

BEFORE THE HOWARD COUNTY ZONING BOARD

IN RE: ZB-1132M Columbia Concepts, LLC,
Amended Preliminary Development Plan Petition
Long Reach Village Center, New Town Zoning District
8775 Cloudleap Court, Columbia, MD 21045

**PETITIONER’S MOTION FOR SUBSTITUTION OF COUNSEL,
REQUEST TO CONTINUE THE JUNE 10, 2026, DETERMINATION, AND TO
DISQUALIFY ZONING BOARDMEMBER DEB JUNG;AND, IN THE ALTERNATIVE,
TO CONTINUE [REDACTED]**

Petitioner Columbia Concepts, LLC (“Petitioner”), by and through counsel, and pursuant to Zoning Board Rules of Procedure §§ 2.403.D.1, D.5.b, and D.8, respectfully moves this Zoning Board for an order substituting counsel, continuing the above-captioned determination scheduled for June 10, 2026, and disqualifying Zoning Board member Deb Jung from participating in or voting on this matter; and, in the alternative, continuing the determination [REDACTED]

[REDACTED] (this “Motion”). In support of this Motion, Petitioner states as follows:

I. Current Posture Before the Zoning Board

1. This matter concerns ZB-1132M, Petitioner’s Amended Preliminary Development Plan Petition for Major Village Center Redevelopment of the Long Reach Village Center, located at 8775 Cloudleap Court, Columbia, Maryland, in the New Town Zoning District. The Long Reach Village Center has been designated a blight for over a decade, and Petitioner seeks to remove that designation through a redevelopment that has community participation and support.

2. Per the Zoning Board’s official agenda for Wednesday, June 10, 2026, it will hear the above-captioned matter at 7:00 p.m. in the Banneker Room.¹ The Hearing Examiner will

¹ The agenda specifically states that the matter will be a “Presentation/Work Session” and that attendance may occur through in person or hybrid participation via Webex.

present her report on ZB-1132M. The agenda states that “[i]f exceptions are filed, oral arguments by parties may be heard and the Zoning Board may take final action,” and that the Board “may accept, remand, modify or reject the Petition,” with a final Decision and Order to issue based on the report.

3. The evidentiary record in this matter is closed. Memoranda of law were filed on April 1, 2026, by all parties of record, and Exceptions to the Hearing Examiner’s report were due May 6, 2026. One individual, Protestant Joel Hurewitz, filed exceptions to the report on May 6, 2026. The June 10, 2026, session is therefore a *determination* session at which the Board may render final action, not a session for the receipt of new evidence including testimony or exhibits.

4. The Zoning Board of Howard County is composed of the members of the County Council sitting in their capacity as the Zoning Board. Unlike the Council, which is charged with legislative zoning actions including creating and amending the zoning regulations and establishing the zoning districts through comprehensive zoning, the Zoning Board is charged with the quasi-judicial zoning function of reviewing, and approving or denying, development plans as impartial decision makers. When sitting as the Council, the members have broad authority to act on behalf of their constituents. Their roles and responsibilities, however, change when they take off their Council member hat and put on their Zoning Board member hat. As the Zoning Board, the members cannot be swayed, or perceived to be swayed, by political aspirations, personal opinions, or bias in rendering their decision. Instead, the decision must be grounded in the criteria of law applicable to the case.

5. The Zoning Board members identified on the June 10, 2026, agenda are David Yungmann (Chairperson), Liz Walsh (Vice Chairperson), Opel Jones, Deb Jung, and Christiana Rigby. Zoning Board members Deb Jung and Liz Walsh are also candidates for Howard County

Executive and are currently in a politically charged and heated primary with two other candidates. As will be discussed in more detail below, Candidate Jung has recently publicly questioned campaign contributions made by individuals who volunteer for the non-profit entity, Columbia Concepts-Flier, LLC, an entity of which Petitioner is the managing member, to Candidate Jung's political opponent in the upcoming primary driving a negative narrative about Petitioner. The primary election, which will for all intents and purposes decide the County Executive race because there is no republican candidate running, is June 23, 2026.

