

Introduced February 3, 2020
Public Hearing Feb. 18, 2020 & June 1, 2020
Council Action June 1, 2020
Executive Action June 2, 2020
Effective Date August 2, 2020

County Council of Howard County, Maryland

2020 Legislative Session

Legislative day # 2

BILL NO. 9-2020 (ZRA-188)

Introduced by:

The Chairperson at the request of Glenelg Country School

AN ACT amending the Howard County Zoning Regulations pertaining to conditional uses to ~~allow the Hearing Authority to grant variances to certain setbacks~~ allowing the Hearing Authority to consider the terms of certain easements and to grant a variance under certain conditions; establishing for a child day care center that is and nursery school as an accessory use to a private academic school conditional use under specified conditions; limiting this Act to private academic schools; and generally relating to Howard County Zoning Regulations.

Introduced and read first time February 3, 2020. Ordered posted and hearing scheduled.

By order Diane Schwartz Jones
Diane Jones, 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 February 18, 2020, and June 1st, 2020

By order Diane Schwartz Jones
Diane Jones, Administrator

This Bill was read the third time on June 1, 2020 and Passed , Passed with amendments , Failed .

By order Diane Schwartz Jones
Diane Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 2nd day of June, 2020 at 11:30 a.m.

By order Diane Schwartz Jones
Diane Jones, Administrator

Approved/Vetoed by the County Executive June 2, 2020

Calvin Ball
Calvin Ball, 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 County*
2 *Zoning Regulations are amended as follows:*

3
4 *By Amending Subsections D, F, and N(48) of Section 131.0: - Conditional Uses.*

5
6 **Howard County Zoning Regulations.**

7 **SECTION 131.0: - Conditional Uses.**

8
9 SECTION 131.0: - Conditional Uses.

10 D. Compliance with Specific Requirements for a Conditional Use

- 11 1. A Conditional Use shall comply with the requirements for the specific use given in
12 Section 131.0.N AND 131.0.O. Variances may not be granted to the requirements of
13 Section 131.0.N AND 131.0.O except for modifications or expansions of existing
14 Conditional Uses in accordance with Section 131.0.D.4 below AND EXCEPT AS PROVIDED
15 IN SECTION 131.0.D.5 AND SECTION 131.0.D.6.
- 16 2. Where a minimum lot size is given in Section 131.0.N AND 131.0.O for a Conditional
17 Use, such a requirement shall not be deemed to prohibit the establishment of the
18 Conditional Use on a lot which complies with the minimum area requirement and is also
19 used for other Conditional Uses or uses permitted as a matter of right.
- 20 3. If more than one Conditional Use is located on a lot and the specific requirements of
21 Section 131.0.N OR 131.0.O for the Conditional Uses are in conflict, the more stringent
22 requirements shall apply to all Conditional Uses on the site.
- 23 4. The Hearing Authority may approve variances to the bulk regulations in Section
24 131.0.N, in accordance with the variance provisions of Section 130.0.B. for modifications
25 and expansions of:
- 26 a. Existing Conditional Uses that were approved prior to July 12, 2001; and
27 b. Conditional Uses filed on or before March 5, 2001, and approved after July 12,
28 2001.
- 29 ~~5. THE HEARING AUTHORITY MAY APPROVE VARIANCES TO ANY SETBACKS REQUIRED BY~~
30 ~~SECTION 131.0.N AND SECTION 131.0.O, IN ACCORDANCE WITH THE VARIANCE PROVISIONS~~
31 ~~OF SECTION 130.0.B.~~
- 32 5. AT A HEARING TO CONSIDER A VARIANCE PETITION OR CONDITIONAL USE PROPOSED FOR A

1 PRIVATE ACADEMIC SCHOOL, INCLUDING A COLLEGE OR UNIVERSITY WITHIN AN EASEMENT
2 AREA, THE HEARING AUTHORITY SHALL PROCEED IF THE HEARING AUTHORITY
3 DETERMINES THAT THE PROPOSED USE OR VARIANCE IS CONSISTENT WITH THE TERMS AND
4 CONDITIONS OF ANY EXCLUSIVE EASEMENT THAT THE PETITIONER SUBMITS AND RELIES ON
5 AS PART OF THE PETITION AND THE HEARING AUTHORITY IS SATISFIED THAT EACH FEE
6 SIMPLE PROPERTY OWNER OF A PROPERTY SUBJECT TO THE PETITION HAS BEEN NOTIFIED IN
7 WRITING. A DETERMINATION OF CONSISTENCY DOES NOT BIND A COURT IN ANY
8 PROCEEDING RELATED TO THE MATTER.

- 9 6. THIS PARAGRAPH APPLIES ONLY TO PRIVATE ACADEMIC SCHOOLS, INCLUDING COLLEGES AND
10 UNIVERSITIES. ANY SETBACK REQUIRED BY SECTION 131.0.N OR SECTION 131.0.O, OR BY
11 THE UNDERLYING ZONING DISTRICT, SHALL NOT APPLY IF THE PROPERTY FROM WHICH THE
12 SETBACK IS MEASURED IS (A) OWNED BY THE PETITIONER, OR (B) PROPERTY OVER WHICH
13 THE PETITIONER OR ITS PREDECESSOR WAS GRANTED HAS A RECORDED EXCLUSIVE
14 EASEMENT OR SIMILAR RECORDED INSTRUMENT AND THE PETITIONER OWNS THE PROPERTY
15 ON THE OPPOSITE SIDE OF THE EASEMENT FROM THAT PORTION OF THE PROPERTY WHERE THE
16 SETBACK WOULD NOT APPLY. THE HEARING AUTHORITY SHALL CONSIDER MULTIPLE
17 ADJACENT EXCLUSIVE PIPESTEM EASEMENTS AS A SINGLE EASEMENT IF THE TOTAL WIDTH
18 OF THE ADJACENT PIPESTEM EASEMENTS DOES NOT EXCEED A TOTAL WIDTH OF 75 FEET”.
19 ~~THE VALIDITY AND LEGALITY OF THE RECORDED EASEMENT OR SIMILAR RECORDED~~
20 ~~INSTRUMENT SHALL BE PRESUMED, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES~~
21 ~~UNDER THE RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT ARE NOT~~
22 ~~RELEVANT TO THE DETERMINATION TO BE MADE UNDER THIS SECTION 131.0.D.6.~~

23 F. Pre-Submission Community Meeting, Petition and Public Hearing

- 24 1. A pre-submission community meeting is required prior to the initial submittal of a
25 petition for a Conditional Use subject to the same procedures for such meetings as
26 specified in Section 16.128 of the Subdivision and Land Development Regulations,
27 and the following additional provisions:
- 28 a. Citizens may request a meeting with a staff member of the Department of
29 Planning and Zoning to review the development proposal after the petition has
30 been formally submitted to the Department.
 - 31 b. The purposes of the pre-submission community meeting are to allow the
32 petitioner to provide information to the community regarding the proposed

1 Conditional Use and to allow community residents to ask questions and
2 discuss any issues they have concerning the proposal.

- 3 c. If the petitioner does not submit the petition to the Department of Planning
4 and Zoning within 1 year of the pre-submission community meeting, the
5 petitioner shall hold another pre-submission community meeting, subject to
6 the same notification and posting requirements as the first pre-submission
7 community meeting.

8 2. A petition for Conditional Use shall be submitted to the Department of Planning and
9 Zoning and shall include:

- 10 a. A Conditional Use plan which shows all existing and proposed uses,
11 structures, parking areas, points of ingress and egress, landscaping, and the
12 approximate location of relevant natural features which shall include
13 wetlands, steep slopes, and tree and forest cover.
- 14 b. Information regarding noise, dust, fumes, odors, lighting levels, vibrations,
15 non-sewage solid waste, hazards or other physical conditions resulting from
16 the use which may adversely impact vicinal properties.
- 17 c. A statement that indicates:
- 18 (1) Whether the property is served by public or private water and sewage
19 disposal;
- 20 (2) That additional information can be obtained from the Howard County
21 Health Department; and
- 22 (3) The current address of the Howard County Health Department.
- 23 d. Supporting documentation, such as traffic studies, market studies, and noise
24 studies, may be required by the Department of Planning and Zoning at its
25 discretion or by these Regulations.
- 26 e. For expansion or modification of an existing Conditional Use, the
27 Department of Planning and Zoning may require information regarding
28 compliance with previous requirements and conditions.

29 ~~F. WRITTEN AUTHORIZATION FROM THE PROPERTY'S OWNER (IF OTHER THAN THE~~
30 ~~PETITIONER), WHICH AUTHORIZATION MAY BE IN THE FORM OF A RECORDED~~
31 ~~EASEMENT OR SIMILAR RECORDED INSTRUMENT. THE VALIDITY AND LEGALITY~~
32 ~~OF THE RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT SHALL BE~~

1 PRESUMED, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THE
2 RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT ARE NOT RELEVANT
3 TO THE DETERMINATION TO BE MADE UNDER THIS SECTION 131.0.F.2.F.

4 F. THIS PARAGRAPH APPLIES ONLY IF THE PETITIONER IS A PRIVATE ACADEMIC SCHOOL,
5 INCLUDING A COLLEGE OR UNIVERSITY. WRITTEN AUTHORIZATION FROM THE
6 PROPERTY'S OWNER (IF OTHER THAN THE PETITIONER). THE AUTHORIZATION
7 MAY BE IN THE FORM OF A RECORDED EXCLUSIVE EASEMENT.

8 [[f.]] G. After a petition for a Conditional Use has been determined to be
9 officially accepted by the Department of Planning and Zoning and a hearing
10 date has been scheduled, the petition materials shall not be revised or replaced
11 prior to the hearing. The technical staff report shall be based upon the
12 materials in the petition at the time of acceptance. Supplemental materials
13 may only be presented in testimony to the Hearing Authority.

14 3. Department of Planning and Zoning's Findings and Recommendations.

15 a. The Department of Planning and Zoning shall transmit its findings and
16 recommendations concerning a Conditional Use petition to the Hearing
17 Authority at least 7 days prior to the public hearing on a petition, provided,
18 however, the Hearing Authority may reduce or waive this requirement in
19 advance.

20 b. At any time any individual may submit a question to the staff of the
21 Department of Planning and Zoning and related agencies concerning the
22 findings and recommendations of the Department or related agencies. If a
23 written response is requested, the question should be submitted in writing to
24 the Department or Agency.

25 4. During the hearing either party may direct a question concerning the findings and
26 recommendations of the Department of Planning and Zoning or related agencies to
27 the Hearing Authority, and the Hearing Authority shall determine whether staff of the
28 Department or related agencies shall respond and the form of the response.

29 5. A response by the Department of Planning and Zoning and related agencies to a
30 question concerning the Technical Staff Report may be considered by the Hearing
31 Authority only if the response is in writing.

32 6. The Hearing Authority shall hold at least one public hearing on the petition in

1 accordance with Section 2.203 of the Howard County Code, and shall approve,
2 disapprove or approve with conditions, the proposed development or use. Each decision
3 by the Hearing Authority shall be in writing and shall state the reasons for the decision.

4 N. Conditional Uses and Permissible Zoning Districts

5 48. Schools, Colleges, Universities—Private (Academic)

6 A Conditional Use may be granted in the RC and RR Districts, on properties that are not
7 ALPP purchased or dedicated easement properties, and in the R-20, R-ED, R-12, R-
8 SC, R-SA-8, R-H-ED, R-A-15, R-APT, R-MH, or R-VH Districts for private
9 academic schools, colleges and universities, [[(not including nursery schools)]]
10 WHICH MAY INCLUDE CHILD DAY CARE CENTERS AND NURSERY SCHOOLS AS AN
11 ACCESSORY USE, provided that:

12 a. The maximum density permitted is 60 pupils per acre for lots less than three
13 acres, and 100 pupils per acre for lots three acres or greater.

14 b. In addition to meeting the minimum area requirements above, schools with
15 residence accommodations shall provide an additional 500 square feet of lot area per
16 site resident. Residents shall include students, staff members, caretakers and their
17 families who reside on the site.

18 c. A private school may be erected to a greater height than permitted in the
19 respective district, provided that no structure is more than three stories in height and
20 the front, side and rear setbacks shall be increased two feet for each foot by which
21 such structure exceeds the height limitation.

22 d. Sufficient off-street school bus loading areas shall be provided if bus service is
23 provided for students.

24 e. Outdoor uses will be located and designed to shield residential property from
25 noise or nuisance. Play areas, athletic fields and similar uses shall be buffered from
26 residential properties by fencing, landscaping, adequate distance or other appropriate
27 means.

28 f. Buildings, parking areas and outdoor activity areas will be at least 50 feet from
29 adjoining residentially-zoned properties other than a public road right-of-way.

30 g. At least 20% of the area within the building envelope will be green space, not
31 used for buildings, parking area or driveways. The building envelope is formed by the
32 required structure setbacks from property lines and public street rights-of-way.


1 h. The site has frontage on and direct access to a collector or arterial road
2 designated in the General Plan, except that expansions of a Conditional Use that was
3 approved prior to July 12, 2001 are permitted.

4 i. The minimum lot size in the RC and RR Districts for a new private academic
5 facility is three acres. The minimum lot size in the R-20, R-ED, R-12, R-SC, R-SA-8,
6 R-H-ED, R-A-15, R-APT, R-MH, or R-VH Districts for a new private academic
7 facility is one acre. An existing private academic facility is not required to comply
8 with this criteria.

9
10 *Section 2. Be it further enacted by the County Council of Howard County, Maryland, that this Act shall*
11 *become effective 61 days after its enactment.*

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on June 2, 2020.


Diane Schwartz Jones, 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 _____, 2020.

Diane Schwartz Jones, 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 _____, 2020.

Diane Schwartz Jones, 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 _____, 2020.

Diane Schwartz Jones, 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 _____, 2020.

Diane Schwartz Jones, 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 _____, 2020.

Diane Schwartz Jones, Administrator to the County Council

Introduced February 3, 2020
Public Hearing February 18 + June 1, 2020
Council Action June 1, 2020
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2020 Legislative Session

Legislative day # 2

BILL NO. 9 - 2020 (ZRA-188)

Introduced by:
The Chairperson at the request of Glenning Country School

AN ACT amending the Howard County Zoning Regulations pertaining to conditional uses to allow the Hearing Authority to grant variances to certain setbacks for a child day care center that is an accessory use to a private academic school conditional use under specified conditions; and generally relating to Howard County Zoning Regulations.

Introduced and read first time February 3, 2020. Ordered posted and hearing scheduled.

By order Diane Schwartz Jones
Diane Jones, 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 February 18, 2020.

By order Diane Schwartz Jones
Diane Jones, Administrator

This Bill was read the third time _____, 2020 and Passed _____, Passed with amendments _____, Failed _____.

Tabled March 2nd
Removed from Table April 6th & extended & put back on the table
5/04 - removed from table, extended & placed back on table
Sealed with the County Seal and presented to the County Executive for approval this _____ day of _____, 2020 at _____ a.m./p.m.

By order _____
Diane Jones, Administrator

6/01/2020 - 2nd hearing
6/01/2020 - amended & adopted

By order _____
Diane Jones, Administrator

Approved/Vetoed by the County Executive _____, 2020

Calvin Ball, 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 County*
2 *Zoning Regulations are amended as follows:*

3
4 *By Amending Subsections D, F, and N(48) of Section 131.0: - Conditional Uses.*

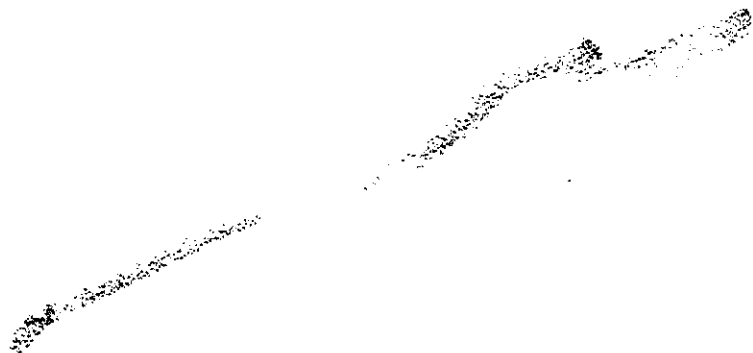
5
6 **Howard County Zoning Regulations.**

7 **SECTION 131.0: - Conditional Uses**

8
9 SECTION 131.0: - Conditional Uses.

10 D. Compliance with Specific Requirements for a Conditional Use

- 11 1. A Conditional Use shall comply with the requirements for the specific use given in
12 Section 131.0.N AND 131.0.O. Variances may not be granted to the requirements of
13 Section 131.0.N AND 131.0.O except for modifications or expansions of existing
14 Conditional Uses in accordance with Section 131.0.D.4 below AND EXCEPT AS PROVIDED
15 IN SECTION 131.0.D.5 AND SECTION 131.0.D.6.
- 16 2. Where a minimum lot size is given in Section 131.0.N AND 131.0.O for a Conditional
17 Use, such a requirement shall not be deemed to prohibit the establishment of the
18 Conditional Use on a lot which complies with the minimum area requirement and is also
19 used for other Conditional Uses or uses permitted as a matter of right.
- 20 3. If more than one Conditional Use is located on a lot and the specific requirements of
21 Section 131.0.N OR 131.0.O for the Conditional Uses are in conflict, the more stringent
22 requirements shall apply to all Conditional Uses on the site.
- 23 4. The Hearing Authority may approve variances to the bulk regulations in Section
24 131.0.N, in accordance with the variance provisions of Section 130.0.B. for modifications
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27 b. Conditional Uses filed on or before March 5, 2001, and approved after July 12,
28 2001.
- 29 5. THE HEARING AUTHORITY MAY APPROVE VARIANCES TO ANY SETBACKS REQUIRED BY
30 SECTION 131.0.N AND SECTION 131.0.O, IN ACCORDANCE WITH THE VARIANCE PROVISIONS
31 OF SECTION 130.0.B.
- 32 6. ANY SETBACK REQUIRED BY SECTION 131.0.N OR SECTION 131.0.O, OR BY THE



1 UNDERLYING ZONING DISTRICT, SHALL NOT APPLY IF THE PROPERTY FROM WHICH THE
2 SETBACK IS MEASURED IS (A) OWNED BY THE PETITIONER, OR (B) PROPERTY OVER WHICH
3 THE PETITIONER OR ITS PREDECESSOR WAS GRANTED A RECORDED EASEMENT OR SIMILAR
4 RECORDED INSTRUMENT. THE VALIDITY AND LEGALITY OF THE RECORDED EASEMENT OR
5 SIMILAR RECORDED INSTRUMENT SHALL BE PRESUMED, AND THE RIGHTS AND
6 OBLIGATIONS OF THE PARTIES UNDER THE RECORDED EASEMENT OR SIMILAR RECORDED
7 INSTRUMENT ARE NOT RELEVANT TO THE DETERMINATION TO BE MADE UNDER THIS
8 SECTION 131.0.D.6.

9 F. Pre-Submission Community Meeting, Petition and Public Hearing

10 1. A pre-submission community meeting is required prior to the initial submittal of a
11 petition for a Conditional Use subject to the same procedures for such meetings as
12 specified in Section 16.128 of the Subdivision and Land Development Regulations,
13 and the following additional provisions.

14 a. Citizens may request a meeting with a staff member of the Department of
15 Planning and Zoning to review the development proposal after the petition has
16 been formally submitted to the Department.

17 b. The purposes of the pre-submission community meeting are to allow the
18 petitioner to provide information to the community regarding the proposed
19 Conditional Use and to allow community residents to ask questions and
20 discuss any issues they have concerning the proposal.

21 c. If the petitioner does not submit the petition to the Department of Planning
22 and Zoning within 1 year of the pre-submission community meeting, the
23 petitioner shall hold another pre-submission community meeting, subject to
24 the same notification and posting requirements as the first pre-submission
25 community meeting.

26 2. A petition for Conditional Use shall be submitted to the Department of Planning and
27 Zoning and shall include:

28 a. A Conditional Use plan which shows all existing and proposed uses,
29 structures, parking areas, points of ingress and egress, landscaping, and the
30 approximate location of relevant natural features which shall include
31 wetlands, steep slopes, and tree and forest cover.

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1 non-sewage solid waste, hazards or other physical conditions resulting from
2 the use which may adversely impact vicinal properties.

3 c. A statement that indicates:

4 (1) Whether the property is served by public or private water and sewage
5 disposal;

6 (2) That additional information can be obtained from the Howard County
7 Health Department; and

8 (3) The current address of the Howard County Health Department.

9 d. Supporting documentation, such as traffic studies, market studies, and noise
10 studies, may be required by the Department of Planning and Zoning at its
11 discretion or by these Regulations.

12 e. For expansion or modification of an existing Conditional Use, the
13 Department of Planning and Zoning may require information regarding
14 compliance with previous requirements and conditions.

15 F. WRITTEN AUTHORIZATION FROM THE PROPERTY'S OWNER (IF OTHER THAN THE
16 PETITIONER), WHICH AUTHORIZATION MAY BE IN THE FORM OF A RECORDED
17 EASEMENT OR SIMILAR RECORDED INSTRUMENT. THE VALIDITY AND LEGALITY
18 OF THE RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT SHALL BE
19 PRESUMED, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THE
20 RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT ARE NOT RELEVANT
21 TO THE DETERMINATION TO BE MADE UNDER THIS SECTION 131.0.F.2.F.

22 [[f.]] G. After a petition for a Conditional Use has been determined to be
23 officially accepted by the Department of Planning and Zoning and a hearing
24 date has been scheduled, the petition materials shall not be revised or replaced
25 prior to the hearing. The technical staff report shall be based upon the
26 materials in the petition at the time of acceptance. Supplemental materials
27 may only be presented in testimony to the Hearing Authority.

28 3. Department of Planning and Zoning's Findings and Recommendations.

29 a. The Department of Planning and Zoning shall transmit its findings and
30 recommendations concerning a Conditional Use petition to the Hearing
31 Authority at least 7 days prior to the public hearing on a petition, provided,
32 however, the Hearing Authority may reduce or waive this requirement in



advance.

b. At any time any individual may submit a question to the staff of the Department of Planning and Zoning and related agencies concerning the findings and recommendations of the Department or related agencies. If a written response is requested, the question should be submitted in writing to the Department or Agency.

4. During the hearing either party may direct a question concerning the findings and recommendations of the Department of Planning and Zoning or related agencies to the Hearing Authority, and the Hearing Authority shall determine whether staff of the Department or related agencies shall respond and the form of the response.

5. A response by the Department of Planning and Zoning and related agencies to a question concerning the Technical Staff Report may be considered by the Hearing Authority only if the response is in writing.

6. The Hearing Authority shall hold at least one public hearing on the petition in accordance with Section 2.203 of the Howard County Code, and shall approve, disapprove or approve with conditions, the proposed development or use. Each decision by the Hearing Authority shall be in writing and shall state the reasons for the decision.

N. Conditional Uses and Permissible Zoning Districts

48. Schools, Colleges, Universities—Private (Academic)

A Conditional Use may be granted in the RC and RR Districts, on properties that are not ALPP purchased or dedicated easement properties, and in the R-20, R-ED, R-12, R-SC, R-SA-8, R-H-ED, R-A-15, R-APT, R-MH, or R-VH Districts for private academic schools, colleges and universities, ~~[[not including nursery schools]]~~ WHICH MAY INCLUDE CHILD DAY CARE CENTERS AND NURSERY SCHOOLS AS AN ACCESSORY USE, provided that:

a. The maximum density permitted is 60 pupils per acre for lots less than three acres, and 100 pupils per acre for lots three acres or greater.

b. In addition to meeting the minimum area requirements above, schools with residence accommodations shall provide an additional 500 square feet of lot area per site resident. Residents shall include students, staff members, caretakers and their families who reside on the site.

c. A private school may be erected to a greater height than permitted in the



1 respective district, provided that no structure is more than three stories in height and
2 the front, side and rear setbacks shall be increased two feet for each foot by which
3 such structure exceeds the height limitation.

4 d. Sufficient off-street school bus loading areas shall be provided if bus service is
5 provided for students.

6 e. Outdoor uses will be located and designed to shield residential property from
7 noise or nuisance. Play areas, athletic fields and similar uses shall be buffered from
8 residential properties by fencing, landscaping, adequate distance or other appropriate
9 means.

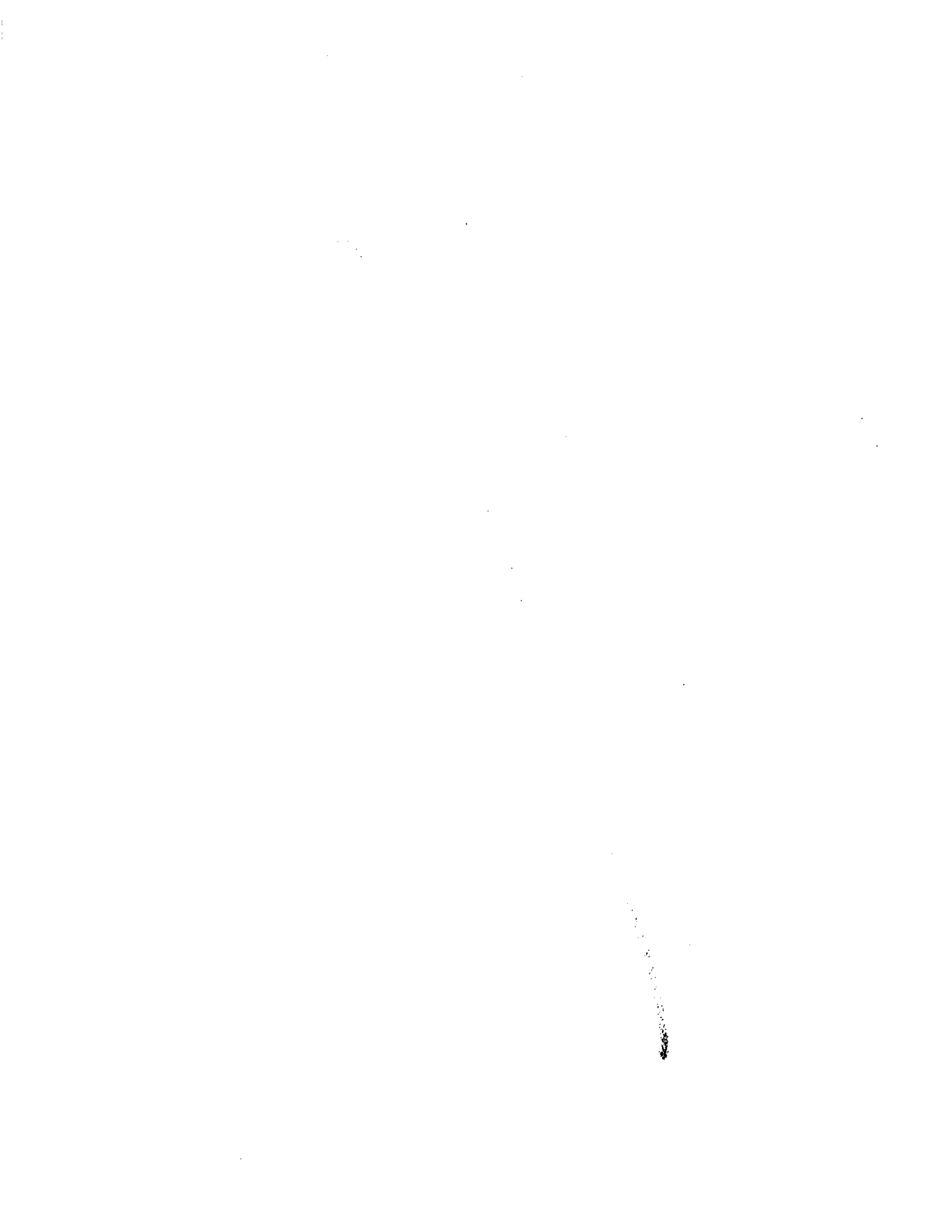
10 f. Buildings, parking areas and outdoor activity areas will be at least 50 feet from
11 adjoining residentially-zoned properties other than a public road right-of-way.

12 g. At least 20% of the area within the building envelope will be green space, not
13 used for buildings, parking area or driveways. The building envelope is formed by the
14 required structure setbacks from property lines and public street rights-of-way.

15 h. The site has frontage on and direct access to a collector or arterial road
16 designated in the General Plan, except that expansions of a Conditional Use that was
17 approved prior to July 12, 2001 are permitted.

18 i. The minimum lot size in the RC and RR Districts for a new private academic
19 facility is three acres. The minimum lot size in the R-20, R-ED, R-12, R-SC, R-SA-8,
20 R-H-ED, R-A-15, R-PT, R-MH, or R-VH Districts for a new private academic
21 facility is one acre. An existing private academic facility is not required to comply
22 with this criteria.

23
24 ***Section 2. Be it further enacted by the County Council of Howard County, Maryland, that this Act shall***
25 *become effective 61 days after its enactment.*





PETITION TO AMEND THE ZONING REGULATIONS OF HOWARD COUNTY

DPZ Office Use Only:
Case No. ZRA- 188
Date Filed: 4-1-19

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: To amend the Howard County Zoning Regulations pertaining to conditional uses to: (i) allow the Hearing Authority to grant variances to certain setbacks; (ii) provide that certain setbacks are inapplicable from properties either owned by the petitioner or over which the petitioner has a recorded easement or similar recorded instrument; (iii) provide that the written authorization of the owner of the subject property must be submitted with the conditional use petition, which authorization may be in the form of a recorded easement or similar recorded instrument; and (iv) provide that child day care centers are an accessory use to a private academic school conditional use.

[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 Glenelg Country School

Address 12793 Folly Quarter Road, Ellicott City, MD 21042

Phone No. (W) _____ (H) _____

Email Address ventre@glenelg.org

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

Counsel's Address 5100 Dorsey Hall Drive, Ellicott City, MD 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 Glenelg Country School is a private school located in western Howard County that was founded in 1954 with 35 students. Today, GCS enrolls over 750 students. In BA Case No. 16-034 C, GCS presented an application for the enlargement and modification of a previously-approved conditional use (special exception). A portion of the newly-proposed conditional use area included the land area of 22 fee-simple pipestem strips that are owned by various protesting neighbors. In 2007 and 2008, GCS obtained the written consent of these protesting neighbors in an easement agreement. This easement agreement, which was the consent required in this case, was submitted along with the application. The protesting neighbors objected to the inclusion of the land area under the 22 fee-simple pipestems. The Hearing Examiner ultimately denied BA Case No. 16-034C holding that the proffered consent was not adequate. The

HOWARD COUNTY
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purpose of the instant zoning regulation amendment is to require the Hearing Authority to decide the land use and zoning issues that are presented by applicants and not avoid making these determinations citing legal issues that are within the sole province of the courts. Administering the conditional use regulations for private schools to require a specific form of consent to be submitted with the application provides the protesting neighbors with the ability to prevent any future expansion/modification of GCS and condemns GCS from being able to sustain the institution for the future.

