

Introduced 4/3/17
Public hearing 4/19/17
Council action 6/5/17 (6/16/17)
Executive action _____
Effective date 8/16/17

County Council of Howard County, Maryland

2017 Legislative Session

Legislative day # 6

BILL NO. 31 – 2017 (ZRA – 171)

Introduced by: The Chairperson at the request of Olenka Stasyszyn

AN ACT amending the Howard County Zoning Regulations Conditional Use section to add a new Instructional School use to the R-20 Zoning District; and generally relating to Instructional Schools.

Introduced and read first time April 3, 2017. Ordered posted and hearing scheduled.

By order Jessica Feldman
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on April 19, 2017.

Tabled 5/1/17

By order Jessica Feldman
Jessica Feldmark, Administrator

This Bill was read the third time on June 5, 2017 and Passed ✓, Passed with amendments ✓, Failed _____.

By order Jessica Feldman
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 6th day of June 2017 at 4 a.m./p.m.

By order Jessica Feldman
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive _____, 2017

Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be it enacted** by the County Council of Howard County, Maryland, that the Howard
2 County Zoning Regulations are hereby amended as follows:

3
4 *By Adding*

5
6 *Section 131.0: "Conditional Uses"*
7 *Subsection O. "New Conditional Use Categories"*
8 *Number 3. "School, Instructional"*
9

10
11 **Howard County Zoning Regulations**

12
13 **SECTION 131.0: - Conditional Uses**

14
15 **O. New Conditional Use Categories**

16 Completely new Conditional Use categories established after the effective date of the current
17 Zoning Regulations are listed below along with the zoning districts in which the Conditional
18 Use category is permitted and the specific criteria required for approval.

19
20 **3. SCHOOL, INSTRUCTIONAL**

21 A CONDITIONAL USE MAY BE GRANTED IN THE R-20 DISTRICT FOR SCHOOLS PROVIDING
22 INSTRUCTION IN MUSIC, DANCE, MARTIAL ARTS, YOGA, AND MEDITATION PRACTICE,
23 PROVIDED THAT:

24 A. THE PARCEL ADJOINS A NON-RESIDENTIAL ZONING DISTRICT IS WITHIN 500 FEET OF THE
25 CENTER POINT OF THE INTERSECTION OF TWO ARTERIAL ROADS.

26 ~~B. THE PROPOSED STRUCTURE DOES NOT EXCEED 5,000 SQUARE FEET.~~

27 B. THE STRUCTURE FOR WHICH THE CONDITIONAL USE IS PROPOSED SHALL NOT EXCEED
28 4,000 SQUARE FEET. THIS CONDITIONAL USE MAY ONLY BE GRANTED FOR A DWELLING
29 EXISTING AT THE TIME OF THE APPLICATION FOR THE CONDITIONAL USE.

30 C. PARKING AREAS SHALL BE LOCATED AND LANDSCAPED TO MINIMIZE THEIR VISIBILITY
31 FROM ADJACENT RESIDENTIAL PROPERTIES. ALL PARKING FOR THE INSTRUCTIONAL
32 SCHOOL MUST BE PROVIDED ON-SITE.

1 D. REASONABLE STANDARDS FOR HOURS OF OPERATION SHALL BE PROPOSED BY THE
2 PETITIONER AND ESTABLISHED BY THE HEARING AUTHORITY FOR EACH USE. ALL
3 ACTIVITY RELATED TO THE INSTRUCTIONAL SCHOOL MUST CEASE BY 9:00 PM.

4 E. THE DESIGN OF PROPOSED STRUCTURES OR ADDITIONS TO EXISTING STRUCTURES SHALL
5 BE GENERALLY COMPATIBLE IN SCALE AND CHARACTER WITH RESIDENTIAL AND
6 ~~COMMERCIAL~~ PROPERTIES IN THE VICINITY OF THE SITE, AS DEMONSTRATED BY
7 ARCHITECTURAL ELEVATIONS OR RENDERINGS SUBMITTED WITH THE PETITION.

8 F. AT LEAST ONE PERSON INVOLVED IN THE INSTRUCTIONAL SCHOOL OPERATION SHALL
9 RESIDE IN THE STRUCTURE.

10 *Section 2. Be it further enacted by the County Council of Howard County, Maryland, that the*
11 *publisher of the Howard County Zoning Regulations is authorized hereby to amend the*
12 *Conditional Uses and Permissible Zoning Districts chart attached to Section 131 of the*
13 *Zoning Regulations in order to reflect the substantive changes made by this Act.*

14

15 *Section 3. Be it further enacted by the County Council of Howard County, Maryland, that*
16 *this Act shall become effective 61 days after its enactment.*

17

18

19

20

21

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on June 16, 2017.



Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2017.

