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May 16, 2024

Mr. Todd Margolis
Potomac MMA, LLC
8400 Postoak Rd
Potomac, Maryland 20854

Re: Expert Report in Support of Conditional Use Application for a Home Occupation with a
Major Impact *for* Potomac MMA, LLC
8400 Postoak Rd – Potomac, MD 20854
Lot 1 – Block D – Section 2 – Regency Estates – Plat #8405
O'C&L Job #022-033

Mr. Margolis:

In accordance with the executed agreement for services between Potomac MMA, LLC and O'Connell & Lawrence, Inc. ("O'C&L"), O'C&L has prepared the enclosed Expert Report (the "Report") to support a Conditional Use Application for a Home Occupation with Major Impact for the Potomac MMA business that operates on the Subject Property.

The analysis and report is limited to an evaluation of the existing site, the Montgomery County Zoning Ordinance (the "Zoning Ordinance"), additional relevant codes and documentation, other publicly available documentation accessible to O'C&L at the time of this evaluation, a topographic and improvements survey prepared by O'C&L, and O'C&L's experience with similar projects.

O'C&L initially visited the site on September 8, 2022 and subsequently visited the site on September 21, September 23 and December 10 to complete and supplement the topographic and improvements survey. O'C&L's findings and observations from these visits were used to complete this Report. This data was further used to complete the associated Conditional Use Site Plans, which are included with this Conditional Use submission.

O'C&L's opinion regarding this matter is based on its review and analysis of the documentation listed herein. O'C&L reserves the right to modify its opinions should new or different information be provided to O'C&L. This report was updated from its original February 2024 version.

Zoning Evaluation & Expert Report
in Support of a Conditional Use Application
for a Home Occupation with Major Impact
for the



Image Source: Potomac MMA, LLC

Potomac MMA, LLC
8400 Postoak Road – Potomac, MD 20854
Lot 1 – Block D – Section 2, Regency Estates – Plat #8405

O'Connell & Lawrence, Inc.
17904 Georgia Avenue, Suite 302
Olney, MD 20732
(301) 924-4570
Contact: Douglas G. Tilley, P.E., R.P.L.S.
February 9, 2024 – Updated: May 16, 2024

Existing Site Information

The “Subject Property” for this application is Lot 1, Block D of Section 2 of the Regency Estates subdivision, as defined in Record Plat #8405, which is recorded among the Land Records of Montgomery County, Maryland. The Subject Property has a street address of 8400 Postoak Road – Potomac, MD 20854. Per Plat #8405, the Subject Property is 13,483 SF. The Subject Property is developed with a detached single family dwelling structure with sunroom and covered porch, detached garage-type structure, parking areas, circular concrete driveway, gravel parking area, site utilities, and green area. The property is located in the R-90 zone, as defined by the Zoning Ordinance. The general location of the subject property of interest is shown with a red dot in **Figure 1**. The property is triangular in shape, and borders a Public Road, a Utility Right-of-Way owned by PEPCO, and a single privately-owned residential property.