II. Substitution of Counsel

6. On June 9, 2026, Petitioner retained new counsel and respectfully requests that the Board recognize the substitution of the following as counsel of record for Petitioner:

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7. Substituted counsel requires a reasonable opportunity to review the record, the Hearing Examiner's report, the memoranda of law, the exceptions filed by Protestant Hurewitz, and to coordinate with Petitioner, before any final determination. The authorized representative for Petitioner, Brian Kim, was out of the country from May 22, 2026, until the evening of June 9, 2026. As such, substituted counsel has not had a meaningful opportunity to coordinate with Mr. Kim regarding this matter. Of note, Mr. Kim's travel and unavailability is also the reason for the modest extension of the June 8th specially set meeting with the County Council on The Source development project, which has been reset to June 30, 2026.

8. Proceeding with final determination on this matter on June 10, 2026, before substituted counsel has had a chance to meaningfully consult with the client, familiarize himself with the record and prepare to address any exceptions, would deprive Petitioner of the effective assistance of its chosen counsel at the most consequential stage of this proceeding. The time reasonably necessary to effect the substitution and to permit new counsel to prepare independently is, standing alone, good cause for the requested continuance, and it further supports the continuance sought on the additional grounds set forth below.

III. [REDACTED]

9. The Zoning Board is sitting in a quasi-judicial capacity in deciding this matter. The United States Supreme Court has held that a “fair trial in a fair tribunal is a basic requirement of due process.” *Withrow v. Larkin*, 421 U.S. 35, 47 (1975). “This applies to administrative agencies which adjudicate as well as to the courts.” *Id.* Indeed, “[n]ot only is a biased decisionmaker constitutionally unacceptable but our system of law has always endeavored to prevent even a probability of unfairness.” *Id.* (internal quotations omitted).

10. The Supreme Court of Maryland has also held that “[p]rocedural due process, guaranteed to persons in this State by Article 24 of the Maryland Declaration of Rights, requires that administrative agencies performing adjudicatory or quasi-judicial functions observe the basic principles of fairness as to parties appearing before them.” *Maryland State Police v. Zeigler*, 330 Md. 540, 559 (1993). The Court reasoned that “[t]he doctrine that every person is entitled to a fair and impartial hearing applies to an administrative agency exercising judicial or quasi-judicial functions, and is specifically applicable to issues of disqualification...” *Regan v. State Bd. of Chiropractic Examiners*, 355 Md. 397 (1999) (internal quotations omitted). Due process requires

that, at the very least, there is a reasonable appearance of fairness and impartiality. *Jefferson-El v. State*, 330 Md. 99, 107-08 (1993).

12. [REDACTED] Councilmember Jung's comments regarding [REDACTED]

The Source, there is, at the very least, an appearance that Councilmember Jung cannot be a disinterested adjudicator of this Petition requiring recusal or disqualification. [REDACTED]

decisionmaker whose impartiality might reasonably be questioned must be disqualified, and that

standard is plainly met [REDACTED]

[REDACTED]

13. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

14. [REDACTED], Councilmember Jung, by her own admission, has spoken with individuals in Long Reach during the pendency of this matter about the zoning hearings, relayed their displeasure at not having testified, and suggested the Zoning Board should consider “redoing” the evidentiary hearing in this case based on those *ex parte* comments.³ In this quasi-judicial setting, those are textbook prohibited *ex parte* communications. The Zoning Board’s own Rules forbid them in unambiguous terms: “Zoning Board members shall not engage in *ex parte* communications of any kind with . . . anyone other than Legal Advisor to the Zoning Board or staff regarding the case from the time the Zoning Board is notified . . . of filing of the petition to 30 days after the time the Decision and Order is final.” *See* Rules of Procedure for the Howard Cnty. Zoning Bd. § 2.403.D.15 (adopted Apr. 12, 2023). That a sitting member would engage in such communications, openly recount them, and propose to restart the process based on those conversations supports that the bias [REDACTED]