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 the 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 the 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 the attached Supplemental Statement.
-
-
-
-

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 the 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.

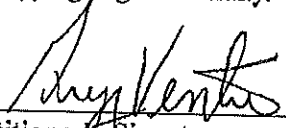
[You may attach a separate document to respond to Section 9. If so, this document shall be titled "Response to Section 9."]

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.

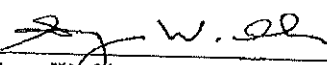
After this petition is accepted for scheduling by the Department of Planning and Zoning, you must provide an electronic file of the "Petitioner's Proposed Text" to the Division of Public Service and Zoning Administration. This file must be in Microsoft Word or a Microsoft Word compatible file format, 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.

Glenelg Country School
Petitioner's name (Printed or typed)


Petitioner's Signature

3-25-19
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.

ZONING MATTER: Glencg Country School

AFFIDAVIT AS TO CONTRIBUTION

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

I, Glencg County School, the applicant in the above zoning matter

_____, HAVE ✓, 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: GREGORY J. VENTRE

Signature: [Handwritten Signature]

Date: 3/25/19

ZONING MATTER: Glenn Country School

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: N/A

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: GREGORY J. VENTRE
HEAD OF SCHOOL
Signature: [Handwritten Signature]
Date: 8/25/19

ZONING MATTER: Glenele Country School

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, GLENELE COUNTRY SCHOOL, the applicant in the above zoning matter

_____, AM _____, 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: GREGORY J. VENTRE

Signature: [Handwritten Signature]

Date: 2/25/19

Petition to Amend the Zoning Regulations of Howard County

Supplemental Statement

Response to Section 5

The proposed amendments will be in harmony with PlanHoward 2030. Glenelg Country School (“GCS”) is located in the Rural West and is zoned RR-DEO. The County established a Rural West Advisory Committee as part of PlanHoward 2030 “to be a sounding board on various land use issues in the Rural West,” including conditional uses. PlanHoward 2030, p. 34. “Conditional uses . . . are presumed to be appropriate in the zoning districts where they are allowed.” *Id.* “Conditional Uses are authorized in specified zoning districts based on the presumption that they are generally appropriate and compatible in the specified districts.” Howard County Zoning Regulations § 131.0.A.

Implementing Action b. to Policy 4.5 of PlanHoward 2030 is to review use designations, including conditional uses, in the Rural West, and determine if amendments are necessary. PlanHoward 2030, p. 36. PlanHoward 2030 called for “[a] thorough review of the zoning regulations during Comprehensive Rezoning” to determine whether “the permitted by right/permitted by permit/permitted by conditional use structure” needed an overhaul. *Id.* at p. 34. “The uses themselves should also be reviewed to determine if there are additional uses that could be added, or if there are some uses that are no longer relevant and could be deleted.” *Id.*

Additionally, beyond the context of the Rural West, Policy 10.4 of PlanHoward 2030 is to “Review and update all County development regulations to respond to County General Plan development goals and changing market conditions, and to improve the efficiency of the County’s review process.” *Id.* at p. 143. Implementing Action c. to Policy 10.4 similarly proposes to “Review and, as appropriate, amend the County’s conditional use regulations to reflect updated land use policies.”

PlanHoward 2030 was adopted on July 26, 2012. During the subsequent Comprehensive Rezoning process in 2013, the County’s Department of Planning and Zoning and the County Council thoroughly reviewed the County’s zoning map and regulations as called for by PlanHoward 2030. Given GCS’s extensive history, student enrollment levels, and stature in the community, it is undeniable that the County Council was aware of GCS’ RR-DEO zoning and its approved Private Academic School conditional use at the time of the 2013 Comprehensive Rezoning.

As part of the 2013 Comprehensive Rezoning, the County Council made the decision to keep the Private Academic School use a conditional use in the RR-DEO zoning district. Doing so was an acknowledgment by the County Council that GCS is an appropriate use and is in harmony with PlanHoward 2030; otherwise, the Council would have expressly deleted this conditional use and prohibited private academic schools in the RR-DEO district. Approving this Petition is necessary to ensure that GCS can continue serving the community and sustaining its programs into the future as the County Council clearly intended and in harmony with PlanHoward 2030.

Response to Section 6

The proposed amendments will be in harmony with the legislative intent provided in Section 100.0.A of the Zoning Regulations. These amendments will promote the health, safety, and welfare of the community by allowing GCS to continue its work of serving hundreds of families in the community every year. Furthermore, one of the policy goals in furtherance of promoting the health, safety, and welfare is to “provide a guide . . . for private enterprise in undertaking development, investment and other economic activity relating to uses of land and structures throughout the County.” Howard County Zoning Regulations § 100.0.A.4. GCS has been growing and evolving to meet the needs of the community for approximately 65 years, and the proposed amendments are necessary to allow GCS to continue undertaking investment and development to serve the County’s residents, including by permitting a child day care center/nursery school. Approving the requested amendments will not adversely affect the community.

Conversely, without the approval of the instant Petition, the welfare of the community will be negatively affected. If GCS is prohibited from making any future expansions and modifications to its school and program, GCS will be unable to sustain its institution and will further be unable to continue serving the community as it has for decades.

The proposed amendments regarding setbacks in Section 131.0.D will also further the purposes of Section 100.0.A. Conditional uses are presumed to be generally appropriate and compatible in their zoning districts as provided in Zoning Regulations Section 131.0.A. In any context other than conditional uses, the Hearing Authority is authorized to grant variances to the setback requirements imposed by the Zoning Regulations in accordance with Section 130.0.B. Allowing the Hearing Authority to make those same determinations for setbacks imposed by the specific conditional use criteria of Section 131.0.N and Section 131.0.O would preserve and promote the health, safety, and welfare of the community by ensuring that appropriate and compatible developments are not prevented merely because of some unique physical condition of the subject property (for which a variance would otherwise be available) or because the petitioner happens to own two adjoining lots (creating internal setbacks) instead of one combined lot.

As intended by Section 100.0.A, the proposed zoning regulation amendments would allow additional conditional use developments in furtherance of the most beneficial and convenient relationships among the residential, non-residential, and public areas of the County with specific consideration of the conditional use’s suitability at its particular location. The instant amendments would also better guide the orderly growth and development of the County in accordance with Section 100.0.A.2, again by ensuring that appropriate and compatible conditional use developments are not foreclosed simply because of unique property conditions.

Response to Section 7

The proposed amendments will benefit the public by allowing GCS to continue to serve the Howard County community. As described previously in this Petition, GCS currently enrolls over 750 students. These students come from across the County, reducing enrollment figures at County schools that are over capacity. In order for GCS to continue serving its students and the public into the future, approval of the instant Petition is necessary.

Response to Section 8

The proposed amendments have the potential of affecting all conditional use applications. The amendments pertaining to setbacks would merely bring conditional uses closer in line with other uses that a person may make of his or her property. For conditional uses that are compatible with the surrounding neighborhood and would be beneficial to the area, little justification exists to deny such uses on the mere basis of a setback not being able to be satisfied. This is especially true when the setback is from the petitioner's own property or when the variance criteria of Section 130.0.B would otherwise be satisfied.

Requiring a setback from property that a petitioner owns or has an easement over does not lead to the most beneficial arrangement of land uses. Instead, a petitioner is forced to comply with setback requirements for no reason other than owning multiple separate lots instead of one combined lot. A conditional use petitioner's decision to locate a use or structure up to an internal lot line should be the petitioner's alone, given that such decision will have no impact on anyone other than that petitioner. If the petitioner ever chooses to sell or convey one lot separate and apart from the other, the purchaser will be making an informed decision and choosing to acquire the lot with knowledge of the reduced setback such that the purchaser will likewise not be adversely affected.

Furthermore, granting the Hearing Authority the ability to consider unique physical conditions affecting a conditional use property will also have minimal impact. The variance criteria require the Hearing Authority to make specific findings, including that the variance "will not alter the essential character of the neighborhood or district in which the lot is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare." Given the considerations required by Section 130.0.B, these proposed amendments will provide more flexibility to the Hearing Authority to approve compatible and beneficial developments while still ensuring that any reduced setbacks do not create substantial negative effects.

Provided that a private academic school satisfies all of the conditional use criteria of Section 131.0.N.48, a child day care center and/or nursery school is an appropriate accessory use in connection with that school. For a petitioner who would like to more fully serve the community by also providing a child day care center or nursery school, this proposed amendment would allow an incidental and subordinate day care or nursery school without forcing the petitioner to seek a second, separate conditional use approval for such accessory use.

The impact of the proposed amendment pertaining to owner authorizations will also be minimal. Currently, the Department of Planning and Zoning's form conditional use petition requires the property owner's authorization. That requirement, however, is not presently codified in the Zoning Regulations as it would be with the approval of this amendment.

Additionally, if a conditional use petitioner has obtained a recorded easement or similar recorded instrument over certain property, such a formal instrument should be sufficient to serve as the necessary authorization. A petitioner will almost certainly have relied upon such recorded instrument in planning for the development of such petitioner's property. The owner of a property, after having granted a conditional use petitioner an easement, should not be able to change such

owner's mind and to completely preclude the conditional use application from being heard and considered. The owner who granted the easement should, and would, still have the right to contest the use based on the conditional use criteria contained within Section 131.0. The owner could also seek to enforce the terms of the recorded instrument in court or any other appropriate forum. A conditional use hearing, however, is not the appropriate forum. This proposed zoning regulation amendment would ensure that after having been granted the benefit of an easement, a conditional use petitioner could rely upon such grant and could proceed to have its conditional use petition heard and decided on the merits.

Petition to Amend the Zoning Regulations of Howard County

Petitioner's Proposed Text

Howard County Zoning Regulation Section 131.0.D:

Proposed Amendment:

1. A Conditional Use shall comply with the requirements for the specific use given in Section 131.0.N AND SECTION 131.0.O. Variances may not be granted to the requirements of Section 131.0.N AND SECTION 131.0.O except for modifications or expansions of existing Conditional Uses in accordance with Section 131.0.D.4 below AND EXCEPT AS PROVIDED IN SECTION 131.0.D.5 AND SECTION 131.0.D.6 BELOW.
2. Where a minimum lot size is given in Section 131.0.N OR SECTION 131.0.O for a Conditional Use, such a requirement shall not be deemed to prohibit the establishment of the Conditional Use on a lot which complies with the minimum area requirement and is also used for other Conditional Uses or uses permitted as a matter of right.
3. If more than one Conditional Use is located on a lot and the specific requirements of Section 131.0.N OR SECTION 131.0.O for the Conditional Uses are in conflict, the more stringent requirements shall apply to all Conditional Uses on the site.
4. The Hearing Authority may approve variances to the bulk regulations in Section 131.0.N, in accordance with the variance provisions of Section 130.0.B. for modifications and expansions of:
 - a. Existing Conditional Uses that were approved prior to July 12, 2001; and
 - b. Conditional Uses filed on or before March 5, 2001, and approved after July 12, 2001.
5. THE HEARING AUTHORITY MAY APPROVE VARIANCES TO ANY SETBACKS REQUIRED BY SECTION 131.0.N AND SECTION 131.0.O, IN ACCORDANCE WITH THE VARIANCE PROVISIONS OF SECTION 130.0.B.
6. ANY SETBACK REQUIRED BY SECTION 131.0.N OR SECTION 131.0.O, OR BY THE UNDERLYING ZONING DISTRICT, SHALL NOT APPLY IF THE PROPERTY FROM WHICH SUCH SETBACK IS MEASURED IS EITHER (A) OWNED BY THE PETITIONER, OR (B) PROPERTY OVER WHICH THE PETITIONER OR ITS PREDECESSOR WAS GRANTED A RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT. THE VALIDITY AND LEGALITY OF SUCH RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT SHALL BE PRESUMED, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER SUCH RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT SHALL NOT BE RELEVANT TO THE DETERMINATION TO BE MADE UNDER THIS SECTION 131.0.D.6.

Example of how the text would appear normally if adopted:

1. A Conditional Use shall comply with the requirements for the specific use given in Section 131.0.N and Section 131.0.O. Variances may not be granted to the requirements of Section 131.0.N and Section 131.0.O except for modifications or expansions of existing Conditional Uses in accordance with Section 131.0.D.4 below and except as provided in Section 131.0.D.5 and Section 131.0.D.6 below.
2. Where a minimum lot size is given in Section 131.0.N or Section 131.0.O for a Conditional Use, such a requirement shall not be deemed to prohibit the establishment of the Conditional Use on a lot which complies with the minimum area requirement and is also used for other Conditional Uses or uses permitted as a matter of right.
3. If more than one Conditional Use is located on a lot and the specific requirements of Section 131.0.N or Section 131.0.O for the Conditional Uses are in conflict, the more stringent requirements shall apply to all Conditional Uses on the site.
4. The Hearing Authority may approve variances to the bulk regulations in Section 131.0.N, in accordance with the variance provisions of Section 130.0.B. for modifications and expansions of:
 - a. Existing Conditional Uses that were approved prior to July 12, 2001; and
 - b. Conditional Uses filed on or before March 5, 2001, and approved after July 12, 2001.
5. The Hearing Authority may approve variances to any setbacks required by Section 131.0.N and Section 131.0.O, in accordance with the variance provisions of Section 130.0.B.
6. Any setback required by Section 131.0.N or Section 131.0.O, or by the underlying zoning district, shall not apply if the property from which such setback is measured is either (A) owned by the Petitioner, or (B) property over which the Petitioner or its predecessor was granted a recorded easement or similar recorded instrument. The validity and legality of such recorded easement or similar recorded instrument shall be presumed, and the rights and obligations of the parties under such recorded easement or similar recorded instrument shall not be relevant to the determination to be made under this Section 131.0.D.6.

Howard County Zoning Regulation Section 131.0.F.2:

Proposed Amendment:

2. A petition for Conditional Use shall be submitted to the Department of Planning and Zoning and shall include:

a. A Conditional Use plan which shows all existing and proposed uses, structures, parking areas, points of ingress and egress, landscaping, and the approximate location of relevant natural features which shall include wetlands, steep slopes, and tree and forest cover.

b. Information regarding noise, dust, fumes, odors, lighting levels, vibrations, non-sewage solid waste, hazards or other physical conditions resulting from the use which may adversely impact vicinal properties.

c. A statement that indicates:

(1) Whether the property is served by public or private water and sewage disposal;

(2) That additional information can be obtained from the Howard County Health Department; and

(3) The current address of the Howard County Health Department.

d. Supporting documentation, such as traffic studies, market studies, and noise studies, may be required by the Department of Planning and Zoning at its discretion or by these Regulations.

e. For expansion or modification of an existing Conditional Use, the Department of Planning and Zoning may require information regarding compliance with previous requirements and conditions.

f. WRITTEN AUTHORIZATION FROM THE PROPERTY'S OWNER (IF OTHER THAN THE PETITIONER), WHICH AUTHORIZATION MAY BE IN THE FORM OF A RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT. THE VALIDITY AND LEGALITY OF SUCH RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT SHALL BE PRESUMED, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER SUCH RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT SHALL NOT BE RELEVANT TO THE DETERMINATION TO BE MADE UNDER THIS SECTION 131.0.F.2.F.

[[f.]] g. After a petition for a Conditional Use has been determined to be officially accepted by the Department of Planning and Zoning and a hearing date has been scheduled, the petition materials shall not be revised or replaced prior to the hearing. The technical staff report shall be based upon the materials in the petition at the time of acceptance. Supplemental materials may only be presented in testimony to the Hearing Authority.

Example of how the text would appear normally if adopted:

2. A petition for Conditional Use shall be submitted to the Department of Planning and Zoning and shall include:

a. A Conditional Use plan which shows all existing and proposed uses, structures, parking areas, points of ingress and egress, landscaping, and the approximate location of relevant natural features which shall include wetlands, steep slopes, and tree and forest cover.

b. Information regarding noise, dust, fumes, odors, lighting levels, vibrations, non-sewage solid waste, hazards or other physical conditions resulting from the use which may adversely impact vicinal properties.

c. A statement that indicates:

(1) Whether the property is served by public or private water and sewage disposal;

(2) That additional information can be obtained from the Howard County Health Department; and

(3) The current address of the Howard County Health Department.

d. Supporting documentation, such as traffic studies, market studies, and noise studies, may be required by the Department of Planning and Zoning at its discretion or by these Regulations.

e. For expansion or modification of an existing Conditional Use, the Department of Planning and Zoning may require information regarding compliance with previous requirements and conditions.

f. Written authorization from the property's owner (if other than the Petitioner), which authorization may be in the form of a recorded easement or similar recorded instrument. The validity and legality of such recorded easement or similar recorded instrument shall be presumed, and the rights and obligations of the parties under such recorded easement or similar recorded instrument shall not be relevant to the determination to be made under this Section 131.0.F.2.f.

g. After a petition for a Conditional Use has been determined to be officially accepted by the Department of Planning and Zoning and a hearing date has been scheduled, the petition materials shall not be revised or replaced prior to the hearing. The technical staff report shall be based upon the materials in the petition at the time of acceptance. Supplemental materials may only be presented in testimony to the Hearing Authority.

Howard County Zoning Regulation Section 131.0.N.48:

Proposed Amendment:

A Conditional Use may be granted in the RC and RR Districts, on properties that are not ALPP purchased or dedicated easement properties, and in the R-20, R-ED, R-12, R-SC, R-SA-8, R-H-ED, R-A-15, R-APT, R-MH, or R-VH Districts for private academic schools, colleges and universities, ~~[[not including nursery schools]]~~ WHICH MAY INCLUDE CHILD DAY CARE CENTERS AND NURSERY SCHOOLS AS AN ACCESSORY USE, provided that:

Example of how the text would appear normally if adopted:

A Conditional Use may be granted in the RC and RR Districts, on properties that are not ALPP purchased or dedicated easement properties, and in the R-20, R-ED, R-12, R-SC, R-SA-8, R-H-ED, R-A-15, R-APT, R-MH, or R-VH Districts for private academic schools, colleges and universities, which may include child day care centers and nursery schools as an accessory use, provided that:



May 23, 2019

TECHNICAL STAFF REPORT

Planning Board Meeting of June 6, 2019

Case No./Petitioner: ZRA-188 – Glenelg Country School

Request: Amend Section 131.0.D to exempt setback requirements from lots in common ownership and allow the Hearing Authority to grant setback variances for Conditional Uses; Amend Section 131.0.F.2 to accept easements as written authorization for a petition; and, Amend Section 131.0.N.48 to include child day care and nursery schools as an accessory use to *Schools, Colleges, Universities—Private (Academic)*.

I. BACKGROUND AND HISTORY OF EXISTING ZONING REGULATIONS

There are three sections of code that are affected by the requested amendment.

1) Section 131.0.D - *Compliance with Specific Requirements for a Conditional Use.*

The Statement of Intent in Sec. 131.0.- Conditional Uses states: *Conditional Uses are authorized in specified zoning districts based on the presumption that they are generally appropriate and compatible in the specified districts. However, particular uses in particular locations may have characteristics or impacts that are not typical.*

Conditional Uses must comply with the requirements for the specific use as detailed in Section 131.N, and cannot be varied except for modifications or expansions of conditional uses approved prior to July 12, 2001. The code recognizes that Conditional Uses (formerly called Special Exceptions) should be considered within the specific context of a particular site and surrounding development patterns. As such, the Hearing Authority has broad discretion to impose additional limitations on Conditional Uses. However, the 1993 Comprehensive Rezoning added specific language prohibiting the granting of variances to Conditional Use criteria.

The proposed Section 131.0.D. amendments seek to reinstate the Hearing Authority's ability to approve setback variances and creates setback exemptions described in Section II below.

2) Section 131.0.F.2 - *Pre-Submission Community Meeting, Petition and Public Hearing.*

This section contains submission requirements for a Conditional Use Petition, including a Conditional Use Plan, a statement outlining the possible impacts on vicinal properties, and other supporting documentation.

Prior to 1993, the code required a Petitioner to submit a general statement addressing the potential impacts of the use on the area. In 1993, the code was expanded to add some procedural requirements. The proposed Section 131.0.F.2 amendment includes a provision to address property ownership, which has not historically been addressed in this section of the Zoning Regulations.

3) Section 131.0.N.48 - *Schools, Colleges, Universities—Private (Academic)*

This section provides specific standards that Private Academic Schools must meet for Conditional Use approval, including but not limited student density, lot area, street frontage, and setbacks.

Schools, Colleges, Universities—Private (Academic) first appeared as a Special Exception in 1977 and has evolved over time as the needs and expectations of schools have changed. The current conditions are as follows:

48. *Schools, Colleges, Universities—Private (Academic)*

A Conditional Use may be granted in the RC and RR Districts, on properties that are not ALPP purchased or dedicated easement properties, and in the R-20, R-ED, R-12, R-SC, R-SA-8, R-H-ED, R-A-15, R-APT, R-MH, or R-VH Districts for private academic schools, colleges and universities, (not including nursery schools) provided that:

- a. The maximum density permitted is 60 pupils per acre for lots less than three acres, and 100 pupils per acre for lots three acres or greater.
- b. In addition to meeting the minimum area requirements above, schools with residence accommodations shall provide an additional 500 square feet of lot area per site resident. Residents shall include students, staff members, caretakers and their families who reside on the site.
- c. A private school may be erected to a greater height than permitted in the respective district, provided that no structure is more than three stories in height and the front, side and rear setbacks shall be increased two feet for each foot by which such structure exceeds the height limitation.
- d. Sufficient off-street school bus loading areas shall be provided if bus service is provided for students.
- e. Outdoor uses will be located and designed to shield residential property from noise or nuisance. Play areas, athletic fields and similar uses shall be buffered from residential properties by fencing, landscaping, adequate distance or other appropriate means.
- f. Buildings, parking areas and outdoor activity areas will be at least 50 feet from adjoining residentially-zoned properties other than a public road right-of-way.
- g. At least 20% of the area within the building envelope will be green space, not used for buildings, parking area or driveways. The building envelope is formed by the required structure setbacks from property lines and public street rights-of-way.
- h. The site has frontage on and direct access to a collector or arterial road designated in the General Plan, except that expansions of a Conditional Use that was approved prior to July 12, 2001 are permitted.
- i. The minimum lot size in the RC and RR Districts for a new private academic facility is three acres. The minimum lot size in the R-20, R-ED, R-12, R-SC, R-SA-8, R-H-ED, R-A-15, R-APT, R-MH, or R-VH Districts for a new private academic facility is one acre. An existing private academic facility is not required to comply with this criterion.

II. DESCRIPTION AND EVALUATION OF PROPOSAL

This section contains the Department of Planning and Zoning (DPZ) technical evaluation of ZRA-188. The Petitioner's proposed amendment text is attached as Exhibit A, Petitioner's Proposed Text. DPZ's proposed amendment text is attached as Exhibit B, DPZ's Proposed Text.

Section 131.0.D - Compliance with Specific Requirements for a Conditional Use.

1) Section 131.0.D.1 and Section 131.0.D.5

DPZ recommends approval with modifications

ZRA 188 proposes to allow the Hearing Authority to reduce setbacks in the Specific Criteria for Conditional Uses through a variance process subject to the criteria in Section 130.0.B.2.

The Conditional Use process provides flexibility by allowing uses that may be compatible with uses permitted by right but that could generate certain adverse impacts. Specific Criteria, which typically include more restrictive bulk regulations, are applied to improve the compatibility of the use and reduce potential impacts to the surrounding community. Bulk regulations include setbacks, height maximums, lot coverage maximums, and other dimensional limitations. However, the bulk regulations included in the Specific Criteria have been arbitrarily developed and added piecemeal rather than through a rigorous evaluation that includes testing different site conditions, conditional uses and their locations.

Currently, bulk regulations in base zoning districts may be reduced through a variance process in accordance with Section 130.0.B.2. of the Zoning Regulations. However, bulk regulations embedded in the conditional criteria are not afforded this option. Similar to land subject to base zoning requirements, some properties where conditional uses are an option may likewise be constrained by features such as steep slopes, streams/buffers, and irregular lot shape. These circumstances may constrain reasonable development of property and are taken into account when variances are considered from base zoning district bulk requirements. Not so for Conditional Uses. If a property cannot meet the Conditional Use setbacks, it is automatically disqualified from consideration.

Allowing the Hearing Authority to vary Conditional Use bulk regulations on a case-by-case basis, would provide flexibility, consistent with the same approach applied to by right uses. This would avoid having to strictly adhere to dimensional standards that may have little bearing on potential adverse impacts to vicinal properties or the surrounding community.

Therefore, DPZ recommends the proposed amendment to allow variances to setback requirements be approved and expanded to include all bulk regulations in Section 131.0.N and Section 131.0.O, according to the provisions and criteria set forth in Section 131.0.B.2.

2. Section 131.0.D.6

DPZ recommends approval with modifications

The Petitioner also seeks to exempt Conditional Uses from all setback requirements (conditional use and base zoning) where adjacent lots are 1) in common ownership, or 2) held in an easement or similar instrument. It further stipulates that the County does not have a role in determining the validity of such private easement agreements and clarifies that the legality and validity of such agreements is presumed.

Exempting setback requirement from lot lines shared by the same owner is permitted under the existing regulations, however, it is not explicitly referenced under Conditional Use regulations. Currently, Conditional Uses can extend beyond parcel boundaries to include two adjacent properties, in which case setbacks to the intervening property line do not apply. This was applied in a recent decision, BA-15-026C, which established a Firewood Processing Conditional Use on two adjacent parcels owned by the Petitioner. However, forcing petitioners to include multiple properties under common ownership in a Conditional Use petition or to combine the lots to address setback issues may inhibit Conditional Use categories that have maximum lot size requirements or more stringent requirements for additional/larger lots. Additionally, Subdivision and Land Development Regulations may prevent lot consolidation, and environmental buffers from stream and wetlands may prevent inclusion of the additional area in the Conditional Use area.

It is reasonable to provide flexibility in situations such as these, and allow the setback exemption where there is common ownership and the Conditional Use area remains on one property. Therefore, DPZ supports the proposed amendment to exempt Conditional Use setbacks where adjacent lots are in common ownership. DPZ further recommends expanding the setback exemption to include the pipestem portion of a pipestem lot.

The Subdivision and Land Development Regulations define a pipestem lot as "a residential lot that is shaped like a pipe or flag, and is separated from the nearest road by another lot, except for an unbuildable strip of land 50 feet or less in width." Given the size and nature of the pipestem portion of such lots, setbacks from these lots are often impractical or unnecessary. They are typically used as access drives, which are exempt from complying with bulk regulations, according to Section 103.0 which defines a structure and exempts driveways and parking surfaces. Furthermore, the purpose of a setback is to create a buffer area to protect certain uses. Buffering an access drive through setbacks is unnecessary and therefore, DPZ recommends exempting Conditional Uses from pipestem setback requirements.

Section 131.0.F.2.f- Pre-Submission Community Meeting, Petition and Public Hearing.

DPZ recommends approval with modifications

Howard County Zoning Regulations do not contain any requirements regarding authorization from a property owner to apply for a Conditional Use. However, the Conditional Use Petition form asks what the Petitioner's interest is in the subject property and states that "[i]f the Petitioner is not the owner, written authorization must be submitted from the owner." The proposed ZRA modifies this authorization for a Conditional Use by expanding it to easement holders. It also clarifies that the validity and legality of the easement or instrument is presumed.

The second part of this amendment, presumed validity, is consistent with current practice. DPZ reviews tax records to check ownership but otherwise relies on the application form signed by the owner or owner's authorization as valid authority to process a Petition. Any dispute in the right to submit a Petition must be adjudicated through court proceedings between the involved parties, which does not include the County. This approach is currently applied in all circumstances when there is a dispute between property owners. Therefore, DPZ recommends codifying and clarifying the current practice of obtaining written authorization of the owner or agent and the presumed validity of that authorization. However, DPZ's text in Exhibit B slightly modifies the Petitioner's proposed text to simplify it.

While the code is silent on the question of ownership rights necessary to apply, the Conditional Use Petition form requires owner authorization to process the application. This is consistent with research done by DPZ to determine how other jurisdictions process conditional uses. Expanding this authority to include an easement holder is, however, a policy decision, best addressed by the County Council. It will ultimately be up to them to determine the property interest sufficient to process an application. If the Council determines that an easement constitutes sufficient interest to obtain use approval, DPZ recommends additional language (as shown in Exhibit B) be included that requires the Petitioner submit written verification attesting to their permission for the Petition and right to carry out the use(s) on the property.

Section 131.0.N.48 - Schools, Colleges, Universities—Private (Academic).

DPZ recommends approval

The proposed amendment adds child day care centers and nursery schools as an accessory use. DPZ would typically consider such uses as customary and incidental to the Private Academic Schools, and therefore would permit them as accessory. DPZ recommends approval since the proposed language is consistent with our current interpretation.

To note; Child Day Care Centers and Nursery Schools are otherwise Conditional Uses and would necessitate Conditional Use approval if determined not to be accessory to the Private Academic use.

III. GENERAL PLAN

The amendments proposed seek to clarify the Conditional Use process and powers of the Hearing Examiner, reinforce the requirements of the application process, and address the needs of Private Academic Schools.

The proposed amendment is in harmony with the following PlanHoward 2030 policies as related to the review process.

POLICY 10.4

Review and update all County development regulations to respond to County General Plan development goals and changing market conditions, and to improve the efficiency of the County's review process.

Implementing Actions

- a. Zoning Regulation Review. Develop Zoning Regulations that better address infill and redevelopment goals and issues.
- b. Streamlining Processes. Amend development regulations and manuals to streamline the review process to the maximum extent possible.
- c. Updated Conditional Use Regulations. Review and, as appropriate, amend the County's Conditional Use regulations to reflect updated land use policies. The regulations should reflect current best practices and policies to minimize the impact of development on the environment.

