

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
for**

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CASE NO. CU 20-05

HSB POTOMAC, LLC

**ORDER GRANTING THIRD EXTENSION
OF VALIDITY PERIOD FOR CONDITIONAL USE
& ADDITIONAL CONDITIONAL USE HOLDERS**

I. Background

On December 21, 2020, the Hearing Examiner approved the above conditional use application filed by Spectrum Retirement Communities LLC (now HSB Potomac, LLC, hereinafter “HSB” or “Applicant”) to operate a residential care facility for more than 16 persons on property located at 9545 River Road, Potomac, Maryland 20854 (Property). The Hearing Examiner issued an Errata making technical changes to its decision on March 9, 2021. Spectrum transferred the conditional use to HSB Potomac, LLC on August 23, 2023. On March 7, 2023, the Hearing Examiner approved minor amendments to the conditional use plan and extended its validity period to March 9, 2024. The Hearing Examiner approved additional minor amendments on January 24, 2024. On February 27, 2024, the Hearing Examiner granted a second request to extend the validity period of the conditional use by 12 months to March 9, 2025 due to unexpected changes in the permitting process causing approval delays from various government agencies.

On February 5, 2025, HSB submitted a third request to extend the time within which it must implement the conditional use. HSB states that it is on the “cusp” of commencing work. HSB reports the following:

[T]he demolition permit is now ready to be issued. The building permit is in the final stage of review, with only final sign-offs from Washington Suburban Sanitary Commission and Maryland State Highway Administration outstanding, which are both anticipated in the coming weeks. Thereafter, the Petitioner will be able to pull these permits as soon as financing is secured for the Project.

HSB further identified the constrained access to capital and high interest rates as having also stalled new constructions starts in the entire region and after having “found a path forward” using bond financing is now very close to “getting the project off the ground.” While HSB believes only a four-month extension is necessary to secure the financing, they request a six-month extension to account for unanticipated delays.

II. Opinion

A. Extension of Time Request

Under Section 59.7.3.1.I.1 of the Montgomery County Zoning Ordinance (2014), conditional use approvals are valid for two years after the date of issuance. That same section permits the Hearing Examiner to “extend the time limit for a conditional use to be established or obtain a building permit if the evidence of record establishes that drawing of architectural plans, preparation of the land, or other factors involved in the particular use will delay the start of construction or the establishment of the use beyond the period of validity.” *Zoning Ordinance*, Section 59.7.3.1.I.2. Extensions are limited to a term of 12 months. *Id.*

The validity period of the current conditional use approval extends to March 9, 2025. Despite the length of time since the initial approval, the record here establishes that the Applicant has actively pursued finalizing its approvals with a demolition permit ready to issue and building permits in the final stage of review. Additionally, the Applicant has “found a path forward” using bond financing and merely needs six-additional months to secure the necessary financing.

As HSB has demonstrated significant progress toward implementing the conditional use, and given the constrained access to capital, high interest rates and its inability to control the time it takes for response from government agencies responsible for approving the project, the Hearing Examiner grants HSB an additional six month extension.

B. Additional Conditional Use Holder

HSB states because it seeks bond financing it must transfer the Property to a qualified non-profit. To that end HSB is in the process of transferring the Property to ISF Potomac Senior Living, LLC with closing to occur in late spring. HSB requests that ISF Potomac Senior Living, LLC as the future Property Owner be added as a co-holder along with HSB Potomac, LLC to Conditional Use 20-05.

III. Order

The Hearing Examiner finds that the request to extend the validity period of the conditional use meets the requirements of the Zoning Ordinance and hereby extends the validity period of the conditional use by six months, to **September 9, 2025**. All conditions of approval of the original conditional use, as modified in the Orders dated March 7, 2023, and January 24, 2024, remain in full force and effect, and further that

The Hearing Examiner finds HSB’s request to add ISF Potomac Senior Living, LLC as a co-holder of Conditional Use 20-05 to be reasonable and hereby declares that HSB Potomac, LLC and ISF Potomac Senior Living, LLC be co-holders of the originally approved conditional use and all subsequent modifications approved prior to the date of this Order.

So ORDERED this 6th day of March, 2025.



Kathleen Byrne
Hearing Examiner

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