

IN THE MATTER OF \* BEFORE THE HOWARD COUNTY  
ESC TRIADELPHIA ROAD, LLC \* BOARD OF APPEALS  
Petitioner \* HEARING EXAMINER  
\* Case No.: BA-26-008C

\* \* \* \* \*

**PETITIONER’S OPPOSITION TO MOTION TO POSTPONE HEARING**

Petitioner, ESC Triadelphia Road, LLC, by and through undersigned counsel, respectfully submits this Opposition to the Motion to Postpone Hearing filed by Susan M. Euteneuer and Christopher J. Euteneuer (the “Motion”) and state as follows:

1. The Motion should be denied because it improperly seeks to postpone the evidentiary hearing based on the absence of final shared-well and multi-use wastewater design approvals that are not part of the governing criteria for Conditional Use approval. The Motion asserts “[t]he record before the Hearing Examiner remains materially incomplete because the water-supply infrastructure necessary to support the requested density has not been finalized, reviewed, or approved.” The Motion further asserts that “[t]he Hearing should be postponed until the record contains the final water-supply and wastewater infrastructure information necessary to evaluate the requested Conditional Use.”

2. The conditional use petition before the Hearing Examiner is a zoning petition. It is not a site development plan (“SDP”). The matter to be decided by the Hearing Examiner is whether the proposed Age-Restricted Adult Housing (“ARAH”) conditional use satisfies the applicable criteria in Howard County Zoning Regulations (“HCZR”) §131.0 and whether the

Petitioner has met its burden of proof under the Hearing Examiner Rules. Accordingly, the Hearing Examiner is not called upon to decide whether every subsequent technical approval, permit, or design refinement needed for development has been completed and approved by state and local agencies. Those technical determinations and approvals are made at later stages of the development approval process. Further information on the SDP approval process, may be found on the Howard County Department of Planning and Zoning (“DPZ”) website at <https://www.howardcountymd.gov/planning-zoning/resource/sitesdevelopmentplanprocess2025>.

3. Howard County’s Conditional Use approval process is directed to the General and Specific criteria identified in Sec. 131.0 of the HCZR, and DPZ’s technical staff report addresses whether the petition contains sufficient information for evaluation of those criteria. In fact, DPZ undertakes a “Completeness Review” of the Petition and Plan prior to forwarding them to the Board Administrator for scheduling. The Motion therefore rests on a legally incorrect premise and should therefore be denied. Further information on the Conditional Use approval process, may be found on the DPZ website at <https://www.howardcountymd.gov/sites/default/files/2022-09/Conditional%20Use%20Process.pdf>

4. The Petitioner seeks Conditional Use approval for an ARAH development in the RR-DEO District at 12668 Triadelphia Road. The Petition and Revised Supplemental Narrative describe a proposed 26-unit detached ARAH community and set forth the basis upon which the Petitioner contends that the project satisfies the conditional use general criteria in HCZR §131.0 and the specific criteria in HCZR §131.0.N.1.

5. The Motion does not principally challenge the legal sufficiency of the Petition under the zoning criteria. Instead, it asks the Hearing Examiner to delay the hearing until the final design of private shared-well and private multi-use wastewater facilities are completed and

reviewed separate agencies and final technical approvals are obtained. That request seeks to postpone adjudication of the Conditional Use zoning review/approval presently before the Hearing Examiner based on matters that are outside of the Hearing Examiner's jurisdiction and outside of the criteria governing this Conditional Use petition.

6. The governing Conditional Use criteria do not require final shared-well or shared-wastewater facilities approval before the hearing, nothing in HCZR §131.0 or §131.0.N.1 requires a petitioner to secure final approval from MDE, the Bureau of Environmental Health, or any other permitting authority for shared wells or shared-wastewater facilities before the Hearing Examiner may conduct the evidentiary hearing on the zoning petition. In fact, there is no requirement that the Petitioner submit even conceptual designs for such facilities at this early stage in the approval process.

7. The Motion improperly conflates two distinct phases of the development approval process.

8. The Conditional Use review determines whether the proposed use is allowable at the subject property under the applicable zoning criteria. By contrast, the technical design, permitting, and approval of wells, wastewater infrastructure, and related environmental systems are reserved to separate administrative processes conducted by the various agencies charged with those responsibilities. Howard County's published Conditional Use process confirms that the hearing proceeds once the petition contains sufficient information for evaluation under HCZR §131.0. It does not require the completion of all downstream technical reviews before the matter may be heard.