IV. RECOMMENDATION

For the reasons noted above, the Department of Planning and Zoning recommends that the ZRA-188 be APPROVED WITH MODIFICATIONS, as described above and drafted in Exhibit B.

Approved by:


Valdis Lazdins, Director

5-23-19
Date

NOTE: The file is available for public review at the Department of Planning and Zoning Public Information Counter.

Exhibit A – Petitioner’s Proposed Text

CAPITALS indicates text to be added. [[Text in double brackets]] indicates text to be deleted.

Howard County Zoning Regulation Section 131.0.D:

Proposed Amendment:

1. A Conditional Use shall comply with the requirements for the specific use given in Section 131.0.N AND SECTION 131.0.O. Variances may not be granted to the requirements of Section 131.0.N AND SECTION 131.0.O except for modifications or expansions of existing Conditional Uses in accordance with Section 131.0.D.4 below AND EXCEPT AS PROVIDED IN SECTION 131.0.D.5 AND SECTION 131.0.D.6 BELOW.
2. Where a minimum lot size is given in Section 131.0.N OR SECTION 131.0.O for a Conditional Use, such a requirement shall not be deemed to prohibit the establishment of the Conditional Use on a lot which complies with the minimum area requirement and is also used for other Conditional Uses or uses permitted as a matter of right.
3. If more than one Conditional Use is located on a lot and the specific requirements of Section 131.0.N OR SECTION 131.0.O for the Conditional Uses are in conflict, the more stringent requirements shall apply to all Conditional Uses on the site.
4. The Hearing Authority may approve variances to the bulk regulations in Section 131.0.N, in accordance with the variance provisions of Section 130.0.B. for modifications and expansions of:
 - a. Existing Conditional Uses that were approved prior to July 12, 2001; and
 - b. Conditional Uses filed on or before March 5, 2001, and approved after July 12, 2001.
5. THE HEARING AUTHORITY MAY APPROVE VARIANCES TO ANY SETBACKS REQUIRED BY SECTION 131.0.N AND SECTION 131.0.O, IN ACCORDANCE WITH THE VARIANCE PROVISIONS OF SECTION 130.0.B UNLESS OTHERWISE SPECIFIED IN THE SPECIFIC CONDITIONAL USE CRITERIA.
6. ANY SETBACK REQUIRED BY SECTION 131.0.N OR SECTION 131.0.O, OR BY THE UNDERLYING ZONING DISTRICT, SHALL NOT APPLY IF THE PROPERTY FROM WHICH SUCH SETBACK IS MEASURED IS EITHER (A) OWNED BY THE PETITIONER, OR (B) PROPERTY OVER WHICH THE PETITIONER OR ITS PREDECESSOR WAS GRANTED A RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT. THE VALIDITY AND LEGALITY OF SUCH RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT SHALL BE PRESUMED, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER SUCH RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT SHALL NOT BE RELEVANT TO THE DETERMINATION TO BE MADE UNDER THIS SECTION 131.0.D.6.

Howard County Zoning Regulation Section 131.0.F.2:

Proposed Amendment:

2. A petition for Conditional Use shall be submitted to the Department of Planning and Zoning and shall include:

a. A Conditional Use plan which shows all existing and proposed uses, structures, parking areas, points of ingress and egress, landscaping, and the approximate location of relevant natural features which shall include wetlands, steep slopes, and tree and forest cover.

b. Information regarding noise, dust, fumes, odors, lighting levels, vibrations, non-sewage solid waste, hazards or other physical conditions resulting from the use which may adversely impact vicinal properties.

c. A statement that indicates:

(1) Whether the property is served by public or private water and sewage disposal;

(2) That additional information can be obtained from the Howard County Health Department; and

(3) The current address of the Howard County Health Department.

d. Supporting documentation, such as traffic studies, market studies, and noise studies, may be required by the Department of Planning and Zoning at its discretion or by these Regulations.

e. For expansion or modification of an existing Conditional Use, the Department of Planning and Zoning may require information regarding compliance with previous requirements and conditions.

f. WRITTEN AUTHORIZATION FROM THE PROPERTY'S OWNER (IF OTHER THAN THE PETITIONER), WHICH AUTHORIZATION MAY BE IN THE FORM OF A RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT. THE VALIDITY AND LEGALITY OF SUCH RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT SHALL BE PRESUMED, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER SUCH RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT SHALL NOT BE RELEVANT TO THE DETERMINATION TO BE MADE UNDER THIS SECTION 131.0.F.2.F

[[f.]] g. After a petition for a Conditional Use has been determined to be officially accepted by the Department of Planning and Zoning and a hearing date has been scheduled, the petition materials shall not be revised or replaced prior to the hearing. The technical staff report shall be based upon the materials in the petition at the time of acceptance. Supplemental materials may only be presented in testimony to the Hearing Authority.

Case No. ZRA-188

Petitioner: Glenelg Country School

Page | 9

Howard County Zoning Regulation Section 131.0.N.48:

Proposed Amendment:

A Conditional Use may be granted in the RC and RR Districts, on properties that are not ALPP purchased or dedicated easement properties, and in the R-20, R-ED, R-12, R-SC, R-SA-8, R-H-ED, R-A-15, R-APT, R-MH, or R-VH Districts for private academic schools, colleges and universities, [(not including nursery schools)] WHICH MAY INCLUDE CHILD DAY CARE CENTERS AND NURSERY SCHOOLS AS AN ACCESSORY USE, provided that:

Exhibit B – DPZ’s Proposed Text

CAPITALS indicates text to be added. [[Text in double brackets]] indicates text to be deleted.

Howard County Zoning Regulation Section 131.0.D:

Proposed Amendment:

1. A Conditional Use shall comply with the requirements for the specific use given in Section 131.0.N AND SECTION 131.0.O. Variances may [[not]] be granted to the requirements of Section 131.0.N AND SECTION 131.0.O except for modifications or expansions of existing Conditional Uses in accordance with Section 131.0.D.4 ET SEQ BELOW.
2. Where a minimum lot size is given in Section 131.0.N OR SECTION 131.0.O for a Conditional Use, such a requirement shall not be deemed to prohibit the establishment of the Conditional Use on a lot which complies with the minimum area requirement and is also used for other Conditional Uses or uses permitted as a matter of right.
3. If more than one Conditional Use is located on a lot and the specific requirements of Section 131.0.N OR SECTION 131.0.O for the Conditional Uses are in conflict, the more stringent requirements shall apply to all Conditional Uses on the site.
4. The Hearing Authority may approve variances to the bulk regulations in Section 131.0.N, in accordance with the variance provisions of Section 130.0.B. for modifications and expansions of:
 - a. Existing Conditional Uses that were approved prior to July 12, 2001; and
 - b. Conditional Uses filed on or before March 5, 2001, and approved after July 12, 2001.
5. THE HEARING AUTHORITY MAY APPROVE VARIANCES TO ANY BULK REQUIREMENTS REQUIRED BY SECTION 131.0.N AND SECTION 131.0.O, IN ACCORDANCE WITH THE VARIANCE PROVISIONS OF SECTION 130.0.B.
6. ANY SETBACK REQUIRED BY SECTION 131.0.N OR SECTION 131.0.O, OR BY THE UNDERLYING ZONING DISTRICT, SHALL NOT APPLY IF THE PROPERTY FROM WHICH SUCH SETBACK IS MEASURED IS IN COMMON OWNERSHIP. CONDITIONAL USE SETBACKS SHALL NOT APPLY TO, FROM, OR WITHIN THE PIPESTEM PORTION OF ANY PIPESTEM LOT, AS DEFINED IN THE SUBDIVISION AND LAND DEVELOPMENT REGULATIONS.

Howard County Zoning Regulation Section 131.0.F.2:

Proposed Amendment:

2. A petition for Conditional Use shall be submitted to the Department of Planning and Zoning and shall include:

- a. A Conditional Use plan which shows all existing and proposed uses, structures, parking areas, points of ingress and egress, landscaping, and the approximate location of relevant natural features which shall include wetlands, steep slopes, and tree and forest cover.
- b. Information regarding noise, dust, fumes, odors, lighting levels, vibrations, non-sewage solid waste, hazards or other physical conditions resulting from the use which may adversely impact vicinal properties.
- c. A statement that indicates:
 - (1) Whether the property is served by public or private water and sewage disposal;
 - (2) That additional information can be obtained from the Howard County Health Department; and
 - (3) The current address of the Howard County Health Department.
- d. Supporting documentation, such as traffic studies, market studies, and noise studies, may be required by the Department of Planning and Zoning at its discretion or by these Regulations.
- e. For expansion or modification of an existing Conditional Use, the Department of Planning and Zoning may require information regarding compliance with previous requirements and conditions.
- f. WRITTEN AUTHORIZATION FROM EITHER THE PROPERTY'S OWNER OR FROM THE HOLDER OF AN EASEMENT OR SIMILAR INSTRUMENT, ATTESTING TO THEIR PERMISSION FOR THE PETITION AND THEIR RIGHT TO CARRY OUT THE USE(S) ON THE PROPERTY. THE VALIDITY AND LEGALITY OF SUCH AUTHORIZATION SHALL BE PRESUMED.

[[f.]] g. After a petition for a Conditional Use has been determined to be officially accepted by the Department of Planning and Zoning and a hearing date has been scheduled, the petition materials shall not be revised or replaced prior to the hearing. The technical staff report shall be based upon the materials in the petition at the time of acceptance. Supplemental materials may only be presented in testimony to the Hearing Authority.

Example of how the text would appear normally if adopted:

2. A petition for Conditional Use shall be submitted to the Department of Planning and Zoning and shall include:

a. A Conditional Use plan which shows all existing and proposed uses, structures, parking areas, points of ingress and egress, landscaping, and the approximate location of relevant natural features which shall include wetlands, steep slopes, and tree and forest cover.

b. Information regarding noise, dust, fumes, odors, lighting levels, vibrations, non-sewage solid waste, hazards or other physical conditions resulting from the use which may adversely impact vicinal properties.

c. A statement that indicates:

- (1) Whether the property is served by public or private water and sewage disposal;
 - (2) That additional information can be obtained from the Howard County Health Department; and
 - (3) The current address of the Howard County Health Department.
- d. Supporting documentation, such as traffic studies, market studies, and noise studies, may be required by the Department of Planning and Zoning at its discretion or by these Regulations.
- e. For expansion or modification of an existing Conditional Use, the Department of Planning and Zoning may require information regarding compliance with previous requirements and conditions.
- f. Written authorization from the property's owner (if other than the Petitioner). The validity and legality of such shall be presumed.
- g. After a petition for a Conditional Use has been determined to be officially accepted by the Department of Planning and Zoning and a hearing date has been scheduled, the petition materials shall not be revised or replaced prior to the hearing. The technical staff report shall be based upon the materials in the petition at the time of acceptance. Supplemental materials may only be presented in testimony to the Hearing Authority.

Howard County Zoning Regulation Section 131.0.N.48:

Proposed Amendment:

A Conditional Use may be granted in the RC and RR Districts, on properties that are not ALPP purchased or dedicated easement properties, and in the R-20, R-ED, R-12, R-SC, R-SA-8, R-H-ED, R-A-15, R-APT, R-MH, or R-VH Districts for private academic schools, colleges and universities, **[[[not including nursery schools]]] WHICH MAY INCLUDE CHILD DAY CARE CENTERS AND NURSERY SCHOOLS AS AN ACCESSORY USE, provided that:**

1 **GLENELG COUNTRY DAY SCHOOL,**
2 **PETITIONER**
3 **ZRA-188**

* **BEFORE THE**
* **PLANNING BOARD OF**
* **HOWARD COUNTY, MARYLAND**

4 * * * * *

5 **MOTION:** Amend Section 131.0.D to exempt setback requirements from lots in common
6 ownership and allow the Hearing Authority to grant setback variances for
7 Conditional Uses; Amend Section 131.0.F.2 to accept easements as written
8 authorization for a petition; and, Amend Section 131.0.N.48 to include child day care
9 and nursery schools as an accessory use to *Schools, Colleges, Universities—Private*
10 *(Academic)*.

11 **ACTION:** *Recommended denial; Vote 5-0.*

12 * * * * *

13
14 **RECOMMENDATION**

15
16 On June 6, 2019, the Planning Board of Howard County, Maryland, considered the petition of
17 Glenelg Country Day School (Petitioner) to amend three sections of the Howard County Zoning Regulations
18 (Sections 131.0.D, 131.0.F.2, and 131.0.N.48). The proposed Section 131.0.D amendment would allow the
19 Hearing Examiner to reduce setbacks in the specific criteria for Conditional Uses through a variance process
20 and exempt Conditional Uses from all setback requirements where adjacent lots are in common ownership or
21 held in an easement, or similar instrument. The Section 131.0.F.2 amendment proposed to codify the
22 requirement for owner authorization to apply for a Conditional Use and allow for such authorization to be in
23 the form of an easement or similar recorded instrument – the validity and legality of which is presumed. The
24 Section 131.0.N.48 amendment would add child day care centers and nursery schools as an accessory use
25 within the *Schools, Colleges, Universities—Private (Academic)* Conditional Use category.

26
27 The Planning Board considered the petition and the Department of Planning and Zoning (DPZ)
28 Technical Staff Report and Recommendation. DPZ recommended approval, with modifications to the
29 proposed 131.0.D. 6 and 131.0.F.2.f amendments. DPZ supported allowing the Hearing Authority to approve
30 setback variances according to the variance criteria in Section 130.0.B because it provides flexibility for
31 properties with practical difficulties and applies the same approach to by-right uses. DPZ further
32 recommended that the amendment be expanded to include all bulk regulations. DPZ supported exempting
33 Conditional Use setbacks where adjacent lots are in common ownership and recommended including the
34 pipestem portion of a pipestem lot. DPZ also recommended modifications to the proposed Section 131.0.F.2
35 amendment to simplify the language and require the Petitioner to submit written verification attesting to their
36 permission for Petition and right to carry out the use on the property. Finally, DPZ stated that the proposed

1 amendment to Section 131.0.N.48 is consistent with the department's current interpretation that a child care
2 center or nursery school use is accessory to a Private Academic use.

3 Mr. Sang Oh represented the Petitioner. Mr. Oh testified that varying bulk regulations has been done
4 previously and that the Petitioner supported DPZ's alternative to exempt setbacks from pipestems since the
5 Petitioner's approach was somewhat cumbersome. However, Mr. Oh expressed concern with DPZ's modified
6 text change to Section 131.0.F.2 that stated the validity and legality of authorization to apply for a Conditional
7 Use shall be presumed. Mr. Oh explained that determining appropriate authorization to apply is a legal
8 determination by the courts. Therefore, rather than presuming authorization is valid, it should be restated to
9 clarify it is not relevant to the decision.

10 Approximately 15 members of the public testified in opposition the proposed amendment, with others
11 registering opposition and agreeing with the speakers. Andrea LeWinter testified on behalf of the Glenelg
12 Manor Estates Community Association (GMECA) and conveyed concerns with countywide impacts of the
13 proposed ZRA beyond adjacent property owners, specifically the proposed amendments to exempt pipestem
14 setbacks and allow variances to Conditional Use setback. She also commented on changes to common
15 ownership rules. Opponents generally expressed concerns with exempting setbacks to a pipestem, citing their
16 multiple uses and adverse impacts associated with locating uses or buildings close to them. Opponents also
17 expressed concerns that ZRA, applied countywide, was inconsistent with *PlanHoward 2030* and equated an
18 easement interest to land ownership. Opponents testified that easement holders should be permitted to apply
19 for a Conditional Use without the fee simple owner's signature and that the current practice of requiring the
20 owners signature should remain. Two members of the public were opposed to allowing a child care center as
21 an accessory use citing concerns with traffic and safety and the need to comply with Conditional Use
22 requirements.

23 Board Discussion and Recommendation

24 Prior to the work session, Board members asked DPZ staff to clarify the process to determine whether
25 a child care center constitutes an accessory use. Per the Board's request, DPZ staff also clarified that the
26 proposal seeks to allow the Hearing Examiner to reduce Conditional Use setbacks, regardless of ownership,
27 and the proposed setback exemption applies to Conditional Uses where the Petitioner owns the adjacent
28 property or has an easement interest. In work session, Board members expressed concerns that the proposed
29 amendments are designed to address issues with one property, however, they will apply countywide and could
30 result in unintended consequences. Also, they stated a preference for continuing to require property owner
31 signatures on Conditional Use Petitions. One Board member supported providing some flexibility to allow the
32 Hearing Examiner to vary setbacks. The Board made the following motions on each proposed amendment:

33 Mr. Coleman motioned to recommend the Council approval DPZ's proposed text for Section

1 131.0.D.1 and 131.0.D.5. Ms. Adler seconded the motion, which failed 1-4 (Engelke, Roberts, Adler,
2 McAilley dissenting)

3 Ms. Adler motioned to recommend the Council deny the Petitioner's proposed amendment to Section
4 131.0.D.6. Ms. Roberts seconded the motion, which passed 5-0.

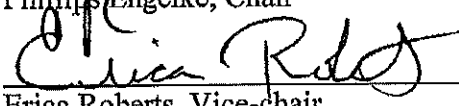
5 Ms. Adler motioned to recommend the Council deny the Petitioner's proposed amendments to
6 Section 131.0.F.2.f. Mr. McAilley seconded the motion, which passed 5-0.

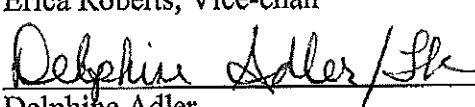
7 Ms. Roberts motioned to recommend the Council deny the Petitioner's proposed amendment to
8 Section 131.0.N.48. Mr. McAilley seconded the motion, which passed 4-1 (Coleman dissenting).

9
10 For the foregoing reasons, the Planning Board of Howard County, Maryland, on this 11th day of
11 July 2019, recommends that ZRA-188, as described above, be **Denied**.

12
13
14 HOWARD COUNTY PLANNING BOARD

15
16 
Phillips Engelke, Chair

17
18 
Erica Roberts, Vice-chair

19
20 
Delphine Adler

21
22 
Ed Coleman

23
24 
Kevin McAilley

25
26
27
28 ATTEST:

29 
30 Valdis Lazdins, Executive Secretary

Amendment 5 to Council Bill No. 9-2020

BY: David Yungmann

Legislative Day No. 6

Date: May 4, 2020

Amendment No. 5

(This Amendment clarifies the purpose paragraph on the title page, requires a Hearing Authority to consider a variance petition within a certain easement area if the Hearing Authority determines that the variance is consistent with a certain easement; specifies that certain setbacks do not apply if the petitioner has certain easements on specified pipestems; and removes certain provisions relating to validity and legality of easements and similar instruments.)

1 On the title page, in the purpose paragraph:

- 2 • strike “to allow the Hearing Authority to grant variances to certain setbacks” and
3 substitute “allowing the Hearing Authority to consider the terms of certain easements and
4 to grant a variance under certain conditions; establishing”;
- 5 • On the title page, in the purpose paragraph, after the last semi-colon, insert “limiting this Act to
6 private academic schools”;
- 7
- 8
- 9 • strike “for”;
- 10
- 11 • strike “that is” and substitute “and nursery school as”; and
- 12
- 13 • strike “under specified conditions”.
- 14

ADOPTED with amendments 6/1/2020
FAILED
SIGNATURE Rhane A. Jones

15
16 On page 1, in line 17, after “PETITION” insert “AND THE HEARING AUTHORITY IS SATISFIED THAT
17 EACH FEE SIMPLE PROPERTY OWNER OF A PROPERTY SUBJECT TO THE PETITION HAS BEEN NOTIFIED
18 IN WRITING”

19
20 On page 2, strike lines 29 to 31 and substitute:

21 “5. AT A HEARING TO CONSIDER A VARIANCE PETITION OR CONDITIONAL USE PROPOSED FOR
22 A PRIVATE ACADEMIC SCHOOL, INCLUDING A COLLEGE OR UNIVERSITY WITHIN AN EASEMENT
23 AREA, THE HEARING AUTHORITY SHALL PROCEED IF THE HEARING AUTHORITY

24 DETERMINES THAT THE PROPOSED USE OR VARIANCE IS CONSISTENT WITH THE TERMS AND
25 CONDITIONS OF ANY EXCLUSIVE EASEMENT THAT THE PETITIONER SUBMITS AND RELIES ON
26 AS PART OF THE PETITION. A DETERMINATION OF CONSISTENCY DOES NOT BIND A COURT IN
27 ANY PROCEEDING RELATED TO THE MATTER.”.

28
29 On page 2, in line 32, before “ANY” insert “THIS PARAGRAPH APPLIES ONLY TO PRIVATE ACADEMIC
30 SCHOOLS, INCLUDING COLLEGES AND UNIVERSITIES.

31
32 On page 3, in line 3, strike “OR ITS PREDECESSOR WAS GRANTED” and substitute “HAS”.

33
34 On page 3, in line 3. after “RECORDED” insert “EXCLUSIVE”.

35
36 On page 3, in line 3, strike “RECORDED INSTRUMENT”.

37
38 Also on page 3, in line 4, before the period, insert:

39 “AND THE PETITIONER OWNS ALL OF THE PROPERTIES THAT ADJUT THE PROPERTY TO
40 WHICH THE EXCLUSIVE EASEMENT OR OTHER RECORDED INSTRUMENT APPLIES. THE
41 PROPERTY ON THE OPPOSITE SIDE OF THE EASEMENT FROM THAT PORTION OF THE
42 PROPERTY WHERE THE SETBACK WOULD NOT APPLY. THE HEARING AUTHORITY SHALL
43 CONSIDER MULTIPLE ADJACENT EXCLUSIVE PIPESTEM EASEMENTS AS A SINGLE
44 EASEMENT IF THE TOTAL WIDTH OF THE ADJACENT PIPESTEM EASEMENTS DOES NOT
45 EXCEED A TOTAL WIDTH OF 75 FEET”.

46
47 Also on page 3 in line 4, strike beginning with “THE VALIDITY” down through and including all
48 of line 8.

49
50 On page 4, strike lines 15 to 21 and substitute:

51 “F. THIS PARAGRAPH APPLIES ONLY IF THE PETITIONER IS A PRIVATE ACADEMIC SCHOOL,
52 INCLUDING A COLLEGE OR UNIVERSITY. WRITTEN AUTHORIZATION FROM THE
53 PROPERTY'S OWNER (IF OTHER THAN THE PETITIONER). THE AUTHORIZATION MAY
54 BE IN THE FORM OF A RECORDED EXCLUSIVE EASEMENT OR SIMILAR RECORDED

INSTRUMENT."

Amendment 1 to Amendment 5 to Council Bill No. 9-2020

BY: David Yungmann

Legislative Day No. 7

Date: May 18, 2020

Amendment 1 to Amendment 5

(This Amendment clarifies the criterion for abutting properties)

1 On page 2, in line 25, strike "ALL OF THE PROPERTIES THAT ABUT THE PROPERTY TO WHICH THE
2 EXCLUSIVE EASEMENT OR OTHER RECORDED INSTRUMENT APPLIES" and substitute "THE PROPERTY ON
3 THE OPPOSITE SIDE OF THE EASEMENT FROM THAT PORTION OF THE PROPERTY WHERE THE SETBACK
4 WOULD NOT APPLY".

5

6

ADOPTED May 18, 2020
FAILED -
SIGNATURE Diane A. Jones

Amendment 2 to Amendment 5 to Council Bill No. 9-2020

BY: Christiana Rigby

Legislative Day No. 9

Date: June 1, 2020

Amendment No. 2 to Amendment 5

(This Amendment limits the Act to private schools.)

1 On the first page, insert after line 5:

2 "● On the title page, in the purpose paragraph, after the last semi-colon, insert "limiting this Act to

3 private academic schools;"".

4

5 Also on the first page, in line 19 insert:

6 "On page 2, in line 32, before "ANY" insert "THIS PARAGRAPH APPLIES ONLY TO PRIVATE ACADEMIC

7 SCHOOLS, INCLUDING COLLEGES AND UNIVERSITIES."

8

9 Also on the first page, at the end of line 13, insert "FOR A PRIVATE ACADEMIC SCHOOL, INCLUDING A

10 COLLEGE OR UNIVERSITY".

11

12 On the second page, in line 35, before "WRITTEN" insert "THIS PARAGRAPH APPLIES ONLY IF THE

13 PETITIONER IS A PRIVATE ACADEMIC SCHOOL, INCLUDING A COLLEGE OR UNIVERSITY."

14

ADOPTED June 1, 2020
FAILED
SIGNATURE Christiana Rigby

Amendment 5 to Amendment 5 to Council Bill No. 9-2020

BY: David Yungmann

Legislative Day No. 9

Date: June 1, 2020

Amendment No. 5 to Amendment 5

(This Amendment provides for a certain notice and removes references to other instruments for consistency.)

1 On page 1, after line 11, insert:

2 “On page 1, in line 17, after “PETITION” insert “AND THE HEARING AUTHORITY IS
3 SATISFIED THAT EACH FEE SIMPLE PROPERTY OWNER OF A PROPERTY SUBJECT TO THE
4 PETITION HAS BEEN NOTIFIED IN WRITING”.

5
6 On page 2, in line 37, strike “OR SIMILAR RECORDED INSTRUMENT”.

7
8 On page 3, in line 23, insert “On page 3, in line 3, strike “RECORDED INSTRUMENT”.

9
10

ADOPTED 6/1/2020
FAILED _____
SIGNATURE David Yungmann

Amendment 3 to Amendment 5 to Council Bill No. 9-2020

BY: David Yungmann

Legislative Day No. 9

Date: June 1, 2020

Amendment No. 3 to Amendment 5

(This Amendment provides for a notice to specified persons and clarifies a reference to a certain recorded instrument.)

1 On page 1, in line 17, after "PETITION" insert "AND THE HEARING AUTHORITY IS SATISFIED THAT
2 EACH FEE SIMPLE PROPERTY OWNER OF A PROPERTY SUBJECT TO THE PETITION HAS BEEN NOTIFIED
3 IN WRITING".
4
5

6 On page 2, in line 23, insert:

7 "On page 3, in line 3, strike "SIMILAR" and substitute "ANOTHER EXCLUSIVE SIMILAR"."

Withdrawn
6/1/2020

Amendment 4 to Amendment 5 to Council Bill No. 9-2020

BY: David Yungmann

Legislative Day No. 9

Date: June 1, 2020

Amendment No. 4 to Amendment 5

(This Amendment clarifies the meaning of "exclusive".)

1 On page 2, in line 33, insert:

2 "On page 3, before line 9, insert:

3 "7. For purposes of this subsection D and for purposes of subsection F of this Regulation,
4 exclusive means for the benefit of the petitioner only and not for the benefit of anyone
5 else."."

Not moved 6/1/2020

Amendment 5 to Council Bill No. 9-2020

BY: David Yungmann

Legislative Day No. 6

Date: May 4, 2020

Amendment No. 5

(This Amendment clarifies the purpose paragraph on the title page, requires a Hearing Authority to consider a variance petition within a certain easement area if the Hearing Authority determines that the variance is consistent with a certain easement; specifies that certain setbacks do not apply if the petitioner has certain easements on specified pipestems; and removes certain provisions relating to validity and legality of easements and similar instruments.)

1 On the title page, in the purpose paragraph:

- 2 • strike “to allow the Hearing Authority to grant variances to certain setbacks” and
3 substitute “allowing the Hearing Authority to consider the terms of certain easements and
4 to grant a variance under certain conditions; establishing”;
- 5
- 6 • strike “for”;
- 7
- 8 • strike “that is” and substitute “and nursery school as”; and
- 9
- 10 • strike “under specified conditions”.
- 11

12 On page 2, strike lines 29 to 31 and substitute:

13 “5. AT A HEARING TO CONSIDER A VARIANCE PETITION OR CONDITIONAL USE PROPOSED
14 WITHIN AN EASEMENT AREA, THE HEARING AUTHORITY SHALL PROCEED IF THE HEARING
15 AUTHORITY DETERMINES THAT THE PROPOSED USE OR VARIANCE IS CONSISTENT WITH THE
16 TERMS AND CONDITIONS OF ANY EXCLUSIVE EASEMENT THAT THE PETITIONER SUBMITS
17 AND RELIES ON AS PART OF THE PETITION. A DETERMINATION OF CONSISTENCY DOES NOT
18 BIND A COURT IN ANY PROCEEDING RELATED TO THE MATTER.”.

19

20 On page 3, in line 3, strike “OR ITS PREDECESSOR WAS GRANTED” and substitute “HAS”.

21

22 On page 3, in line 3. after "RECORDED" insert "EXCLUSIVE".

23

24 Also on page 3, in line 4, before the period, insert:

25

"AND THE PETITIONER OWNS ALL OF THE PROPERTIES THAT ABUT THE PROPERTY TO
26 WHICH THE EXCLUSIVE EASEMENT OR OTHER RECORDED INSTRUMENT APPLIES. THE
27 HEARING AUTHORITY SHALL CONSIDER MULTIPLE ADJACENT EXCLUSIVE PIPESTEM
28 EASEMENTS AS A SINGLE EASEMENT IF THE TOTAL WIDTH OF THE ADJACENT
29 PIPESTEM EASEMENTS DOES NOT EXCEED A TOTAL WIDTH OF 75 FEET".

30

31 Also on page 3 in line 4, strike beginning with "THE VALIDITY" down through and including all
32 of line 8.

33

34 On page 4, strike lines 15 to 21 and substitute:

35

"F. WRITTEN AUTHORIZATION FROM THE PROPERTY'S OWNER (IF OTHER THAN THE
36 PETITIONER). THE AUTHORIZATION MAY BE IN THE FORM OF A RECORDED
37 EXCLUSIVE EASEMENT OR SIMILAR RECORDED INSTRUMENT."

37

Amendment 1 to Amendment 1 to Council Bill No. 9-2020

BY: Deb Jung

Legislative Day No. 3

Date: March 2, 2020

Amendment No. 1 to Amendment 1

(This Amendment retains the requirement for written authorization from those who are not the property owner.)

