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|--------------------------|---|----------------------------|
| <b>IN THE MATTER OF</b>  | : | <b>BEFORE THE</b>          |
|                          | : |                            |
| <b>TROTTER 5857, LLC</b> | : | <b>HOWARD COUNTY</b>       |
|                          | : |                            |
| <b>Petitioner</b>        | : | <b>BOARD OF APPEALS</b>    |
|                          | : |                            |
|                          | : | <b>BA Case No. 25-019C</b> |

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**DECISION AND ORDER**

On July 21, 2025, Hill Huang, trading as Trotter 5857, LLC (“Trotter”), submitted a Conditional Use Petition (the “Petition”) to the Howard County Department of Planning and Zoning. In its Petition, Trotter requested approval from the Hearing Authority to develop a sixty-two unit age-restricted adult housing facility (the “ARAH Facility”) in the Terra Maria subdivision on the property located at 3173 Saint Charles Place, in Ellicott City, Maryland (the “Property”). Following a December 17, 2025 evidentiary hearing before the Howard County Board of Appeals Hearing Examiner, on December 22, 2025, the Hearing Examiner issued its Decision and Order denying Trotter’s Petition.

Subsequently, on January 22, 2026, Trotter timely submitted a Petition of Appeal of Hearing Examiner Decision to the Howard County Board of Appeals, asserting that the Hearing Examiner’s determination was erroneous, and requesting that the Howard County Board of Appeals (the “Board”) grant the Petition. On March 19, 2026, the Board called the case, and with Trotter’s agreement, continued the evidentiary hearing to May 21, 2026.

Board members Gene Ryan (Chairperson), Lynn Foehrkolb (Vice Chairperson), Felita Phillips, Robbyn Harris, and Marisa McCurdy participated in both the evidentiary hearing and the May 28, 2026 deliberations, over which Chairperson Ryan presided. Gary W. Kuc, County Solicitor, and Aaron R. Weiss, Senior Assistant County Solicitor, served as legal advisors to the Board. Each Board member confirmed that they had viewed the Property as required by the

Howard County Code of Zoning Regulations (the “Zoning Regulations”). Trotter properly advertised notice and provided the affidavit of posting.

Section 130.0.B.5 of the Zoning Regulations provides that the Howard County Hearing Authority shall have the power to approve conditional uses as provided in Section 131.0 of the Zoning Regulations. Howard County Code (the “Code”) Section 16.304 authorizes a party aggrieved by a decision of the Howard County Hearing Examiner to appeal to this Board. Because the Board has original jurisdiction to approve conditional use petitions, this case proceeds *de novo* pursuant to Board Rules of Procedure Section 2.209. Notably, that Section states that “The burden of proof is one of a preponderance of the evidence and is on the Petitioner to show, by competent, material and substantial evidence, that he or she is entitled to the relief requested and that the request meets all prescribed standard and requirements.” Rules of Procedure § 2.209(c). Here, Trotter bears the burden of proving, by a preponderance of the evidence, that its proposed ARAH Facility satisfies the requirements contained in Zoning Regulations Sections 131.0.B, 131.0.C., and 131.0.N.1.—the Zoning Regulations applicable to its Petition.

The Board concludes that Trotter satisfactorily demonstrated that it is entitled to the relief requested in its Petition, and shall accordingly grant the Conditional Use Petition, subject to three conditions.

### **FINDINGS OF FACT**

On May 21, 2026, the Board convened to hear Trotter’s Petition. In support of its Petition, Trotter presented two witnesses: Chris Ogle, an engineering consultant with Benchmark Engineering, Inc., and Matthew Herbert, an architect with Design Collective. Tom Coale, Esquire, represented Trotter. Six individuals testified in opposition to the Petition: Edwin Avent, Denise

Geiger, Jacob Hikmat, Sheri Cummings, Joel Cummings, and Jeffrey Blyth. These six individuals may be referred to as the “Opponents.”

Trotter introduced three exhibits in support of its Petition. Exhibit 1 consists of a revised conditional use plan demonstrating Trotter’s proposed use of the Property. Exhibit 2 consists of density tabulations showing how Trotter calculated the permitted density of the Property. Exhibit 3 consists of drawings showing the proposed height and length of the ARAH Facility, as well as the surrounding tree buffer, and illustrating the gradients to nearby geographical features. Jacob Hikmat introduced a single exhibit, which he titled “Jacob Hikmat testimony.”