Jessica Feldmark, Administrator to the County Council

Amendment 1 to Council Bill 31-2017

BY: Calvin Ball
Jon Weinstein

Legislative Day No: 9
Date: 6/5/17

Amendment No. 1

1 (This amendment would add criteria for approval of an Instructional School conditional use,
2 including limitations on the size of the structure, hours of operation, and locations for which
3 the conditional use may be approved. It also requires that someone involved in the operation
4 of the Instructional School live at the proposed site.)
5
6

7 On page 1, in line 24, strike "ADJOINS A NON-RESIDENTIAL ZONING DISTRICT" and
8 substitute "IS WITHIN 500 FEET OF THE CENTER POINT OF THE INTERSECTION OF TWO ARTERIAL
9 ROADS".
10

11 On page 1, strike line 25, and substitute:

12 "B. THE STRUCTURE FOR WHICH THE CONDITIONAL USE IS PROPOSED SHALL NOT
13 EXCEED 4,000 SQUARE FEET. THIS CONDITIONAL USE MAY ONLY BE GRANTED
14 FOR A DWELLING EXISTING AT THE TIME OF THE APPLICATION FOR THE
15 CONDITIONAL USE."
16

17 On page 1, in line 27, after the period insert "ALL PARKING FOR THE INSTRUCTIONAL
18 SCHOOL MUST BE PROVIDED ON-SITE.".
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20 On page 1, in line 29, after the period insert "ALL ACTIVITY RELATED TO THE
21 INSTRUCTIONAL SCHOOL MUST CEASE BY 9:00 PM.".
22

23 On page 1, in lines 31 and 32, beginning at the end of line 31, strike "AND
24 COMMERCIAL".
25

26 On page 1, immediately following line 33, insert the following:
27

28 "F. AT LEAST ONE PERSON INVOLVED IN THE INSTRUCTIONAL SCHOOL OPERATION
29 SHALL RESIDE IN THE STRUCTURE."

ADOPTED

FAILED

SIGNATURE

6/5/17

Jessica Adrenal

Introduced _____
Public hearing _____
Council action _____
Executive action _____
Effective date _____

County Council of Howard County, Maryland

2017 Legislative Session

Legislative day # 6

BILL NO. 31 – 2017 (ZRA – 171)

Introduced by: The Chairperson at the request of Olenka Stasyszyn

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By order _____
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2017.

By order _____
Jessica Feldmark, Administrator

This Bill was read the third time on _____, 2017 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2017 at ___ a.m./p.m.

By order _____
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive _____, 2017

Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

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- 25 B. THE PROPOSED STRUCTURE DOES NOT EXCEED 5,000 SQUARE FEET.
- 26 C. PARKING AREAS SHALL BE LOCATED AND LANDSCAPED TO MINIMIZE THEIR VISIBILITY
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- 28 D. REASONABLE STANDARDS FOR HOURS OF OPERATION SHALL BE PROPOSED BY THE
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BY: Calvin Ball
Jon Weinstein

Legislative Day No: 9
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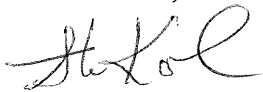
Date: 19 April 2017

Subject: Council Testimony CB31-2017

My name is Stu Kohn and I am the President of the Howard County Citizens Association, HCCA. We are against this Bill and seek denial as recommended by the DPZ and the Planning Board. For both the DPZ and the Planning Board to deny this request or for that matter any request seems to be a rare moment and says a lot that these two bodies agreed that this ZRA should be denied. The real question in this proposal is what is the compelling need?

On 10 April, HCCA sent you a letter suggesting your consideration in declaring a temporary moratorium by sponsoring a Bill or Resolution on Zoning Regulation Amendments (ZRA's). This is based on the fact that the Department of Planning and Zoning is currently in an on-going process of assessment and review leading to a comprehensive update of the Howard County Zoning Regulations. We request that all ZRA's, except simple technical corrections, be held off until the review, amending and implementation of the new zoning regulations are complete. This would go a long way to streamline the process and to eliminate extra work by evaluating newly introduced regulations. Your feedback would be appreciated in this matter.

Thank You,



Stu Kohn
HCCA, President

Lisa Markovitz, President, The People's Voice, LLC

3205 B Corporate Court EC 21042

CB 31- 2017 – Testimony- opposed

Whereas, the people of Howard County appreciate it when the County regulates and does not just facilitate development, and

Whereas, red-headed eskimo zoning is not legal, where zoning is done to accommodate a few or just one project, and

Whereas, spot zoning is not beneficial to the community, and

Whereas, the DPZ and Administration has begun a much needed review and overhaul of zoning regulations with an eye toward more objective and uniformly enforced rules, and

Whereas, everyone has really had enough of conditional use changes that counter good planning, we submit the following:

We oppose CB31 because R20 is a residential district. There are some home-based business uses that have been allowed over time, with a nod toward flexibility of income provision, etc. This bill does not seem to further those sorts of small, general needs that sometimes need addressing.

No, this bill seeks to change the regulations for all, to benefit a specific project that likely doesn't have the legal merit to forward a piecemeal rezoning request, or waiver, I mean alternate compliance, or desire to wait for the next comprehensive rezoning, but instead seeks to place a rather large commercial enterprise into an R20 neighborhood.