1 On page 1, strike line 11 in its entirety and substitute:

2

3 “On page 4, strike beginning with the comma on line 16 down through and including line 21 and
4 substitute a period. Also on page 4, strike the double brackets on line 22 and strike “G.”.”

ADOPTED 6/11/2020
FAILED _____
SIGNATURE Diane J. Jung

Amendment 1 to Council Bill No. 9-2020

BY: Liz Walsh

Legislative Day No. 3

Date: March 2, 2020

Amendment No. 1

(This Amendment removes all the proposed changes except the change that would allow child day care centers and nursery schools as an accessory use to specific conditional uses.)

- 1 On the title page, in the purpose paragraph, strike “the Hearing Authority to grant variances to
2 certain setbacks for”.
- 3 On page 2, line 12, strike “AND 131.0.O.”
- 4 On page 2, line 13, strike “AND 131.0.O.”
- 5 On page 2, beginning on line 14 and ending on line 15, strike the words, “AND EXCEPT AS
6 PROVIDED IN SECTION 131.0.D.5 AND SECTION 131.0.D.6”.
- 7 On page 2, line 16, strike “AND 131.0.O.”
- 8 On page 2, line 21, strike “OR 131.0.O.”
- 9 On page 2, strike lines 29 through 32 in their entirety and on page 3 strike lines 1 through 8 in
10 their entirety.
- 11 On page 4, strike lines 15-21 and strike the double brackets on line 22 and strike “G.”.
- 12

ADOPTED _____
FAILED as amended 6/1/2020
SIGNATURE Kianet Jones

Amendment 2 to Council Bill No. 9-2020

BY: David Yungmann

Legislative Day No. 3

Date: March 2, 2020

Amendment No. 2

(This Amendment requires the Hearing Authority to determine whether a proposed use is consistent with an easement.)

1 On page 2, in line 31, after the final period, insert: "AT A HEARING TO CONSIDER A VARIANCE PETITION
2 OR CONDITIONAL USE PROPOSED WITHIN AN EASEMENT AREA, THE HEARING AUTHORITY MAY PROCEED
3 IF THE HEARING AUTHORITY DETERMINES THAT THE PROPOSED USE OR VARIANCE IS CONSISTENT WITH
4 THE TERMS AND CONDITIONS OF ANY EASEMENT THAT THE PETITIONER RELIES ON AS PART OF THE
5 PETITION. A DETERMINATION OF CONSISTENCY DOES NOT BIND A COURT IN ANY PROCEEDING RELATED
6 TO THE MATTER.".

7
8

w/drawn 6/1/2020

Amendment 3 to Council Bill No. 9-2020

BY: David Yungmann

Legislative Day No. 3

Date: March 2, 2020

Amendment No. 3

(This Amendment provides that a petitioner who relies on an easement must own all the properties that abut the easement.)

1 On page 3, in line 4, after "INSTRUMENT" insert "AND THE PETITIONER OR ITS PREDECESSOR OWN ALL OF
2 THE PROPERTIES THAT ABUT THE PROPERTY TO WHICH THE EASEMENT OR OTHER RECORDED
3 INSTRUMENT APPLIES".
4
5
6

withdrawn 6/1/2020

Amendment 4 to Council Bill No. 9-2020

BY: Deb Jung

Legislative Day No. 3

Date: March 2, 2020

Amendment No. 4

(This Amendment requires written authorization from the property's owner (if other than the Petitioner) that is the subject of the Conditional Use by eliminating the presumption that an easement or similar recorded instrument is equivalent to the written authorization.)

- 1 On page 4, strike beginning with the comma in line 16 down through but not including the final period in
- 2 line 21.

APPROVED
FAILED 6/11/2020
SIGNATURE Deb Jung

Amendment 2 to Amendment 1 to Council Bill No. 9-2020

BY: Deb Jung

Legislative Day No. 3

Date: March 2, 2020

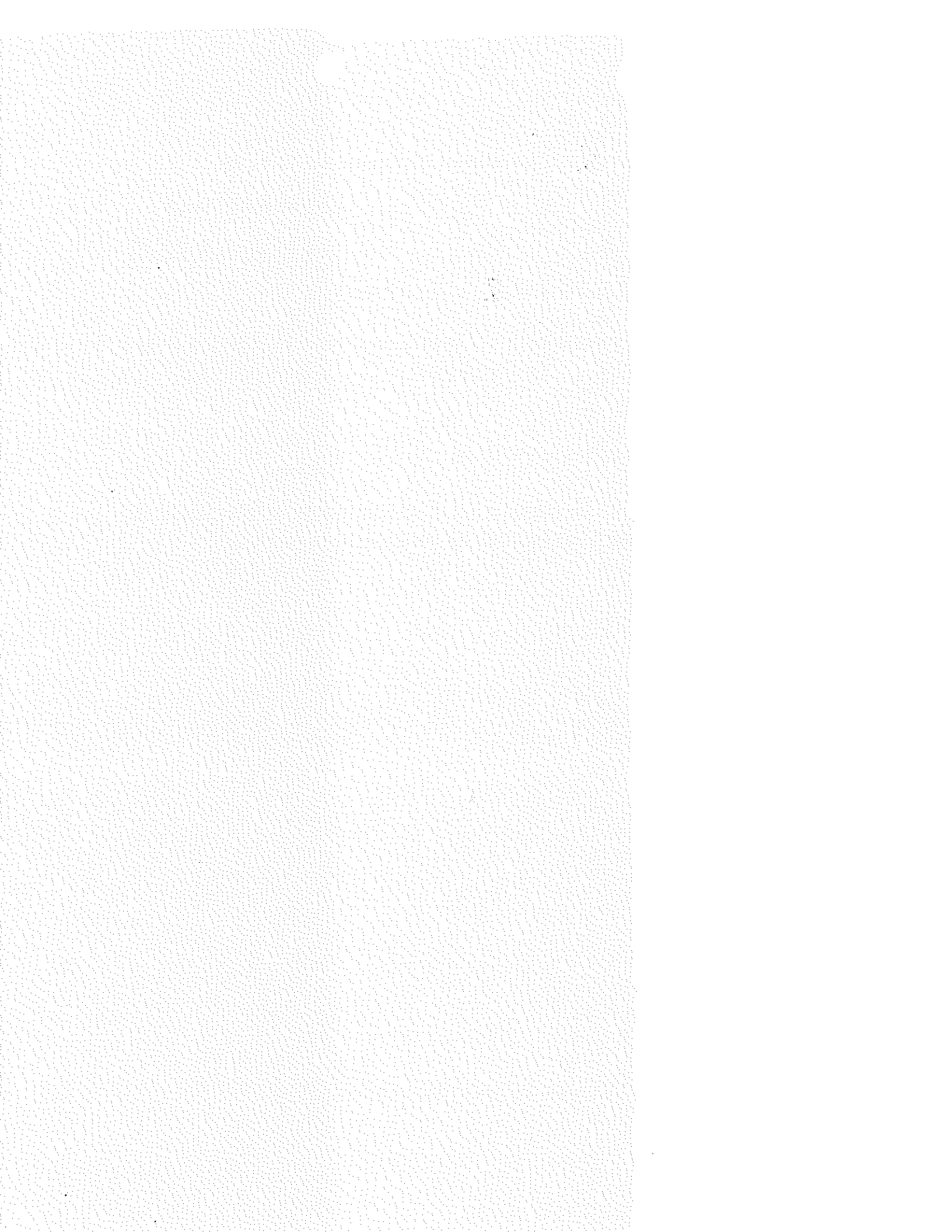
Amendment No. 2 to Amendment 1

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1 On page 1, strike line 11 in its entirety and substitute:

2

3 “On page 4, strike beginning with the comma on line 16 down through and including line 21 and
4 substitute a period. Also on page 4, strike the double brackets on line 22 and strike “G.”.”



Amendment 1 to Council Bill No. 9-2020

BY: Liz Walsh

Legislative Day No. 3

Date: March 2, 2020

Amendment No. 1

(This Amendment removes all the proposed changes except the change that would allow child day care centers and nursery schools as an accessory use to specific conditional uses.)

1 On the title page, in the purpose paragraph, strike “the Hearing Authority to grant variances to
2 certain setbacks for”.

3 On page 2, line 12, strike “AND 131.0.O.”

4 On page 2, line 13, strike “AND 131.0.O.”

5 On page 2, beginning on line 14 and ending on line 15, strike the words, “AND EXCEPT AS
6 PROVIDED IN SECTION 131.0.D.5 AND SECTION 131.0.D.6”.

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9 On page 2, strike lines 29 through 32 in their entirety and on page 3 strike lines 1 through 8 in
10 their entirety.

11 On page 4, strike lines 15-21 and strike the double brackets on line 22 and strike “G.”.

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Amendment 2 to Council Bill No. 9-2020

BY: David Yungmann

Legislative Day No. 3

Date: March 2, 2020

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2 OR CONDITIONAL USE PROPOSED WITHIN AN EASEMENT AREA, THE HEARING AUTHORITY MAY PROCEED
3 IF THE HEARING AUTHORITY DETERMINES THAT THE PROPOSED USE OR VARIANCE IS CONSISTENT WITH
4 THE TERMS AND CONDITIONS OF ANY EASEMENT THAT THE PETITIONER RELIES ON AS PART OF THE
5 PETITION. A DETERMINATION OF CONSISTENCY DOES NOT BIND A COURT IN ANY PROCEEDING RELATED
6 TO THE MATTER.".

7
8

Amendment 3 to Council Bill No. 9-2020

BY: David Yungmann

Legislative Day No. 3

Date: March 2, 2020

Amendment No. 3

(This Amendment provides that a petitioner who relies on an easement must own all the properties that abut the easement.)

1 On page 3, in line 4, after "INSTRUMENT" insert "AND THE PETITIONER OR ITS PREDECESSOR OWN ALL OF
2 THE PROPERTIES THAT ABUT THE PROPERTY TO WHICH THE EASEMENT OR OTHER RECORDED
3 INSTRUMENT APPLIES".

4
5
6

Amendment 4 to Council Bill No. 9-2020

BY: Deb Jung

Legislative Day No. 3

Date: March 2, 2020

Amendment No. 4

(This Amendment requires written authorization from the property's owner (if other than the Petitioner) that is the subject of the Conditional Use by eliminating the presumption that an easement or similar recorded instrument is equivalent to the written authorization.)

- 1 On page 4, strike beginning with the comma in line 16 down through but not including the final period in
- 2 line 21.

Amendment 1 to Amendment 5 to Council Bill No. 9-2020

BY: David Yungmann

Legislative Day No. 6

Date: May 4, 2020

Amendment 1 to Amendment 5

(This Amendment clarifies the criterion for abutting properties)

1 On page 2, in line 25, strike "ALL OF THE PROPERTIES THAT ABUT THE PROPERTY TO WHICH THE
2 EXCLUSIVE EASEMENT OR OTHER RECORDED INSTRUMENT APPLIES" and substitute "THE PROPERTY ON
3 THE OPPOSITE SIDE OF THE EASEMENT FROM THAT PORTION OF THE PROPERTY WHERE THE SETBACK
4 WOULD NOT APPLY".

5
6

Amendment 5 to Council Bill No. 9-2020

BY: David Yungmann

Legislative Day No. 6

Date: May 4, 2020

Amendment No. 5

(This Amendment clarifies the purpose paragraph on the title page, requires a Hearing Authority to consider a variance petition within a certain easement area if the Hearing Authority determines that the variance is consistent with a certain easement; specifies that certain setbacks do not apply if the petitioner has certain easements on specified pipestems; and removes certain provisions relating to validity and legality of easements and similar instruments.)

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- 2 • strike “to allow the Hearing Authority to grant variances to certain setbacks” and
3 substitute “allowing the Hearing Authority to consider the terms of certain easements and
4 to grant a variance under certain conditions; establishing”;
- 5 • strike “for”;
- 6 • strike “that is” and substitute “and nursery school as”; and
- 7 • strike “under specified conditions”.

8
9
10
11
12 On page 2, strike lines 29 to 31 and substitute:

13 “5. AT A HEARING TO CONSIDER A VARIANCE PETITION OR CONDITIONAL USE PROPOSED
14 WITHIN AN EASEMENT AREA, THE HEARING AUTHORITY SHALL PROCEED IF THE HEARING
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16 TERMS AND CONDITIONS OF ANY EXCLUSIVE EASEMENT THAT THE PETITIONER SUBMITS
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19
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21

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27 HEARING AUTHORITY SHALL CONSIDER MULTIPLE ADJACENT EXCLUSIVE PIPESTEM
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34 On page 4, strike lines 15 to 21 and substitute:

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36 PETITIONER). THE AUTHORIZATION MAY BE IN THE FORM OF A RECORDED
37 EXCLUSIVE EASEMENT OR SIMILAR RECORDED INSTRUMENT."



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

DPZ Office Use Only:
Case No. ZRA- 188
Date Filed: 4-1-19

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: To amend the Howard County Zoning Regulations pertaining to conditional uses to: (i) allow the Hearing Authority to grant variances to certain setbacks; (ii) provide that certain setbacks are inapplicable from properties either owned by the petitioner or over which the petitioner has a recorded easement or similar recorded instrument; (iii) provide that the written authorization of the owner of the subject property must be submitted with the conditional use petition, which authorization may be in the form of a recorded easement or similar recorded instrument; and (iv) provide that child day care centers are an accessory use to a private academic school conditional use.

[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 Glenelg Country School

Address 12793 Folly Quarter Road, Ellicott City, MD 21042

Phone No. (W) _____ (H) _____

Email Address ventre@glenelg.org

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

Counsel's Address 5100 Dorsey Hall Drive, Ellicott City, MD 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 Glenelg Country School is a private school located in western Howard County that was founded in 1954 with 35 students. Today, GCS enrolls over 750 students. In BA Case No. 16-034 C, GCS presented an application for the enlargement and modification of a previously-approved conditional use (special exception). A portion of the newly-proposed conditional use area included the land area of 22 fee-simple pipestem strips that are owned by various protesting neighbors. In 2007 and 2008, GCS obtained the written consent of these protesting neighbors in an easement agreement. This easement agreement, which was the consent required in this case, was submitted along with the application. The protesting neighbors objected to the inclusion of the land area under the 22 fee-simple pipestems. The Hearing Examiner ultimately denied BA Case No. 16-034C holding that the proffered consent was not adequate. The

HOWARD COUNTY
RECEIVED
2019 APR - 1 AM 2:25

purpose of the instant zoning regulation amendment is to require the Hearing Authority to decide the land use and zoning issues that are presented by applicants and not avoid making these determinations citing legal issues that are within the sole province of the courts. Administering the conditional use regulations for private schools to require a specific form of consent to be submitted with the application provides the protesting neighbors with the ability to prevent any future expansion/modification of GCS and condemns GCS from being able to sustain the institution for the future.

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 the 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 the 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 the attached Supplemental Statement.

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 the 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.

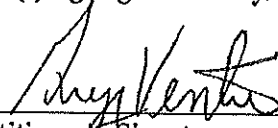
[You may attach a separate document to respond to Section 9. If so, this document shall be titled "Response to Section 9."]

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.

Glenelg Country School
Petitioner's name (Printed or typed)


Petitioner's Signature

3-25-19
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.]

FEES

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.

ZONING MATTER: Glenelg Country School

AFFIDAVIT AS TO CONTRIBUTION

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

I, Glenelg Country School, the applicant in the above zoning matter

_____, HAVE _____, 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: GREGORY J. VENTRE

Signature: *Gregory J. Ventre*

Date: 3/25/19

ZONING MATTER: Glencg Country School

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: N/A

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: GREGORY J. VENTRE

Signature: [Handwritten Signature]
MEMBER OF SCHOOL

Date: 3/25/19

ZONING MATTER: Glenelg Country School

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, GLENELG COUNTRY SCHOOL, the applicant in the above zoning matter

_____, AM _____, 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: GREGORY J. VENTRE

Signature: [Handwritten Signature]

Date: 2/25/19

Petition to Amend the Zoning Regulations of Howard County

Supplemental Statement

Response to Section 5

The proposed amendments will be in harmony with PlanHoward 2030. Glenelg Country School ("GCS") is located in the Rural West and is zoned RR-DEO. The County established a Rural West Advisory Committee as part of PlanHoward 2030 "to be a sounding board on various land use issues in the Rural West," including conditional uses. PlanHoward 2030, p. 34. "Conditional uses . . . are presumed to be appropriate in the zoning districts where they are allowed." *Id.* "Conditional Uses are authorized in specified zoning districts based on the presumption that they are generally appropriate and compatible in the specified districts." Howard County Zoning Regulations § 131.0.A.

Implementing Action b. to Policy 4.5 of PlanHoward 2030 is to review use designations, including conditional uses, in the Rural West, and determine if amendments are necessary. PlanHoward 2030, p. 36. PlanHoward 2030 called for "[a] thorough review of the zoning regulations during Comprehensive Rezoning" to determine whether "the permitted by right/permitted by permit/permitted by conditional use structure" needed an overhaul. *Id.* at p. 34. "The uses themselves should also be reviewed to determine if there are additional uses that could be added, or if there are some uses that are no longer relevant and could be deleted." *Id.*

Additionally, beyond the context of the Rural West, Policy 10.4 of PlanHoward 2030 is to "Review and update all County development regulations to respond to County General Plan development goals and changing market conditions, and to improve the efficiency of the County's review process." *Id.* at p. 143. Implementing Action c. to Policy 10.4 similarly proposes to "Review and, as appropriate, amend the County's conditional use regulations to reflect updated land use policies."

PlanHoward 2030 was adopted on July 26, 2012. During the subsequent Comprehensive Rezoning process in 2013, the County's Department of Planning and Zoning and the County Council thoroughly reviewed the County's zoning map and regulations as called for by PlanHoward 2030. Given GCS's extensive history, student enrollment levels, and stature in the community, it is undeniable that the County Council was aware of GCS' RR-DEO zoning and its approved Private Academic School conditional use at the time of the 2013 Comprehensive Rezoning.

As part of the 2013 Comprehensive Rezoning, the County Council made the decision to keep the Private Academic School use a conditional use in the RR-DEO zoning district. Doing so was an acknowledgment by the County Council that GCS is an appropriate use and is in harmony with PlanHoward 2030; otherwise, the Council would have expressly deleted this conditional use and prohibited private academic schools in the RR-DEO district. Approving this Petition is necessary to ensure that GCS can continue serving the community and sustaining its programs into the future as the County Council clearly intended and in harmony with PlanHoward 2030.

Response to Section 6

The proposed amendments will be in harmony with the legislative intent provided in Section 100.0.A of the Zoning Regulations. These amendments will promote the health, safety, and welfare of the community by allowing GCS to continue its work of serving hundreds of families in the community every year. Furthermore, one of the policy goals in furtherance of promoting the health, safety, and welfare is to "provide a guide . . . for private enterprise in undertaking development, investment and other economic activity relating to uses of land and structures throughout the County." Howard County Zoning Regulations § 100.0.A.4. GCS has been growing and evolving to meet the needs of the community for approximately 65 years, and the proposed amendments are necessary to allow GCS to continue undertaking investment and development to serve the County's residents, including by permitting a child day care center/nursery school. Approving the requested amendments will not adversely affect the community.

Conversely, without the approval of the instant Petition, the welfare of the community will be negatively affected. If GCS is prohibited from making any future expansions and modifications to its school and program, GCS will be unable to sustain its institution and will further be unable to continue serving the community as it has for decades.

The proposed amendments regarding setbacks in Section 131.0.D will also further the purposes of Section 100.0.A. Conditional uses are presumed to be generally appropriate and compatible in their zoning districts as provided in Zoning Regulations Section 131.0.A. In any context other than conditional uses, the Hearing Authority is authorized to grant variances to the setback requirements imposed by the Zoning Regulations in accordance with Section 130.0.B. Allowing the Hearing Authority to make those same determinations for setbacks imposed by the specific conditional use criteria of Section 131.0.N and Section 131.0.O would preserve and promote the health, safety, and welfare of the community by ensuring that appropriate and compatible developments are not prevented merely because of some unique physical condition of the subject property (for which a variance would otherwise be available) or because the petitioner happens to own two adjoining lots (creating internal setbacks) instead of one combined lot.

As intended by Section 100.0.A, the proposed zoning regulation amendments would allow additional conditional use developments in furtherance of the most beneficial and convenient relationships among the residential, non-residential, and public areas of the County with specific consideration of the conditional use's suitability at its particular location. The instant amendments would also better guide the orderly growth and development of the County in accordance with Section 100.0.A.2, again by ensuring that appropriate and compatible conditional use developments are not foreclosed simply because of unique property conditions.

Response to Section 7

The proposed amendments will benefit the public by allowing GCS to continue to serve the Howard County community. As described previously in this Petition, GCS currently enrolls over 750 students. These students come from across the County, reducing enrollment figures at County schools that are over capacity. In order for GCS to continue serving its students and the public into the future, approval of the instant Petition is necessary.

Response to Section 8

The proposed amendments have the potential of affecting all conditional use applications. The amendments pertaining to setbacks would merely bring conditional uses closer in line with other uses that a person may make of his or her property. For conditional uses that are compatible with the surrounding neighborhood and would be beneficial to the area, little justification exists to deny such uses on the mere basis of a setback not being able to be satisfied. This is especially true when the setback is from the petitioner's own property or when the variance criteria of Section 130.0.B would otherwise be satisfied.

Requiring a setback from property that a petitioner owns or has an easement over does not lead to the most beneficial arrangement of land uses. Instead, a petitioner is forced to comply with setback requirements for no reason other than owning multiple separate lots instead of one combined lot. A conditional use petitioner's decision to locate a use or structure up to an internal lot line should be the petitioner's alone, given that such decision will have no impact on anyone other than that petitioner. If the petitioner ever chooses to sell or convey one lot separate and apart from the other, the purchaser will be making an informed decision and choosing to acquire the lot with knowledge of the reduced setback such that the purchaser will likewise not be adversely affected.

Furthermore, granting the Hearing Authority the ability to consider unique physical conditions affecting a conditional use property will also have minimal impact. The variance criteria require the Hearing Authority to make specific findings, including that the variance "will not alter the essential character of the neighborhood or district in which the lot is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare." Given the considerations required by Section 130.0.B, these proposed amendments will provide more flexibility to the Hearing Authority to approve compatible and beneficial developments while still ensuring that any reduced setbacks do not create substantial negative effects.

Provided that a private academic school satisfies all of the conditional use criteria of Section 131.0.N.48, a child day care center and/or nursery school is an appropriate accessory use in connection with that school. For a petitioner who would like to more fully serve the community by also providing a child day care center or nursery school, this proposed amendment would allow an incidental and subordinate day care or nursery school without forcing the petitioner to seek a second, separate conditional use approval for such accessory use.

The impact of the proposed amendment pertaining to owner authorizations will also be minimal. Currently, the Department of Planning and Zoning's form conditional use petition requires the property owner's authorization. That requirement, however, is not presently codified in the Zoning Regulations as it would be with the approval of this amendment.

Additionally, if a conditional use petitioner has obtained a recorded easement or similar recorded instrument over certain property, such a formal instrument should be sufficient to serve as the necessary authorization. A petitioner will almost certainly have relied upon such recorded instrument in planning for the development of such petitioner's property. The owner of a property, after having granted a conditional use petitioner an easement, should not be able to change such

owner's mind and to completely preclude the conditional use application from being heard and considered. The owner who granted the easement should, and would, still have the right to contest the use based on the conditional use criteria contained within Section 131.0. The owner could also seek to enforce the terms of the recorded instrument in court or any other appropriate forum. A conditional use hearing, however, is not the appropriate forum. This proposed zoning regulation amendment would ensure that after having been granted the benefit of an easement, a conditional use petitioner could rely upon such grant and could proceed to have its conditional use petition heard and decided on the merits.

Petition to Amend the Zoning Regulations of Howard County

Petitioner's Proposed Text

Howard County Zoning Regulation Section 131.0.D:

Proposed Amendment:

1. A Conditional Use shall comply with the requirements for the specific use given in Section 131.0.N AND SECTION 131.0.O. Variances may not be granted to the requirements of Section 131.0.N AND SECTION 131.0.O except for modifications or expansions of existing Conditional Uses in accordance with Section 131.0.D.4 below AND EXCEPT AS PROVIDED IN SECTION 131.0.D.5 AND SECTION 131.0.D.6 BELOW.
2. Where a minimum lot size is given in Section 131.0.N OR SECTION 131.0.O for a Conditional Use, such a requirement shall not be deemed to prohibit the establishment of the Conditional Use on a lot which complies with the minimum area requirement and is also used for other Conditional Uses or uses permitted as a matter of right.
3. If more than one Conditional Use is located on a lot and the specific requirements of Section 131.0.N OR SECTION 131.0.O for the Conditional Uses are in conflict, the more stringent requirements shall apply to all Conditional Uses on the site.
4. The Hearing Authority may approve variances to the bulk regulations in Section 131.0.N, in accordance with the variance provisions of Section 130.0.B. for modifications and expansions of:
 - a. Existing Conditional Uses that were approved prior to July 12, 2001; and
 - b. Conditional Uses filed on or before March 5, 2001, and approved after July 12, 2001.
5. THE HEARING AUTHORITY MAY APPROVE VARIANCES TO ANY SETBACKS REQUIRED BY SECTION 131.0.N AND SECTION 131.0.O, IN ACCORDANCE WITH THE VARIANCE PROVISIONS OF SECTION 130.0.B.
6. ANY SETBACK REQUIRED BY SECTION 131.0.N OR SECTION 131.0.O, OR BY THE UNDERLYING ZONING DISTRICT, SHALL NOT APPLY IF THE PROPERTY FROM WHICH SUCH SETBACK IS MEASURED IS EITHER (A) OWNED BY THE PETITIONER, OR (B) PROPERTY OVER WHICH THE PETITIONER OR ITS PREDECESSOR WAS GRANTED A RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT. THE VALIDITY AND LEGALITY OF SUCH RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT SHALL BE PRESUMED, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER SUCH RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT SHALL NOT BE RELEVANT TO THE DETERMINATION TO BE MADE UNDER THIS SECTION 131.0.D.6.

Example of how the text would appear normally if adopted:

1. A Conditional Use shall comply with the requirements for the specific use given in Section 131.0.N and Section 131.0.O. Variances may not be granted to the requirements of Section 131.0.N and Section 131.0.O except for modifications or expansions of existing Conditional Uses in accordance with Section 131.0.D.4 below and except as provided in Section 131.0.D.5 and Section 131.0.D.6 below.
2. Where a minimum lot size is given in Section 131.0.N or Section 131.0.O for a Conditional Use, such a requirement shall not be deemed to prohibit the establishment of the Conditional Use on a lot which complies with the minimum area requirement and is also used for other Conditional Uses or uses permitted as a matter of right.
3. If more than one Conditional Use is located on a lot and the specific requirements of Section 131.0.N or Section 131.0.O for the Conditional Uses are in conflict, the more stringent requirements shall apply to all Conditional Uses on the site.
4. The Hearing Authority may approve variances to the bulk regulations in Section 131.0.N, in accordance with the variance provisions of Section 130.0.B. for modifications and expansions of:
 - a. Existing Conditional Uses that were approved prior to July 12, 2001; and
 - b. Conditional Uses filed on or before March 5, 2001, and approved after July 12, 2001.
5. The Hearing Authority may approve variances to any setbacks required by Section 131.0.N and Section 131.0.O, in accordance with the variance provisions of Section 130.0.B.
6. Any setback required by Section 131.0.N or Section 131.0.O, or by the underlying zoning district, shall not apply if the property from which such setback is measured is either (A) owned by the Petitioner, or (B) property over which the Petitioner or its predecessor was granted a recorded easement or similar recorded instrument. The validity and legality of such recorded easement or similar recorded instrument shall be presumed, and the rights and obligations of the parties under such recorded easement or similar recorded instrument shall not be relevant to the determination to be made under this Section 131.0.D.6.

Howard County Zoning Regulation Section 131.0.F.2:

Proposed Amendment:

2. A petition for Conditional Use shall be submitted to the Department of Planning and Zoning and shall include:

a. A Conditional Use plan which shows all existing and proposed uses, structures, parking areas, points of ingress and egress, landscaping, and the approximate location of relevant natural features which shall include wetlands, steep slopes, and tree and forest cover.

b. Information regarding noise, dust, fumes, odors, lighting levels, vibrations, non-sewage solid waste, hazards or other physical conditions resulting from the use which may adversely impact vicinal properties.

c. A statement that indicates:

(1) Whether the property is served by public or private water and sewage disposal;

(2) That additional information can be obtained from the Howard County Health Department; and

(3) The current address of the Howard County Health Department.

d. Supporting documentation, such as traffic studies, market studies, and noise studies, may be required by the Department of Planning and Zoning at its discretion or by these Regulations.

e. For expansion or modification of an existing Conditional Use, the Department of Planning and Zoning may require information regarding compliance with previous requirements and conditions.

f. WRITTEN AUTHORIZATION FROM THE PROPERTY'S OWNER (IF OTHER THAN THE PETITIONER), WHICH AUTHORIZATION MAY BE IN THE FORM OF A RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT. THE VALIDITY AND LEGALITY OF SUCH RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT SHALL BE PRESUMED, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER SUCH RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT SHALL NOT BE RELEVANT TO THE DETERMINATION TO BE MADE UNDER THIS SECTION 131.0.F.2.F.

[[f.]] g. After a petition for a Conditional Use has been determined to be officially accepted by the Department of Planning and Zoning and a hearing date has been scheduled, the petition materials shall not be revised or replaced prior to the hearing. The technical staff report shall be based upon the materials in the petition at the time of acceptance. Supplemental materials may only be presented in testimony to the Hearing Authority.