Also incorporated into the record are the Howard County Charter, the Code, the Zoning Regulations, the Howard County Department of Planning and Zoning’s Technical Staff Report and accompanying agency comments (the “TSR”) dated December 1, 2025, the Howard County General Plan, “HoCo By Design,” the Howard County General Plan of Highways, and the Howard County Design Advisory Panel’s January 8, 2025 Meeting Summary.

The Property is a 13.05-acre site identified as Tax Map 16, Grid 23, Parcel 416, is located in Council District 5, and is zoned in the R-ED (Residential: Environmental Development) District. Within the Terra Maria subdivision, the Property is identified as “Lot 106.” The address associated with the Property is 3173 Saint Charles Place, Ellicott City, Maryland. The Property lies directly south of U.S. Route 40, near its intersection with Turf Valley Road. Single-family detached dwellings sit to the east and south of the Property. The land to the west of the Property is presently undeveloped. A stream buffer runs through the western and southern portions of the Property. An abandoned building, a mansion which burned down in August 2025, sits near the center of the Property, surrounded by vegetation. A pond lies on the southern portion of the Property.

The TSR and accompanying agency comments indicate that no reviewing agency took exception to, nor opposed Trotter's Petition. To be sure, the TSR did indicate that the original plan's building height and length did not comply with the Zoning Regulations, and it instructs Trotter to reduce the proposed height of the ARAH Facility, to obtain permission from the Board regarding the length, and to provide "Type C" landscape buffering along portions of the perimeter. As shall be discussed, Trotter did in fact amend its plan to address the height, presented evidence supporting its request as to the building's length, and addressed the need for "Type C" buffering.

At the May 21 evidentiary hearing, Chris Ogle, Trotter's engineering consultant, testified that the proposed ARAH Facility satisfies the criteria in the Zoning Regulations, and the Board found Mr. Ogle's testimony to be credible. Specifically, pursuant to Zoning Regulation Section 131.0.B. concerning the general standards required for approval, Mr. Ogle addressed whether the proposal will be in harmony with Howard County General Plan, whether the nature and intensity of the use are appropriate for the site, and whether potential adverse effects on vicinal properties will exceed those ordinarily associated with such uses. Mr. Ogle also explained how Trotter complies with the maximum density requirement for the Terra Maria subdivision pursuant to Zoning Regulation Section 131.0.C. concerning additional standards required in certain residential districts. Mr. Ogle also testified as to the criteria in Zoning regulation Section 131.0.N.1. for Age-Restricted Adult Housing, including certain site design changes such as the reductions in building height and length. For example, Mr. Ogle testified that the most recent version of the plan—Exhibit 1—demonstrates Trotter's efforts to reduce the footprint of its proposed ARAH Facility following issuance of the TSR. Specifically, Mr. Ogle testified that, in response to the TSR, Trotter reduced the length and height of the building to ensure compliance, and also reduced the number

of units proposed to correspond to this overall reduction in size. He explained that the original proposal was to provide sixty-two units, but the amended plan now only offers fifty-three units.

Mr. Ogle testified that the proposed use of the Property—the ARAH Facility—is in harmony with the Howard County General Plan, “HoCo By Design,” and he correctly noted that the TSR reached the same conclusion on this point. Mr. Ogle further testified that the ARAH Facility will not cause an increase in the intensity of the use of the Property. He explained that the Property was never designated as “open space,” but that the proposal will preserve approximately eight acres of open space. In describing the layout of the Property, Mr. Ogle stated that the proposed ARAH Facility will be constructed in the center of the parcel, with existing vegetation surrounding the entire site. To the extent Mr. Ogle’s testimony provided additional relevant evidence to support specific factual findings, the Board shall make those factual findings as part of its discussion in the Conclusions of Law section below.

Trotter’s second witness, Matt Herbert, an architect and principal with the firm Design Collective, testified as to the technical design features and the amendments made to the design following the issuance of the TSR. Specifically, Mr. Herbert testified as to the criteria in Zoning Regulation Section 131.0.B regarding the amendments to the proposed building length and height, and compatibility with the surrounding area. He also testified as to the criteria in Zoning Regulation Section 131.0.N.1. regarding the incorporation of universal design features. The Board found Mr. Herbert’s testimony credible. To the extent Mr. Herbert’s testimony provided additional relevant evidence to support the Board’s factual findings, those findings shall be made below as part of the Conclusions of Law.

As noted above, six individuals testified in opposition to the Petition. In urging this Board to deny the Petition, the Opponents cited increases in traffic, safety issues during the construction

phase of the project, increases in noise due to anticipated ambulance calls and an “amphitheater effect” due to the land gradient’s acoustics, depreciation in property values, light, and disruption of the historical character of the vicinity. Although the Opponents opposed the Petition, their proffered concerns did not identify any unique adverse effects that would justify denying Trotter’s Petition.