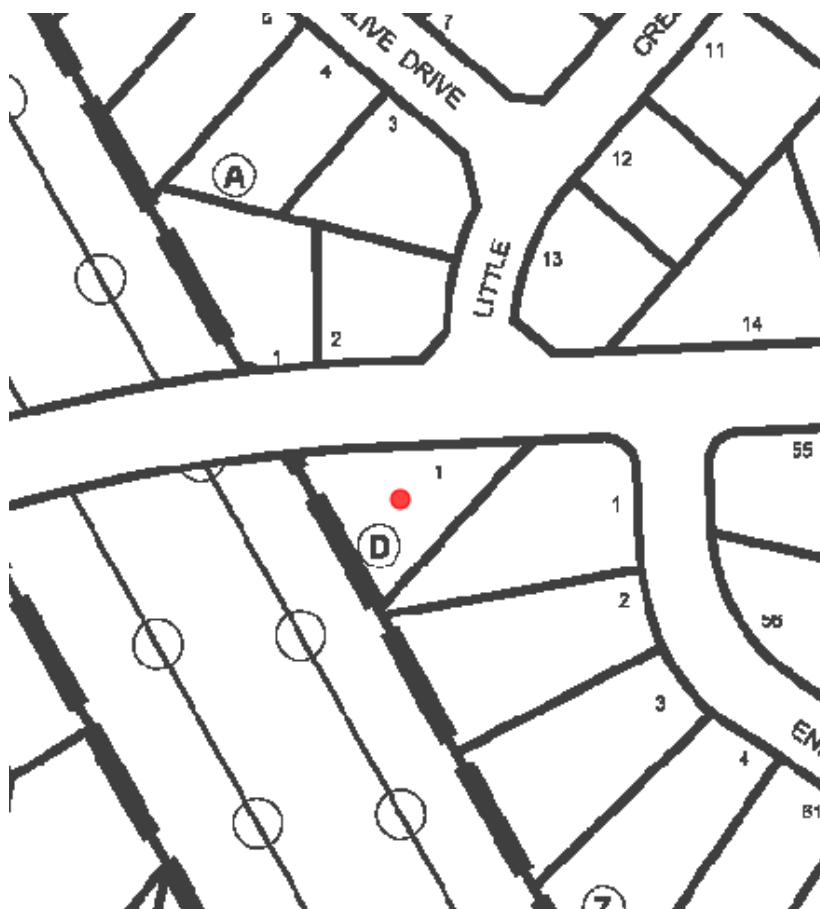


Figure 1- Tax Map with Marked Subject Property. Image Source: Maryland Department of Assessments and Taxation

The existing single family dwelling unit structure is a 2-story unit that is approximately 1,699 SF at grade level. This structure is the primary residence for the property owners, Mr. Todd Margolis¹ and Ms. Socorro Reyes, and their family. The detached garage is

approximately 630 SF, per building permit plans. The primary function of the detached garage structure is to house the training area for the Potomac MMA mixed martial arts studio, which is generally the subject of this application; the Applicant is the owner of Potomac MMA. The garage has two levels; a lower level houses a waiting area, user storage area, and mixed martial arts training area. The upper level contains a wrestling studio; that studio is accessed via internal stairwell from the main level of the garage. The garage building is referred to as the “MMA Studio” throughout the remainder of this Report; this terminology best reflects its primary use.

¹ Mr. Margolis is the Primary Applicant for this Conditional Use Application; within the body of this report, Mr. Margolis, or his company, Potomac MMA, are referred to as the “Applicant.” For the purposes of this report, the “Applicant” refers to Mr. Margolis and/or Potomac MMA, which are, for all intents and purposes, the same.

As part of its work, O’C&L completed a topographic and improvements survey in September 2022 which was further supplemented with additional data in December 2022. O’C&L used the results of the topographic and improvements survey to develop the existing conditions map of the Subject Property. These existing conditions are depicted on the Conditional Use Site Plan (the “Site Plan”) that accompanies this application and is an integral part of this report. The Site Plan is attached to this report as *Attachment A*. O’C&L did not complete a Boundary Survey for the Subject Property as part of its scope on this Project.

The Subject Property fronts on Postoak Road, which is a publicly maintained road with a Plat-defined 70-ft Right of Way. The Subject Property is developed with a circular drive aisle that has two connections to Postoak Road, with one on either side of the house. The drive aisle generally consists of concrete aprons and a concrete drive aisle that travels around the southern side of the house and MMA Studio before turning north and reconnecting to Postoak Road. The driveway connects to an existing building overhang attached to the main house that is supported by a post and serves as a covered carport for the main house – additional posts support a covered porch that extends across the front face of the house. A portion of the driveway, particularly at the southern end of the property, is supported by an existing concrete retaining wall. The driveway further connects to various rip-rap pads that are currently used for external storage, vehicle parking, and bicycle parking. The Applicant has constructed a number of wood fences around portion of the Subject Property. O’C&L has depicted the fence locations on the Site Plan.