Example of how the text would appear normally if adopted:

2. A petition for Conditional Use shall be submitted to the Department of Planning and Zoning and shall include:

a. A Conditional Use plan which shows all existing and proposed uses, structures, parking areas, points of ingress and egress, landscaping, and the approximate location of relevant natural features which shall include wetlands, steep slopes, and tree and forest cover.

b. Information regarding noise, dust, fumes, odors, lighting levels, vibrations, non-sewage solid waste, hazards or other physical conditions resulting from the use which may adversely impact vicinal properties.

c. A statement that indicates:

(1) Whether the property is served by public or private water and sewage disposal;

(2) That additional information can be obtained from the Howard County Health Department; and

(3) The current address of the Howard County Health Department.

d. Supporting documentation, such as traffic studies, market studies, and noise studies, may be required by the Department of Planning and Zoning at its discretion or by these Regulations.

e. For expansion or modification of an existing Conditional Use, the Department of Planning and Zoning may require information regarding compliance with previous requirements and conditions.

f. Written authorization from the property's owner (if other than the Petitioner), which authorization may be in the form of a recorded easement or similar recorded instrument. The validity and legality of such recorded easement or similar recorded instrument shall be presumed, and the rights and obligations of the parties under such recorded easement or similar recorded instrument shall not be relevant to the determination to be made under this Section 131.0.F.2.f.

g. After a petition for a Conditional Use has been determined to be officially accepted by the Department of Planning and Zoning and a hearing date has been scheduled, the petition materials shall not be revised or replaced prior to the hearing. The technical staff report shall be based upon the materials in the petition at the time of acceptance. Supplemental materials may only be presented in testimony to the Hearing Authority.

Howard County Zoning Regulation Section 131.0.N.48:

Proposed Amendment:

A Conditional Use may be granted in the RC and RR Districts, on properties that are not ALPP purchased or dedicated easement properties, and in the R-20, R-ED, R-12, R-SC, R-SA-8, R-H-ED, R-A-15, R-APT, R-MH, or R-VH Districts for private academic schools, colleges and universities, ~~[[not including nursery schools]]~~ WHICH MAY INCLUDE CHILD DAY CARE CENTERS AND NURSERY SCHOOLS AS AN ACCESSORY USE, provided that:

Example of how the text would appear normally if adopted:

A Conditional Use may be granted in the RC and RR Districts, on properties that are not ALPP purchased or dedicated easement properties, and in the R-20, R-ED, R-12, R-SC, R-SA-8, R-H-ED, R-A-15, R-APT, R-MH, or R-VH Districts for private academic schools, colleges and universities, which may include child day care centers and nursery schools as an accessory use, provided that:



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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Voice/Relay

Valdis Lazdins, Director

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May 23, 2019

TECHNICAL STAFF REPORT

Planning Board Meeting of June 6, 2019

Case No./Petitioner: ZRA-188 – Glenelg Country School

Request: Amend Section 131.0.D to exempt setback requirements from lots in common ownership and allow the Hearing Authority to grant setback variances for Conditional Uses; Amend Section 131.0.F.2 to accept easements as written authorization for a petition; and, Amend Section 131.0.N.48 to include child day care and nursery schools as an accessory use to *Schools, Colleges, Universities—Private (Academic)*.

I. BACKGROUND AND HISTORY OF EXISTING ZONING REGULATIONS

There are three sections of code that are affected by the requested amendment.

1) Section 131.0.D - *Compliance with Specific Requirements for a Conditional Use.*

The Statement of Intent in Sec. 131.0.- Conditional Uses states: *Conditional Uses are authorized in specified zoning districts based on the presumption that they are generally appropriate and compatible in the specified districts. However, particular uses in particular locations may have characteristics or impacts that are not typical.*

Conditional Uses must comply with the requirements for the specific use as detailed in Section 131.N, and cannot be varied except for modifications or expansions of conditional uses approved prior to July 12, 2001. The code recognizes that Conditional Uses (formerly called Special Exceptions) should be considered within the specific context of a particular site and surrounding development patterns. As such, the Hearing Authority has broad discretion to impose additional limitations on Conditional Uses. However, the 1993 Comprehensive Rezoning added specific language prohibiting the granting of variances to Conditional Use criteria.

The proposed Section 131.0.D. amendments seek to reinstate the Hearing Authority's ability to approve setback variances and creates setback exemptions described in Section II below.

2) Section 131.0.F.2 - *Pre-Submission Community Meeting, Petition and Public Hearing.*

This section contains submission requirements for a Conditional Use Petition, including a Conditional Use Plan, a statement outlining the possible impacts on vicinal properties, and other supporting documentation.

Prior to 1993, the code required a Petitioner to submit a general statement addressing the potential impacts of the use on the area. In 1993, the code was expanded to add some procedural requirements. The proposed Section 131.0.F.2 amendment includes a provision to address property ownership, which has not historically been addressed in this section of the Zoning Regulations.

3) Section 131.0.N.48 - *Schools, Colleges, Universities—Private (Academic)*

This section provides specific standards that Private Academic Schools must meet for Conditional Use approval, including but not limited student density, lot area, street frontage, and setbacks.

Schools, Colleges, Universities—Private (Academic) first appeared as a Special Exception in 1977 and has evolved over time as the needs and expectations of schools have changed. The current conditions are as follows:

48. *Schools, Colleges, Universities—Private (Academic)*

A Conditional Use may be granted in the RC and RR Districts, on properties that are not ALPP purchased or dedicated easement properties, and in the R-20, R-ED, R-12, R-SC, R-SA-8, R-H-ED, R-A-15, R-APT, R-MH, or R-VH Districts for private academic schools, colleges and universities, (not including nursery schools) provided that:

- a. The maximum density permitted is 60 pupils per acre for lots less than three acres, and 100 pupils per acre for lots three acres or greater.
- b. In addition to meeting the minimum area requirements above, schools with residence accommodations shall provide an additional 500 square feet of lot area per site resident. Residents shall include students, staff members, caretakers and their families who reside on the site.
- c. A private school may be erected to a greater height than permitted in the respective district, provided that no structure is more than three stories in height and the front, side and rear setbacks shall be increased two feet for each foot by which such structure exceeds the height limitation.
- d. Sufficient off-street school bus loading areas shall be provided if bus service is provided for students.
- e. Outdoor uses will be located and designed to shield residential property from noise or nuisance. Play areas, athletic fields and similar uses shall be buffered from residential properties by fencing, landscaping, adequate distance or other appropriate means.
- f. Buildings, parking areas and outdoor activity areas will be at least 50 feet from adjoining residentially-zoned properties other than a public road right-of-way.
- g. At least 20% of the area within the building envelope will be green space, not used for buildings, parking area or driveways. The building envelope is formed by the required structure setbacks from property lines and public street rights-of-way.
- h. The site has frontage on and direct access to a collector or arterial road designated in the General Plan, except that expansions of a Conditional Use that was approved prior to July 12, 2001 are permitted.
- i. The minimum lot size in the RC and RR Districts for a new private academic facility is three acres. The minimum lot size in the R-20, R-ED, R-12, R-SC, R-SA-8, R-H-ED, R-A-15, R-APT, R-MH, or R-VH Districts for a new private academic facility is one acre. An existing private academic facility is not required to comply with this criterion.

II. DESCRIPTION AND EVALUATION OF PROPOSAL

This section contains the Department of Planning and Zoning (DPZ) technical evaluation of ZRA-188. The Petitioner's proposed amendment text is attached as Exhibit A, Petitioner's Proposed Text. DPZ's proposed amendment text is attached as Exhibit B, DPZ's Proposed Text.

Section 131.0.D - Compliance with Specific Requirements for a Conditional Use.

1) Section 131.0.D.1 and Section 131.0.D.5

DPZ recommends approval with modifications

ZRA 188 proposes to allow the Hearing Authority to reduce setbacks in the Specific Criteria for Conditional Uses through a variance process subject to the criteria in Section 130.0.B.2.

The Conditional Use process provides flexibility by allowing uses that may be compatible with uses permitted by right but that could generate certain adverse impacts. Specific Criteria, which typically include more restrictive bulk regulations, are applied to improve the compatibility of the use and reduce potential impacts to the surrounding community. Bulk regulations include setbacks, height maximums, lot coverage maximums, and other dimensional limitations. However, the bulk regulations included in the Specific Criteria have been arbitrarily developed and added piecemeal rather than through a rigorous evaluation that includes testing different site conditions, conditional uses and their locations.

Currently, bulk regulations in base zoning districts may be reduced through a variance process in accordance with Section 130.0.B.2. of the Zoning Regulations. However, bulk regulations embedded in the conditional criteria are not afforded this option. Similar to land subject to base zoning requirements, some properties where conditional uses are an option may likewise be constrained by features such as steep slopes, streams/buffers, and irregular lot shape. These circumstances may constrain reasonable development of property and are taken into account when variances are considered from base zoning district bulk requirements. Not so for Conditional Uses. If a property cannot meet the Conditional Use setbacks, it is automatically disqualified from consideration.

Allowing the Hearing Authority to vary Conditional Use bulk regulations on a case-by-case basis, would provide flexibility, consistent with the same approach applied to by right uses. This would avoid having to strictly adhere to dimensional standards that may have little bearing on potential adverse impacts to vicinal properties or the surrounding community.

Therefore, DPZ recommends the proposed amendment to allow variances to setback requirements be approved and expanded to include all bulk regulations in Section 131.0.N and Section 131.0.O, according to the provisions and criteria set forth in Section 131.0.B.2.

2. Section 131.0.D.6

DPZ recommends approval with modifications

The Petitioner also seeks to exempt Conditional Uses from all setback requirements (conditional use and base zoning) where adjacent lots are 1) in common ownership, or 2) held in an easement or similar instrument. It further stipulates that the County does not have a role in determining the validity of such private easement agreements and clarifies that the legality and validity of such agreements is presumed.

Exempting setback requirement from lot lines shared by the same owner is permitted under the existing regulations, however, it is not explicitly referenced under Conditional Use regulations. Currently, Conditional Uses can extend beyond parcel boundaries to include two adjacent properties, in which case setbacks to the intervening property line do not apply. This was applied in a recent decision, BA-15-026C, which established a Firewood Processing Conditional Use on two adjacent parcels owned by the Petitioner. However, forcing petitioners to include multiple properties under common ownership in a Conditional Use petition or to combine the lots to address setback issues may inhibit Conditional Use categories that have maximum lot size requirements or more stringent requirements for additional/larger lots. Additionally, Subdivision and Land Development Regulations may prevent lot consolidation, and environmental buffers from stream and wetlands may prevent inclusion of the additional area in the Conditional Use area.

It is reasonable to provide flexibility in situations such as these, and allow the setback exemption where there is common ownership and the Conditional Use area remains on one property. Therefore, DPZ supports the proposed amendment to exempt Conditional Use setbacks where adjacent lots are in common ownership. DPZ further recommends expanding the setback exemption to include the pipestem portion of a pipestem lot.

The Subdivision and Land Development Regulations define a pipestem lot as “a residential lot that is shaped like a pipe or flag, and is separated from the nearest road by another lot, except for an unbuildable strip of land 50 feet or less in width.” Given the size and nature of the pipestem portion of such lots, setbacks from these lots are often impractical or unnecessary. They are typically used as access drives, which are exempt from complying with bulk regulations, according to Section 103.0 which defines a structure and exempts driveways and parking surfaces. Furthermore, the purpose of a setback is to create a buffer area to protect certain uses. Buffering an access drive through setbacks is unnecessary and therefore, DPZ recommends exempting Conditional Uses from pipestem setback requirements.

Section 131.0.F.2.f- Pre-Submission Community Meeting, Petition and Public Hearing.

DPZ recommends approval with modifications

Howard County Zoning Regulations do not contain any requirements regarding authorization from a property owner to apply for a Conditional Use. However, the Conditional Use Petition form asks what the Petitioner’s interest is in the subject property and states that “[i]f the Petitioner is not the owner, written authorization must be submitted from the owner.” The proposed ZRA modifies this authorization for a Conditional Use by expanding it to easement holders. It also clarifies that the validity and legality of the easement or instrument is presumed.

The second part of this amendment, presumed validity, is consistent with current practice. DPZ reviews tax records to check ownership but otherwise relies on the application form signed by the owner or owner’s authorization as valid authority to process a Petition. Any dispute in the right to submit a Petition must be adjudicated through court proceedings between the involved parties, which does not include the County. This approach is currently applied in all circumstances when there is a dispute between property owners. Therefore, DPZ recommends codifying and clarifying the current practice of obtaining written authorization of the owner or agent and the presumed validity of that authorization. However, DPZ’s text in Exhibit B slightly modifies the Petitioner’s proposed text to simplify it.

While the code is silent on the question of ownership rights necessary to apply, the Conditional Use Petition form requires owner authorization to process the application. This is consistent with research done by DPZ to determine how other jurisdictions process conditional uses. Expanding this authority to include an easement holder is, however, a policy decision, best addressed by the County Council. It will ultimately be up to them to determine the property interest sufficient to process an application. If the Council determines that an easement constitutes sufficient interest to obtain use approval, DPZ recommends additional language (as shown in Exhibit B) be included that requires the Petitioner submit written verification attesting to their permission for the Petition and right to carry out the use(s) on the property.

Section 131.0.N.48 - Schools, Colleges, Universities—Private (Academic).

DPZ recommends approval

The proposed amendment adds child day care centers and nursery schools as an accessory use. DPZ would typically consider such uses as customary and incidental to the Private Academic Schools, and therefore would permit them as accessory. DPZ recommends approval since the proposed language is consistent with our current interpretation.

To note; Child Day Care Centers and Nursery Schools are otherwise Conditional Uses and would necessitate Conditional Use approval if determined not to be accessory to the Private Academic use.

III. GENERAL PLAN

The amendments proposed seek to clarify the Conditional Use process and powers of the Hearing Examiner, reinforce the requirements of the application process, and address the needs of Private Academic Schools.

The proposed amendment is in harmony with the following PlanHoward 2030 policies as related to the review process.

POLICY 10.4

Review and update all County development regulations to respond to County General Plan development goals and changing market conditions, and to improve the efficiency of the County's review process.

Implementing Actions

- a. **Zoning Regulation Review.** Develop Zoning Regulations that better address infill and redevelopment goals and issues.
- b. **Streamlining Processes.** Amend development regulations and manuals to streamline the review process to the maximum extent possible.
- c. **Updated Conditional Use Regulations.** Review and, as appropriate, amend the County's Conditional Use regulations to reflect updated land use policies. The regulations should reflect current best practices and policies to minimize the impact of development on the environment.

IV. RECOMMENDATION

For the reasons noted above, the Department of Planning and Zoning recommends that the ZRA-188 be APPROVED WITH MODIFICATIONS, as described above and drafted in Exhibit B.

Approved by:


Valdis Lazdins, Director

5-23-19
Date

NOTE: The file is available for public review at the Department of Planning and Zoning Public Information Counter.

Exhibit A – Petitioner’s Proposed Text

CAPITALS indicates text to be added. [[Text in double brackets]] indicates text to be deleted.

Howard County Zoning Regulation Section 131.0.D:

Proposed Amendment:

1. A Conditional Use shall comply with the requirements for the specific use given in Section 131.0.N AND SECTION 131.0.O. Variances may not be granted to the requirements of Section 131.0.N AND SECTION 131.0.O except for modifications or expansions of existing Conditional Uses in accordance with Section 131.0.D.4 below AND EXCEPT AS PROVIDED IN SECTION 131.0.D.5 AND SECTION 131.0.D.6 BELOW.
2. Where a minimum lot size is given in Section 131.0.N OR SECTION 131.0.O for a Conditional Use, such a requirement shall not be deemed to prohibit the establishment of the Conditional Use on a lot which complies with the minimum area requirement and is also used for other Conditional Uses or uses permitted as a matter of right.
3. If more than one Conditional Use is located on a lot and the specific requirements of Section 131.0.N OR SECTION 131.0.O for the Conditional Uses are in conflict, the more stringent requirements shall apply to all Conditional Uses on the site.
4. The Hearing Authority may approve variances to the bulk regulations in Section 131.0.N, in accordance with the variance provisions of Section 130.0.B. for modifications and expansions of:
 - a. Existing Conditional Uses that were approved prior to July 12, 2001; and
 - b. Conditional Uses filed on or before March 5, 2001, and approved after July 12, 2001.
5. THE HEARING AUTHORITY MAY APPROVE VARIANCES TO ANY SETBACKS REQUIRED BY SECTION 131.0.N AND SECTION 131.0.O, IN ACCORDANCE WITH THE VARIANCE PROVISIONS OF SECTION 130.0.B UNLESS OTHERWISE SPECIFIED IN THE SPECIFIC CONDITIONAL USE CRITERIA.
6. ANY SETBACK REQUIRED BY SECTION 131.0.N OR SECTION 131.0.O, OR BY THE UNDERLYING ZONING DISTRICT, SHALL NOT APPLY IF THE PROPERTY FROM WHICH SUCH SETBACK IS MEASURED IS EITHER (A) OWNED BY THE PETITIONER, OR (B) PROPERTY OVER WHICH THE PETITIONER OR ITS PREDECESSOR WAS GRANTED A RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT. THE VALIDITY AND LEGALITY OF SUCH RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT SHALL BE PRESUMED, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER SUCH RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT SHALL NOT BE RELEVANT TO THE DETERMINATION TO BE MADE UNDER THIS SECTION 131.0.D.6.

Howard County Zoning Regulation Section 131.0.F.2:

Proposed Amendment:

2. A petition for Conditional Use shall be submitted to the Department of Planning and Zoning and shall include:

a. A Conditional Use plan which shows all existing and proposed uses, structures, parking areas, points of ingress and egress, landscaping, and the approximate location of relevant natural features which shall include wetlands, steep slopes, and tree and forest cover.

b. Information regarding noise, dust, fumes, odors, lighting levels, vibrations, non-sewage solid waste, hazards or other physical conditions resulting from the use which may adversely impact vicinal properties.

c. A statement that indicates:

(1) Whether the property is served by public or private water and sewage disposal;

(2) That additional information can be obtained from the Howard County Health Department; and

(3) The current address of the Howard County Health Department.

d. Supporting documentation, such as traffic studies, market studies, and noise studies, may be required by the Department of Planning and Zoning at its discretion or by these Regulations.

e. For expansion or modification of an existing Conditional Use, the Department of Planning and Zoning may require information regarding compliance with previous requirements and conditions.

f. WRITTEN AUTHORIZATION FROM THE PROPERTY'S OWNER (IF OTHER THAN THE PETITIONER), WHICH AUTHORIZATION MAY BE IN THE FORM OF A RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT. THE VALIDITY AND LEGALITY OF SUCH RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT SHALL BE PRESUMED, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER SUCH RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT SHALL NOT BE RELEVANT TO THE DETERMINATION TO BE MADE UNDER THIS SECTION 131.0.F.2.F

[[f.]] g. After a petition for a Conditional Use has been determined to be officially accepted by the Department of Planning and Zoning and a hearing date has been scheduled, the petition materials shall not be revised or replaced prior to the hearing. The technical staff report shall be based upon the materials in the petition at the time of acceptance. Supplemental materials may only be presented in testimony to the Hearing Authority.

Case No.ZRA-188

Petitioner: Glenelg Country School

Page | 9

Howard County Zoning Regulation Section 131.0.N.48:

Proposed Amendment:

A Conditional Use may be granted in the RC and RR Districts, on properties that are not ALPP purchased or dedicated easement properties, and in the R-20, R-ED, R-12, R-SC, R-SA-8, R-H-ED, R-A-15, R-APT, R-MH, or R-VH Districts for private academic schools, colleges and universities, [[[not including nursery schools]]] WHICH MAY INCLUDE CHILD DAY CARE CENTERS AND NURSERY SCHOOLS AS AN ACCESSORY USE, provided that:

Exhibit B – DPZ’s Proposed Text

CAPITALS indicates text to be added. [[Text in double brackets]] indicates text to be deleted.

Howard County Zoning Regulation Section 131.0.D:

Proposed Amendment:

1. A Conditional Use shall comply with the requirements for the specific use given in Section 131.0.N AND SECTION 131.0.O. Variances may [[not]] be granted to the requirements of Section 131.0.N AND SECTION 131.0.O except for modifications or expansions of existing Conditional Uses in accordance with Section 131.0.D.4 ET SEQ BELOW.
2. Where a minimum lot size is given in Section 131.0.N OR SECTION 131.0.O for a Conditional Use, such a requirement shall not be deemed to prohibit the establishment of the Conditional Use on a lot which complies with the minimum area requirement and is also used for other Conditional Uses or uses permitted as a matter of right.
3. If more than one Conditional Use is located on a lot and the specific requirements of Section 131.0.N OR SECTION 131.0.O for the Conditional Uses are in conflict, the more stringent requirements shall apply to all Conditional Uses on the site.
4. The Hearing Authority may approve variances to the bulk regulations in Section 131.0.N, in accordance with the variance provisions of Section 130.0.B. for modifications and expansions of:
 - a. Existing Conditional Uses that were approved prior to July 12, 2001; and
 - b. Conditional Uses filed on or before March 5, 2001, and approved after July 12, 2001.
5. THE HEARING AUTHORITY MAY APPROVE VARIANCES TO ANY BULK REQUIREMENTS REQUIRED BY SECTION 131.0.N AND SECTION 131.0.O, IN ACCORDANCE WITH THE VARIANCE PROVISIONS OF SECTION 130.0.B.
6. ANY SETBACK REQUIRED BY SECTION 131.0.N OR SECTION 131.0.O, OR BY THE UNDERLYING ZONING DISTRICT, SHALL NOT APPLY IF THE PROPERTY FROM WHICH SUCH SETBACK IS MEASURED IS IN COMMON OWNERSHIP. CONDITIONAL USE SETBACKS SHALL NOT APPLY TO, FROM, OR WITHIN THE PIPESTEM PORTION OF ANY PIPESTEM LOT, AS DEFINED IN THE SUBDIVISION AND LAND DEVELOPMENT REGULATIONS.

Howard County Zoning Regulation Section 131.0.F.2:

Proposed Amendment:

2. A petition for Conditional Use shall be submitted to the Department of Planning and Zoning and shall include:

- a. A Conditional Use plan which shows all existing and proposed uses, structures, parking areas, points of ingress and egress, landscaping, and the approximate location of relevant natural features which shall include wetlands, steep slopes, and tree and forest cover.
- b. Information regarding noise, dust, fumes, odors, lighting levels, vibrations, non-sewage solid waste, hazards or other physical conditions resulting from the use which may adversely impact vicinal properties.
- c. A statement that indicates:
 - (1) Whether the property is served by public or private water and sewage disposal;
 - (2) That additional information can be obtained from the Howard County Health Department; and
 - (3) The current address of the Howard County Health Department.
- d. Supporting documentation, such as traffic studies, market studies, and noise studies, may be required by the Department of Planning and Zoning at its discretion or by these Regulations.
- e. For expansion or modification of an existing Conditional Use, the Department of Planning and Zoning may require information regarding compliance with previous requirements and conditions.
- f. WRITTEN AUTHORIZATION FROM EITHER THE PROPERTY'S OWNER OR FROM THE HOLDER OF AN EASEMENT OR SIMILAR INSTRUMENT, ATTESTING TO THEIR PERMISSION FOR THE PETITION AND THEIR RIGHT TO CARRY OUT THE USE(S) ON THE PROPERTY. THE VALIDITY AND LEGALITY OF SUCH AUTHORIZATION SHALL BE PRESUMED.

[[f.]] g. After a petition for a Conditional Use has been determined to be officially accepted by the Department of Planning and Zoning and a hearing date has been scheduled, the petition materials shall not be revised or replaced prior to the hearing. The technical staff report shall be based upon the materials in the petition at the time of acceptance. Supplemental materials may only be presented in testimony to the Hearing Authority.

Example of how the text would appear normally if adopted:

2. A petition for Conditional Use shall be submitted to the Department of Planning and Zoning and shall include:

a. A Conditional Use plan which shows all existing and proposed uses, structures, parking areas, points of ingress and egress, landscaping, and the approximate location of relevant natural features which shall include wetlands, steep slopes, and tree and forest cover.

b. Information regarding noise, dust, fumes, odors, lighting levels, vibrations, non-sewage solid waste, hazards or other physical conditions resulting from the use which may adversely impact vicinal properties.

c. A statement that indicates:

- (1) Whether the property is served by public or private water and sewage disposal;
 - (2) That additional information can be obtained from the Howard County Health Department; and
 - (3) The current address of the Howard County Health Department.
- d. Supporting documentation, such as traffic studies, market studies, and noise studies, may be required by the Department of Planning and Zoning at its discretion or by these Regulations.
- e. For expansion or modification of an existing Conditional Use, the Department of Planning and Zoning may require information regarding compliance with previous requirements and conditions.
- f. Written authorization from the property's owner (if other than the Petitioner). The validity and legality of such shall be presumed.
- g. After a petition for a Conditional Use has been determined to be officially accepted by the Department of Planning and Zoning and a hearing date has been scheduled, the petition materials shall not be revised or replaced prior to the hearing. The technical staff report shall be based upon the materials in the petition at the time of acceptance. Supplemental materials may only be presented in testimony to the Hearing Authority.

Howard County Zoning Regulation Section 131.0.N.48:

Proposed Amendment:

A Conditional Use may be granted in the RC and RR Districts, on properties that are not ALPP purchased or dedicated easement properties, and in the R-20, R-ED, R-12, R-SC, R-SA-8, R-H-ED, R-A-15, R-APT, R-MH, or R-VH Districts for private academic schools, colleges and universities, [(not including nursery schools)] WHICH MAY INCLUDE CHILD DAY CARE CENTERS AND NURSERY SCHOOLS AS AN ACCESSORY USE, provided that:

1 **GLENELG COUNTRY DAY SCHOOL,** * **BEFORE THE**
 2 **PETITIONER** * **PLANNING BOARD OF**
 3 **ZRA-188** * **HOWARD COUNTY, MARYLAND**

4 * * * * *

5 **MOTION:** Amend Section 131.0.D to exempt setback requirements from lots in common
 6 ownership and allow the Hearing Authority to grant setback variances for
 7 Conditional Uses; Amend Section 131.0.F.2 to accept easements as written
 8 authorization for a petition; and, Amend Section 131.0.N.48 to include child day care
 9 and nursery schools as an accessory use to *Schools, Colleges, Universities—Private*
 10 *(Academic)*.

11 **ACTION:** *Recommended denial; Vote 5-0.*

12 * * * * *

13
 14 **RECOMMENDATION**

15
 16 On June 6, 2019, the Planning Board of Howard County, Maryland, considered the petition of
 17 Glenelg Country Day School (Petitioner) to amend three sections of the Howard County Zoning Regulations
 18 (Sections 131.0.D, 131.0.F.2, and 131.0.N.48). The proposed Section 131.0.D amendment would allow the
 19 Hearing Examiner to reduce setbacks in the specific criteria for Conditional Uses through a variance process
 20 and exempt Conditional Uses from all setback requirements where adjacent lots are in common ownership or
 21 held in an easement, or similar instrument. The Section 131.0.F.2 amendment proposed to codify the
 22 requirement for owner authorization to apply for a Conditional Use and allow for such authorization to be in
 23 the form of an easement or similar recorded instrument – the validity and legality of which is presumed. The
 24 Section 131.0.N.48 amendment would add child day care centers and nursery schools as an accessory use
 25 within the *Schools, Colleges, Universities—Private (Academic)* Conditional Use category.

26
 27 The Planning Board considered the petition and the Department of Planning and Zoning (DPZ)
 28 Technical Staff Report and Recommendation. DPZ recommended approval, with modifications to the
 29 proposed 131.0.D. 6 and 131.0.F.2.f amendments. DPZ supported allowing the Hearing Authority to approve
 30 setback variances according to the variance criteria in Section 130.0.B because it provides flexibility for
 31 properties with practical difficulties and applies the same approach to by-right uses. DPZ further
 32 recommended that the amendment be expanded to include all bulk regulations. DPZ supported exempting
 33 Conditional Use setbacks where adjacent lots are in common ownership and recommended including the
 34 pipestem portion of a pipestem lot. DPZ also recommended modifications to the proposed Section 131.0.F.2
 35 amendment to simplify the language and require the Petitioner to submit written verification attesting to their
 36 permission for Petition and right to carry out the use on the property. Finally, DPZ stated that the proposed

1 amendment to Section 131.0.N.48 is consistent with the department's current interpretation that a child care
2 center or nursery school use is accessory to a Private Academic use.

3 Mr. Sang Oh represented the Petitioner. Mr. Oh testified that varying bulk regulations has been done
4 previously and that the Petitioner supported DPZ's alternative to exempt setbacks from pipestems since the
5 Petitioner's approach was somewhat cumbersome. However, Mr. Oh expressed concern with DPZ's modified
6 text change to Section 131.0.F.2 that stated the validity and legality of authorization to apply for a Conditional
7 Use shall be presumed. Mr. Oh explained that determining appropriate authorization to apply is a legal
8 determination by the courts. Therefore, rather than presuming authorization is valid, it should be restated to
9 clarify it is not relevant to the decision.

10 Approximately 15 members of the public testified in opposition the proposed amendment, with others
11 registering opposition and agreeing with the speakers. Andrea LeWinter testified on behalf of the Glonelg
12 Manor Estates Community Association (GMECA) and conveyed concerns with countywide impacts of the
13 proposed ZRA beyond adjacent property owners, specifically the proposed amendments to exempt pipestem
14 setbacks and allow variances to Conditional Use setback. She also commented on changes to common
15 ownership rules. Opponents generally expressed concerns with exempting setbacks to a pipestem, citing their
16 multiple uses and adverse impacts associated with locating uses or buildings close to them. Opponents also
17 expressed concerns that ZRA, applied countywide, was inconsistent with *PlanHoward* 2030 and equated an
18 easement interest to land ownership. Opponents testified that easement holders should be permitted to apply
19 for a Conditional Use without the fee simple owner's signature and that the current practice of requiring the
20 owners signature should remain. Two members of the public were opposed to allowing a child care center as
21 an accessory use citing concerns with traffic and safety and the need to comply with Conditional Use
22 requirements.

23 Board Discussion and Recommendation

24 Prior to the work session, Board members asked DPZ staff to clarify the process to determine whether
25 a child care center constitutes an accessory use. Per the Board's request, DPZ staff also clarified that the
26 proposal seeks to allow the Hearing Examiner to reduce Conditional Use setbacks, regardless of ownership,
27 and the proposed setback exemption applies to Conditional Uses where the Petitioner owns the adjacent
28 property or has an easement interest. In work session, Board members expressed concerns that the proposed
29 amendments are designed to address issues with one property, however, they will apply countywide and could
30 result in unintended consequences. Also, they stated a preference for continuing to require property owner
31 signatures on Conditional Use Petitions. One Board member supported providing some flexibility to allow the
32 Hearing Examiner to vary setbacks. The Board made the following motions on each proposed amendment:

33 Mr. Coleman motioned to recommend the Council approval DPZ's proposed text for Section

1 131.0.D.1 and 131.0.D.5. Ms. Adler seconded the motion, which failed 1-4 (Engelke, Roberts, Adler,
2 McAliley dissenting)

3 Ms. Adler motioned to recommend the Council deny the Petitioner's proposed amendment to Section
4 131.0.D.6. Ms. Roberts seconded the motion, which passed 5-0.