The proposed regulation language is vague and subjective, exactly something that should not be done, ever, but especially when zoning regulations are in review for reasons including weeding out just such anomalies. "Reasonable standards", "generally compatible", "demonstrated by.... renderings"such language affords zero safeguards to the zones into which it intercedes its desired incompatible usage.

How do I know it is not going to be a compatible use? Well, saying that it is okay because it's next to a non-residential use is a clue. Saying it "has" to be less than 5000 square feet tells us it's a pretty large building to have plopped into an established neighborhood. It doesn't seem likely it would be compatible, but maybe it would be "generally compatible", seeing as that means whatever anyone would want it to mean.

Boundary lines exist for a reason. Being next to something different, doesn't make it okay to be the same, otherwise, we'd have a domino effect of allowing anything anywhere.

So many areas of the County are in need of commercial development, and there are allowances being made to reduce those requirements, which isn't good planning for the needs of a community filling up with new residents. Now we see this Bill wanting to plop commercial into R20 at 5000 square feet? Older neighborhoods are already having issues with crowded parking needs, adding large commercial usages will only exacerbate this problem.

Please say no, as the DPZ and Planning Board have done. Thank You!



**PETITION TO AMEND THE
ZONING REGULATIONS OF
HOWARD COUNTY**

DPZ Office Use Only:
Case No. ZRA- 171
Date Filed: 8-29-16

1. Zoning Regulation Amendment Request

I (we), the undersigned, hereby petition the County Council of Howard County to amend the Zoning Regulations of Howard County as follows: Amend Section 131.0, to add a Conditional Use for "School, Instructional" that will be permitted for properties adjoining a non-residential zoning district or an existing conditional use in R-20 Districts.

[You must provide a brief statement here. "See Attached Supplement" or similar statements are not acceptable. You may attach a separate document to respond to Section 1 in greater detail. If so, this document shall be titled "Response to Section 1"]

2. Petitioner's Name Olenka Stasyshyn

Address 10207 Baltimore National Pike, Ellicott City, MD 21042

Phone No. (W) (410) 404-3305 (H) _____

Email Address olenka.bren@verizon.net

3. Counsel for Petitioner Sang W. Oh, Esquire, Talkin & Oh, LLP

Counsel's Address 5100 Dorsey Hall Drive, Ellicott City, Maryland 21042

Counsel's Phone No. (410) 964-0300

Email Address soh@talkin-oh.com

4. Please provide a brief statement concerning the reason(s) the requested amendment(s) to the Zoning Regulations is (are) being proposed

To permit owners of property adjoining a non-residential zoning district or an existing conditional uses in the R-20 zone to petition for a conditional use that would allow them to operate an instructional school to teach music, dance, martial arts, yoga, and/or meditation practice. This conditional use would limit any proposed structure to 5,000 square feet or smaller, set the hours of operation at the time of approval, and include criteria that would require that structures be compatible with the character of residential and commercial properties in the vicinity of the site.

2016 AUG 29 AM 11:41

RECEIVED
HOWARD COUNTY COUNCIL

5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with current General Plan for Howard County. See attached Supplemental Statement

[You may attach a separate document to respond to Section 5. If so, this document shall be titled "Response to Section 5"]

6. The Legislative Intent of the Zoning Regulations in Section 100.A. expresses that the Zoning Regulations have the purpose of "...preserving and promoting the health, safety and welfare of the community." Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with this purpose and the other issues in Section 100.A. See attached Supplemental Statement

[You may attach a separate document to respond to Section 6. If so, this document shall be titled "Response to Section 6."]

7. Unless your response to Section 6 above already addresses this issue, please provide an explanation of the public benefits to be gained by the adoption of the proposed amendment(s). See attached Supplemental Statement

[You may attach a separate document to respond to Section 7. If so, this document shall be titled "Response to Section 7."]

8. Does the amendment, or do the amendments, have the potential of affecting the development of more than one property, yes or no? Yes.

If yes, and the number of properties is less than or equal to 12, explain the impact on all properties affected by providing a detailed analysis of all the properties based upon the nature of the changes proposed in the amendment(s). If the number of properties is greater than 12, explain the impact in general terms.

See attached Supplemental Statement

[You may attach a separate document to respond to Section 8. If so, this document shall be titled "Response to Section 8."]

9. If there are any other factors you desire the Council to consider in its evaluation of this amendment request, please provide them at this time. Please understand that the Council may request a new or updated Technical Staff Report and/or a new Planning Board Recommendation if there is any new evidence submitted at the time of the public hearing that is not provided with this original petition. None

[You may attach a separate document to respond to Section 9. If so, this document shall be titled "Response to Section 9."]

10. You must provide the full proposed text of the amendment(s) as a separate document entitled "Petitioner's Proposed Text" that is to be attached to this form. This document must use this standard format for Zoning Regulation Amendment proposals; any new proposed text must be in CAPITAL LETTERS, and any existing text to be deleted must be in **[[Double Bold Brackets]]**. In addition, you must provide an example of how the text would appear normally if adopted as you propose.

After this petition is accepted for scheduling by the Department of Planning and Zoning, you must provide an electronic file of the "Petitioner's Proposed Text" to the Division of Public Service and Zoning Administration. This file must be in Microsoft Word or a Microsoft Word compatible file format, and may be submitted by email or some other media if prior arrangements are made with the Division of Public Service and Zoning Administration.