### **CONCLUSIONS OF LAW**

As noted above, Trotter must prove, by a preponderance of the evidence, that it is entitled to the relief requested—granting the Petition. *See* Board Rules § 2.209(c). Accordingly, Trotter must prove that its plan satisfies the requirements in Zoning Regulations Sections 131.0.B, 131.0.C, and 131.0.N.1. The Board now reviews the requirements in these Zoning Regulations to explain why it is granting the Petition, subject to three conditions to be discussed below. The Board may make additional factual findings as necessary in this discussion.

#### **Section 131.0.B.1**

The [Board] shall have the power to permit Conditional Uses, provided the following general standards are met:

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.

The Board concludes that the proposed ARAH Facility will be in harmony with the land uses and policies in the Howard County General Plan, “HoCo By Design.” In testifying as to this requirement, Mr. Ogle noted that the TSR concludes that the proposed use is harmonious HoCo By Design. Specifically, he noted that Policy Statement DN-12 states that an intended goal is to “Provide a range of affordable, accessible, and adaptable housing options for older adults and persons with disabilities.” Mr. Ogle further testified that one of the identifying “Implementing Actions” for effectuating Policy Statement DN-12 is to

3. Encourage Age-Restricted Adult Housing (ARAH) developments to build small-to medium-scale housing units to include apartments, condominiums, townhomes, and missing middle housing types that allow seniors to downsize and are affordable to low- and moderate-income households.

HoCo By Design, Ch. 6, pg. DN-62. Finally, the Board notes that, according to HoCo By Design, “only 4% of the County’s residential land use” is used to provide age-restricted adult housing, and that there is a need to increase the availability of such housing. *Id.* In light of this evidence, the Board concludes that HoCo By Design encourages the development of the ARAH Facility, and that Trotter satisfied its burden as to this subsection.

**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 Board concludes that the requirements of this subsection are satisfied. Mr. Ogle testified that Trotter will only offer fifty-three units instead of sixty-two, and that because the Property is 12.6 net acres, there are only 4.2 units per net acre. As shall be discussed below, this ratio of dwelling units per net acre complies with the maximum density requirements in the R-ED Zoning District. Mr. Ogle also noted that the site will preserve approximately eight acres or 61% of the Property in open space. As for access to the site, Mr. Ogle testified that there will be only one way to enter the Property—the proposed signalized intersection at U.S. Route 40. Mr. Ogle clarified that there will be no roads directly connecting the Property to the neighboring Terra Maria subdivision. Finally on this point, Mr. Ogle testified that a signalized intersection provides one of the safest methods to access a site generally. Accordingly, the Board received substantive evidence showing that the intensity of the use, and the location with respect to access, are appropriate for the site.

### **Subsection 131.0.B.3.**

The proposed use at the proposed location will not have adverse effects on vicinal properties above and beyond those ordinarily associated with such uses.

The term “adverse effects” has been construed to mean “effect[s] above and beyond that ordinarily associated with such uses.” *Schultz v. Pritts*, 291 Md. 1, 21 (1981). The Supreme Court of Maryland has stated,

[I]f a conditional use applicant demonstrates compliance with the prescribed standard and requirements set forth in the relevant statute or regulation, then there is a presumption that the use is in the interest of the general welfare, a presumption that may only be overcome by probative evidence of unique adverse effects. Absent such probative evidence, it is arbitrary, capricious, and illegal for the Board to deny the conditional use application.

*Clarksville Residents Against Mortuary Def. Fund, Inc. v. Donaldson Props.*, 453 Md. 516, 543 (2017) (citing *Schultz*, 291 Md. at 15, 22-23). Accordingly, only evidence of unique adverse effects—those beyond the adverse effects ordinarily associated with such uses—can overcome the presumption—once it has been established—that the conditional use is in the interest of the general welfare. *Id.*

### **Section 131.0.B.3.a**

The proposed use at the proposed location will not have adverse effects on vicinal properties above and beyond those ordinarily associated with such uses. In evaluating the proposed use under this standard, the [Board] shall consider whether or not:

- 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 Board finds that the evidence did not establish that the adverse effects at this particular site would exceed those ordinarily associated with an age-restricted adult housing facility. At the outset, the Board notes that the Opponents specifically identified light pollution and noise issues

as the adverse effects which exceed those effects ordinarily associated with the use of the Property. The Board pauses to note that light pollution and noise issues do not constitute unique adverse effects above and beyond those ordinarily associated with ARAH Facilities. *Schultz*, 291 Md. at 21. Some potential increases in light and noise are expected, and are therefore not unique adverse effects. Indeed, the Board received ample evidence demonstrating that these concerns will not cause adverse effects on vicinal properties above and beyond those ordinarily associated with such use. As to the potential light pollution, Mr. Ogle testified that all the lighting at the Property will be directed downward to reduce its visibility to the surrounding community. He further noted that the ARAH Facility will be located in the center of the 13.05-acre site, with significant vegetation and woods providing additional buffering for the lighting. Indeed, the TSR noted the lack of atypical adverse effects such as noise, odors, vibrations, or increased lighting greater than elsewhere in the R-ED Zoning District and Howard County, generally. Additionally, Opponent Edwin Avent acknowledged on cross-examination that future residents at the ARAH Facility will likely desire peace and quiet in their home community. Although some Opponents testified that the Property may cause an “amphitheater effect” which will amplify loud noises to the surrounding community, the Opponents did not present any evidence showing whether this alleged “amphitheater effect” will be greater at the Property than elsewhere in the R-ED Zoning District or other similar zoning districts as required by the Zoning Regulations. Accordingly, the Board concludes that the Property will not cause adverse effects such as light pollution and noise to be greater at the Property than elsewhere in the R-ED Zoning District or other similar zoning districts.

**Section 131.0.B.3.b.**

- 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.

In addressing this factor, the TSR noted that the original proposal improperly exceeded the maximum height requirement, and that a “Type C” buffer was required between the ARAH Facility and adjacent single-family detached homes. As to the building height issue, Mr. Ogle testified that the plan was subsequently amended to comply with the forty-foot maximum height requirement. As to the “Type C” buffer requirement, Mr. Ogle explained that the new plan provides additional landscaping and vegetation buffering that exceeds the requirements of a “Type C” buffer pursuant to the Landscape Manual. Regarding whether the proposed ARAH Facility discourages development on adjacent land, Mr. Ogle testified that another age restricted adult housing facility is being proposed at the parcel directly west of the Property. This evidence, coupled with evidence regarding Trotter’s plans to situate the ARAH Facility at the center of the Property, buffered by trees and vegetation, persuades the Board that this subsection is satisfied.

**Section 131.0.B.3.c.**

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

Relevant to this requirement, Zoning Regulations Section 133.0.D.2.c(2) provides that an age-restricted adult housing facility must provide one parking space per dwelling unit, and 0.3 parking spaces per dwelling unit for visitors. Because Trotter’s amended plan proposes fifty-three dwelling units, the Zoning Regulations require Trotter to provide at least sixty-nine parking spaces at the Property. Mr. Ogle testified that the amended plan will offer one hundred and twelve parking spaces, a figure which far exceeds the regulatory requirement. Finally on this point, Mr. Ogle testified that the ARAH Facility and its parking spaces will be located in the center of the parcel,

screened from public roads and residential uses to minimize potential adverse effects to adjacent properties. Accordingly, the Board concludes that Trotter satisfied this subsection.

**Section 131.0.B.3.d.**

- 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.

Notably, Trotter has indicated that the only planned access point for its proposed ARAH Facility will be a signalized intersection directly connecting the Property to U.S. Route 40. Mr. Ogle explained that the Maryland State Highway Administration is solely vested with the authority to approve its proposed connection to Route 40. Mr. Ogle also testified that, if the State Highway Administration approves the signalized intersection, the plan will provide safe access for ingress and egress, including ample sight distance. The Board credits Mr. Ogle's testimony, and concludes that this subsection is satisfied, provided Trotter obtains permission to install a signalized intersection connecting the Property to Route 40.

**Section 131.0.B.3.e.**

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

Regarding environmental features at the site, Mr. Ogle testified that the Property contains existing vegetation, forests, specimen trees, steep slopes, wetlands, and a pond located at the south of the Property. Mr. Ogle explained that the proposed plan will not disturb the pond, and that he designed the plan to reduce any potential impacts to environmental features. For example, he stated that the amended plan retains a majority of the forest and vegetation by developing the ARAH Facility where the abandoned building is located. Mr. Ogle also testified that the proposal will

preserve approximately eight acres of open space, further demonstrating the efforts made to reduce potentially adverse impacts to environmentally sensitive areas. Accordingly, the Board concludes that Trotter satisfied its requirements as to this subsection.

**Section 131.0.B.3.f.**

- f. The proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere.