9. The Motion thus attempts to impose an extra-statutory prerequisite that the County zoning regulations has not adopted.

10. The current record is sufficient to permit adjudication of the zoning issues before the Hearing Examiner as it includes the Conditional Use Petition, the Revised Supplemental Narrative, the Conditional Use Plan, and the supporting materials submitted with the application. These materials identify the proposed use, density, site layout, access, open space, dwelling types, setbacks, parking, amenities, and the basis on which Petitioner contends the project satisfies both the general Conditional Use standards and the specific ARAH criteria in HCZR §131.0.N.1.

11. Under the Hearing Examiner Rules of Procedure, the Petitioner bears the burden to prove by a preponderance of the evidence, through competent, material, and substantial evidence, that it is entitled to the relief requested and satisfies the prescribed standards and requirements. That burden applies to the zoning standards governing this Petition not to later technical approvals that fall within the review authority and jurisdiction of other agencies.

12. The possibility of subsequent agency review, revision, or permit conditions does not render this zoning petition unripe, incomplete, or unfit for hearing. Were the rule otherwise, any Conditional Use Petition requiring subsequent engineering or environmental review could be delayed indefinitely until all downstream approvals were exhausted, a result wholly inconsistent with HCZR §131.0 and the structure of the County's land-use approval process.

13. The Motion improperly attempts to convert a zoning hearing into a consolidated hearing on a yet to be prepared site development plan and related permits.

14. The Motion asks the Hearing Examiner to do what the zoning regulations do not: require completion of downstream environmental, health, and technical approval before a Conditional Use hearing may occur. Nothing in HCZR §131.0, the County's published Conditional Use process materials, or the Hearing Examiner Rules authorizes that result.

15. The Motion's premise is incorrect as a matter of both substantive law and administration procedure. Conditional Use petitions necessarily proceed while later agency review, technical submissions, and permit approvals remain pending.

16. The Hearing Examiner's charge is to decide whether the proposed use satisfies the standards for Conditional Use approval. Whether particular well locations, shared-well specifications, wastewater design details, or related technical matters ultimately receive separate agency approval is a different question, entrusted by law to different authorities and resolved at a different stage of the development approval process.

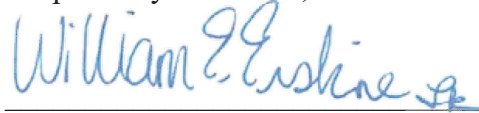
17. The Motion's invocation of "fairness" does not justify delay, as the Conditional Use process affords interested neighbors notice, the opportunity to appear, to present evidence, and to cross-examine witnesses on the zoning criteria that govern this petition.

18. Fundamental fairness does not require delaying a properly scheduled zoning hearing until every later-stage technical approval has been completed; it requires only that interested persons have a meaningful opportunity to be heard on the issues lawfully before the Hearing Examiner. Opponents may fully participate in that process at the scheduled hearing. What they may not do is recast the requirement for subsequent site development plan and permit approvals as a basis to delay the hearing on this properly scheduled zoning petition.

20. This petition is ripe for adjudication because the legal issues now before the Hearing Examiner are the zoning issues framed by HCZR §131.0 and §131.0.N.1, and the record is sufficient to permit that review. The Motion wrongly treats unresolved downstream permitting matters as though they were prerequisites to the Conditional Use approval, which they are not.

WHEREFORE, Petitioner, respectfully requests that the Hearing Examiner deny the Motion to Postpone Hearing and proceed with the evidentiary hearing as scheduled.

Respectfully submitted,



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### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 18<sup>th</sup> day of June, 2026, a copy of the foregoing Petitioner's Opposition to Motion to Postpone Hearing was served by electronic mail upon the Hearing Examiner, and the following interested parties:

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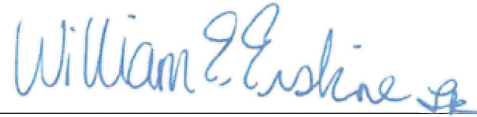
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A handwritten signature in blue ink that reads "William E. Erskine" followed by a small flourish.

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William E. Erskine, Esq.