



December 1, 2016

TECHNICAL STAFF REPORT

Planning Board Meeting of December 15, 2016

Case No/Petitioner: ZRA-171 - Olenka Stasyshyn

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

I. BACKGROUND

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

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

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

II. DESCRIPTION AND EVALUATION OF PROPOSAL

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

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

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

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

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

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

Limited in scope and inconsistent with similar use categories:

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

Lacks protection for adjacent residential properties:

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

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

Sufficient opportunities already exist:

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

Criterion specific issues:

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

III. GENERAL PLAN

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

Policy 8.13

“Enhance community recreational opportunities.”

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

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

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

Policy 10.3

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

Implementing Action a. Community Planning.

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

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

IV. AGENCY COMMENTS

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

VI. RECOMMENDATION

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

Approved by:

 12/1/16
Valdis Lazdins, Director Date

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

EXHIBIT A - PETITIONER'S PROPOSED TEXT

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

SECTION 131.0.N - CONDITIONAL USES

49. SCHOOL, INSTRUCTIONAL

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

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