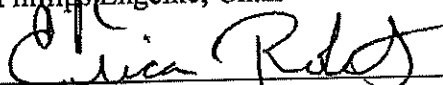
5 Ms. Adler motioned to recommend the Council deny the Petitioner's proposed amendments to
6 Section 131.0.F.2.f. Mr. McAliley seconded the motion, which passed 5-0.

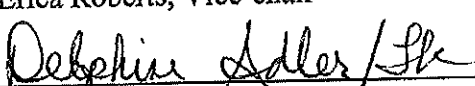
7 Ms. Roberts motioned to recommend the Council deny the Petitioner's proposed amendment to
8 Section 131.0.N.48. Mr. McAliley seconded the motion, which passed 4-1 (Coleman dissenting).

9
10 For the foregoing reasons, the Planning Board of Howard County, Maryland, on this 11th day of
11 July 2019, recommends that ZRA-188, as described above, be **Denied**.


12
13
14 HOWARD COUNTY PLANNING BOARD

15 
16 _____
17 Phillip Engelke, Chair

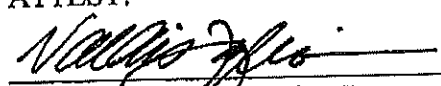
18 
19 _____
20 Erica Roberts, Vice-chair

21 
22 _____
23 Delphine Adler

24 
25 _____
26 Ed Coleman

27 
28 _____
29 Kevin McAliley

30 ATTEST:

31 

Valdis Lazdins, Executive Secretary

Office of the County Auditor
Auditor's Analysis

Amendment 1
Council Bill No. 9-2020
Amendment Proposed by: Liz Walsh
Introduced: February 3, 2020
Auditor: Owen Clark

Fiscal Impact:

The fiscal impact of this amendment cannot be estimated at this time.

However, the amendment could increase the establishment of child day care centers as an accessory use. This may result in an increase in excise, real property, and business personal property taxes as well as an increase in permit and hearing fees.

Purpose:

This amendment removes all the proposed changes except the change that would allow child day care centers and nursery schools as an accessory use to specific conditional uses.

Other Comments:

None.

Office of the County Auditor
Auditor's Analysis

Amendment 2
Council Bill No. 9-2020

Amendment Proposed by: David Yungmann

Introduced: February 3, 2020

Auditor: Owen Clark

Fiscal Impact:

The fiscal impact of this amendment cannot be estimated at this time.

However, the amendment could increase the volume of Conditional Use applications that may be processed by the Hearing Authority. This may result in an increase in excise, real property, and business personal property taxes as well as an increase in permit and hearing fees.

Purpose:

This amendment allows the Hearing Authority to proceed with a hearing for a Conditional Use or variance petition if they determine that the proposed use or variance is consistent with the terms and conditions of the easement that the petitioner relies on as part of their petition.

Other Comments:

None.

Office of the County Auditor
Auditor's Analysis

Amendment 3
Council Bill No. 9-2020

Amendment Proposed by: David Yungmann

Introduced: February 3, 2020

Auditor: Owen Clark

Fiscal Impact:

The fiscal impact of this amendment cannot be estimated at this time.

Compared to current guidelines, this amendment may result in more eligible Conditional Use applicants. This could result in an increase in excise, real property, and business personal property taxes as well as an increase in permit and hearing fees.

Purpose:

This amendment allows an exemption from the Conditional Use's setback requirements if the petitioner owns all the property that abuts the easement or other recorded instrument that is subject to the petition.

Other Comments:

None.

**Office of the County Auditor
Auditor's Analysis**

**Amendment 4
Council Bill No. 9-2020**
Amendment Proposed by: Deb Jung
Introduced: February 3, 2020
Auditor: Owen Clark

Fiscal Impact:

There would be no fiscal impact related to this amendment.

The requirement for written authorization from all property owners subject to the Conditional Use is consistent with the County's current practice.

Purpose:

This amendment eliminates the presumption that an easement or similar recorded instrument is equivalent to written authorization from the property's owner, if other than the petitioner, that is the subject of the Conditional Use.

Other Comments:

None.

CB9-2020

Sayers, Margery

From: edrewyer@verizon.net
Sent: Sunday, April 19, 2020 3:57 PM
To: CouncilMail
Subject: Howard County Concern

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

April 15, 2020

Dear County Executive Dr. Ball and Members of the Howard County Council,

I am grateful to all of you for the opportunity to provide my view regarding concerns relative to Glenelg Country School, Glenelg Manor Estates and the CB-9 proposal.

As a resident of the Glenelg Manor Estates community, I am deeply concerned about the proposals being made and the misunderstanding about the use of the land by Glenelg Country School. I am, also, well aware that this viewpoint is shared by my neighbors.

First, I want to call your attention to the fact that this is not the first time the Glenelg Country School has acted on their behalf with no consideration for the impact of their actions on the community at large. I have been a resident of Glenelg Manor Estates since April of 1990. I have been a resident of Howard County since 1982 and have worked to support families and children at a non-profit in Howard County. Living in this beautiful part of Maryland has been an unbelievable opportunity and gift to me. I have a deep commitment to the well being of Howard County and the impact of decisions by County Council members and the lawmakers that are voted into office to support the needs and well being of Howard County. I am very interested in the actions of Glenelg Country School and how the decisions you make regarding these Amendments will impact Howard County.

Many years ago, I served my community of Glenelg Manor Estates voluntarily to address Glenelg Country School's illegal attempt to use our private roads for ingress and egress from their school through our community. We were put in the position of financing large legal bills that were at the expense of the homeowners and without regard for the impact this would have on our private roads, the children in our community, liability, safety concerns, etc. I share this background because it is a pattern that has continued over the history of our community's relationship with Glenelg Country School. Their current actions are indicative of their past history; infringement on our community; and lack of concern for the impact of their actions/decisions on their neighbors and the entire County.

Please know that the following Amendments provide unnecessary and dire consequences that will have a ripple effect on communities throughout Howard County.

Amendment 2 to Council Bill No. 9-2020 BY: David Yungmann Legislative Day No. 3 Date: March 2, 2020 Amendment No. 2 (This Amendment requires the Hearing Authority to determine whether a proposed use is consistent with an easement.) On page 2, in line 31, after the final period, insert: "At a hearing to consider a variance petition or conditional use proposed within an easement area, the Hearing Authority may proceed

if the Hearing Authority determines that the proposed use or variance is consistent with the terms and conditions of any easement that the petitioner relies on as part of the petition. A determination of consistency does not bind a court in any proceeding related to the matter.”

Amendment 3 to Council Bill No. 9-2020 BY: David Yungmann Legislative Day No. Date: March 2, 2020 Amendment No. 3 (This Amendment provides that a petitioner who relies on an easement must own all the properties that abut the easement.) On page 3, in line 4, after “instrument” insert “and the petitioner or its predecessor own all of the properties that abut the property to which the easement or other recorded instrument applies”.

The consequences of the above Amendments are detrimental to all of Howard County in making it a safe and healthy place to live.

Please note: I DO NOT support the above Amendments.

I DO support the following Amendment:

Amendment 4 to Council Bill No. 9-2020 BY: Deb Jung Legislative Day No. 3 Date: March 2, 2020 Amendment No. 4 (This Amendment requires written authorization from the property's owner (if other than the Petitioner) that is the subject of the Conditional Use by eliminating the presumption that an easement or similar recorded instrument is equivalent to the written authorization.) On page 4, strike beginning with the comma in line 16 down through but not including the final period in line 21.

I support the above Amendment 4 as this is the best solution for all of Howard County.

The easement specifically states that the school must follow all laws including the local laws and have the signatures of homeowners like every other conditional use.

I am deeply concerned about the inappropriate use of control by Glenelg Country School when making decision about the use of our pipestems. This concern includes both our current and future well being as it relates to our community, including access that may be detrimental to our future needs.

I am concerned that GCS is attempting to take property rights which were not given to them; and, in the process, will change the law in a manner that will hamper the rights of property owners across the County.

Thank you for taking the time to read my email and for all you do to in service to Howard County.

Sincerely,

Elaine K. Drewyer
12859 Folly Quarter Road
Ellicott City, MD 21042
301-509-8550

Sayers, Margery

From: Jung, Deb
Sent: Thursday, April 16, 2020 4:32 PM
To: Sayers, Margery
Subject: FW: CB-9

From: Alison Holcombe <alisonholcombe@gmail.com>
Sent: Tuesday, April 14, 2020 6:53 PM
To: Yungmann, David <dyungmann@howardcountymd.gov>
Cc: Knight, Karen <kknight@howardcountymd.gov>; Skalny, Cindy <cskalny@howardcountymd.gov>; Walsh, Elizabeth <ewalsh@howardcountymd.gov>; Jones, Opel <ojones@howardcountymd.gov>; Rigby, Christiana <crigby@howardcountymd.gov>; Jung, Deb <djung@howardcountymd.gov>
Subject: Re: CB-9

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Mr Yungmann,

Thank you for your follow-up. Again, no one has said they would withhold a signature. That's being unfairly assumed. The school and their legal council (and I guess you) are assuming that's the case. That's not the truth. Also, If we hadn't been following the case not one homeowner would even know this was going on. That's appalling! I hope you're appalled!

I'm most concerned that a recorded easement would take the place of a property owner's signature. Do you plan to change that? Property owners should absolutely be part of the conditional use process from the start. Isn't that the best way to give notice that you'd like to go through the conditional use process? It's completely reasonable to expect a signature of the property owner indicating notice was given that you're applying for conditional use on their land. This allows the county to have confidence that property ownership and any easement issues have been resolved prior to conditional use hearings. This case is a clear example of where easement issues need resolution.

Also, since I'm on the HOA, I'll play devil's advocate here. Another thing I wonder is are easement owners subject to HOA documents and provisions? In our community, no one can build without approval through our architectural review committee. A piece on that application asks you to prove you've notified your neighbors of your plan. How will that work in cases like this? You may or may not know the answer. Do you know who we might ask?

Also, I did want to gently point out that to our neighborhood you clearly side with the school and won't consider our point of view at all. I appreciate you offering to be a mediator of sorts, but you are clearly biased and that's really upsetting since you are our leader. You even pointed out on FB that you've been working on this for two years. Why didn't you ever reach out to us as our leader? Or encourage the school to do the same? We were totally bling sided by the ZRA that is now a Council Bill. In person this fall, you mentioned you have a number of friends on the schools' board of trustees and explained why they were putting forth such a large multi-year plan. Were you working with their board to get this moving? I know it's hard since these folks are your friends, but if you could put that aside and also think about the plain old regular constituents that you represent that don't have money to pay lawyers. How can we protect these people? I ask you to try to see both sides on this matter. Please continue to be a champion for property owner's rights.

Respectfully,

10:37




<  **Mary McBride Christensen** >
Howard County Neighbors United ...


February 13 at 5:37 PM · 🌐

0072020/020210/100/02010/pu


1w Like Reply  12

 **Jerry Krasnick**
David Yungmann thanks David,
your explanation was amazing!

1w Like Reply

 **David Yungmann**
I had the luxury of two years of
discussion and the bill in front of
me 🙄

1w Like Reply

 **Alison Holcombe** 🇺🇸
David Yungmann sounds like the
goal would be to seek conditional
use on property that they don't
own without the consent of the
property owner. Is that their goal?
Why would the county involve
itself in private easements?
Sounds like a legal nightmare.

1w Like Reply  1

 **Mary McBride Christensen**
David Yungmann thanks for your

 Write a comment...  



On Apr 14, 2020, at 5:12 PM, Yungmann, David <dyungmann@howardcountymd.gov> wrote:

Thanks for your email Alison. We have pared the bill back significantly from what was filed leaving 3 policy changes.

1. Setbacks. The ability to get a variance for a condition use setback and elimination of setbacks from an easement are removed. The setback from an easement if the properties on both sides of the easement are owned by the dominant party are eliminated. If the easement were to ever be revoked, the setbacks would revert back to what is required in the conditional use. This allows a continuous use over the easement if it's in the middle of commonly owned properties but does not allow the dominant party to use the easement itself to satisfy a setback.
2. Presumption of authority. This is removed along with the binding of courts and concept of the easement contents not being relevant in a conditional use case. The authority can only proceed to hear a case if it concludes that the petition is consistent with the easement, which decision is not binding on another authority or court. For example, if someone grants me an easement to operate a farm stand and I need a conditional use to do that, I won't need to go back to the same or a future property owner to get permission to apply for the conditional use. If I pursue a conditional use for a church, the authority would refuse to hear the case unless the owner granted permission.
3. We have not amended the day care accessory use.

Note a few comments below as well.

David Yungmann
Howard County Council – District 5
(410) 313-2001
<https://cc.howardcountymd.gov/Districts/District-5>

-----Original Message-----

From: Alison Holcombe <alisonholcombe@gmail.com>
Sent: Tuesday, April 14, 2020 3:47 PM
To: Yungmann, David <dyungmann@howardcountymd.gov>
Subject: CB-9

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Councilmember Yungmann,

I would like to follow up on my previous emails and testimony regarding CB-9. I disagree whole heartedly with all elements and encourage you to vote "no" on CB-9 and start over.

Most importantly, I think it's imperative that a signature of the property owner be required for an easement holder to build on the easement.

Why would someone sell someone an easement for a specific purpose (such as my farm stand example above) then expect to withhold approval when it comes time to apply for the required county approval for that very use?

A recorded easement should NOT be used as a substitute for an actual signature. Easement owners and property owners should have to communicate with one another regarding building. Please don't take this right away from property owners. Please consider the county as a whole and think about this deep impact. If you put yourself in this situation you would see how truly unfair this is. Just because a property owner signed an easement doesn't mean they are giving permission to the easement holder to do whatever they want.

I agree 100%. The property owner has only given the easement holder permission to do what is stated in the easement. This is the basis for one of the amendments.

It seems absolutely ridiculous that someone can build on your land without communicating with you.

I have not heard anyone raise the concept of notice which is reasonable in my opinion. I will follow up internally on that.

It's even more ridiculous that if I disagree I need to spend thousand's of dollars in legal fees to defend what was mine in the first place. I implore you to think about the homeowners here. We discussed this quite a bit. The current law always requires the dominant party to seek relief in court, but the bill as written would always require the servant party (property owner) to seek relief. The way the bill has been amended burdens one party or another case by case. Keep in mind though that easements are intended for the very purpose of giving some of your rights to control what is yours to someone else. Any conditions, requirements and restrictions are negotiated and included in the easement itself.

Let's start fresh and ask that both sides communicate with one another. We have reached out a number of times since the last work session and were told that they refuse to communicate without lawyers present. We are trying. Please support us. I view the changes we are making to the zoning code, which are applicable to any properties that meet the now pretty narrow criteria. Resolution of issues between GCS and its neighbors that are unrelated to the policy decisions that remain in CB9. I remain willing to intervene in discussions between GCS and its neighbors if one or both parties feel that would be helpful. I imagine GCS would be pretty interested in doing what it can to secure its neighbors' support of its conditional use if that's even possible.

While the final bill will not be perfect in the eyes of any party, compromise is frequently an important part of what we do. The advocacy by you and some of your neighbors compelled us to make many changes that we might not have considered 2-3 months ago. Your efforts absolutely influenced us against some decisions that I do not believe were reasonable so thank you.

Thank you,
Alison Holcombe

Sayers, Margery

From: Safdar Khwaja <safdar@khwaja.net>
Sent: Friday, April 10, 2020 1:50 PM
To: CouncilMail
Cc: Jung, Deb; Yungmann, David; Rigby, Christiana; Jones, Opel; Walsh, Elizabeth; Ball, Calvin; Gowan, Amy
Subject: Opposition to CB9-2020

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

TO: Howard County Council

CC: County Executive Calvin Ball; Amy Gowan, DPZ

RE: Opposition to CB9-2020

Honorable Council Members:

I hope everyone is managing to be infection free and staying healthy.

My name is Safdar Khwaja, and am the owner of property at 4898 Castlebridge Rd, Ellicott City, and with my wife we are in the process of designing a home for this lot. I wish to express a fundamental objection to CB9-2020, whereby the proposed changes seek to unilaterally waive the current requirement for a Conditional Use Petitioner to obtain the written approval of all property owners that are parties to a shared driveway easement which also includes the Petitioner. The proposed changes could be construed to give a Petitioner unilateral superordinate authority to modify the rights and obligations contained in an existing shared use agreement, in which all parties are equal (without anyone having subservient status), without any consideration or necessary consent of other signatory parties.

This CB9-2020 bill is very relevant to my rights as a Howard County property owner. On March 9, 2020, there was a Pre-Submission Community meeting held where Mr. Carter Adkinson, and his attorney, Mr. Sang Oh, discussed plans for filing a Conditional Use Petition for "Limited Social Assemblies" for a barn on their property, as a for-profit venture. The Adkinsons purchased their property at 4888 Castlebridge Rd, Ellicott City in 2019. Specifically not disclosed at this public meeting, is that this barn structure is one of two properties that are seeking to be added to the County's historic registry via in CR 39-2020. **As an undisclosed strategy, the Adkinsons want to get this barn listed as Historic, so that they can run a for-profit business at this barn.**

The Adkinsons, are equal parties to a pre-existing Shared Maintenance, Repair, and Grant of Easement Agreement with five (5) other landowners, wherein all parties have equal status, for a paved private driveway that commences at the terminus of the County controlled Castlebridge Road, and extends to the Adkinson's residence. This Agreement requires that any changes shall be with unanimous written consent of all parties. Per this Agreement, and current zoning regulations and practices, the Adkinson's would be required to obtain signatures of all parties to the Shared Easement Agreement prior to filing a Conditional Use Petition. The proposed revisions to the Conditional Use regulations under CB9-2020 could potentially erase the rights of other property owners, whenever any property wishes to seek a Conditional Use permit. Such a change is not comprehensible, and potentially may not be consistent with applicable Maryland Laws.

The Planning Board's report on this matter (ZRA 188), where the Planning Board voted 5-0 against the proposed changes in the Regulations, states: "Board members expressed concerns that the proposed amendments are designed to address issues on one property, however, they will apply countywide and could result in unintended consequences. Also, they stated a preference for continuing to require property owner signatures on Conditional Use Petitions." I fully agree with these comments to ZRA188. The situation described above regarding the private driveway portion of Castlebridge Road would be a real example of one such unintended consequence. This is because none of the parties to our mutual Easement Agreement (other than the Adkinsons) are in favor of the Adkinson's proposed Conditional Use for Limited Social Assemblies; **a for-profit venture**. If this bill is approved, our rights under the Easement Agreement could be seriously prejudiced.

OUR OPPOSITION IS BASED ON THE FOLLOWING:

- This proposed change to Section 131 significantly impairs and alters the legal rights of many landowners in the county who are parties to easements; in short, they reduce the rights of parties that may have been intended when the easements were executed. The DPZ should not be allowed to presume an easement allows an easement holder/Petitioner all rights to another landowners' property. **Requiring property owner's signatures seems to be a fundamental right contemplated by the existing regulations and practices, both in our County and across the State of Maryland. This should not be changed.**
- The proposed change would bar the Hearing Examiner from considering the details of any easement, even if the easement specifically precluded the Conditional Use activity. How can the "rights and obligations" of the parties not be relevant? This seems to be illegal, thus will result in a significant increase in litigation, and related time and costs, to resolve these consequences. In our case, the easement we assumed upon purchasing this property expressly contemplates residential vehicle and farm equipment use for "**Private** Ingress, Egress, Maintenance, and Storm Water Management & Utilities" on a "**private** paved driveway"; which does not specify or contemplate any other uses, especially not **for-profit** "social assemblies."
- Conditional Uses are, by definition, uses that could have adverse impact on adjacent property owners. This is why we have additional governance procedures in our County regulations. We are not adjacent property owners in our situation; we own the property for which the Petitioner has an easement; **in an equal capacity, not as a dominant easement holder**. The property owners with easements are likely to be the most impacted by Conditional Uses, and their rights and interests should be the highest priority in consideration of any Conditional Use Petition.
- The Petitioner is the one seeking an exemption for a use that is inherently incongruent with existing zoning for their property. Thus, if any property owner who is an equal party to an easement disagrees and declines to sign the Conditional Use Petition, then the Petitioner's recourse should be through the Courts to affirm the Petitioner interpretation of their rights under the shared Easement Agreement. This should not be a "presumption" by the County or its officials; which can amount to a waiver of, and prejudice to, the rights of the property owners.

THERE ARE MULTIPLE REASONS WHY ALL OTHER PARTIES TO THE EASEMENT AGREEMENT ARE OPPOSED TO A FOR-PROFIT USE BY ONE PARTY:

- Addition of this commercial venture to this community, will have a negative impact on property values.
- There are five buildable lots on this private driveway, in a mature neighborhood of Ellicott City, buffered by large tracts of preservation land. This assures limited traffic currently or ever anticipated on this driveway. At its initial take-off from Castlebridge Road, the widest section of this private driveway is 16 feet wide in front of only the first two lots, thereafter it narrows to about 12 feet wide for the remaining and longest portion of this driveway. There are sharp turns and dips in the pavement, and limited sight line visibility on sections of this private driveway. The private driveway will not handle two-way traffic, thus vehicles will be forced off-road onto landscaping of homes, causing damage. Adding up to 150 guests, plus vendors and their staff, per "social assembly" on such a driveway will create significant safety and trespassing concerns.
- Traffic prior to and after these revenue generating events will increase as well. This traffic will include not only automobiles for people surveying the venue, but delivery trucks for food, tents, portable toilets, event trash collection, etc. It is plausible that if a vehicle has an accident on our easement affiliated property, then we could be potentially held liable. The County should not in good conscience impose such potential liability upon us by approving a for-profit use on our property, that benefits only one party, and to which we have not agreed.
- There is no County trash collection service on this private driveway; thus, residents are required to walk or drive our trash along the driveway to the terminus of Castlebridge Road. This is also where all the private driveway mailboxes are located. Having drivers unfamiliar with the neighborhood roadways and this private driveway will create unsafe conditions for pedestrians and for stopped vehicles at the beginning of the private driveway.
- There are no street lights (except at traffic circles) in the Riverwood and Gaither Hunt communities, which would be the only access routes to the Conditional Use commercial use barn. This area is extremely dark and remote, such that great caution is required even by those familiar with the community. There is no lighting on the private driveway. Visitors in this area, especially in the evening, will create increased safety concerns due to their unfamiliarity with the conditions. Alcohol served at these events will significantly increase safety concerns.
- Since the Adkinson's barn is at the terminus of the shared private driveway, any signage to direct visitors would be unsightly, and detract from the residential/rural nature of the neighborhood and surroundings, and potentially degrade property values.
- We and other property owners along the private driveway are also concerned about the intrusion of loud music, and lighting pollution, emanating from the commercial events, into the peaceful rural ambience of this community.

I thank you for your service to our County, and for your consideration of my objections related to CB9-2020.

With my best regards, and wishes for good health

Safdar Khwaja

President

SEHR Abodes LLC

412-512-3034

CB9-2020

Sayers, Margery

From: Jung, Deb
Sent: Tuesday, June 2, 2020 10:38 AM
To: Sayers, Margery
Subject: FW: Testimony 6-1-20

Deb Jung

Council Chair, District 4
3430 Court House Drive
Ellicott City, MD 21043
410-313-2001

Sign up for my newsletter [here](#).



From: Pete&Dot <petedot1@verizon.net>
Sent: Monday, June 1, 2020 6:02 PM
To: Jung, Deb <djung@howardcountymd.gov>; Walsh, Elizabeth <ewalsh@howardcountymd.gov>; Yungmann, David <dyungmann@howardcountymd.gov>; Jones, Opel <ojones@howardcountymd.gov>; Rigby, Christiana <crigby@howardcountymd.gov>
Subject: Testimony 6-1-20

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

All,
I am not sure what happened to my sign up. I signed up last Friday during the work session. In any case, my testimony is below.

Testimony County Council 6-1-20

After listening to the rest of the meeting last Friday, I have the following comments:

1. Sang Oh said the easement agreement between the school and the Glenelg property owners is exclusive. It says so on the easement. He then continues, "Maisel Farm Lane is not an exclusive easement". It is used by multiple parties.
2. There is only 1 easement that runs through the school and down Maisel Farm Lane. There is no separate easement between Glenelg Manor landowners and the Country school that includes Maisel

Farm Lane that is not exclusive. The easement does say "exclusive" as San Oh pointed out. Therefore, it would seem to pass the "exclusive easement" test and would allow no setback required along Maisel Farm Lane as well as the section through the school.

3. Therefore, in order to protect the Maisel Farm Land, I think you should insert this sentence into every place in amendment 5 that the words "exclusive agreement" can be found, "And no other easements encumber the same land as the exclusive easement"
 - a. This takes out the "legal" interpretation of the word "exclusive" that many of us were finding very confusing.
 - b. This better protects Maisel Farm Lane and the landowners in that neighborhood in the future and does not leave open the interpretation of "exclusive".
 - c. I think we were all in agreement that the rights of Maisel Farm Lane landowners needed to be protected as they are nether the landowner nor the petitioner.
 - d. This hopefully Protects the property rights of other landowners throughout the county (that are not the petitioner or the landowner) that may have an easement for ingress/egress or utilities or whatever.
 - e. The sentence would be added to:
 - i. 131.0.D.5
 - ii. 131.0.D.6
 - iii. 131.0.F.2.f
4. Remove the words "Similar recorded instrument" every place that it has been inserted in Amendment 5.
 - a. Since no one has said what those "similar recorded instruments" are, leaving this in there will certainly have "unintended Consequences".

Dottie DeCesare

Sayers, Margery

From: Jung, Deb
Sent: Tuesday, June 2, 2020 10:38 AM
To: Sayers, Margery
Subject: FW: CB-9 2020 Glenelg Manor Estates Pipe stem Owner

Deb Jung

Council Chair, District 4
3430 Court House Drive
Ellicott City, MD 21043
410-313-2001

Sign up for my newsletter [here](#).



From: Cecilia Selbrede <cselbrede@verizon.net>
Sent: Monday, June 1, 2020 6:08 PM
Cc: Walsh, Elizabeth <ewalsh@howardcountymd.gov>; Jung, Deb <djung@howardcountymd.gov>
Subject: RE: CB-9 2020 Glenelg Manor Estates Pipe stem Owner

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Council Members,

Thank you for your time today. One issue to consider is that Mr. Sang Oh was at the last work session on Friday and according to him he has 20 years of property law experience. Yet when we were struggling to understand “exclusive easement” he said nothing. That was a golden opportunity to have him explain the terms to us. Is he available to explain what he has in mind so it can be defined in the bill?

Stay well.
With Regards,
Cecilia Selbrede

Cecilia DeSilva Selbrede
703-300-2546 (mobile)
cselbrede@verizon.net

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From: Cecilia Selbrede <cselbrede@verizon.net>

Sent: Friday, May 29, 2020 3:09 PM

To: 'dyungmann@howardcountymd.gov' <dyungmann@howardcountymd.gov>; 'djung@howardcountymd.gov' <djung@howardcountymd.gov>

Cc: 'ewalsh@howardcountymd.gov' <ewalsh@howardcountymd.gov>; 'mrharris@howardcountymd.gov' <mrharris@howardcountymd.gov>; 'ojones@howardcountymd.gov' <ojones@howardcountymd.gov>; 'ndvorak@howardcountymd.gov' <ndvorak@howardcountymd.gov>; 'crigby@howardcountymd.gov' <crigby@howardcountymd.gov>; 'ffacchine@howardcountymd.gov' <ffacchine@howardcountymd.gov>; 'ggick@howardcountymd.gov' <ggick@howardcountymd.gov>; 'kknight@howardcountymd.gov' <kknight@howardcountymd.gov>

Subject: CB-9 2020 Glenelg Manor Estates Pipestem Owner

Dear Council Members,

Thank you for your time today and for hosting the work session to hear from the landowners. We do appreciate your efforts in the current stressful climate.

The issue that is still most concerning to us is that Mr. Yungmann and anyone else who supports the bill, finds it acceptable that the owner of the land will not be given basic procedural Due Process in the form of Notice. The liability of the landowner does not change and yet they would have no notice of what is occurring on their land.

With Regards,
Cecilia and Craig Selbrede

Cecilia DeSilva Selbrede
703-300-2546 (mobile)
cselbrede@verizon.net

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From: Cecilia Selbrede <cselbrede@verizon.net>

Sent: Thursday, April 9, 2020 12:11 PM

To: 'dyungmann@howardcountymd.gov' <dyungmann@howardcountymd.gov>; 'djung@howardcountymd.gov' <djung@howardcountymd.gov>

Cc: 'ewalsh@howardcountymd.gov' <ewalsh@howardcountymd.gov>; 'mrharris@howardcountymd.gov' <mrharris@howardcountymd.gov>; 'ojones@howardcountymd.gov' <ojones@howardcountymd.gov>;

'ndvorak@howardcountymd.gov' <ndvorak@howardcountymd.gov>; 'crigby@howardcountymd.gov' <crigby@howardcountymd.gov>; 'ffacchine@howardcountymd.gov' <ffacchine@howardcountymd.gov>; 'ggick@howardcountymd.gov' <ggick@howardcountymd.gov>; 'kknights@howardcountymd.gov' <kknights@howardcountymd.gov>

Subject: CB-9 Glenelg Manor Estates Pipestem Owner

Mr. Yungmann,

As a follow-up to the CB-9, it has come to my attention that you believe the pipestem-owners of Glenelg Manor Estates do not care about the issues of the Glenelg Country School and the ramifications of the Country School taking control over our land with neither notice nor permission from us the landowners. It is astounding to me that a logical person could arrive at that decision. We have shown up as much as possible at hearings, work sessions, and other gatherings. In fact, you have strolled right by our group at these gatherings without so much as a "good evening", as you walked directly to engage with Mr. Oh and the Country School trustees. Clearly, your interests align with the power and money in the county not with the homeowners.