Aerial imagery on the next page shows the Subject Property in October 2021 (**Figure 2**), prior to the construction of the expanded driveway and second entrance, and May 2022 (**Figure 3**), during this construction. The relative lack of clarity in **Figure 3** is due to the image source. Both **Figure 2** and **Figure 3** show imagery of the Subject Property looking from the north.



Figure 2- Aerial Image, 10/2021 Image Source: Google Earth



Figure 3- Aerial Image, 5/2022 Image Source: Google Earth

Proposed Conditional Use Application Information

O’C&L understands the Applicant wishes to obtain approval for a Conditional Use for a Major Home Occupation to support the Potomac MMA business within the MMA Studio; O’C&L further understands the Applicant wishes to have a maximum of 12 users/students per hour within the MMA Studio. The Applicant is not proposing to permit/perform any significant on-site improvements as part of this application or subsequent development process²; all necessary significant improvements already exist on the site. The Applicant simply wishes to define the overall number of users permitted to attend training sessions or classes within the MMA Studio. The Applicant will continue to reside within the existing single family detached dwelling unit on site. All training sessions will occur within the MMA Studio.

O’C&L reviewed the existing site for compliance with relevant regulations. associated with a Conditional Approval for a Major Home Occupation. O’C&L conducted its review in accordance with the Montgomery County Code (the “Code”), paying particular attention to Chapter 59 of the Code, which contains the Montgomery County Zoning Ordinance (the “Zoning Ordinance”), as approved in 2014.

Per the Use Table found in Section 59.3.1.6 of the Zoning Ordinance, a Home Occupation with a Major Impact is a Conditional Use in the R-90 Zone; the requirements of this particular Conditional Use are largely defined in Section 59.3.3.3.H of the Zoning Ordinance. This Report reviews these specific regulations in detail. O’C&L’s evaluation and this report is based on a review of the relevant documents as listed herein and the 2010 ADA Standards for Accessible Design (the “ADA Standards”.) Traffic and transportation patterns and analyses were conducted by others.

Relevant Site Zoning and Procedures

Per the Montgomery County Zoning Map, as adopted by the District Council under Section 59.2.2 of the Zoning Ordinance, the Subject Property is zoned R-90. The Subject Property is not located in any special tax districts, urban districts, or overlay areas. This particular application is for a Conditional Use approval for a Home Occupation with a Major Impact.

Within this Report, O’C&L has evaluated the site based on the standard regulations for the R-90 zone and based on the requirements of the specific Conditional Use.

² The Applicant proposes to plant three (3) trees along his eastern side property line, install minor ADA striping and signage, and, if necessary, pour a small amount of concrete to level the ADA pad area to support this application. For the purposes of this Report, O’C&L does not consider planting trees, installing striping/signage, or minor leveling of a concrete pad to be “significant” improvements.

Standard Zoning Requirements Analysis

Exterior Accessibility Requirements

As part of this review, O’C&L reviewed the existing site for suitable American with Disabilities Act (“ADA”) access to the proposed development. O’C&L focused its review on the exterior site requirements for accessibility; this report does not address internal accessibility.

In accordance with Section 208.2 of the “ADA Standards”, parking lots shall have one (1) van accessible parking space for every 25 standard parking spaces provided. The ADA standards also require accessible access from the parking lot to the MMA Studio.

In its current condition, there are no defined accessible spaces on the subject property. A single van-accessible parking space is proposed within the limits of the existing carport; an access aisle will be painted adjacent to this space. The Applicant proposes to place signage at this van accessible ADA parking space in accordance with Montgomery County, State of Maryland, and Federal standards. Please see the Parking Layout Plan, prepared by O’C&L, which is Sheet 2 of **Attachment A**, and is a part of the Conditional Use Site Plan, for details about the location of the proposed accessible parking space, proposed access aisle, proposed access path, and proposed signage.