Both Mr. Ogle's testimony and the TSR revealed that the only historic structure near the Property is St. Charles College. The TSR readily concluded that the proposed use "does not have the potential to diminish the character and significance of any historic sites in the vicinity." Mr. Ogle's testimony further bolstered this point when he noted that the construction of the homes in the Terra Maria community did not diminish the character or significance of the historic structure. The Board therefore concludes that this factor is met.

**Section 131.0.C.**

The following standards shall apply to Conditional Uses proposed on land within residential developments in the R-ED . . . Districts:

1. The [Board] shall not approve a Conditional Use on land which was included in the density calculation for a residential development and which has no remaining residential development potential, based on the maximum density allowed in the zoning district.

The Board concludes that this requirement is satisfied. For context, Zoning Regulation Section 107.0 provides regulatory guidelines for development in the R-ED Zoning District, and states, "The R-ED District is established to accommodate residential development at a density of two dwelling units per net acre . . . ." Zoning Regulation Section 103.0 clarifies that a "net acre" is "[a]n acre of land that includes no land in the 100-year floodplain and no steep slopes existing at the time of subdivision."

Mr. Ogle testified that he prepared a density tabulation calculation—Exhibit 2—which shows the density calculations for the Terra Maria subdivision. In explaining the density calculations, Mr. Ogle noted that they were based upon information contained in Plats 11995-12001 and 14323, both of which are recorded and publicly available in the Land Records for Howard County. Mr. Ogle stated that the total gross area of the Terra Maria subdivision is approximately 55.107 acres. He explained that, by deducting 1.98 acres of steep slopes, and 1.110 acres which were rezoned from R-ED to R-SC, the net acreage of the subdivision is approximately 52.017 acres. Mr. Ogle testified that the Zoning Regulations allow for one hundred and four residential lots in the subdivision ( $52.017 \text{ net acres} \times 2 \text{ units/net acre} = 104 \text{ units allowed}$ ) and, according to the recorded Plats, there are presently one hundred and four improved residential lots in the Terra Maria subdivision—including the Property. *See* Exhibit 1, General Note # 18. Nevertheless, Mr. Ogle clarified that Trotter will first remove the abandoned building on the Property, causing there to be one remaining lot with residential development potential, which will then be used for the ARAH Facility. Accordingly, this subsection is satisfied.

**Section 131.0.C.2.a.**

2. The [Board] may approve a Conditional Use on land which was included in the density calculation for a residential development, and which has development potential for at least one dwelling unit, if the [Board] finds that:
  - a. The combination of uses within the development, including the residential, Conditional Use and open space uses, will result in an overall intensity of development which is in harmony with vicinal land uses and the policies of the Howard County General Plan.

Having concluded that the Property retains development potential for at least one dwelling unit, the Board concludes that the combinations of uses within the development will result in an overall intensity of development in harmony with vicinal land uses and the policies of the General Plan. As noted above in the Board's discussion of Zoning Regulation Section 131.0.B.1, the

proposed ARAH Facility comports with HoCo By Design by providing age-restricted residential adult housing. Additionally, Mr. Ogle testified that the lot directly west of Trotter's Property is being developed as another age-restricted adult housing facility—bolstering the notion that the ARAH Facility is in harmony with and similar to vicinal land uses. Mr. Ogle also stated that the proposed ARAH Facility will result in an overall intensity of development in harmony with vicinal land uses because the Property will not be accessed through the extant Terra Maria community, and because the Property will be properly buffered with setbacks and landscaping and ample open space. Accordingly, there is ample evidence in the record to demonstrate that the proposed ARAH Facility is in harmony with vicinal land uses and general plan policies.

**Section 131.0.C.2.b.**

- b. The Conditional Use will not infringe on open space or result in damage or lack of protection for environmentally sensitive areas of the development.

As noted above, the Property contains environmental features, including vegetation, forests, wetlands, and a pond. Mr. Ogle specifically testified that the proposed plan will not disturb the pond, and that he specifically developed the plan to reduce potential impacts to environmental features. Additionally, Mr. Ogle testified that the plan retains approximately eight acres of open space. The Board credits Mr. Ogle's testimony and concludes that the proposed use will not infringe on open space or damage environmentally sensitive areas. Accordingly, this subsection is satisfied.

**Section 131.0.C.2.c.**

- c. No more than 30% of the parcel on which the Conditional Use is located will be covered by structures or impervious surface, including roads, parking lots, loading or storage areas, and sidewalks.