11. The Petitioner agrees to furnish additional information as may be required by the Department of Planning and Zoning prior to the petition being accepted for scheduling, by the Planning Board prior to its adoption of a Recommendation, and/or by the County Council prior to its ruling on the case.
12. The undersigned hereby affirms that all of the statements and information contained in, or filed with this petition, are true and correct. The undersigned has read the instructions on this form, filing herewith all of the required accompanying information. If the Petitioner is an entity that is not an individual, information must be provided explaining the relationship of the person(s) signing to the entity.

Olenka Stasyshyn
Petitioner's name (Printed or typed)


Petitioner's Signature

8/26/16
Date


Sang W. Oh, Counsel for Petitioner

[If additional signatures are necessary, please provide them on a separate document to be attached to this petition form.]

FEE

The Petitioner agrees to pay all fees as follows:

Filing fee.....\$695.00. If the request is granted, the Petitioner shall pay \$40.00 per 200 words of text or fraction thereof for each separate textually continuous amendment (\$40.00 minimum, \$85.00 maximum)

Each additional hearing night.....\$510.00*

The County Council may refund or waive all or part of the filing fee where the petitioner demonstrates to the satisfaction of the County Council that the payment of the fee would work an extraordinary hardship on the petitioner. The County Council may refund part of the filing fee for withdrawn petitions. The County Council shall waive all fees for petitions filed in the performance of governmental duties by an official, board or agency of the Howard County Government.

APPLICATIONS: One (1) original plus twenty four (24) copies along with attachments.

For DPZ office use only:

Hearing Fee \$ _____

Receipt No. _____

PLEASE CALL 410-313-2395 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION

County Website: www.howardcountymd.gov

Revised:07/12
T:\Shared\Public Service and Zoning\Applications\County Council\ ZRA Application

INSTRUCTIONS TO THE APPLICANT/PARTY OF RECORD

- As required by State Law, applicants are required to complete the **AFFIDAVIT AS TO CONTRIBUTION** that is attached, and if you have made a contribution as described in the Affidavit, please complete the **DISCLOSURE OF CONTRIBUTION** that is attached.
- If you are an applicant, Party of Record (i.e., supporter/protestant) or a family member and have made a contribution as described in the Affidavit, you must complete the **DISCLOSURE OF CONTRIBUTION** that is attached.
- Filed affidavits and disclosures will be available for review by the public in the office of the Administrative assistant to the Zoning Board during normal business hours.
- Additional forms may be obtained from the Administrative Assistant to the Zoning Board at (410-313-2395) or from the Department of Planning and Zoning.
- Completed form may be mailed to the Administrative Assistant to the Zoning Board at 3430 Courthouse Drive, Ellicott City, MD 21043.
- Pursuant to State Law, violations shall be reported to the Howard County Ethics Commission.

PETITIONER: Olenka Stasyshyn

AFFIDAVIT AS TO CONTRIBUTION

**As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850**

I, Olenka Stasyshyn, the applicant in the above zoning matter

_____, HAVE X _____, HAVE NOT

made any contribution or contributions having a cumulative value of \$500 or more to the treasurer of a candidate or the treasurer of a political committee during the 48-month period before application in or during the pendency of the above referenced zoning matter.

I understand that any contribution made after the filing of this Affidavit and before final disposition of the application by the County Council shall be disclosed within five (5) business days of the contribution.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Printed Name: Olenka Stasyshyn
Signature: Olenka Stasyshyn
Date: 8/26/16

PETITIONER: Olenka Stasyshyn

DISCLOSURE OF CONTRIBUTION

**As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850**

This Disclosure shall be filed by an Applicant upon application or by a Party of Record within 2 weeks after entering a proceeding, if the Applicant or Party of Record or a family member, as defined in Section 15-849 of the State Government Article, has made any contribution or contributions having a cumulative value of \$500 or more to the treasurer of a candidate of the treasurer of a political committee during the 48-month period before the application was file or during the pendency of the application.

Any person who knowingly and willfully violates Sections 15-848-15-850 of the State Government Article is subject to a fine of not more than \$5,000. If the person is not an individual, each officer and partner who knowingly authorized or participated in the violation is subject to the same penalty.

APPLICANT OR PARTY OF RECORD: Olenka Stasyshyn

RECIPIENTS OF CONTRIBUTIONS:

<u>Name</u>	<u>Date of Contribution</u>	<u>Amount</u>
<u>n/a</u>		

I understand that any contribution made after the filing of this Disclosure and before final disposition of the application by the County Council shall be disclosed with five (5) business days of the contribution.

Printed Name: Olenka Stasyshyn
Signature: Olenka Stasyshyn
Date: 8/26/16

PETITIONER: Olenka Stasyshyn

AFFIDAVIT AS TO ENGAGING IN BUSINESS WITH AN ELECTED OFFICIAL

**As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850**

I, Olenka Stasyshyn, the applicant in the above zoning matter
_____, AM X _____, AM NOT

Currently engaging in business with an elected official as those terms are defined by Section 15-848 of the State Government Article of the Annotated Code of Maryland.