Conditional Use Zoning Requirements

The requirements for a Home Occupation with a Major Impact are generally located in Section 59.3.3.3.H of the Zoning Code. O’C&L notes that the proposed use herein is not a Home Health Practitioner, Bed and Breakfast, Day Care Facility, furniture for sale display, Landscape Contractor, or Private Educational Institution, and therefore Section 59.3.3.3.H is applicable to this particular Home Occupation.

O’C&L has reviewed both the Use Standards for all Home Occupations (as found in Section 59.3.3.3.H.2.b of the Zoning Ordinance and the specific requirements related to a Home Occupation with a Major Impact (as found in Section 59.3.3.3.H.5 of the Zoning Ordinance) and has assessed whether the proposed use and site meet the requirements herein.

O’C&L has further reviewed other relevant Zoning Ordinance sections that relate to conditional uses and has assessed whether the proposed use and site meet those specific requirements. In doing this, O’C&L has reviewed all individual requirements, reprinted specific sections of the Zoning Ordinance, and responded to individual requirements associated with these regulations. Excerpts from the Zoning Ordinance are *italicized*.

Use Standards for all Home Occupations (Zoning Ordinance Section 59.3.3.3.H.2.b)

The following requirements are applicable to all home occupations requiring Conditional Use Approval. Please see the Zoning Ordinance excerpts, and O’C&L responses, that follow:

Zoning Ordinance Section 59.3.3.3.2.a: *Screening under Division 6.5 is not required.*

O’C&L Comment: O’C&L herein notes that screening under Section 59.6.5 of the Zoning Ordinance is not required. However, O’C&L further notes that screening is required under certain other sections of the Zoning Ordinance and has responded to these individual requirements as appropriate.

Zoning Ordinance Section 59.3.3.3.2.b: *To maintain the residential character of the dwelling:*

i. The use must be conducted by an individual or individuals residing in the dwelling unit.

O’C&L Comment: Potomac MMA is owned and operated by Todd Margolis, who is the Applicant. Mr. Margolis resides in the on-site single family dwelling unit.

ii. The use must be conducted within the dwelling unit or any accessory building and not in any open yard area. The use must be subordinate to the use of the dwelling for residential purposes and require no external modifications that detract from the residential appearance of the dwelling unit.

O’C&L Comment: Potomac MMA’s training sessions are conducted within the MMA studio, which is in a building that is subordinate to the main dwelling structure. The MMA Studio resembles a detached garage and could be found on any residential lot in the County. There are no external modifications – but for ADA parking establishment and minor tree planting – required as part of this development. As such, this application meets this condition.

iii. Exterior storage of goods or equipment is prohibited.

O’C&L Comment: Potomac MMA requires minimal equipment to conduct its business. All necessary equipment shall be stored in the MMA Studio. The Applicant does not proposed to store any goods or equipment outside of the MMA Studio.

iv. The maximum amount of floor area used for the Home Occupation must not exceed 33% of the total eligible area of the dwelling unit and any existing accessory building on the same lot, or 1,500 square feet, whichever is less.

O’C&L Comment: According to the real property information as accessed via the Maryland Department of Assessments and Taxation Real Property Data Search tool (“SDAT”), the above grade living area within the main house is 2,292 SF and the finished basement area within the main house is 868 SF. The total eligible area within the main house is 3,160 SF. The area of the accessory garage housing the MMA Studio is 630 SF pursuant to the building plans approved as part of Building Permit #832943, which was obtained by the Applicant to construct the MMA

Studio. Since there are two levels within the MMA Studio, the total eligible area within the MMA Studio is 1,260 SF+/-.