As a voting member of the Republican Party, I am appalled at your blatant disregard for the rights of a landowners. In fact, your position on CB-9 runs counter to your rhetoric on many other bills where you purport to champion the rights of the landowners. I shall not make the mistake of voting for you again.

I can only hope your fellow councilmembers have the foresight to see what an immense Due Process violation there is in allowing such a bill to go forward. I am quite sure that if either you or the Glenelg Country School trustees had an easement on your land, the result of this bill would be drastically different.

With Regards,

Cecilia DeSilva Selbrede, Esq.

12851 Folly Quarter Road

703-300-2546 (mobile)

cselbrede@verizon.net

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Sayers, Margery

From: LISA MARKOVITZ <lmarkovitz@comcast.net>
Sent: Friday, May 29, 2020 6:53 PM
To: CouncilMail
Subject: CB9 work session notes
Attachments: cb9.docx

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

The People's Voice will not be testifying "in person" at the virtual public hearing on Monday. We have already given testimony on CB9. I greatly appreciate the opportunity to be heard at today's work session. Attached are notes on open issues of concern on CB9. Good luck with the amendments and addressing of concerns. Thank you and stay well.

Sincerely,
Lisa Markovitz

Lisa Markovitz, President The Peoples Voice

Work Session statements on CB9-2020

May 29, 2020

Amendment 4 to Council Bill 9-2020 is an important attempt to focus specificity on what is allowed to be deemed the equivalent of permission of an easement owner to have a conditional use apply to an easement. If that cannot pass, and Amendment 5 is preferred, there needs to be the same degree of specificity in applying that permission equivalence issue.

Main points of continued concern:

1. EASEMENT OWNER PERMISSION –

Any language in the Bill referring to what documentation is going to be allowed to suffice (or determined to suffice by the Hearing Examiner) as proof of easement owner permission for conditional uses, must be specifically defined and not include broad terms like “other documents”. Any editing of this language in the Bill must be carefully duplicated so as the Hearing Examiner review portion of the legislation has the exact same language and labels.

Currently, the language regarding the Hearing Examiner’s ability to review and decide if an easement includes the conditional use allowance on its face, does not clearly indicate the finding is a requirement, but should be and not just an allowance. “SHALL proceed” with the hearing if determination is made, is not the same as “SHALL decide” on the easement clearly allowing the use specifically. This language should be as clear as possible so as not to allow pressure from attorneys on the Hearing Examiner to have unclear references apply or have general use statements be determined to equate to allowance of a different use. The only appropriate “other document” other than a clear indication of conditional use specific allowance in the easement, to prove owner agreement, is an actual signed owner agreement.

2. NOTICE ISSUES –

Any desire to accommodate the concern regarding not being able to find easement owners to sign permission, or receive notice, should not be addressed by changing communication requirements. The only consideration to this concern should be made by implementing something AFTER a period of non-response from the easement or abutting property owner, after defined communication requirements are stated as having occurred.

3. SETBACKS –

It is appreciated to pay special attention to combining the requirement of the same ownership of abutting property along with exclusive easement holding in order to diminish or eliminate setbacks. It is not rare for easements to be held, across the County, by single persons or entities.

4. SPOT ZONING CONCERNS –

The Council cannot address every possible disagreement that might be litigated between petitioners and opponents, via legislation. If the legislation would apply to even a handful of properties, it is not spot zoning and focusing effects on a smaller group of properties is commendable and needed. Any litigation burden that may arise from a dispute should be considered in legislation erring on the side of leaving the burden to the petitioner to obtain and prove permission of changes to property uses by easement owners.

When it comes to protecting property rights, it is far more just to protect the property owner who could have an unjust change made to the uses on their property, that are expensive if not impossible to overturn, versus having a proposed change take longer or cost more to enforce. These both would be rare occurrences, and the notion that a petitioner would never pursue a disallowed use is not a reliable protection.

Thank you,

Lisa Markovitz

Sayers, Margery

From: Alan Schneider <ajs333@aol.com>
Sent: Friday, May 29, 2020 12:49 PM
To: CouncilMail
Subject: CB9 Amendments Necessary.

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Council Chair and Council Members.

Subject CB9 is fixable. If not fixed by amendments it must not be adopted.

Conditional Uses and Variances are used to avoid promises made in Howard County's General Plan. CB9 DOES NOT fix those ongoing problems. Examples are far too numerous list at this time, but if you do not know some of them please contact me.

Problem 1 is the wording "to allow the Hearing Authority to grant". That does NOT work because there are NO criteria. If a lawyer comes up with ANY precedent or other example, the lawyer will persuasively argue (without input from citizens who have "no standing") that the Hearing Officer MUST grant the variance or conditional use (because a conditional use is "presumed" to be acceptable).

Fix: **ADD or Replace "allow"** with additional requirements (sometimes defined as "criteria") that any decision would explain how the decision fits the elements in the Howard County General Plan. The Hearing Authority would grant the authority only if it is a sensible decision for the future of the county based on the following criteria:

- • Maintaining and improving the quality of life in Howard County.
- • Protecting existing communities
- • Preserving the sustainable Howard County values
- • Response explaining why community input is not incorporated into the decision.
- • Orderly growth that will not create unfunded county responsibilities including traffic, schools, hospital, police, fire, and other social services funded by taxpayers.
- • Preservation of agricultural, historical, and open space.

Problem 2: Require conditions to be integral to the decision and enforceable by any resident or civic organization.

Thank you for your consideration.
Alan Schneider
Clarksville, Md

Sayers, Margery

From: Jung, Deb
Sent: Wednesday, March 18, 2020 3:51 PM
To: Sayers, Margery
Subject: FW: CB9-2020 Support for Amendment 4

From: Pete&Dot <petedotdc@verizon.net>
Sent: Thursday, March 12, 2020 11:56 AM
To: Jung, Deb <djung@howardcountymd.gov>; Walsh, Elizabeth <ewalsh@howardcountymd.gov>; Yungmann, David <dyungmann@howardcountymd.gov>; Rigby, Christiana <crigby@howardcountymd.gov>; Jones, Opel <ojones@howardcountymd.gov>
Subject: CB9-2020 Support for Amendment 4

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

I support Amendment 4 completely, and Amendment 1 (with the amendment to the amendment) with reservations. I do not support Amendments 2 and 3.

First, both Amendment 4 and Amendment 1 with the Amendment to the Amendment protect landowners' rights with in Howard County. This will allow for due notice to the landowner by requiring a landowner's signature before the proposed zoning use is changed on his property. The Department of Planning and Zoning must know unequivocally that the proposed change on a landowner's property has been approved by the landowner especially when he/she is not the Petitioner.

In reading through the Technical Staff Report submitted by DPZ on ZRA 188, DPZ states that they rely on the application form signed by the owner (or owner's authorization) as valid authority to process a Petition.

DPZ reviews tax records to check ownership but otherwise relies on the application form signed by the owner or owner's authorization as valid authority to process a Petition. Any dispute in the right to submit a Petition must be adjudicated through court proceedings between the involved parties, which does not include the County. This approach is currently applied in all circumstances when there is a dispute between property owners. Therefore, DPZ recommends codifying and clarifying the current practice of obtaining written authorization of the owner or agent and the presumed validity of that authorization.

Moreover, they state that any dispute between the parties must be adjudicated in a court and not in the county and that this is the current process. DPZ goes on to recommend the changes that Amendment 4 and Amendment 1 to Amendment 1 specify which will "**codify and clarify the current practice of obtaining written authorization of the owner or agent and the presumed validity of that authorization.**" Unfortunately, the only way that DPZ can presume validity in a dispute is if it has already been adjudicated in court. Both amendment 4 and Amendment 1 with the Amendment to the Amendment support DPZ's recommendation.

Amendment 1 without the Amendment to the amendment leaves open the issue of signatures and easement rights. Since DPZ asks for the codifying and clarifying of written authorization, I believe that Amendment 1 to amendment 1 is a necessary part of this amendment.

Amendment 1 also gives me some concern about day cares as an accessory use. While I completely understand the need for more day care within Howard County, I don't believe that you should so quickly give up regulatory control. Yes,

on the surface, it appears that if you have a school, it makes sense that you should allow them a day care. But what if the daycare is not on the same land as the school? Could a school open a daycare in another part of the county or on an adjacent lot? Does that piece of land automatically become a conditional use? If it's a new parcel of land or lot, shouldn't DPZ be required to make sure it meets the conditions of approval (at least for a school if not for the daycare that it is)? It seems that the day care as an accessory use should have an amendment requiring it to be on the same parcel as the primary structure.

Therefore, because I have concerns about the day cares as an accessory use, and I support DPZ's request to codify and clarify the obtaining of written authorization of an owner, I support Amendment 4 over Amendment 1.

Thanks,

Dottie DeCesare

Ellicott City, MD

Sayers, Margery

From: Gick, Ginnie
Sent: Wednesday, March 18, 2020 3:51 PM
To: Sayers, Margery
Subject: FW: No Support for CB9-2020 and Amendment 2

From: Pete&Dot <petedotdc@verizon.net>
Sent: Thursday, March 12, 2020 1:47 PM
To: Walsh, Elizabeth <ewalsh@howardcountymd.gov>; Jones, Opel <ojones@howardcountymd.gov>; Jung, Deb <djung@howardcountymd.gov>; Rigby, Christiana <crigby@howardcountymd.gov>; Yungmann, David <dyungmann@howardcountymd.gov>
Subject: No Support for CB9-2020 and Amendment 2

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

I do not support Amendment 2 put forth by David Yungmann to require the Hearing Authority to determine whether a proposed use is consistent with an easement.

First, in Maryland, the interpretation of plats, deeds, easements and covenants has been held to be a question of law. White v. Pines Cmty. Improvement Ass'n, Inc., 403 Md. 13, 31, 939 A.2d 165, 175 (2008). **A question of law must be answered by applying relevant legal principles and must be decided by the courts.**

The current Hearing Examiner position required a Juris Doctor degree and a member in good standing of the Bar of the Maryland Court of Appeals, and as such the new Hearing Examiner could presumably interpret easements by applying relevant legal principles. However, in order to do so, it would require a not inconsiderable amount of **the Hearing Examiner's time to do the research and analysis of case law and precedents necessary to give due diligence to the easement at hand.** This would then increase the amount of hourly fees charged by the Hearing Examiner, thus increasing the cost to Howard County.

It also puts a huge quasi-judicial burden on the Hearing Examiner herself. This is a description of the job as posted for the Hearing Examiner, "Total authorized fees and expenses shall not exceed the amount budgeted and authorized for this purpose in each fiscal year. Time is of the essence in the issuance of written decisions and orders and a deduction equal to 10% of the compensation outlined above shall be made for each week or part thereof that submission of a decision and order exceeds the deadlines outlined". **Yet, this change in the zoning laws greatly changes the amount of time that the Hearing Authority will have to spend on a case involving an easement.** In the fiscal report for Amendment 2, the county auditor states, "the amendment could increase the volume of Conditional Use applications that may be processed by the Hearing Authority". So now there are more conditional uses with easements that need to be interpreted, which will require more time by the Hearing Examiner to give each it's due diligence. Yet, if she doesn't meet the time requirements for issuing decisions and orders, she will lose 10% or more of her fees. More than that, she is required to stay within the amount budgeted for the year. All of which makes one wonder if it will be easy to fill the post in the future.

The Howard County Board of Appeals has no requirement that members must be lawyers. Indeed, of the 5 Board of Appeals members, only 1 is a lawyer. The others range from a Doctorate in Mathematics, an Engineering Manager, a Business person and a Paramedic/Real Estate agent. How will they apply relevant legal principles? **How can Howard**

County require the interpretation of an easement, which Maryland holds to be a question of law, to people who have no background in legal principles? Even if the Hearing Examiner finds the easement to be legal, the petition starts over De Novo. To have a fair quasi judicial trial for both the petitioner and the opposition, each member of the Board of Appeals will have to interpret the easement for themselves. In all due respect for the members of the Board of Appeals, I don't know how they will do this fairly.

In the working session for CB9-2020 at 3:11:27 in the video, Sang Oh points out that that the easement is for a conditional use on someone else's property. He states that it is very rare and not a common situation. Yet, just a quick search turns up these properties: GCS, Miller Trust, Ridgley Run Community Center, and many shared driveways across Howard County.

At 3:12 in the working session Sang Oh states, "You have an easement to do a conditional use on that property not an easement for water or sewer....It is an easement to allow the use you are applying for under a conditional use". Nowhere in the easement between GCS and the 22 easement landowners does it use the words "conditional use".

Then at 3:15 in the working session and only after Liz Walsh calls him on it does Sang Oh admit that the easement does not specifically state that the easement is for conditional use. Sam Pulver at 3:41 states that he does not believe that the easement gives the school the right to use it for conditional use.

How is the Board of Appeals to interpret this easement since two lawyers have differing opinions on it themselves and the easement itself does not specifically state that it is an easement for a conditional use?

For all of the reason outlined above, I do not support CB9-2020 and Amendment 2. I repeat, in Maryland, the interpretation of plats, deeds, easements and covenants has been held to be a question of law. White v. Pines Cmty. Improvement Ass'n, Inc., 403 Md. 13, 31, 939 A.2d 165, 175 (2008). A question of law must be answered by applying relevant legal principles and must be decided by the courts.

Thanks,

Dottie DeCesare

Sayers, Margery

From: Jones, Diane
Sent: Wednesday, March 18, 2020 8:48 AM
To: Jung, Deb; Walsh, Elizabeth; Jones, Opel; Rigby, Christiana; Yungmann, David
Cc: Meyers, Jeff; Sayers, Margery
Subject: FW: Council work session on CB9-2020

Hi All, I apologize but I don't recall if I sent you this. Please see the email from Prof. McClain, President Glenelg Manor Estates Community Ass'n.

Diane

From: Russell McClain <rmcclainva@gmail.com>
Sent: Friday, February 21, 2020 7:07 AM
To: Jones, Diane <dijones@howardcountymd.gov>
Subject: Re: Council work session on CB9-2020

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Ms. Jones:

Thank you for reaching out to me about Monday's work session on Council Bill 9-2020. Unfortunately, I cannot participate in the work session because of an unavoidable, all-day work conflict out of state. I would have loved to have been a part of the conversation and am disappointed that I cannot be there. Please know that we will have some of our community members present at the session, and our HOA Board also is sending an attorney to represent our interests at the meeting.

If it helps and is not inappropriate for councilmembers to do so, any (or all) of them may feel free to reach out to me by e-mail or on my cell phone at (240) 477-2900. I am not available on Monday, but I am generally available before and after.

In addition—again, assuming this is appropriate—here are a few thoughts relating to my testimony on Tuesday. I did not submit written remarks, so if you think the Council might find the following to be helpful, please feel free to forward it and/or to make it part of the public record:

1. Proper Scope of the Council's Review of the Amendment. If the council is considering an amendment to zoning ordinances, it seems to me that it should be considering whether the change is good for the County. From Tuesday's hearing, it seems that most of the argument was about whether this amendment is good for Glenelg Country School (GCS) or bad for Glenelg Manor Estates (GME). In my view, that is not an appropriate basis for making your determination, especially if it is the exclusive basis for making that determination. In my own view, the discussion about whether this amendment is appropriate and good for the County really should not turn at all on GCS, the GME community, pipestems, whether GCS is a "bad actor" or the GME residents "obstructionists," or the more than a little complicated relationships among these interested constituents. (A few of my points below build on this foundational observation.)
2. Councilmembers Interpreting a Contract. Much of Tuesday's discussion focused on GCS's assertion that (mostly former) GME pipestem owners sold all of their rights to the pipestems to GCS years ago. That is a legal

conclusion that should be outside of the scope of this proceeding. Contract interpretation is, rightly, within the province of bodies that can hear and rule on evidence in particular cases. Having Council pass this CB9-2020 on the basis of the Council's view of the *meaning* of the GME-GCS easement agreement does several things: (i) it concludes, as a matter of law, that the GME-GCS easement agreement means whatever GCS says it means; (ii) it concludes, as a matter of law, that any other covered easement agreements mean whatever any easement holder (and petitioner for a zoning variance) says it means; and (iii) abolishes completely the power of the grantor of an easement to raise the meaning of the agreement before a hearing officer by creating an irrebuttable presumption in the hearing that the meaning of an easement agreement is what the petitioner says it means. All of this exceeds the scope of what the council should be deciding. And, to react to the argument of GCS's attorney, it seems more than a little contradictory that GCS would seek to have the Council rule on the validity of this particular easement agreement (and, by necessary implication, all other covered agreements) while asking the Council to remove the power of a zoning hearing officer to hear any evidence regarding an agreement's meaning at all.

3. Spot Zoning. It seems relatively clear that this amendment is designed exclusively to address a single situation—the relationship between GCS and the GME pipestem owners. Although I am not in any way an expert in this kind of rule-making, this appears to be unlawful spot zoning, i.e., changing the ordinance for the benefit of a single landowner—in this case, GCS. It is not at all surprising that the summary title of CB9-2020 referenced a day care at a school, because, of course this proposed amendment, which Mr. Oh (attorney for GCS) admitted, was drafted by him and for GCS.

4. Absence of Information Regarding County Impact. There was zero evidence put into Tuesday's record about any impact that this rule will have on any part of the rest of Howard County. Not a single person not associated with GCS testified in favor of this bill. (I do not know the developers in this area well, but I think one developer may have testified against this bill, as did at least one other interested party who is not a GME resident.) Regarding impact, there are only two options here. On the one hand, there is a County impact of changing this rule, but the Council has no idea what that impact will be. That reflects a flawed decision-making process, in my view. I do not believe that these problems can be addressed by tailoring the rule to avoid potential impact elsewhere. The more that the Council does that, the more this becomes a pure instance of spot zoning. On the other hand, there is no impact anywhere else in the County, in which case this also is a pure instance of spot zoning.

5. Relationship Between Glenelg Country School and Glenelg Manor Estates. I do not think this paragraph should be relevant to the decision before the Council, but in light of the fact that it was raised so much on Tuesday, it is probably worth exploring a bit the relationship between GME and GCS. There obviously is more than a little acrimony between the school and some of the GME residents. But I do not believe that the relationship is irreparable. And the hard feeling, at least on our side, is not total. (For reference, I was the person who testified that he was not angry. I have zero bitter feelings towards GCS.) I think that reasonable minds in our neighborhood recognize GCS's desire to grow, and no reasonable person would argue that GCS should be prevented from ever improving its facilities and campus. On the other hand, that does not mean that GME owners simply should concede that everything GCS wishes to do is appropriate. We are not obstructionists, but we do have an interest in the character of our neighborhood, of which GCS is a part. As President, I think I can speak on behalf of the GME Community Association to say that we would like to find a way both to enable GCS to grow and to protect our own community interests. I believe this is possible, and I hope that we can have productive conversations about this.

As I said earlier, I am happy to speak with any Councilmember about these or related issues.

In an abundance of caution, and because I am a law professor and teach professional ethics, I want to make clear that I am not licensed to practice in Maryland, I am not professing to make any kind of legal argument, and I cannot advise or practice law in Maryland. Please do not regard anything I have said above as constituting a legal opinion or advice. I am speaking as a Howard County homeowner/resident and as the president of my HOA.

Best regards,

Russell McClain

President, Glenelg Manor Estates Community Association

On Wed, Feb 19, 2020 at 5:02 PM Jones, Diane <dijones@howardcountymd.gov> wrote:

Good afternoon,

The County Council is having a work session on Monday, February 24th. Council Bill 9-2020 which proposes an amendment to the Howard County Zoning Ordinance is on the agenda for discussion at the work session. Members of the Council have requested your participation in the work session, if you are available. CB 9-2020 will be taken up at 1:00 p.m.

Please let me know if you are available to participate. Thank you for your consideration.

Diane Schwartz Jones

County Council Administrator

Howard County Council

3430 Cowit House Drive

Ellicott City, Maryland 21043

(410)313-3111

Sayers, Margery

From: Michael Goldrich <mgoldrich@ipmglobal.org>
Sent: Thursday, April 2, 2020 10:51 AM
To: CouncilMail
Cc: Michael Goldrich; Sahi Rafiullah
Subject: Subject: CS0006540 - Proposals CB39-2020 and CB9-2020 Opposition

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

April 1, 2020
Howard County Council Members
George Howard Building
3430 Court House Drive
Ellicott City, MD 21043

Dear Council Members,

This letter is to express our opposition to proposal CB39-2020, where the Adkinsons are proposing to add their barn to the historic register. We also don't support proposal CB9-2020 that contains language that would eliminate the need of a petitioner to obtain written approval of all parties to the easement.

My wife and I located to 12044 Open Run Road, Ellicott City, MD 21042 in 2011 because of our love of Riverwood and its neighboring communities. We strongly believe approval of these proposals will:

- Destroy the original and intended beauty of the Riverwood community that we and our neighbors have enjoyed
- Introduce an unacceptable and egregious noise level to Riverwood and surrounding communities that could never have been anticipated with exiting zoning restrictions
- Lower the property values of all houses in Riverwood and surrounding communities
- Introduce potential crime and vandalism into the Riverwood and surrounding communities and adversely affect and endanger children playing on the street
- Introduce dangerous driving circumstances on Castlebridge Road which is the main road for the Riverwood community for traffic entering from Homewood Rd.

We strongly urge the County to reject these proposals and encourage the Adkinsons to consider another location with approved zoning regulations, in existence, that can support their business plan. We are willing to meet with you to discuss our request further if you need more information.

Sincerely,

Mike Goldrich and Sahira Rafiullah
12044 Open Run Road
Ellicott City MD 21042
3018540560

Sayers, Margery

From: Norm Long <NormLong@havtech.com>
Sent: Wednesday, April 1, 2020 3:57 PM
To: CouncilMail
Cc: Denise
Subject: CS0006540 - Proposals CB39-2020 and CB9-2020 Opposition

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

April 1, 2020

Howard County Council Members
George Howard Building
3430 Court House Drive
Ellicott City, MD 21043

Dear Council Members,

This letter is to express my strong opposition to proposal CB39-2020, where the petitioners are proposing to add their barn to the historic register—in order to operate a commercial event venue. I also don't support proposal CB9-2020 that contains language that would eliminate the need of a petitioner to obtain written approval of all parties to the any easement.

My wife and I built our home in 2008 at 11226 Kinsale Court, Ellicott City, MD 21042 for four main reasons:

1. because it was in Howard County (for the cultural openness and inclusivity the county represents)
2. because of our love of the layout of Riverwood landscape and common shared acreage
3. because it was a very private and secluded residential neighborhood
4. and finally because the surrounding communities were also residential neighborhoods.

At the time of our purchase—this was a residential neighborhood, and that continues to this day. We did not buy in the hopes that commercial event venues would follow us, rather we purchased a house in Riverwood for the exact opposite reason, that the residential environment/surroundings be maintained. The intent and request for approval of CB39-2020 is contradictory to the preservation of the residential neighborhood and should not be approved—there are plenty of other areas in Howard County where commercial operations for this type of venue can be located.

Approval of these two proposals will:

- Destroy the beauty of the Riverwood community that we bought into with the expectation that it would remain as a residential community with no commercial operations within the community or its neighboring communities
- Introduce un-acceptable high noise levels to Riverwood and surrounding communities due to increased traffic and entertainment at the venue
- Lower the property values of all houses in Riverwood and surrounding communities (this equates to a lower tax revenues for Howard County)
- Introduce crime into the Riverwood and surrounding communities
- Introduce reckless driving on Castlebridge Road which is the main road for the Riverwood community
- Increase the probability of those using Riverwood for egress from the venue being intoxicated and/or under the influence of other legal/illegal drugs due to the venue being for the gathering of people to socialize in the celebration of milestone events

I strongly urge the County to reject both of these proposals and encourage the petitioners to consider another location with approved zoning regulations that can support their business plan. I am willing to meet with you to discuss this request further.

Sincerely,

On behalf of my wife and me:

Normand and Denise Long

11226 Kinsale Court

Ellicott City, MD 21042

normlong@havtech.com

deelong22@aol.com

Sayers, Margery

From: Akinwale Akinpelu <waleakinpelu@verizon.net>
Sent: Wednesday, April 1, 2020 3:03 PM
To: CouncilMail
Subject: CS0006540 - Proposals CB39-2020 and CB9-2020 Opposition

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

April 1, 2020
Howard County Council Members
George Howard Building
3430 Court House Drive
Ellicott City, MD 21043
Dear Council Members,

This letter is to express our opposition to proposal CB39-2020, where the Adkinsons are proposing to add their barn to the historic register. We also don't support proposal CB9-2020 that contains language that would eliminate the need of a petitioner to obtain written approval of all parties to the easement.

My wife and I built our retirement home at 12048 Open Run Road, Ellicott City, MD 21042 in 2009 because of our love of the layout of Riverwood and its neighborhood communities. We strongly believe approval of these proposals will:

- Destroy the beauty of the Riverwood community that we have enjoyed
- Introduce un-acceptable high noise level to Riverwood and surrounding communities
- Lower the property values of all houses in Riverwood and surrounding communities
- Introduce crime into the Riverwood and surrounding communities
- Introduce reckless driving on Castlebridge Road which is the main road for the Riverwood community

We strongly urge the County to reject these proposals and encourage the Adkinsons to consider another location with approved zoning regulations that can support their business plan. We are willing to meet with you to discuss our request further if you need more information.

Sincerely,
Jackie & Wale Akinpelu
12048 Open Run Road
Ellicott City, MD 20142
jakinpelu@verizon.net and waleakinpelu@verizon.net

Sayers, Margery

From: Kenneth Moreland <kmoreland78@yahoo.com>
Sent: Tuesday, March 31, 2020 11:23 PM
To: CouncilMail
Cc: Jung, Deb; Yungmann, David; Rigby, Christiana; Jones, Opel; Walsh, Elizabeth; Ball, Calvin; Gowan, Amy
Subject: Oppose CB9-2020

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

TO: Howard County Council

CC: County Executive Calvin Ball; Amy Gowan, DPZ

RE: Opposition to CB9-2020

Council Members:

My name is Kenneth Moreland, and my wife and I have been residents of Howard County for 32 years. We currently reside in West Friendship, Maryland, however, we are in the process of constructing a new home at 4898 Castlebridge Rd, Ellicott City, which should be completed this summer. I am writing to express our serious objection to CB9-2020, specifically the proposed changes that would eliminate the current requirement for a Conditional Use Petitioner to obtain the written approval of all property owners that are parties to an easement involving the Petitioner. The proposed changes would essentially result in the Petitioner having de facto power and authority to change the rights and obligations contained in an existing easement agreement, without the knowledge or consent of all parties involved.

This Bill is very relevant to my rights as a Howard County property owner who is party to an easement agreement. On Monday, March 9, 2020, there was a Pre-Submission Community meeting held where Mr. Carter Adkinson, his wife Kim, and their attorney, Mr. Sang Oh, presented plans for potentially filing a Conditional Use Petition for "Limited Social Assemblies" for a barn on their property. The Adkinsons purchased their property (a house, a buildable lot and barn on about 10 acres) at 4888 Castlebridge Rd, Ellicott City in the summer of 2019. Although it was not disclosed at this public meeting, I have since learned that this barn structure is one of two properties that is seeking to be added to the County's historic property inventory in CR 39-2020. It appears the Adkinsons want to get this barn on the Historic Inventory so that they can run a public "event" business on their property.

The Adkinsons, by virtue of their purchase of this property, are parties to an pre-existing Easement Agreement with five (5) other landowners for a paved private driveway that commences at the end of the "public" part of Castlebridge Road and terminates at the driveway to the Adkinson's residence. Under current zoning regulations and practices, the Adkinson's would be required to present the signatures of any and all parties to the Easement Agreement in order for the Conditional Use Petition to be considered by the Hearing Examiner. The proposed revisions to the Conditional Use regulations under CB9-2020 would presume validity of the easement, and deem the rights and obligations of the property owners subject to the easement to be irrelevant.

The Planning Board's report on this matter (ZRA 188), where the Planning Board voted 5-0 against the proposed changes in the Regulations, states: "Board members expressed concerns that the proposed amendments are designed to address issues on one property, however, they will apply countywide and could result in unintended consequences. Also, they

stated a preference for continuing to require property owner signatures on Conditional Use Petitions.” I **completely agree with these comments.** In fact, the situation described above regarding the private driveway portion of Castlebridge Road would be real life example of one such unintended consequence. Why? None of the parties to our Easement Agreement (other than the Adkinsons) are in favor of the Adkinson’s proposed Conditional Use for Limited Social Assemblies. If this bill is approved, our rights under the Easement Agreement are being completely undermined.

Our opposition is based on the following:

- This proposed change to Section 131 significantly impairs and alters the legal rights of many landowners in the county who are parties to easements; in short, they reduce the rights of parties that may have been intended when the easements were executed. The DPZ should not be allowed to presume an easement allows an easement holder/Petitioner all rights to another landowners’ property. **Requiring property owner’s signatures seems to be a fundamental right contemplated by the existing regulations and practices, both in our County and across the State of Maryland. This should not be changed.**
- The proposed change would bar the Hearing Examiner from considering the details of any easement, even if the easement specifically precluded the Conditional Use activity. How can the “rights and obligations” of the parties not be relevant? This seems to be illegal, thus will result in a significant increase in litigation, and related time and costs, to resolve these consequences. In our case, the easement we assumed upon purchasing this property expressly contemplates residential vehicle and farm equipment use for “Private Ingress, Egress, Maintenance, and Storm Water Management & Utilities” on a “private paved driveway.” It does not specify or contemplate any other uses, including public “social assemblies.”
- Conditional Uses are, by definition, uses that could have adverse impact on adjacent property owners. This is why we have additional governance procedures in our County regulations. We are not adjacent property owners in our situation; we own the property for which the Petitioner has an easement. The property owners with easements are likely to be the most impacted by Conditional Uses, and their rights and interests should be the highest priority in consideration of any Conditional Use Petition.
- The Petitioner is the one seeking an exemption for a use that is inherently incongruent with existing zoning for their property. Thus, if any property owner who is a party to an easement disagrees and declines to sign the Conditional Use Petition, then the Petitioner’s recourse should be through the Courts to affirm the Petitioner interpretation of their rights under the Easement. This should not be a “presumption” by the County or its officials.
- It is our understanding that if a guest of the Adkinsons social assemblies has an accident on our easement affiliated property, then we could be potentially held liable. How can the County impose that potential liability upon us by approving a use on our property to which we have not agreed?