[REDACTED]

³ Zoning Board Presentation/Work Session, Howard Cnty. Council, at 6:14-59 (Md. April 8, 2026), https://howardcounty.granicus.com/player/clip/6656?view_id=6&redirect=true

15. For Councilmember Jung to participate in and vote on this Petition would itself risk constituting, or creating the appearance [REDACTED] the use of the prestige of office for private political gain, [REDACTED] [REDACTED] The Board therefore cannot include her in a vote without either disqualifying her [REDACTED] [REDACTED]

16. Disqualifying Councilmember Jung alone, however, does not cure the problem for two reasons. [REDACTED]

[REDACTED] To the extent she conferred with or influenced fellow members outside the record, the deliberative process of the body has already been exposed to the very campaign-driven narrative [REDACTED], and removing her vote does not cleanse that exposure. Second, the remaining members participated in or have percipient knowledge of the events placed at issue [REDACTED], including the May 11 work session, the prior votes approving County funding for The Source, and intra-Council communications concerning it, and [REDACTED]

17. A modest continuance fully and cleanly cures these concerns. [REDACTED] [REDACTED], in the ordinary course, the Board is reconstituted following the pending election, an untainted Board can decide the Petition on its merits, [REDACTED] and without the Board losing its oversight function or any party losing its rights. Accordingly, Petitioner requests disqualification of Councilmember Jung [REDACTED]

██████████ in the alternative, even if the Board declines to disqualify her, ██████████
██████████ require a continuance.

IV. The Post-Primary Moratorium and the 120-Day Decision Period

18. Pursuant to Section 16.211 of the Howard County Code, the June 23, 2026, primary election triggers a blackout period or moratorium on final zoning actions by Councilmembers/Zoning Board members. That moratorium reflects a deliberate policy judgment intended to avoid the bias and prejudice that arise when sitting Councilmembers who are themselves candidates cast votes that may be driven by, or perceived as driven by, campaign considerations. This case presents precisely that circumstance: a sitting Councilmember and candidate for County Executive, ██████████
██████████, being asked to vote on Petitioner’s matter on the eve of that election. A continuance is therefore fully consistent with, and affirmatively supported by, the same anti-bias principle that animates the moratorium.

19. To the extent the Board is otherwise required to render a decision on the Hearing Examiner’s report within 120 days, that period should be tolled by the post-primary moratorium and by the substitution of counsel, such that the clock does not run during the moratorium and remains tolled until substituted counsel is seated and able to participate fully. The moratorium’s anti-bias purpose, ██████████, and the time reasonably necessary to seat and prepare substituted counsel together establish good cause to toll any decision deadline and continue the determination.

V. The Board’s Rules Authorize, and Sound Procedure Requires, the Relief Sought

20. Under § 2.403.D.1, at the docket call the Chair may hear “all preliminary matters, requests for continuance, and other motions.” This Motion is properly raised as a preliminary

matter, and counsel is prepared to argue it in full unless the continuance is granted on this record beforehand. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

21. Under § 2.403.D.5.b, a request for Board action must be made by written motion served on all parties of record, with responses due within fifteen days, and the Board “may suspend the proceedings and may rule on the motion at any time after a response is filed or fifteen days after the filing of the motion.” Petitioner has served this Motion on all parties of record, as set forth in the attached Certificate of Service. Because the fifteen-day response period will not close before June 10, 2026, the Rule’s own structure counsels suspending the proceeding rather than ruling on this Motion before that period runs.

22. Under § 2.403.D.8, matters of law raised during a hearing are ruled upon by the Chair after consultation with the Board’s legal counsel, subject to the concurrence of a majority of the Board. The substitution of counsel, the disqualification of Councilmember Jung, the tolling of any decision deadline, and the propriety of proceeding are matters that should be ruled upon, on the record, before any vote on the Petition.