I understand that if I begin engaging in business with an elected official between the filing of the application and the disposition of the application, I am required to file an affidavit in this zoning matter at the time of engaging in business with elected official.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Printed Name: Olenka Stasyshyn
Signature: Olenka Stasyshyn
Date: 8/26/16

**Petition to Amend the Zoning Regulations
Of Howard County**

Supplemental Statement

5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with the current General Plan for Howard County.

The proposed Zoning Regulation Amendment is necessary to increase the availability and accessibility of instructional schools in Howard County, and is in harmony with many of the policy goals presented in PlanHoward 2030 ("PlanHoward"). First, consistent with Policy 8.13, the proposed amendment will enhance community recreational opportunities by expanding the availability of music, dance, martial art, yoga, and meditation instruction throughout the County. Under current zoning, instructional schools are relegated to commercial zones and not integrated within residential communities, despite the low intensity of the use. PlanHoward explicitly recognizes the relationship between accessibility of recreational activities and quality of life. PlanHoward at 113. By allowing schools that will provide instruction in music, dance, and other skill-based exercises in residential zones, residents will have greater and more convenient access to healthy activity and enrichment, both for themselves and their children.

Second, the proposed amendment is in harmony with Policy 10.3, which encourages policy-makers to "[e]xpand the range and scope of community planning to identify... services...or other amenities that would create more complete communities and reflect community diversity." In terms of the intensity of the use, instructional schools are entirely compatible with residential zones and are comparable to child day care facilities and other home occupations, which have consistently been permitted as a conditional use in such zones. Similarly, many of the kinds of instruction included within the definition "instructional schools" can easily be accommodated, and often are taught, within the home of the instructor. Instructional schools are an appropriate service to be incorporated into residential zones for the purpose of creating more complete communities that reflect community diversity.

Finally, the proposed amendment promotes "location efficient" housing by locating instructional schools in closer proximity to students and encouraging less reliance on our roads. Under existing zoning, many of the activities included in the proposed definition are only permitted in the B-2, NT, and related overlay districts. As a result, students of these disciplines customarily have to drive a significant distance to attend classes, often during rush hour time periods. Allowing instructional schools in the R-20 zone as a conditional use would broaden the availability of such schools and decrease the distance any given student would need to travel to attend classes.

6. The Legislative Intent of the Zoning Regulations in Section 100.A. expresses that the Zoning Regulations have the purpose of "...preserving and promoting the health, safety and welfare of the community." Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with this purpose and the other issues in Section 100.A.

Instructional schools such as those included under the proposed amendment are commonly “priced out” of the commercial districts for which they are zoned. The proposed amendment will preserve and promote the health, safety and welfare of the community by increasing the availability of these health and enrichment activities. Furthermore, music instruction may only be offered in districts that allow Commercial Schools by right¹ and is not permitted under any existing conditional use. This is overly restrictive and, in light of the high rents noted above, will ultimately operate to limit the ability of Howard County students to receive private musical instruction.

Under the current Zoning Regulations, instructional schools for activities such as dance, martial arts, or yoga are subsumed within the definition of “Athletic Facility, Commercial”, which includes rock climbing gyms, weight training centers, swimming pools, and other more intense uses. This over-broad definition arbitrarily includes all indoor exercise activities without differentiation for intensity of use. In failing to allow flexibility for the placement of these less intense indoor activities, existing zoning regulations fail to adequately address the full spectrum of athletic instruction, some of which would be entirely appropriate for residential zones.

Instructional schools are distinguishable from the other uses listed under “Athletic Facility, Commercial” and should not be limited to this definition.² First, unlike other athletic facilities that may have a steady flow of participants from open to close, instructional schools operate under a regimented schedule of classes or lessons that may, in the conditional use context, be limited with regard to size and/or frequency of classes. Second, a large proportion of instructional school students are school-aged children compared to athletic facilities that cater primarily to adults. As noted above, instructional schools are more appropriately compared to private schools or child day care facilities than the general category of “athletic facilities”. The proposed amendment corrects this over-generalization.

7. Unless your response to Section 6 above already addresses this issue, please provide an explanation of the public benefits to be gained by the adoption of the proposed amendment(s).

As stated throughout this supplement, this ZRA will operate to increase the availability of athletic, recreational, and enrichment activities for Howard County youth and adults. While Howard County has adopted numerous policies to promote healthy lifestyles, this amendment would incorporate that policy goal into the county’s zoning regulations where it is otherwise absent. Instructional schools provide educational, disciplinary, and health benefits to students both in and out of the classroom. Consistent with everything else Howard County is doing to promote healthier living, the proposed amendment will aid in the accessibility of instructional schools and allow them to be built closer to those who use them.

8. Does the amendment, or do the amendments, have the potential of affecting the development of more than one property, yes or no? Yes.
If yes, and the number of properties is less than or equal to 12, explain the impact on all properties affected by providing a detailed analysis of all the properties based upon the

¹ Musical instruction for groups of six or less may be offered as a “Home Occupation”.