Here is why we, and the other parties to the Easement Agreement (other than the Adkinsons) are opposed to the Adkinsons proposed Conditional Use Petition:

- We purchased our lot and are constructing our home in what we believe to be a secluded part of this Ellicott City area, at the end of a mature neighborhood and surrounded by preservation land. There are five buildable

lots on this private driveway. This means there is limited traffic currently or ever anticipated on this driveway. At its widest part, the private driveway is 16 feet wide, but narrows to about 12-13 feet wide after you pass the first two lots on this driveway. There are sharp turns, dips in the driveway, and limited sight line visibility on certain parts of the paved roadway. The paved roadway will not handle two-way traffic, thus vehicles may be forced off-road onto private property. Adding up to 150 guests, plus vendors and their staff, per "social assembly" on such a driveway will create significant safety concerns.

-
- Pre- and post-event traffic will increase as well. This traffic will include not only automobiles for people scoping out the venue, but delivery trucks for food, tents, portable toilets, event trash collection, etc.
-
- Increased traffic and activity into this remote area creates other safety concerns, in terms of trespassing onto our property as social assembly guests come and go with the potential to become lost or disoriented given the private, narrow construct of the private driveway. In addition, the potential to have mail and packages taken from our mailboxes, and people otherwise "scouting" our properties for nefarious purposes under the guise of attending or planning a function at the barn. There are also concerns about litter along the private driveway.
- There is no County trash collection service on this private driveway; thus, as residents we are required to walk or drive our trash along the driveway to the end of the public portion of Castlebridge Road. This is also where all the private driveway mailboxes are located. Having drivers unfamiliar with the neighborhood roadways and this private driveway will create unsafe conditions for pedestrians and for stopped vehicles at the beginning of the private driveway.
- There are no street lights (except at the traffic circles) in the Riverwood and Gaither Hunt communities, which would be the only access routes to the Conditional Use property. This area is extremely dark and remote, such that great caution is required even by those familiar with the community. There is no lighting on the private driveway. Visitors in this area, especially in the evening, will create increased safety concerns due to their unfamiliarity with the conditions. Alcohol being served at these events will significantly increase these safety concerns.
- As the Adkinson's barn is at the very end of the private driveway, people who are lost or seeking directions will likely enter our properties to seek directions to the barn. This will be disconcerting and intrusive. Signage to attempt to alleviate this issue would be intrusive, unsightly, and unbecoming to the residential/rural nature of the neighborhood and surroundings.
- We and other property owners along the private driveway are very concerned about the intrusion of amplified music, as well as lighting pollution, emanating from the social events into their peaceful enjoyment of their homes and property.

Thank you very much for your service to our County, and for your consideration of my interests and views related to CB9-2020.

Sincerely,

Kenneth V. Moreland

Sayers, Margery

From: Sang Oh <soh@talkin-oh.com>
Sent: Tuesday, March 31, 2020 2:31 PM
To: CouncilMail
Cc: Jung, Deb; Walsh, Elizabeth; Jones, Opel; Rigby, Christiana; Yungmann, David; Sidh, Sameer; Gowan, Amy
Subject: Council Bill 9-2020

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Council Members:

As you know, our firm represents the Glenelg Country School with respect to CB9-2020. It has come to our attention that various individuals in the Riverwood and Gaither Hunt developments have contacted Council members to express their views on CB9 that this legislation would allow Carter and Kimberly Adkinson to file a conditional use for a limited social assembly at 4888 Castlebridge Road, Ellicott City without the permission of the property owner of the shared driveway. I am writing to refute this interpretation of CB9.

As I have indicated to the Council previously, there is nothing within CB9 that would grant to a possible conditional use applicant the substantive right to have/not have a certain conditional use. That right exists or not independent of CB9. It is only in the event that such substantive right exists to establish the conditional use that a would-be applicant would be able to use CB9 to file a CU application. Otherwise, the CU process and even an approval would be meaningless if there is ultimately no legal right to have the use.

This firm also represents Carter and Kimberly Adkinson. The Adkinsons are in need of restoring a historic barn on their property. They wanted to have a conversation with their neighbors about using the barn for limited social assemblies. The attendees at the presubmission meeting were generally not supportive of the proposal. This was disappointing to the Adkinsons; however, they have not and will not rely on CB9 as the authority for them to file a conditional use application for a limited social assembly at 4888 Castlebridge Road. CB9 does not convey any substantive rights that do not already exist. Construing CB9 as the individuals in Riverwood and Gaither Hunt allege is unwarranted and would be a poor decision of time and resources for the Adkinsons and others who are similarly-situated. The Adkinsons have decided to cease their proposal for a limited social assembly CU. CB9 has had no effect on this decision.

I hope this helps to explain the current situation. Please contact me if you require further clarification. Thank you.

Sincerely,

Sang W. Oh
Talkin & Oh, LLP
5100 Dorsey Hall Drive
Ellicott City, MD 21042
410-964-0300
410-964-2018 (f)

Sayers, Margery

From: KEITH JONES <hey-kej@sbcglobal.net>
Sent: Friday, March 27, 2020 8:15 PM
To: CouncilMail
Subject: CB9-2020 is illegal and the county will have to go to court wasting taxpayer dollars

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

I urge you to VOTE NO on this bill or we will be sure to vote you out of office. The entire community around where this barn owner who proposed this end around game bill is already shunned by our community. Don't be part of that illegal game!

*Keith Edward Jones
4884 Castlebridge Road
Ellicott City, MD 21042*

Sayers, Margery

From: Jones, Opel
Sent: Monday, March 2, 2020 12:44 PM
To: Sayers, Margery
Subject: FW: Council Bill 9-2020

From: Hannah Quigley <hannahq@glenelg.org>
Sent: Sunday, March 1, 2020 4:02 PM
To: Jones, Opel <ojones@howardcountymd.gov>
Subject: Council Bill 9-2020

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Councilman Jones,

My name is Hannah Quigley. I am a sophomore at Glenelg Country School (GCS), and I am emailing you today to encourage you to vote "yes" on Council Bill 9-2020 tomorrow. I watched the live stream of the hearing on February 18th and was concerned by some of the arguments stating GCS is just a school or a corporation, not a home.

This current school year is my tenth year at GCS – I enrolled when I was in third grade. My family chose GCS to provide me with more opportunities to do what I loved than I had at my old public school. Since then, GCS has fundamentally shaped me as a person and fostered my love for learning, the performing arts, and the humanities. At GCS, I have achieved academic success, participated in six school musicals, become proficient in Spanish, and discovered a love for history and American politics. In fact, I am writing this email because of my passion for civic engagement from participating in GCS's Model Congress program. I also blossomed at GCS because we are like a family. We are a small, incredibly close-knit community, enabling us students to make connections with our teachers, peers, and Howard County around us.

Above all else, GCS has proved countless times how good of a neighbor we are to not only Howard County but also to the world. As Upper School students, we are required to participate in at least 25 hours of community service per year. We also have opportunities to travel to New Orleans, Haiti, Thailand, and many other places to build houses and help shape communities. Our community service program is not confined to the high school – middle schoolers can participate in MYPIC, a program where our school partners with a Baltimore City school on a service project, and elementary schoolers can join after-school activities like Girls on the Run and Scouts.

I can vouch personally for GCS's involvement in the Howard County area. This year, I am working on my Girl Scout Gold Award where I formed a program called Pals in Production. Pals in Production gives students with special needs from Howard County the opportunity to work on a musical with their peers from GCS, nurturing friendship and talent along the way. GCS has been behind the project since day one. Not only is the theater department allowing me to use the GCS theater and classrooms for my program, but they are also helping me supervise my classes. Additionally, the administrative staff also supports it and agreed to help me with the

legalities that come with buying the rights to a musical and liabilities for non-GCS students. I have received overwhelming support from the entire GCS community on this endeavor, and I have never been prouder to attend my school.

I urge you to vote "yes" tomorrow. If GCS cannot expand, we will not be able to build a new performing arts center for students like me. We will not be able to build more engineering classrooms for talented STEM students. We will not be able to continue to thrive and set a good example for the rest of the community. Please help GCS continue to grow as it helped me and so many others continue to grow.

Sincerely,
Hannah Quigley
Class of 2022

Sayers, Margery

From: Jung, Deb
Sent: Monday, March 2, 2020 8:27 AM
To: Sayers, Margery
Subject: FW: Council Bill 9-2020

Deb Jung
Council Chair, District 4
Howard County Council
3430 Court House Dr., Ellicott City, MD 21043
410-313-2001

Sign-up for my District Update [here](#).

From: Hannah Quigley <hannahq@glenelg.org>
Sent: Sunday, March 1, 2020 4:04 PM
To: Jung, Deb <djung@howardcountymd.gov>
Subject: Council Bill 9-2020

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Chairwoman Jung,

My name is Hannah Quigley. I am a sophomore at Glenelg Country School (GCS), and I am emailing you today to encourage you to vote "yes" on Council Bill 9-2020 tomorrow. I watched the live stream of the hearing on February 18th and was concerned by some of the arguments stating GCS is just a school or a corporation, not a home.

This current school year is my tenth year at GCS – I enrolled when I was in third grade. My family chose GCS to provide me with more opportunities to do what I loved than I had at my old public school. Since then, GCS has fundamentally shaped me as a person and fostered my love for learning, the performing arts, and the humanities. At GCS, I have achieved academic success, participated in six school musicals, become proficient in Spanish, and discovered a love for history and American politics. In fact, I am writing this email because of my passion for civic engagement from participating in GCS's Model Congress program. I also blossomed at GCS because we are like a family. We are a small, incredibly close-knit community, enabling us students to make connections with our teachers, peers, and Howard County around us.

Above all else, GCS has proved countless times how good of a neighbor we are to not only Howard County but also to the world. As Upper School students, we are required to participate in at least 25 hours of community service per year. We also have opportunities to travel to New Orleans, Haiti, Thailand, and many other places to build houses and help shape communities. Our community service program is not confined to the high school – middle schoolers can participate in MYPIC, a program where our school partners with a Baltimore City school on a service project, and elementary schoolers can join after-school activities like Girls on the Run and Scouts.

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I urge you to vote "yes" tomorrow. If GCS cannot expand, we will not be able to build a new performing arts center for students like me. We will not be able to build more engineering classrooms for talented STEM students. We will not be able to continue to thrive and set a good example for the rest of the community. Please help GCS continue to grow as it helped me and so many others continue to grow.

Sincerely,
Hannah Quigley
Class of 2022

Hannah Quigley
Class of 2022

Sayers, Margery

From: Jung, Deb
Sent: Wednesday, February 26, 2020 5:22 PM
To: Sayers, Margery
Subject: FW: CB9-2020

Deb Jung
Council Chair, District 4
Howard County Council
3430 Court House Dr., Ellicott City, MD 21043
410-313-2001

Sign-up for my District Update [here](#).

From: Mary Christensen <mechristensen@gmail.com>
Sent: Monday, February 24, 2020 12:00 PM
To: Yungmann, David <dyungmann@howardcountymd.gov>; Jung, Deb <djung@howardcountymd.gov>; Rigby, Christiana <crigby@howardcountymd.gov>; Jones, Opel <ojones@howardcountymd.gov>; Walsh, Elizabeth <ewalsh@howardcountymd.gov>
Subject: CB9-2020

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

There are many problems with CB9-2020, including but not limited to:

- At the February 18, 2020 Howard County Council, representatives for the school admitted no county impact study has been done for this proposed law. If the Council is considering an amendment to zoning ordinances, it seems they should be considering whether the change is good for the County only. At this council meeting, it was clear that most of the argument for the bill is whether this amendment is good for Glenelg Country School only without regard to the rest of the county property owners.
- This amendment is unlawful spot zoning. It is clear this is designed exclusively to address a single situation - GCS trying to go around the easement agreement it has in place with neighboring property owners.
- The summary/title of the bill seems intentionally misleading as it states it is just for a private school to get a Conditional Use in order to add a daycare, but it really would affect potentially thousands of county property owners with easement agreements on their properties. It seems this was written in a way to keep the county-wide impact of this bill under the radar.
- This bill was drafted for GCS by their legal council, Sang Oh, who, along with many school trustees, has strong ties to County Council members and who has given many donations and hosted numerous fundraisers for various Howard County Council members. This seems a serious conflict of interest.

This amendment is bad for the entire county. A wealthy and influential private school is trying to get the better of it's neighbors by writing its own laws with the potential to affect property owners throughout Howard County. Please vote no on CB9-2020

Mary Christensen

Sayers, Margery

From: Suzanne Kingsbury <kingsbury3@verizon.net>
Sent: Wednesday, February 26, 2020 12:55 PM
To: CouncilMail
Subject: Veto CB9-2020

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear County Council Members:

This is in regard to pending Council Bill CB9-2020. The purpose of this email is to strongly advocate for the Board to veto this bill. Council Bill 9-2020 will negatively impact property owner's rights throughout Howard County in that the terms of easements will no longer be a legal certainty.

Although this Bill was introduced by County Executive Ball, the impetus for the Bill is the Glenelg Country School's (GCS) intent to circumvent a 2019 determination by the Board which upheld a 2008 Easement Agreement entered into between the homeowner's of Glenelg Manor Estates and GCS. The GCS seeks to expand its school by building a new day care center that would violate the terms of the easement agreement. The GCS brought the matter before the Board, which correctly upheld the Easement Agreement and required the school to abide by its terms which contained certain limiting terms and setbacks intended to protect the sanctity, use and enjoyment of neighboring properties. The Board determined that if the GCS wanted to breach the terms of the valid easement agreement, its only option would be to renegotiate a new contractual easement agreement with the 22 homeowners. Instead, the GCS initiated proceedings to have the law changed in its favor. This Bill would enable the improper taking and use of Howard County residents' property via changing the zoning laws. This Bill does not effect any positive policy objectives; rather, its sole purpose is to serve the personal interests of a private school to the detriment of property owners throughout Howard County. It is noted that the school has deep financial resources and its Board Members are politically well connected.

The history leading up to the introduction of this Bill is sordid and should be considered by the Board.

- In 1999, the Glenelg Country School sent letters to 22 homeowners in Glenelg Manor Estates that owned fee simple strips that ran through the GCS property. Collectively, the fee simple strips totaled 3.5 acres. The GCS solicited the homeowners to "donate" their fee simple property strips to the school so they could execute their development plans. The homeowners declined to do so, as (1) connection of their individual properties to County roads was required by law, and (2) the GCS did not offer any compensation. The school informed the homeowners that they intended to execute their Plan B which would not impact or utilize the homeowners' fee simple strips.
- The GCS lied and, without consent or notice to the homeowners, illegally built playgrounds, fences, pavements and septic systems on the homeowners' property. This illegal taking of property was not noticed until the structures were already built. Moreover, by its illegal actions, the Glenelg Country School intentionally put the homeowners at significant risk of being liable for any injuries occurring on their property (i.e., children's playgrounds were built on the

homeowners' property, which would have rendered the homeowners liable for any injuries incurred on their property). The school claimed it did not know it was building on property not owned by the school, however this claim was refuted as copies of the original 1999 solicitation were produced.

- When confronted, the school refused to remediate the structures and delayed and postponed meeting with the homeowners for years. The homeowners incurred thousands of dollars in expense to retain a surveyor to establish the legal metes and bounds of their fee simple strips. The homeowners also incurred the significant cost of retaining counsel to draft an easement to protect their rights and property and to represent the neighborhood. It was only when the homeowners geared up for a lawsuit and threatened to go to the media that the Glenelg Country School agreed to negotiate an easement which would (1) protect the homeowners from liability, and (2) ensure that the expansion of the school would not destroy the use and enjoyment of the neighboring homeowners' properties where they were living, raising families, and paying property taxes.
- In 2008 an Easement Agreement was executed and filed with the County. The GCS paid out \$225,000 for the easement rights, both retroactive and prospective, and to reimburse the homeowner's for legal and surveying expenses. The GCS was required to abide by the terms of the easement and, although they could "use" the easement property for various uses, all such uses were to abide by the terms and limitations set forth in the easement (i.e., setbacks, etc.) Moreover, the school was asked to provide continuous liability insurance to the homeowners.
- The school now wants to expand by building a day care. To do so in the manner they want, they would violate the terms of the duly executed 2008 easement agreement. As noted above, in 2019 the GCS sought its remedy before the Board and failed to obtain a favorable determination. The GCS now seeks to circumvent the outcome of the Board's decision by changing the law to get its way. This is wrong. It is an affront not only to homeowner rights, but also to well-established property law. Beyond the circumstances of the particular situation which gave rise to this bill, it has the potential for much abuse and negative impact on Howard County property owners.
The community is watching and this will be publicized as it is contrary to property rights and contract law.

I have personal and first-hand knowledge of this matter dating back to 1999, and I would be happy to answer any questions you have.

For the foregoing reasons, I respectfully urge you to veto this bill.

Sincerely,

Suzanne Kingsbury
3574 Sharp Rd
Glenwood MD 21738

Sent from my iPhone

Sayers, Margery

From: Jung, Deb
Sent: Wednesday, February 26, 2020 10:21 AM
To: Sayers, Margery
Subject: FW: Howard County Schools

Deb Jung
Council Chair, District 4
Howard County Council
3430 Court House Dr., Ellicott City, MD 21043
410-313-2001

Sign-up for my District Update [here](#).

From: Camden Fisher <cfc.fish18@gmail.com>
Sent: Wednesday, February 26, 2020 12:10 PM
To: Jung, Deb <djung@howardcountymd.gov>
Subject: Howard County Schools

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Council Women Jung,

I am Camden Fisher and I grew up in Howard County and am an alumni of Glenelg Country School. I was at Clarksville Middle before switching to GCS and stayed for high school after enjoying my experience, along with academic success. My family has stayed a part of the GCS community for the past 10 years with my brother currently enrolled.

I have been informed of CB9-2020 (ZRA 188) and am writing to you in hopes you will support it.

I am extremely grateful to have this school available right in our local community, as both myself and my brother have required some special needs. I was struggling very badly before switching to GCS and I owe much of my success to GCS.

I feel CB9-2020 (ZRA 188) should be approved so GCS can continue to provide an outstanding education with a campus that is up to date and able to continue its natural growth in order to survive. GCS has always been a partner to the surrounding neighborhood and makes every effort to make improvements with the least amount of impact to the neighborhood. The school has come to the point of needing this approval from the council so they can continue to provide the beautiful campus and top notch education to community children.

Thank you for your time and consideration of this approval and are hopeful you vote in favor of CB9-2020 (ZRA 188),

Camden

Sayers, Margery

From: Jung, Deb
Sent: Monday, February 24, 2020 4:37 PM
To: Sayers, Margery
Subject: FW: CB9-2020 (ZRA 188)

Deb Jung
Council Chair, District 4
Howard County Council
3430 Court House Dr., Ellicott City, MD 21043
410-313-2001

Sign-up for my District Update [here](#).

From: John Laycock <obiwan1129@yahoo.com>
Sent: Wednesday, February 19, 2020 10:14 AM
To: Jung, Deb <djung@howardcountymd.gov>
Subject: CB9-2020 (ZRA 188)

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Ms. Jung,

My name is John Laycock. I am the proud parent of three children who attend Glenelg Country School (GCS). While I am not a Howard County resident I felt compelled to contact you regarding the proposed CB9-2020 (ZRA 188) legislation. Community matters a great deal to me. I have continually discovered as I have raised my children the old maxim "It takes a village to raise a child." is absolutely true. That village does not stop at the county line.

Watching my children attend GCS the last few years I can personally attest to the many positive opportunities provided by the school. My wife and I consider it a gift that our children have the opportunity to learn there.

I urge you to fully consider and vote for the proposed CB9-2020 (ZRA 188) legislation. I believe what's right is right. The idea that there is an easement in place that is being disregarded because of an interpretation of the existing law that is not explicit, is wrong. GCS is not asking for preferential treatment, they are simply asking for the ability to conduct business with the county in a reasonable manner. I think we can all agree that is not the case today.

Sincerely,

John Laycock

Sayers, Margery

From: Jung, Deb
Sent: Monday, February 24, 2020 4:36 PM
To: Sayers, Margery
Subject: FW:

Deb Jung
Council Chair, District 4
Howard County Council
3430 Court House Dr., Ellicott City, MD 21043
410-313-2001

Sign-up for my District Update [here](#).

From: Sanaz Sakiani <sanaz.sakiani@ascension.org>
Sent: Wednesday, February 19, 2020 3:12 PM
To: Jung, Deb <djung@howardcountymd.gov>
Subject:

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Dear Councilwoman Jung,

I write to you this letter in support of CB9-2020.

First a little background about my family. We are a dual income family of 5, with three children: Layla, Raya, and Nora, aged 7, 4, and 2, respectively. All three are currently students at Glenelg Country School (GCS). We moved to Howard County in December of 2017, when we became first time homeowners. Our oldest daughter, Layla, was halfway through her pre-kindergarten year, and we were struggling to find childcare for her and our two other daughters, without needing to drive to three different locations. You see, despite the numerous excellent childcare facilities in our area, we could not find one that had space for all three of our daughters, AND was conveniently located. Both my husband and I are physicians at St. Agnes Hospital, and so we needed childcare that would also be convenient in terms of our commutes to and from work. In our search for such a school, we learned about GCS. It was an appealing option for us, as we felt our oldest could start there and continue into Kindergarten there, so as to avoid switching schools twice in less than a year.

Making that decision turned out to be one of our best decisions for our family in many ways. Layla had a hard transition after that move (new home, new friends, new school), but she felt right at home after a few short weeks at GCS, thanks to the amazing and supportive faculty and teachers. GCS has offered her with so much, both academically, emotionally, and socially, that she has since grown into a smart, funny, confident student who makes us proud every day.

Additionally, the daycare we had our younger daughters in, turned out not to be a great fit for our family, for various reasons. Unfortunately, I could not find another facility that would have had space for both

Raya and Nora on short notice; many had wait lists that ranged anywhere from 6 months to a year. So I contacted GCS and they were willing to take Raya early, and we were able to find another facility for our then 6-month-old, Nora. Within a month of attending GCS, Raya was flourishing, already able to recite her ABCs and even count to 16! At that time, we decided that as soon as Nora turned 2, she would also go to GCS and become a "Little Dragon".

Since then, GCS has been an extension of our family, whether it be during the regular school year, or during Summer Camp. The phrase "it takes a village" is at the heart of everything we love about GCS. As working parents without any other family near us, we rely heavily on our children's school environment, the faculty, and their teachers, to help nurture them, educate them, and keep them safe. Every day I drop them off, and drive away with a sense of comfort that every mother should feel when they drop off their kids at school.

However, the quality of education at Glenelg Country School is not what's being questioned. I wanted to give you this background information, not only to explain my family's perspective about the school, but to also illustrate some of the reasons why other families may seek education at GCS. In fact, GCS has seen a dramatic increase in applications for new students.

In the short couple of years that we have been members of the GCS family, we have seen the school grow considerably, and as a result, we have even seen the limitations of the school's current facilities, such as lack of classroom space. The school has done an amazing job working around these limitations, and it continues to be a work in progress, with constant input from faculty and parents to do what's best for the students. However, at a certain point, I foresee that they will soon hit many more obstacles that they may not be able to overcome, at least not without the school making more significant changes. All of this brings me to the real purpose of this letter.

Howard County is known, not just in Maryland, but in all of the United States, for its top-notch education system, both public and private. I have never thought of GCS as competing with any of the public schools, but more as a complement to what Howard County has to offer to its diverse families. Which school a family sends their child(ren) to is a very personal decision, and with the population of Howard County growing exponentially, as well as recent articles showing an increase in the number of families interested in private education, the availability of different childcare and educational options becomes even more important. GCS is one of those options, and with the financial aid it offers, GCS allows access to exceptional education to families from all corners of not just Howard County, but also neighboring counties.

GCS, just like any public or private school in Howard County, needs to be able to keep up with the needs of the community, and to do so, it must grow with the community, and this bill allows it the opportunity to do just that. This bill does not dictate whether or not GCS can make changes, it only requests for the right to ASK to make those changes.

I attended the hearing last night in its entirety and I appreciated the Counsel's patience and consideration in all of the testimony that was heard. I cannot comment on the history of the relationships and interactions between the school and its fine neighbors. After all, as the saying goes, there are three sides to every story: "yours, mine, and the truth". However, I can comment that we need to move forward. GCS needs to move forward. And this cannot be done without allowing conversation to move forward, which is what I believe this bill will allow.

Thank you again for your consideration,

Dr. Sanaz Sakiani

--

Sanaz Sakiani, MD

St. Agnes Hospital, Endocrinology

Tel: (667) 234-2391

Fax: (410) 368-2429

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Sayers, Margery

From: Jung, Deb
Sent: Monday, February 24, 2020 4:35 PM
To: Sayers, Margery
Subject: FW: Oppose CB9-2020

Thanks for sharing your concerns with me. I appreciate it.

Deb Jung
Council Chair, District 4
Howard County Council
3430 Court House Dr., Ellicott City, MD 21043
410-313-2001

Sign-up for my District Update here.

-----Original Message-----

From: Deborah Layton <deelayton@yahoo.com>
Sent: Wednesday, February 19, 2020 8:55 PM
To: Jung, Deb <djung@howardcountymd.gov>
Subject: Oppose CB9-2020

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Good evening,

My name is Deborah Layton and I am a property owner in Howard county. I live in Glenelg Manor Estates and I am very concerned about the bill that the Glenelg Country School is promoting. Changing the zoning of another person's property and using their property without their permission is not a standard we want to set for landowners in Howard county. Landowners have rights that should be upheld, and passing CB9-2020 will not uphold those rights.

Please do NOT pass CB9-2020. This could potentially have a negative impact on thousands of property owners in our county.

Thank you for your consideration of this request.

Sincerely,
Deborah Layton

Sent from my iPhone

Sayers, Margery

From: Williams, China
Sent: Monday, February 24, 2020 2:37 PM
To: Sayers, Margery
Subject: FW: CB9-2020 county easement legislation
Attachments: 20200224_121646.jpg

China Williams
Special Assistant to Council Chair Deb Jung
Howard County Council, District 4
3430 Court House Dr., Ellicott City, MD 21043
410-313-2001

Sign-up for Deb's District Update [here](#).

From: Its me Laura <superdupermomma@gmail.com>
Sent: Monday, February 24, 2020 2:30 PM
To: Jung, Deb <djung@howardcountymd.gov>; Williams, China <ccwilliams@howardcountymd.gov>; Knight, Karen <kknight@howardcountymd.gov>; Kittleman, Mary <mkittleman@howardcountymd.gov>
Subject: CB9-2020 county easement legislation

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Good Day!

My name is Laura Tan, I am writing you to oppose CB9-2020. I wasn't able to testify last week due to a sick child. My husband and I own a home on Maisel Farm Lane. Glenelg Country School owns a strip of land in front of our home with a pipestem easement. This 'peninsula' shaped land owned by the school is in between my property and the property of my neighbors in Glenelg Manor who own pipestems. Its an awkward piece of land, mostly forgotten, that we maintain to keep the grass cut and the ticks away. Its not wide enough to do much with unless this easement legislation is passed by you. There aren't current plans to do anything with this land but if you passed this they would have the space in the future to pave it put up a storage, parking lot, etc. I attached a picture overlooking the school owned land from my front porch. The trees in the distance is the school property.

We are relatively new to Howard County having been stationed here by the military almost 2 years ago. I've been able to meet many neighbors who live in Glenelg manor and who work at Glenelg Country School. I find them all to be reasonable folk fully capable of working this out WITHOUT CHANGING A LAW that would impact the CU easements for the whole county. I was able to go over the current expansion plans with Jhan Tangiers a couple of weeks ago and what she showed me looks completely reasonable. The school needs to find a non-litigious way to resolve this without changing a law that offers a modicum of protection to the average homeowner. I listed what I propose as a compromise below.

1. Do not pass this law or at the least pause it until a RECENT & MEASURABLE EFFORT has been made to resolve this between neighbors. I will happily donate my time to work with the school to organize this.

2. Insist that the school host a community event where they meet with neighbors and walk through their plans. I know some council members have done this, I hope all council members make the effort to follow suit and walk the properties. Come on over have a cup of coffee and chat. The weather is beautiful!
3. I personally don't know the whole history of the pipestem concerns of my neighbors. The council should insist on a mediation to address the pipestem concerns and resolve it.
4. My neighbors and the school employees are all good and reasonable people - how something like this spiraled to the point of CHANGING A LAW is beyond me. My neighbors and I are regular middle class tax payers we don't have deep pockets to constantly defend our property. The school is on donated, tax free land where they earn \$30,000 per student annually. The board of the school makes up the top 1% of this area. I cant compete with that - I need you, the county council - to help resolve this amicably. We need the board of Glenelg Country School to hit a reset and approach this more neighborly.
5. In essence, I have no problems with the school wanting to expand their facilities in a neighborly way. Please don't change a law that is the only thing offering me, an average taxpayer, protection.

Thank you for making it all the way to the end of this email!

Kind Regards,
Laura Tan



Sayers, Margery

From: no-reply@howardcountymd.gov
Sent: Sunday, February 23, 2020 6:21 PM
To: schantzi@aol.com
Subject: District 5 - CB9-2020 (ZRA 188)

First Name: Schantz
Last Name: Basir
Email: schantzi@aol.com
Street Address: 12750 Maryvale Court
City: Ellicott City
Subject: CB9-2020 (ZRA 188)

Message: Please support CB9-2020 (ZRA 188). Never have I heard of easements not being honored. Once they are signed, and in this case, even paid for, they are meant to be honored. Otherwise, why even bother? We have easements on properties we own, and they were clearly detailed before we purchased the properties. Furthermore, the school was a preexisting use before the properties were built up. So all was clear to neighboring landowners. My family, in fact, specifically purchased land and built on it to be near the school. The school is an enhancement to the area and an enhancement to property values. Our son and daughter attended it from pre-K through their senior years, and I can attest to the wholesome values upheld there and the school's intention and ability to be an excellent neighbor. I ask the council not to conjure impediments where none should be. Thank you for your service.