The area to be used for the home occupation is 1,260 SF+/-, or the entirety of the MMA Studio. 33% of the eligible area is equal to $0.33 \times (3,160 \text{ SF} + 1,260 \text{ SF})$, which equates to 1,472 SF. Therefore, the area to be used for home occupation is less than 33% of the on-site eligible area, and this condition is met. The SDAT data sheet is attached to this Report as **Attachment B**.

v. An existing accessory building may be used for the Home Occupation, but external evidence of such use is prohibited. Only one accessory building may be used and it must be an eligible area.

O’C&L Comment: The Applicant proposes to use the accessory structure for this Home Occupation. As stated prior, the accessory structure resembles a garage, and there is no external evidence currently existing or proposed that would suggest the building will be used for the Home Occupation. There is only one accessory building on site.

vi. Equipment or facilities are limited to:

(a) domestic or household equipment;

(b) office equipment; or

(c) any equipment reasonably necessary for art production, handcrafts, or making beer or wine.

O’C&L Comment: The equipment required for this use includes typical equipment found in a household gym, such as weights, gym mats, punching bags, jump ropes and/or other fitness equipment. The Applicant does not propose procuring or installing any equipment that is unconventional, dangerous, or otherwise not typically found in a household gym setting.

vii. Any equipment or process that creates a nuisance or violates any law is prohibited in the operation of a Home Occupation.

O’C&L Comment: The Home Occupation shall not create a nuisance to the surrounding community. As discussed in the previous response, all required equipment for this use is that which may be found in a common household gym. The Applicant does not propose to use any equipment or procedures that are dangerous, prohibited by law, or otherwise create a nuisance to the community.

viii. A Home Occupation is prohibited to use, store, or dispose of:

(a) a quantity of a petroleum product sufficient to require a special license or permit from The Fire Marshal; or

(b) any material defined as hazardous or required to have a special handling license under State and County law.

O’C&L Comment: This Home Occupation does not require a special license/permit from the Fire Marshal for handling/storage for petroleum produces and does not require any hazardous materials requiring special handling licensure.

ix. Truck deliveries are prohibited, except for parcels delivered by public or private parcel services that customarily make residential deliveries.

O’C&L Comment: This Home Occupation does not require truck deliveries that would not come from a typical household delivery service, such as Amazon, UPS, FedEx, USPS, DHL, or others.

x. Display or storage of merchandise to be delivered must not be visible outside of the residence and must be contained within the maximum floor area available for the Home Occupation.

O’C&L Comment: This Home Occupation is not a merchandising business. The only item associated with this use that could be considered “merchandise” is a branded uniform that the Applicant provides to users. These uniforms are not for sale to the general public, will not be displayed as “for sale” in the MMA Studio, and are not delivered off-site. These uniforms will not be stored in a location visible outside of the residence and will be kept in the MMA Studio if required to be stored for any length of time (although this is considered to be unlikely).

xi. The storage of equipment or merchandise for collection by employees who will use or deliver it at off-site locations is prohibited.

O’C&L Comment: Please see O’C&L’s previous response to Zoning Ordinance section 59.3.3.3.b.x in this Report; the Applicant does not propose any off-site delivery of equipment or merchandise.

xii. A second kitchen in the home for catering or making food for off-site delivery or sales is prohibited.

O’C&L Comment: This Home Occupation is not a food service or catering business. A second kitchen is not proposed or required.

xiii. The maintenance or repair of motor vehicles for compensation is prohibited.

O’C&L Comment: This Home Occupation is not a motor vehicle servicing business. The Applicant will not perform any compensable motor vehicle repairs as part of this operation.

Based on these findings, it is O’C&L’s opinion that this particular Home Occupation meets the requirements of Section 59.3.3.3.H.2 of the Zoning Ordinance.

Use Standards for a Home Occupation with Major Impact (Zoning Ordinance
Section 59.3.3.3.H.5.b)

The following requirements are applicable to Home Occupations with a Major Impact. Please see the Zoning Ordinance excerpts, and O’C&L responses, that follow:

Where a Home Occupation (Major Impact) is allowed as a conditional use, it may be permitted by the Hearing Examiner under Section 7.3.1, Conditional Use, and the following standards:

i. The maximum number of visits and deliveries is determined by the Hearing Examiner.

