

IN THE MATTER OF : BEFORE THE
ROCK REALTY, LLC : HOWARD COUNTY
Petitioner : BOARD OF APPEALS
: HEARING EXAMINER
: BA Case No. 26-007C

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DECISION AND ORDER

On May 6, 2026, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, began the evidentiary hearing for the Petition of Rock Realty, LLC (Petitioner) for an Age-Restricted Adult Housing, General (ARAH) Conditional Use in a RR (Rural Residential) DEO (Density Exchange Option) Zoning District, filed pursuant to Section 131.0.N.1 of the Howard County Zoning Regulations (HCZR). The subject property is located in Council District 5, at Tax Map 40, Grid 24, Parcel 135, Lots PAR 1, PAR 2 and PAR 3 and is identified as 12170 Lime Kiln Road, Fulton, Maryland.

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. Brandon Rowe, Micky Cornelius and Jamie Fraser testified in support of the Petition. Warren Buchalter, Richard Robbins, and Stanley Serfling, citizens living on or adjacent

to the subject Property testified in opposition due to the nature of the current construction and cross-examined Petitioners witnesses. The concerns raised included the instability, composition and grade differential of the walking trail, and the lack of lighting over the mailbox area. The record remained open at the conclusion of the evidentiary hearing for proposed conditions, which were received on May 26, 2026 and the record was closed.

Petitioner introduced into evidence the following Exhibits:

Pet. 1. Petitioners Counsels letter dated May 26, 2026 proposing two conditions and attaching the engineering side cutaway of the proposed walking trail.

Opposition introduced into evidence the following Exhibits:

Opp.1 (a)-(d). Photos of existing walking trail

FINDINGS OF FACT

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

1. Property Identification. The 71.09 acres irregular-shaped Property is currently under construction for 58 single-family semi-detached units approved by BA-20-002C. Prior to this development, the Property contained a single-family dwelling and Accessory buildings. The environmentally sensitive areas on the Property consist of 7.26 acres of floodplain, 1.12 acres of steep slopes, two intermittent streams, and wetlands. Prior to recent development, the site rose from an elevation of 350 feet along the south Property line to 450 feet along the north property line with sloping topography in the

middle of the property rising to an elevation of approximately 400 feet and 430 feet. Dense vegetation covered most of the back part of the Property.

2. Vicinal Properties.

Direction	Zoning	Land Use
North	RR-DEO	Potomac Electric Power Lines
South	RR-DEO	Single Family Residences / Undeveloped Land / Agricultural / Lime Kiln Road
East	RR-DEO	Single Family Residences / Undeveloped Land, Nicolar Drive
West	RR-DEO	Single-Family Detached Dwellings

3. Roads. Lime Kiln Road has two travel lanes within a 50-foot right-of-way. The speed limit is 30 miles per hour.

Traffic count data is not available for this portion of Lime Kiln Road.

4. Water and Sewer Service. The Property is not within the Planned Service Area for Water and Sewer. The Property is served by private well and septic.

5. The General Plan. The Property is designated Rural Living on the Future Land Use Map of HoCo By Design adopted in 2023.

Lime Kiln Road is a minor collector road.

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

The Health Department commented: This development utilizing shared well and shared sewer systems was approved by the Maryland Dept of the Environment for a specific number of housing units operating under groundwater appropriations and discharge permits. Any proposed additional units must be submitted to MDE for review. Additional units may not be built or connected to the shared systems without MDE approval.

The Development Engineering Division stated that it takes no exception to the request for a conditional use for a residential development for adults 55 or older subject to meeting all current design criteria for stormwater management, road improvements to Lime Kiln Road, Sight Distance and APFO.

The Department of Fire and Rescue Services has no comment on, nor objection to, this request.

The Department of Inspections, Licenses and Permits states that the community center must include accessible route and EV Charging stations shown on the SDP at time of review.

The Division of Land Development stated:

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 or a redline to an existing site development plan is required to show the proposed age restricted dwelling units, access driveways, utility and septic hookups and landscaping.

- Access to the proposed site will be provided via the existing Lallybroch Lane and Nicolar Drive from the Lime Kiln Road access.

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 age restricted dwelling units should be a Type C buffer. Preservation of existing vegetation can support or be used as credit in accordance with the 2026 Howard County Landscape Manual and will need to be shown on the forthcoming Site Development Plan.

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 service to the age restricted adult housing units will be reviewed at the SDP Stage. If on-street parking has been restricted by the Department of Fire and Rescue Services additional parking may be required for the proposed use. The parking requirements will be reviewed and verified at the Site Development Plan stage.
- The adjacent uses are single family detached homes. The additional units shall be mitigated with adequate landscaping and screening to the best extent possible per the landscaping comments above and from maintaining existing forested areas and buffers.