² Note: This ZRA does not amend the definition of “Athletic Facility, Commercial”.

nature of the changes proposed in the amendment(s). If the number of properties is greater than 12, explain the impact in general terms.

The proposed amendment would potentially impact all properties in the R-20 zone that are adjoining a non-residential zoning district or an existing conditional use, but only insofar as the property owner would be able to petition for approval of this conditional use. As with all conditional uses, any petition under this amendment would be evaluated for compliance with the proposed criteria and adverse impacts above and beyond those ordinarily associated with the use. The criteria included in the proposed amendment would mitigate against most adverse impacts associated with the proposed use, including sound, light, and traffic.

Proposed Text
CONDITIONAL USE ZRA

Amend Section 131.0.N. as follows:

49. School, Instructional

A Conditional Use may be granted in the R-20 District for schools providing instruction in music, dance, martial arts, yoga, and meditation practice, provided that:

- a. The parcel adjoins a non-residential zoning district or a property for which a conditional use has been granted.
- b. The proposed structure does not exceed 5,000 square feet.
- c. Parking areas shall be located and landscaped to minimize their visibility from adjacent residential properties.
- d. Reasonable standards for hours of operation shall be proposed by the petitioner and established by the Hearing Authority for each use.
- e. The design of proposed structures or additions to existing structures shall be generally compatible in scale and character with residential and commercial properties in the vicinity of the site, as demonstrated by architectural elevations or renderings submitted with the petition.

RENUMBER SUBSEQUENT CONDITIONAL USES ACCORDINGLY



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Courthouse Drive

Ellicott City, Maryland 21043

410-313-2350

Voice/Relay

Valdis Lazdins, Director

FAX 410-313-3467

December 1, 2016

TECHNICAL STAFF REPORT

Planning Board Meeting of December 15, 2016

Case No/Petitioner: ZRA-171 - Olenka Stasysbyn

Request: Amend Section 131.0 to establish a Conditional Use category - School, Instructional for the teaching of music, dance, martial arts, yoga and/or meditation practice in the R-20 District.

I. BACKGROUND

The R-20 District permits single-family detached dwelling units at approximately two units per acre. The R-20 District is located in the eastern portion of the County within the Planned Service Area and in some instances within close proximity to commercial centers. The District reflects the established single-family neighborhood characteristics of many of the stable residential areas of the county.

The Howard County Zoning Regulations (HCZR) permit music, dance, martial arts, yoga and/or mediation studios as a matter of right in certain commercial districts. Additionally, dance studios are contained within the definition of Commercial Athletic Facilities and fine or performing arts are contained within the definition of Commercial Schools. Commercial Athletic Facilities are a permitted Conditional Use in the RC and RR Districts.

The 2013 Comprehensive Zoning Plan implemented significant changes to the Accessory Use Home Occupation category and the Home Occupation Conditional Use categories to expand options for home-based businesses. The Accessory Use Home Occupation category was amended to increase the number of students allowed for instruction from one to six and the 800 square foot limitation was eliminated. Additionally, the Home Occupation Conditional Use category was amended to allow the instruction of more than six students and to allow the floor space devoted to the home occupation to exceed 33% of a dwelling.

II. DESCRIPTION AND EVALUATION OF PROPOSAL

This section contains DPZ's technical evaluation of ZRA-171. The Petitioner's proposed amendment text is attached to this Technical Staff Report as Exhibit A, Petitioner's Proposed Text.

Section 131.0.N.49 – Add new Conditional Use category entitled School, Instructional in R-20

The Petitioner proposes to add a new Conditional Use category, School, Instructional, for the teaching of music, dance, martial arts, yoga and/or meditation practice in the R-20 District subject to the following criteria:

- A. The parcel adjoins a non-residential zoning district or a property for which a conditional use has been granted.

- B. The proposed structure does not exceed 5,000 square feet.
- C. Parking areas shall be located and landscaped to minimize their visibility from adjacent residential properties.
- D. Reasonable standards for hours of operation shall be proposed by the petitioner and established by the hearing authority for each use.
- E. The design of proposed structures or additions to existing structures shall be generally compatible in scale and character with residential and commercial properties in the vicinity of the site, as demonstrated by architectural elevations or renderings submitted with the petition.

DPZ recommends denial of ZRA-171 for the reasons described below.

Limited in scope and inconsistent with similar use categories:

Establishing a Conditional Use category in only one District is limited in scope, and while not unprecedented in the HCZR, typically occurs in the RR and RC Districts where commercially zoned land is limited. The petition contains no explanation for limiting the proposed use to only one zoning district. Rather, the Petitioner asserts that the proposed use is consistent with the R-20 District because it is similar to the types of instruction permitted through the Home Occupation Conditional Use category and is no more intense than the Child Day Care Facility Conditional Use. While DPZ agrees that the intensity of the proposed uses is similar to a Child Care Facility, it should be noted that Home Occupation and Child Day Care Facility Conditional Uses are permitted in multiple residential districts.