O’C&L Comment: Comment noted. The Applicant expects to obtain this information from the Hearing Examiner’s decision; the Applicant requests 12 users/hr as part of this application, but understands the ZHE has the authority to establish this final number of visits.

ii. An indoor waiting room must be provided.

O’C&L Comment: The Application has provided an indoor waiting area within the limits of the MMA Studio.

iii. In-person sale of goods is limited to:

(a) the products of dressmaking, hand-weaving, block-printing, the making of jewelry, pottery or musical instruments by hand, or similar arts or hand-crafts performed by a resident of the dwelling; and

(b) a maximum of 5 sales per month of items ordered for delivery at a later date to customers at other locations (delivery of goods must occur off-site).

O’C&L Comment: This Home Occupation does not propose to offer for-sale goods.

iv. Display or storage of goods is limited to:

(a) the products listed in Section 3.3.3.H.5.b.iii.(a); and

(b) samples of merchandise that may be ordered by customers for delivery at other locations.

O’C&L Comment: Please see O’C&L’s responses in the previous section of this Report regarding “merchandise” associated with this use for response to this condition.

v. Display or storage of merchandise to be delivered must not be visible outside of the residence and must be contained within the maximum floor area available for the Home Occupation.

O’C&L Comment: Please see O’C&L’s response to Zoning Ordinance section 59.3.3.3.b.x in the previous section of this Report regarding “merchandise” associated with this use for response

to this condition. There is no merchandise associated with this use and no deliveries associated with this use.

vi. The Hearing Examiner may grant a conditional use for a Home Occupation (Major Impact) on the same site as a Home Occupation (Low Impact), a Home Occupation (No Impact), or a Home Health Practitioner (Low Impact) if it finds that both together can be operated in a manner that satisfies Section 3.3.3.H.5 and Section 7.3.1, Conditional Use.

O’C&L Comment: The Applicant has not requested this condition as part of this application.

vii. The Hearing Examiner must not grant a conditional use for a Home Occupation (Major Impact) where the site is already approved for any other conditional use under Section 7.3.1, Conditional Use.

O’C&L Comment: There are no other Conditional Uses approved to operate on the Subject Property.

viii. The applicant must provide valid proof of home address as established by Executive regulations under Method 2 of Chapter 2 (Section 2A-15).

O’C&L Comment: Proof of Ownership – found in the form of an SDAT data sheet – is included with the submission package and attached to this Report as **Attachment B**.

ix. Screening under Division 6.5 is not required.

O’C&L Comment: O’C&L notes that screening under Zoning Ordinance Section 59.6.5 is not required and has excluded review of that section of the Zoning Ordinance accordingly. O’C&L notes, however, that screening is required under certain other sections of the Zoning Ordinance and has reviewed and provided comment on those sections of the Zoning Ordinance later in this Report.

x. In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.

O’C&L Comment: The Subject Property is not located within the AR Zone.

Based on these findings, it is O’C&L’s opinion that this particular Home Occupation meets the requirements of Section 59.3.3.3.H.5.b of the Zoning Ordinance.

Parking and Loading Requirements

According to Table 59.6.2.4B of the Zoning Ordinance, a Conditional Use for a Major Home Occupation requires a minimum of one (1) parking space per non-resident employee, plus one (1) additional space per Client/User using the facility per hour. The Applicant is the sole employee of Potomac MMA, and he is a resident of the dwelling unit on the site. Therefore, the

total number of parking spaces needed to support the Conditional Use, in accordance with the Applicant's request for 12 users at one time per hour, is 12 total parking spaces.

Further, parking is required for the residents of the dwelling unit. In accordance with Table 59.6.2.4B, single unit residential dwelling units within the R-90 zone are required to have two (2) dedicated parking spaces as the baseline minimum. **Therefore, 14 defined spaces are required as the minimum number off-street parking spaces.** A minimum of one of these spaces shall be ADA accessible and shall need to meet the Van Accessibility requirements of the ADA code.