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

- There do not appear to be additional environmental impacts beyond those approved with the previous design within the Limit of Disturbance as shown on the conditional use exhibit. A recertification of the wetland report will be required for the proposed development. 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 new proposed disturbances to protected environmental site elements may require approval of an alternative compliance request to the applicable Land Development Regulations.

The Department of Recreation and Parks takes no exception to the requested Conditional Use.

The Resource Conservation Division (RCD) takes no exception to the proposed Conditional Use. The Petitioner is advised to maintain the required setbacks between the residential structures and the environmental features/buffers and Forest Conservation Easements in accordance with §16.120(b)(4)(iii) of the Subdivision & Land Development Regulations.

7. Zoning History.

Case: BA-20-002C

Petitioner: Rock Realty, Inc. c/o H&H Rock Companies

Request: To construct 58 single-family semi-detached Age-Restricted Adult Housing units

Outcome: Approved, September 22, 2020

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.

The proposed development is subject to the Design Advisory Panel (DAP) review as the project proposes construction of an age restricted adult housing community pursuant to a conditional use. The project was initially reviewed at the January 8, 2020 DAP meeting. The subsequent designs and plans address the DAP comments and motions made at the DAP meeting. The proposed project layout and circulation has generally remained the same with the inclusion of 5 additional units that were placed around the existing infrastructure. The DAP motions regarding the central clubhouse location, revised loop trail system, project layout, and site landscaping will not be generally affected through the new conditional use petition proposal. Based on this information the new conditional use would be approved

through the DAP administrative review process.

9. Conditional Use Proposal. The Petitioner proposes to expand a previously approved Age-Restricted Adult Housing development by adding four (4) new single-family semi-detached dwelling units and one (1) new single-family detached dwelling unit for a total of 62 single-family semi-detached dwelling units and one single-family detached dwelling. The additional units are delineated as CU 59-63 on the Plan (Land Units 30, 31 & 32). All units will incorporate all required features from the Universal Design Guidelines. A condominium association will be responsible for maintaining the common areas and enforcing the age restriction 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 A.2d 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 Petitioner is proposing 63 dwelling units on 71.09 acres of land with a net acreage of 63.10 acres. In the RR zoning district, an ARAH development with 20 or more dwelling units may be approved up to a maximum residential density of 1 dwelling unit per net acre. The Petitioner is proposing 63 units, which is the maximum density permitted. The development complies with all setbacks, environmental buffers, and provides 50% open space.

Lime Kiln Road is a minor collector, which is an appropriate classification for the types and number of vehicles associated with the proposed use.

The existing ARAH development is approved with two points of access, one off Lime Kiln and a second point off of Nicolar Drive. No new access points are proposed under this request.

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-R 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-R 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 overall proposed development will consist of one (1) single-family dwelling and 62 single-family semi-detached dwellings. 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-R zoning district.

The lighting generated by the proposed Conditional Use will be regulated by HCZR § 134.0 and light trespass must be under the permitted allowances.

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 buildings, structures, and fences comply with all setback and height requirements. The perimeter of the property is screened by existing or proposed landscaping. Parking areas and the community building are screened from adjoining properties with vegetation. The proposed expanded ARAH use will not likely hinder or discourage the development and/or use of adjacent land and structures more at the subject site than generally elsewhere in the R-R 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 do not have parking requirements for ARAH single-family semi-detached units. Parking requirements for single-family detached and attached ARAH developments are 2 spaces per dwelling unit. Additionally, 10 parking spaces per 1,000 square feet of assembly area is required for the Community Center. The total requirement for this project is 158 spaces.

The Petitioner states each ARAH unit will include a two-car garage and a

driveway which could accommodate two additional vehicles. The Community Center also includes 13 parking spaces. In total, the entire ARAH development will contain 265 parking spaces.

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 for the development was previously approved with the original ARAH development. No changes in access are proposed. There are two access points to the development: Lallybroch Lane and Nicolar Drive, which are both private roads. Lallybroch Lane feeds onto Lime Kiln Road which is designated as a minor collector road. Nicolar Drive feeds onto a Fulton Estates Court, which intersects Scaggsville Road, designated as a minor arterial. The development will not share a driveway with other residential 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.

The environmentally sensitive areas on the Property consist of 7.26 acres of floodplain, 1.12 acres of steep slopes, two intermittent streams, and wetlands. The stream and wetlands will be protected by 100 and 25-foot buffers, respectively. The proposed layout of the site results in 35.55 acres of open space. No disturbances to these environmental features are proposed under this request; therefore, the proposed use will not have greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere in the R-R zoning district.

The property is located outside of the Planned Service Area (PSA) and is

served by private water and sewer/septic. The Bureau of Environmental Health provided comments regarding sewage disposal requirements.

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.

The closest historic site (HO-419) is located approximately one-quarter mile to the southwest and is buffered from the proposed development by significant distance and dense forest. Therefore, the proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere in the R-R 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-R, and the Petitioner is proposing single-family detached (1) and semi-detached (62) dwellings, 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-R and 63 dwelling units are proposed, in accordance with §131.0.N.1.a(2).