VI. The Rule of Necessity Does Not Bar and a Continuance Affirmatively Cures Any Related Concern

23. The rule of necessity is a narrow exception permitting otherwise-disqualified members to act only where no alternative impartial tribunal exists. It excuses unavoidable conflicts; it does not validate avoidable ones. Here, the conflict is entirely avoidable: a continuance until after the election cycle, the expiration of the post-primary moratorium, [REDACTED] [REDACTED] will produce an untainted body to decide this Petition. Because a continuance

supplies the very alternative tribunal the rule of necessity requires, the predicate for invoking that rule, i.e., that “no one else can act,” does not hold.

24. To remove any time-based argument that necessity revives, Petitioner expressly consents, to the extent any statutory or regulatory deadline applies to the Board’s decision on ZB-1132M, to toll and waive that deadline for the duration of the requested continuance, so that no deadline can be said to compel a vote by a conflicted or potentially tainted Board.

VII. The Harm of Denial is Severe and Asymmetric

25. **A decision rendered now is voidable.** A Decision and Order issued with the participation of a disqualified member, or by a body whose impartiality has been compromised, is subject to challenge and reversal. Proceeding on June 10th would create grounds (available to any aggrieved party) to void the Board’s own decision, invite appeal, remand, and re-hearing, and thereby duplicate the cost and effort already expended while delaying final resolution far beyond the modest continuance now requested.

26. **Denial deprives Petitioner of effective counsel.** Forcing a final determination before substituted counsel can review the closed record and prepare would deny Petitioner the assistance of its chosen counsel at the most consequential stage of the proceeding.

27. **The risk is entirely asymmetric.** A continuance impairs no party’s rights, alters no closed record, and diminishes none of the Board’s authority. It merely postpones a decision the Board may render more durably later. Denial, by contrast, risks a void order, wasted public and private resources, and renewed litigation [REDACTED]

[REDACTED]
[REDACTED] the eve of a primary the moratorium is designed to insulate.
Where the harm lies entirely on one side, the lower-risk path should prevail.

VIII. Policy Considerations Favor a Continuance

28. A continuance preserves, rather than defeats, the Zoning Board's oversight function. Petitioner does not seek to avoid review of this Petition. Once [REDACTED] the conflict dissolves and the Board's full land-use authority resumes, exercised cleanly through impartial decisionmakers. [REDACTED]—and past the post-primary moratorium—vindicates rather than evades legitimate oversight, and directly serves the same anti-bias policy the moratorium reflects.

29. Conversely, permitting a conflicted or potentially tainted body to act would confer standing on aggrieved parties to challenge the decision as improper, undermining finality and squandering public resources. [REDACTED] the zoning process [REDACTED] exist to protect public confidence in the integrity of County decision-making. A continuance honors that interest; proceeding under a cloud [REDACTED] erodes it.

RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests that the Zoning Board:

- a. Recognize the substitution of Christopher M. DeCarlo, Esq., Venable LLP, as counsel of record for Petitioner;
- b. Continue the June 10, 2026, determination of ZB-1132M to afford substituted counsel a reasonable opportunity to prepare and pending the seating of an untainted Board [REDACTED];
- c. Disqualify Councilmember Deb Jung from participating in or voting on ZB-1132M;

d. Toll any applicable decision deadline, including any 120-day period, during the post-primary moratorium and the substitution of counsel, and accept Petitioner's express consent to such tolling; and

e. In the alternative, continue the determination [REDACTED]
[REDACTED], because the remaining Board members [REDACTED]
[REDACTED] whose participation in a vote on the same underlying facts creates an appearance of impropriety [REDACTED]; and

On this 9th day of June, 2026.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of June, 2026, a copy of the foregoing Motion, together with Exhibit A, was served upon the following parties and persons of record, and that, pursuant to § 2.403.D.5.b, any response is due within fifteen (15) days of the date of filing:

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/s/ Christopher M. DeCarlo
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Counsel for Petitioner Columbia Concepts

EXHIBIT A

Confidential information is contained in Exhibit A.
Therefore, the contents have been redacted in their entirety.