There are no marked parking spaces on site. Parking areas are generally defined by the location of the on-site concrete, hardscape and/or rip-rap/gravel. A total of seven (7) spaces are able to comfortably fit on the defined parking areas of the Subject Property; this includes the proposed ADA space which, with limited modification, will meet all relevant ADA signage, slope, and striping standards. The provided Parking Layout Plan, prepared by O'C&L and included as sheet 2 of **Attachment A**, shows the proposed details of the parking layout for the Potomac MMA studio.

O'C&L further notes that Postoak Road is sufficiently wide to allow for on-street parking, and parking is permitted on the street in front of the subject property. The provided Parking Layout Exhibit shows the proposed location of seven (7) additional parking areas for street parking on Postoak Road that do not inhibit site access or roadway use. O'C&L has included road width dimensions along the proposed street parking areas. The parking locations are sized in accordance with typical Montgomery County off-street parking space sizes defined by the Zoning Ordinance. Further, there is additional available street parking areas on the south side of Postoak Road directly west of the Subject Property, in front of the PEPCO power lines.

As part of this Application for Conditional Use, the Applicant hereby requests a Waiver from Sections 59.6.2.2.A and 59.6.2.4 of the Zoning Ordinance; the Applicant has proposed as many spaces as is reasonably possible to fit on the Subject Property; however, the number of spaces on the Subject Property does not meet the minimum required number of spaces from the parking table at 59.6.2.4 of the Zoning Ordinance. However, as is shown on the Parking Layout Plan, the remaining seven (7) spaces that is required under the Zoning Ordinance can easily fit on the street in front of the Subject Property. Therefore, the Applicant requests relief from the overall number of on-site parking spaces for this use, but is functionally able to show that the overall number of spaces can be provided, using street parking, in close proximity to the MMA studio, even if said spaces are not directly on-site. Further discussion regarding this waiver request is located at the end of this report.

The proposed parking layout, following approval of the aforementioned Waiver, is subject to the conditions of Section 59.6.2.5.K of the Zoning Ordinance. O'C&L has reprinted excerpts from the Zoning Ordinance in *italics* and responded to individual requirements in turn.

Zoning Ordinance Section 59.6.2.5.K: *Any off-street parking facility for a conditional use that is located in a Residential Detached zone where 3 or more parking spaces are provided must satisfy the following standards:*

1. Location

Each parking facility must be located to maintain a residential character and a pedestrian-friendly street.

O’C&L Comment: All proposed on-site parking spaces are located on the existing driveway/hardscape surface. A wood fence on the property line between the Subject Property and the adjacent residential property to the east screens the parking area from the only adjoining property that is residentially-used. The proposed layout does not infringe on any sidewalks on Postoak Road.

2. Setbacks

a. The minimum rear parking setback equals the minimum rear setback required for the detached house.

O’C&L Comment: The subject property is a Triangular-shaped lot. Pursuant to guidance documentation prepared by the Montgomery County Department of Permitting Services, the rear setback for a triangular lot is established by drawing an imaginary line 10’ in length between the side lines and parallel to the front lot line, then taking the rear setback distance (in this case, 25’) from that line. As shown on the Parking Layout Exhibit, all seven (7) on-site parking spaces do not infringe on, or come near, the rear parking setback line.

b. The minimum side parking setback equals 2 times the minimum side setback required for the detached house.

O’C&L Comment: Parking spaces are proposed at/near O’C&L’s understanding of where the existing property lines are located. The Applicant, as part of this Conditional Use submission, hereby requests a waiver from section 59.6.2.5.K.2.b of the Zoning Ordinance to allow parking up to the proposed side property lines. Further discussion regarding this waiver is located at the end of this report.

c. In addition to the required setbacks for each parking facility:

i. the required side and rear parking setbacks must be increased by 5 feet for a parking facility with 150 to 199 parking spaces; and

ii. the required side and rear parking setbacks must be increased by 10 feet for a parking facility with more than 199 parking spaces.