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

The Property is zoned RR, and the Petitioner is proposing only single-family detached and semi-detached dwellings. Therefore, this criterion is satisfied.

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

The Property is zoned RR which has a maximum Conditional Use density of 1 dwelling unit per acre. The Property is 63.10 net acres. The Petitioner is proposing 63 units, which is the maximum density permitted. The proposed residential density is 0.99 dwelling units per net acre. Therefore, this criterion is satisfied, 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 has direct access on Lime Kiln Road, a minor collector road.

- (6) Site Design:**

The landscape character of the site must blend with adjacent residential properties. To achieve this:

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

Single-family detached homes adjoin the Property on all sides. The development will be buffered by existing and proposed landscaping. There is existing vegetation along the west, north, and east property lines to allow the development to blend with the character of the surrounding neighborhoods. All landscape requirements will be reviewed and evaluated at the Site Development Plan (SDP) stage of the development process.

(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 semi-detached buildings are designed to resemble single family detached homes and will be separated vertically into two units. The buildings will be similar to adjacent single-family dwellings in scale, materials, and architectural details.

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

While complying with (i) above, the site is also screened through existing vegetation.

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 project proposes 63 dwelling units; therefore, this criterion does not apply.

(7) Bulk Requirements

(a) Maximum Height:

- i. Apartments40 feet
 Except in R-SA-8, R-A-15 and R-APT55 feet**
- ii. Other principal structures 34 feet**
- iii. Accessory structures15 feet**

The detailed height elevations of the proposed buildings will not exceed 34 feet.

(b) Minimum structure and use setback:

- (i) From public street right-of-way 40 feet**
- (ii) From residential lots in RC, RR, R-ED, R-20, R-12 or R-SC Districts:
 Single-family detached, semi-detached, and multi-plex40 feet
 Apartments100 feet
 Single-family attached75 feet
 Single-family detached, semi-detached, and multi-plex40 feet**
- iii. From open space, multi-family or non-residential uses in RC, RR, R-ED, R-20, R-12 or R-SC30 feet**
- iv. From zoning districts other than RC, RR, R-ED, R-20, R-12 or R-SC20 feet**

All buildings comply with the required 40-foot setback from an external public street right-of-way and 40-foot setback from lots in the RR zoning

district.

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

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

(d) Minimum structure setback from lot lines for single-family detached or multi-plex units

(i) Side 10 feet
A minimum of 10 feet must be provided between structures

(ii) Rear 20 feet

No fee-simple lots are proposed; 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**

There is only one single-family detached unit and no attached dwellings units; therefore, this criterion does not apply.

(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**

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.

Apartments and single-family attached buildings are not proposed;
therefore, this criterion does not apply.

- (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 zoned RR and 50% of the site or 35.55 acres of open space is proposed.

- (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 walking trails will be provided for residents and their guests.

- (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 required to provide 1,260 square feet of floor area (20 square feet per unit x 63 units = 1,260 square feet) for on-site community buildings or interior community space. The Petitioner satisfies this requirement by providing a 1,260-square foot community building. 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 63 units; this criteria does not apply.

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

Trash pickup within the development will be curbside pickup and no central Trash storage area is proposed in connection with the dwelling units or the community building under this Petition. The proposed ARAH units will utilize standard household trash containers.

(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 or homeowners 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.

- (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 Petitioner is proposing that 10% of the proposed housing units be Moderate Income Housing Units. Specifics of the MIHU's will be addressed 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 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 Design Advisory Panel (DAP) reviewed the architectural designs on January 8, 2020, when the original conditional use case (BA-20-002C) was being discussed. At this meeting, DAP made motions regarding the central clubhouse location, revised loop trail system, project layout, and site landscaping, all which

will not generally be affected through this expanded conditional use. Minutes from this DAP meeting have been provided. This expanded conditional use would be approved through the DAP administrative review process.

ORDER

Based upon the foregoing, it is this 28th day of May, 2026, by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

That the Petition of Rock Realty, LLC. for Age-Restricted Adult Housing, General, Conditional Use, in a R-R (Rural Residential) DEO (Density Exchange Option) Zoning District, 71.09 acres of land, Council District 5, Tax Map 40, Grid 24, Parcel 135, Lots PAR 1, PAR 2 and PAR 3, identified as 12170 Lime Kiln Road, Fulton, Maryland, be and is hereby **GRANTED, subject to the following CONDITIONS**:

(1) The proposed pathway trail as shown on the approved Conditional Use plans for BA 20-002C and BA 26-007C (the instant Petition) shall be constructed to be an accessible, aggregate trail with compacted subgrade, CR-6 Aggregate and stone dust, as shown on Petitioner's Exhibit 1 in BA 26-007C.

(2) Lighting shall be installed and maintained illuminating the mailboxes.

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.