Here, Mr. Ogle testified that the proposal provides only 2.1 acres of impervious area on the parcel. The Property is approximately 13.05 acres, thus allowing up to 3.9 acres to be covered by

structures or impervious surfaces (13.05 acres x 30% impervious surfaces limit = 3.9 acres of impervious surfaces allowed at the Property). Because the evidence showed that only 2.1 acres will be covered by impervious areas of the Property pursuant to the proposal, this subsection is satisfied.

The final Zoning Regulation this Board must consider as part of the Petition is Section 131.0.N.1., which provides additional criteria specifically for age-restricted adult housing that must be satisfied before the Board may grant the Petition. At the outset of its discussion regarding Zoning Regulation Section 131.0.N.1, the Board concludes that some subsections contained within do not apply here. For example, Section 131.0.N.1.a(3) provides criteria that apply in only the Rural Conservation and Rural Residential Zoning Districts, whereas the Property here is located in the Residential Environmental Development District. Accordingly, the Board shall limit its discussion to the applicable provisions in Zoning Regulation Section 131.0.N.1.

#### **Section 131.0.N.1.a(1)**

The [Board] may grant Conditional Uses in the specified districts in accordance with the following minimum criteria.

##### **1. Age-restricted Adult Housing**

###### **a. Age-Restricted Adult Housing, General**

A Conditional Use may be granted in the . . . R-ED . . . 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 . . . district[].

This Zoning Regulation states that apartment dwelling units are permitted, except where the development contains fewer than fifty dwelling units. Mr. Ogle testified that the proposed

ARAH Facility will be an apartment complex where the individual units will not be sold. The evidence shows that Trotter will develop fifty-three dwelling units, which exceeds the required minimum number of apartment dwelling units. Accordingly, this criteria is satisfied.

**Section 131.0.N.1.a(2)**

- (2) In the . . . R-ED . . . District[] the development shall have a minimum of 20 dwelling units.

The uncontroverted evidence before the Board showed that Trotter plans to develop fifty-three dwelling units. This subsection is therefore satisfied.

**Section 131.0.N.1.a(4)**

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

| Zoning District | Number of Dwelling Units in Development | Maximum Units Per Net Acre |
|-----------------|-----------------------------------------|----------------------------|
| R-ED . . .      | 20—49                                   | 4                          |
|                 | 50 or more                              | 5                          |

Here, the R-ED District allows a maximum of five units per net acre where fifty or more dwelling units are proposed. As noted above, the Property is 12.6 net acres, and fifty-three dwelling units are planned. Dividing the fifty-three dwelling units by 12.6 net acres yields 4.2 dwelling units per net acre. Because this subsection allows a maximum of five units per net acre, the Board concludes that Trotter has satisfied this subsection.

**Section 131.0.N.1.a(5)**

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

The Howard County General Plan, HoCo By Design, designates U.S. Route 40 as an “Intermediate Arterial” road. *See* HoCo By Design, Map 4-3, CIM-42. Additionally, Trotter’s Exhibit 1 shows that the Property abuts U.S. Route 40, and Trotter has expressly indicated that it

will only proceed with the ARAH Facility if the Maryland State Highway Administration grants the Property direct access to Route 40 by way of a signalized intersection. The Board therefore concludes that Trotter has satisfied this requirement.

**Section 131.0.N.1.a(6)(a)**

(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 the existing neighborhood.

As to this factor, Mr. Ogle testified that the proposed perimeter landscaping for the Property will include native perennials and shrubs, and by retaining trees and existing open space, the landscape character will remain generally similar. Finally on this point, the Board notes that, as to this factor, the TSR indicated that a “Type C” buffer was required between an apartment development and single-family detached uses. As noted above, Mr. Ogle testified that the new plan provides additional landscaping and vegetation buffering that exceeds the requirements of a “Type C” buffer. Accordingly, the Board concludes that this subsection is satisfied.

**Section 131.0.N.1.a(6)(b)**

(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

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

As to this provision, Mr. Ogle testified that by developing the ARAH Facility at the center of the lot, and by retaining and increasing the amount of vegetation—which serves as a natural buffer for the Property—the plan is intended to be compatible with the residential development in the vicinity. The Board therefore concludes that the ARAH Facility will be compatible with residential development in the vicinity because of the buffering designs. This requirement is therefore satisfied.

**Section 131.0.N.1.a(7)(a)**

Bulk Requirements:

- (a) Maximum Height: (i) Apartments ..... 40 feet . . . .

Mr. Herbert testified that the revised plan shows a proposed building height of forty feet, and Exhibit 3 contains drawings which show the proposed building height being only forty feet. This subsection is therefore satisfied.

