properties. Petitioner has provided a detailed sight distance analysis finding compliance with ASHTO and which will be further enhanced with the removal of some of the existing vegetation.

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.

The eastern portion of the Property contains existing tree cover, which is partially preserved in an existing Forest Conservation Easement, a perennial stream, wetland

area and steep slopes. The Conditional Use plan does not show impacts to these environmental areas. The remainder of the property consists of open area for the existing single-family home and accessory structures. With these elements, 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 is an existing historic structure, the Kefauver Boarding House (HO-283) on the Property. At the suggestion of the Historic Preservation Commission, the Petitioner is proposing to preserve the Kefauver House and repurpose 560 square feet of the first floor for use as interior community space. In addition, the WM Thompson Farmhouse (HO-874), the Thomas Farm Tenant House (HO-582) and the Linwood or Cobb House (HO-570) are located on the other side of Old Frederick Road along Daniels Road. Given the setback distances and proposed and existing landscaping on the respective properties, the proposed use does not have the potential to diminish the character and significance of any historic sites in the vicinity. 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 the Petitioner proposes 26 single family units. The Petitioner is proposing 10 single-family semi-detached units, 15 single-family attached units and 1 single-family detached unit 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 26 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 the proposed density is 3.86 dwelling units per net acre (26 dwelling units/6.74 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 density of the proposed development is 3.86 dwelling units per net acre and exceeds the maximum density of two (2) dwelling units per net acre in the R-20 zoning

district. The Property has frontage and direct access to Old Frederick Road, which is designated as a major collector.

(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 are single-family detached homes. The Howard County Landscape Manual requires a Type C landscape buffer for single-family attached developments adjacent to single-family detached land uses and a Type C landscape buffer for the sides of single-family attached units adjacent to a roadway. The Landscape Plan has been revised to comply with the Landscape Manual requirements. 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 11, 2025, and then on July 23, 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.

DPZ accepted Petitioners responses.

- (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 69% (5.35 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 26 dwelling units within the R-20 district. The Conditional Use plan shows a 40-foot conditional use setback from Old Frederick Road and 50-foot setback from Old Frederick Road. The R-20 regulations require a 50-foot setback from a collector public street right-of-way. The proposed structures comply with the required 50-foot setback.

(7) Bulk Requirements

(a) Maximum Height:

- (ii) Other principal structures 34 feet**

The proposal is for 34-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 units comply with the required 50-foot setback from a public street right-of-way (per Section 31.0.N.1.a.(6)(c)), the 75-foot setback for single family attached units from residential lots, the 40-foot setback for single-family detached and 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, single-family semi-detached dwellings, and single-family detached dwellings all 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

The proposed ARAH project is comprised of semi-detached and attached single-family dwellings and 1 single-family detached dwelling. The proposed single-family detached dwelling complies with the minimum structure setbacks.

(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 and 1 single-family detached dwelling. 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 ARAH includes four groups of SFAs units with the maximum length of 120 feet. 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 7.88 gross acres and is zoned R-20. The required open space is 2.76 acres (35%), and the Petitioner proposes 5.35 acres of open space (69% of the site). This open space includes preserved forest areas, a seating area and a picnic area. 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.**

No accessory uses 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 Petitioner is proposing 26 ARAH units requiring a 520 square foot community building. As shown on the Conditional Use Plan, the Petitioner is proposing a 560 square foot community center within an existing historic structure 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 26 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
- 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.**

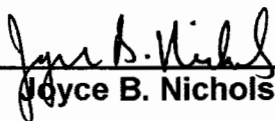
The revised Conditional Use Plan and architectural design of the buildings were reviewed by the Design Advisory Panel on July 23, 2025. The minutes of the meetings and recommendations are in the record as documentation of compliance with this criterion.

ORDER

Based upon the foregoing, it is this 7th day of November, 2025, by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

That the Petition of Waverly Investors, LLC for Age-Restricted Adult Housing, General, Conditional Use, in a R-20 (Residential: Single) Zoning District, Tax Map 18, Grid 7, Parcel 19, Lots 1 & 2, Council District 1, identified as 8501 and 8507 Old Frederick Road, Ellicott City, Maryland, be and is hereby **GRANTED**.

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.