Lacks protection for adjacent residential properties:

DPZ recognized the trend toward home instruction and addressed it in the 2013 Comprehensive Zoning Plan by easing restrictions within the Accessory Use Home Occupation and Home Occupation Conditional Use categories (see Background Section). However, these use categories contain protections to minimize impacts on adjacent residential properties. For example, the Home Occupation Conditional Use category limits the number of nonresident employees and requires the operator of the business to reside in the dwelling. Child Day Care Facilities require a one-acre lot size minimum in R-20 and contain additional criteria to mitigate potential adverse impacts. Existing commercial/service related Conditional Uses, such as barber shops, pet grooming, home occupations, etc. also contain a residency requirement that lessens the impact on the surrounding neighborhood.

The proposed amendments do not limit the number of nonresident employees, do not include a residency requirement, and would permit a 5,000 square foot commercial use in a residential neighborhood. The R-20 district was created to protect established single family neighborhoods from commercial intrusion. The commercial nature of the proposed uses, in conjunction with the proposed criteria, lacks sufficient protections to ensure compatibility with neighboring residential uses.

Sufficient opportunities already exist:

The Home Occupation Conditional Use category provides opportunity for the desired instructional uses while ensuring compatibility with adjacent residential properties. Additionally, establishing the proposed use is unnecessary in the eastern portion of the county where commercial land is readily available and in close proximity to residential districts.

Criterion specific issues:

1. Incorrect Section Reference- The petition request is made under Section 131.0.N.49, however new Conditional Use categories established after the effective date of the current Zoning Regulations are listed in Section 131.0.O. Should the amendment be approved, the correct section reference for the proposal is 131.0.O.2.
2. Subsection A- The criterion that a proposed Conditional Use may be granted if adjoining an existing Conditional Use is unprecedented in the Zoning Regulations and is problematic due to the potential expiration, revocation, or change of use that could jeopardize the legality of the Conditional Use. Additionally, the cumulative effect of allowing commercial uses next to other conditional uses without limitation could drastically alter the character of a residential neighborhood. If ZRA-171 is approved, DPZ strongly recommends deletion of this criterion.
3. Subsection B- A 5,000 square foot commercial building in the R-20 district would likely be out of scale with adjacent properties. Other Conditional Uses such as Child Day Care Facilities require a minimum one-acre lot size. If approved, a similar lot size requirement should be applied to these uses as well.
4. Subsection E- If ZRA-171 is approved, DPZ recommends striking the terms “commercial properties, as existing commercial properties may not be compatible in scale and character with surrounding residential.

III. GENERAL PLAN

The Petitioner asserts that ZRA-171 is in harmony with Policies 8.13 and 10.3 of the PlanHoward 2030 General Plan.

Policy 8.13

“Enhance community recreational opportunities.”

Implementing Action a. Cooperation with Howard County Public School System.

“Continue to collaborate on the design, development, management, and maintenance of shared recreation facilities and programs on school sites.”

While DPZ generally concurs that recreational opportunities should be available within communities, the noted General Plan Policy reference is more closely aligned with public facilities and programs on school sites and is not directly relevant to the proposal.

Policy 10.3

“Enhance the County’s existing high quality of life and sustainability through community-based planning and design for both Established Communities and areas designated for Targeted Growth and Revitalization”.

Implementing Action a. Community Planning.

“Expand the range and scope of community planning to identify facilities, services, transportation options, environmental enhancements, arts and cultural opportunities, or other amenities that would create more complete communities and reflect community diversity”.

The petition asserts that instructional schools are compatible with residential zones and comparable to child day care facilities and other home occupations. DPZ contends that the 2013 Comprehensive Zoning Plan amendments sufficiently addressed the need for instruction as a Home Occupation Conditional Use in residential districts and the proposed amendment is not necessary.

IV. AGENCY COMMENTS

The Department of Recreation and Parks, and the Bureau of Environmental Health had no comments on ZRA-171.

VI. RECOMMENDATION

For the reasons stated above, the Department of Planning and Zoning recommends **DENIAL** of ZRA-171.

Approved by:


Valdis Lazdins, Director

12/1/16
Date

NOTE: The file on this case is available for review at the Public Service Counter in the Department of Planning and Zoning.

EXHIBIT A - PETITIONER'S PROPOSED TEXT

(CAPITALS indicate text to be added; [[brackets indicate text to be deleted]])

SECTION 131.0.N - CONDITIONAL USES

49. SCHOOL, INSTRUCTIONAL

A CONDITIONAL USE MAY BE GRANTED IN THE R-20 DISTRICT FOR SCHOOLS PROVIDING INSTRUCTION IN MUSIC, DANCE, MARTIAL ARTS, YOGA, AND MEDITATION PRACTICE, PROVIDED THAT:

- F. THE PARCEL ADJOINS A NON-RESIDENTIAL ZONING DISTRICT OR A PROPERTY FOR WHICH A CONDITIONAL USE HAS BEEN GRANTED.
- G. THE PROPOSED STRUCTURE DOES NOT EXCEED 5,000 SQUARE FEET.
- H. PARKING AREAS SHALL BE LOCATED AND LANDSCAPED TO MINIMIZE THEIR VISIBILITY FROM ADJACENT RESIDENTIAL PROPERTIES.
- I. REASONABLE STANDARDS FOR HOURS OF OPERATION SHALL BE PROPOSED BY THE PETITIONER AND ESTABLISHED BY THE HEARING AUTHORITY FOR EACH USE.
- J. THE DESIGN OF PROPOSED STRUCTURES OR ADDITIONS TO EXISTING STRUCTURES SHALL BE GENERALLY COMPATIBLE IN SCALE AND CHARACTER WITH RESIDENTIAL AND COMMERCIAL PROPERTIES IN THE VICINITY OF THE SITE, AS DEMONSTRATED BY ARCHITECTURAL ELEVATIONS OR RENDERINGS SUBMITTED WITH THE PETITION.

1 OLENKA STASYSHYN, * BEFORE THE
2 PETITIONER * PLANNING BOARD OF
3 ZRA-171 * HOWARD COUNTY, MARYLAND

4 * * * * *

5 MOTION: *To recommend denial of the petition in accordance with the Department of*
6 *Planning and Zoning recommendation.*

7 ACTION: *Recommended denial; Vote 5 to 0.*

8 * * * * *

9 RECOMMENDATION

10 On December 15, 2016, the Planning Board of Howard County, Maryland, considered the petition of
11 Olenka Stasyshyn for a Zoning Regulation Amendment to Amend Section 131.0 to establish a Conditional
12 Use category - School, Instructional for the teaching of music, dance, martial arts, yoga and/or meditation
13 practice in the R-20 District.

14 The Planning Board considered the petition, the Department of Planning and Zoning (DPZ) Technical
15 Staff Report and Recommendation, and the comments of reviewing agencies. DPZ recommended denial of
16 the petition, siting that the proposed amendments are inconsistent with similar use categories, lack protection
17 for adjacent residential properties, and sufficient opportunity exists for the proposed use through the Home
18 Occupation Conditional Use category.

19 The Petitioner, represented by Thomas Coale, stated that are numerous residential properties within
20 the County adjacent to major roadways and commercial zoning districts that are no longer viable as
21 residential uses. He emphasized that the proposed use allows light health and wellness uses that are
22 appropriate for transitional parcels adjacent to commercial zoning districts. He stated that the R-20 zoning
23 district was suggested because it requires larger lots that can accommodate development requirements such as
24 parking and buffers. Furthermore, he indicated that the inclusion of the activities identified in the proposed
25 use in the commercial athletic facility and commercial school land use categories is not appropriate, since
26 they do not have the same level of impact. Additionally, he claimed that commercial rental rates price out the
27 activities identified in the proposed use; therefore, conversion of existing residential buildings in transitional
28 areas is a viable option for these businesses.

29 Board Discussion and Recommendation

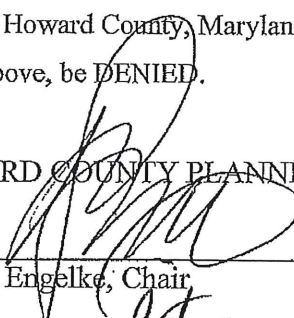
30 In work session, the Planning Board acknowledged that there may be properties in R-20 that are
31 appropriate for the proposed use, but were opposed to allowing it in all R-20 zoned area. A board member
32 stated that converting residential buildings into businesses has not produced a desirable result and the practice
33 should not be continued. The Board expressed concern regarding parking and traffic impacts the proposed use

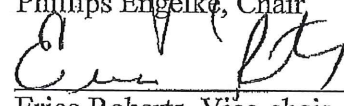
1 may have on adjacent residential properties. A board member stated that there are numerous commercial
2 properties available in the County that can accommodate the proposed use.

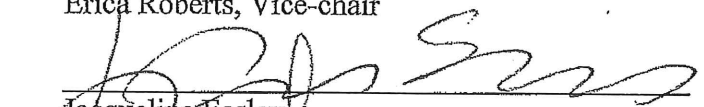
3 Erica Roberts made the motion to recommend approval of the petition in accordance with the
4 Department of Planning and Zoning recommendation. Delphine Adler seconded the motion. The motion
5 passed by a vote of 5 to 0.

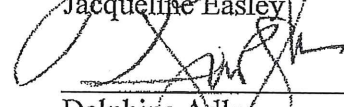
6 For the foregoing reasons, the Planning Board of Howard County, Maryland, on this 2nd day of
7 March, 2017, recommends that ZRA-171, as described above, be DENIED.


8
9 HOWARD COUNTY PLANNING BOARD

10
11 
Phillips Engelke, Chair

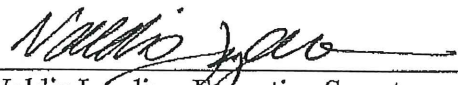
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13 
Erica Roberts, Vice-chair

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15 
Jacqueline Easley

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Delphine Adler

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Ed Coleman

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23 ATTEST:

24 
25 Valdis Lazdins, Executive Secretary
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