**Section 131.0.N.1.a(7)(b)**

- (b) Minimum structure and use setback: .....  
(i) From public street right-of-way .....40 feet  
(ii) From residential lots in . . . R-ED . . . Districts: .....  
Apartments ..... 100 feet  
(iii) From open space, multi-family or non-residential uses in . . . R-ED  
. . . .....30 feet.

The Board concludes that this subsection is satisfied. The TSR, Mr. Ogle's testimony, and Exhibit 1 all demonstrate that, due to the size of the lot, and by placing the ARAH Facility at the center of the Property, Trotter easily satisfies the minimum structure and use setback requirements. Exhibit 1 shows that the closest public street right-of-way is U.S. Route 40, which lies more than three hundred and thirty feet from the proposed ARAH Facility—clearly satisfying the forty foot setback. Next, Exhibit 1 shows that the nearest residential lot lies approximately two hundred and forty-eight feet from the proposed ARAH Facility—clearly satisfying the one hundred foot

setback. Finally, Exhibit 1 indicates that the proposed ARAH Facility will be situated approximately one hundred and seventy-eight feet from the nearest designated open space—clearly satisfying the thirty foot setback. Accordingly, the ARAH Facility meets the setback requirements.

**Section 131.0.N.1.a(7)(g)**

- (g) Apartment buildings and groups of single-family attached units may not exceed 120 feet in length. However, the [Board] 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.

Here, Exhibit 3 shows that Trotter will limit the ARAH Facility's building length to 195 feet and 8 inches, and 197 feet and 9 inches. Thus, by exceeding the one hundred and twenty foot requirement, but falling below the two hundred foot maximum, the Board may only approve the proposal if the architectural design mitigates the visual impact of the increased building length. Mr. Herbert specifically testified as to the architectural design proposed here, noting that developing at the center of the site inherently mitigates potential visual impacts to adjacent properties. Mr. Herbert explained that the proposed ARAH Facility will sit below the topographic elevation of the adjoining community, and will be situated a significant distance from Route 40, mitigating the visibility of the ARAH Facility from the public. Mr. Herbert further testified that the architectural design—specifically the incorporation of “separate state steps” and “massings”—was intended to reduce the overall volume of the building, decreasing its perceived length and height. This evidence convinces the Board that Trotter has satisfactorily mitigated the visual impact of the ARAH Facility such that the building length may exceed one hundred and twenty feet, but shall not exceed two hundred feet as required. Accordingly, this subsection is satisfied.

**Section 131.0.N.1.a(8)**

- (8) At least 50% of the gross site area in the . . . R-ED . . . District[] . . . 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.

As previously noted, Mr. Ogle testified that the Property was never designated as “open space,” but that the proposal will nevertheless preserve approximately eight acres of open space, which equates to approximately sixty-one percent of the Property. As to required amenities, Mr. Ogle testified that the ARAH Facility will include amenities within the building, and that several pathways are proposed to run throughout the site. He further testified regarding plans to install a swimming pool and possible pickleball courts. The Board therefore concludes that an adequate proportion of the gross site area will be open space, and that the plan provides the amenities required for the site.

**Section 131.0.N.1.a(10)**

- (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[.]

Because Trotter proposes fifty-three dwelling units, this subsection requires one thousand and sixty square feet of community space (53 dwelling units x 20 square feet for the first 99 units = 1060 square feet). Exhibit 1, which shows Trotter’s amended plan, indicates that there will be a three thousand five hundred square foot internal community area within the proposed apartment building. The planned on-site community space therefore meets the minimum requirements, and the Board concludes that this subsection is satisfied.

**Zoning Regulation Section 131.0.N.1.a(11)**

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

The TSR notes that Trotter's ARAH Facility will provide refuse collection on each floor of the building, and that there are no plans to place dumpsters outdoors. Thus, the Board notes that refuse collection will be generally screened from view by the proposed ARAH Facility itself. Although the plan contemplates that Trotter will locate its trash collection sites within the ARAH Facility itself, the Board shall impose, as a condition of its approval, that if outdoor loading and trash storage areas are established on the Property, such areas must be screened or buffered from both the residents of the ARAH Facility, and from the neighboring public. Accordingly, this subsection is satisfied.

**Zoning Regulation Section 131.0.N.1.a(13)**

- (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 homeowners association shall be established to maintain and enforce the age restrictions in addition to County enforcement of zoning regulations.

Mr. Ogle testified that the proposed ARAH Facility will operate as an apartment complex where the units will not be available for purchase. Because the development will therefore be a rental community under single ownership, Zoning Regulation Section 131.0.N.1.a(3) does **not** require that Trotter establish a condominium association. Nevertheless, Mr. Ogle testified that Trotter will establish a "condominium association" which will enforce the age restriction. Thus, Trotter has explained how it will implement and enforce the age restriction required.

**Zoning Regulation Section 131.0.N.1.a(14)**

- (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.

As noted above, Trotter will establish a common entity to maintain and manage the open space, common areas, and any related improvements. The Board therefore concludes that this subsection is satisfied.

**Section 131.0.N.1.a(15)**

- (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 person with mobility or functional limitations and how the design will provide accessible routes between parking areas, sidewalks, dwelling units and common areas.

As to the incorporation of universal design features, the TSR notes that Trotter proposes to incorporate no-step front access to the front entrances, no-step side or garage entry to the first floor units; thirty-six inch wide front doors with exterior lighting; at least thirty-two inch wide exterior doorways; at least thirty-six inch wide hallways; lever handles on interior and exterior doors; grab bars on bathroom walls near toilets and showers; and that the slope of ramps on the exterior of the units will comply with the Zoning Regulations. Mr. Ogle's testimony echoed the TSR in identifying the universal design features incorporated into the plan, and he explained that these features, which were no small expense, are intended to improve the accessibility for older adults. Because the evidence indicates that Trotter specifically incorporated required universal design features, the Board concludes that this subsection is satisfied.

**Section 131.0.N.1.a(16)**

- (16) At least 10% of the dwelling units in the . . . R-ED . . . District[] . . . shall be Moderate Income Housing Units.

Based on the original plan which called for sixty-two units, seven Moderate Income Housing Units (“MIHUs”) were required ( $62 \text{ units} \times 10\% = 6.2 \text{ units}$ , rounded up to 7). The TSR similarly notes that seven MIHUs were proposed. Because the amended plan now proposes only fifty three units, it must provide six MIHUs ( $53 \text{ units} \times 10\% = 5.3 \text{ units}$ , rounded up to 6). During the evidentiary hearing, Mr. Ogle testified that Trotter would comply with the MIHU requirement. Accordingly, the Board concludes that this subsection is satisfied.

**Section 131.0.N.1.a(18)**

- (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 evidence shows that the Howard County Design Advisory Panel met on January 8, 2025, to review Trotter’s Petition, Trotter properly submitted the meeting summary, and Mr. Ogle generally testified as to the contents of the meeting summary. This subsection is therefore satisfied.

**CONDITIONS**

Although the Board has reviewed the regulatory requirements for the granting of the Petition, Zoning Regulation Section 131.0.H.1 provides that the Board “may attach conditions to the proposed use or plan as it deems necessary to ensure continuous conformance with all applicable standards and requirements. The Conditional Use plan, subject to such conditions, shall be made part of the decision and order.” At the hearing on May 28, 2026, the Board deliberated and agreed to attach three conditions to Trotter’s proposed plan. Specifically, the evidence indicated that a driveway or blacktop connects to the abandoned building where the ARAH Facility will be constructed. The Board requires: 1) that Trotter remove the black top/driveway which

provides an access route to the Property via Saint Charles Place; 2) Trotter shall cover the ground with plantings and vegetation outside the forest conservation area where the black top/driveway is removed; and 3) if outdoor loading and trash storage areas are established on the Property, such areas must be screened or buffered from both the residents of the ARAH Facility, and from the neighboring public.

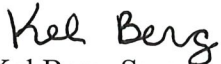
**ORDER**

Based upon the foregoing, it is this 20<sup>th</sup> day of August, 2026, by the Howard County Board of Appeals, **ORDERED:**

That the decision of the Conditional Use Petition is hereby **GRANTED**, subject to three conditions:

- 1) Trotter must remove the black top/driveway which provides an access route to the Property via Saint Charles Place;
- 2) Trotter must cover the ground with plantings and vegetation outside the forest conservation area where the black top/driveway is removed; and
- 3) If outdoor loading and trash storage areas are established on the Property, such areas must be screened or buffered from both the residents of the ARAH Facility, and from the neighboring public.

**ATTEST:**

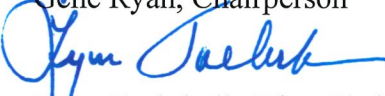
  
Kel Berg, Secretary

PREPARED BY:  
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Gary W. Kuc  
County Solicitor

  
Aaron R. Weiss  
Senior Assistant County Solicitor

**HOWARD COUNTY BOARD OF  
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