O’C&L Comment: These conditions are not relevant to this particular site; the Applicant has only proposed seven (7) on-site parking spaces.

The proposed parking layout is further subject to the conditions of Section 59.6.2.5.M of the Zoning Ordinance. O’C&L has re-printed excerpts from the Zoning Ordinance in *italics* below and responded to individual requirements in turn.

Zoning Ordinance Section 59.6.2.5.M: Surface Parking in R-200, R-90, R-60, and R-40 Zones

1. Parking for any vehicle or trailer in the area between the lot line and the front or side street building line must be on a surfaced parking area.

O’C&L Comment: All proposed parking is located on a surfaced parking area.

2. Except as provided in Section 6.2.5.M.3, the maximum surfaced parking area between the lot line and the front or side street building line, excluding the surfaced parking area in a driveway on a pipestem or flag-shaped lot, is:

a. in the R-200 and R-90 zones, 30% or 320 square feet, whichever is greater; and

b. in the R-60 and R-40 zones, 35% or 320 square feet, whichever is greater.

O’C&L Comment: The Subject Property is located in the R-90 zone. The approximate area between the right of way and house is 5,272 SF. 30% of 5,272 SF is 1,581.6 SF. Within the area between Postoak Road and the front of the existing house, there is approximately 388 SF of surfaced parking area, which excludes the area of the driveways, that has been classified as a Parking Area. This potential parking area is well below the 1,581.6 SF limit, and therefore, this condition is met.

There are no side street setback requirements for this property.

3. A surfaced parking area may exceed the size limits in Section 6.2.5.M.2 if:

a. the surfaced parking area existed before October 26, 2010 and is not increased in size;

b. the property has primary access from a primary residential street, minor arterial road, major highway, arterial, or any state road, and is equal to or less than 50% of the area between the lot line and the front or side street building line;

c. the property is a stone or rock quarry in the R-200 zone; or

d. DPS grants a waiver to protect public safety.

O’C&L Comment: The surfaced parking area does not need to exceed the permissible amount, as discussed in O’C&L’s previous response. Therefore, this condition is not relevant to this particular Application.

4. Parking a vehicle in the area between the lot line and front or side street building line on a non-surfaced parking area or on less than 160 square feet of surfaced parking area for each vehicle is prohibited.

O’C&L Comment: All surfaced parking areas that are partially in front of the front lot line (Parking Areas 4 and 5) are greater than 160 SF in size, and the Applicant is not proposing to have any vehicles park on a non-surfaced parking area. Therefore, the Application meets this condition.

5. One vehicle may be parked for every 160 square feet of surfaced parking area.

O’C&L Comment: The parking lot layout plan shows the proposed parking layout for the seven (7) on-site parked vehicles. Vehicles parking spaces are shown based on the codified parking spaces sizes as identified in the Zoning Ordinance. O’C&L notes that these codified space sizes – 8.5’x18’ for a standard perpendicular space, 7’ x 21’ for a standard parallel space, and 7.5’ x 16.5’ for a compact perpendicular space – do not equate to 160 SF.

Nevertheless, there are a total of seven (7) on-site spaces, which, based on this condition, requires a total of 1,120 SF of space. There is approximately 1,836.5 SF of defined surfaced *parking area* on the site – see the Parking Lot Plan for the defined Parking Areas. Therefore, it is O’C&L’s opinion that this application meets this condition, even though the parking lot plan shows the standard space dimensions based on the Zoning Ordinance.

6. Temporary parking for visitors, loading, or unloading is permitted on any area for a maximum of 12 days per year. Temporary parking may also be permitted for cleaning vehicles and trailers if the vehicles are not heavy commercial vehicles.

O’C&L Comment: This condition is not relevant to this proposed development.

7. Servicing a heavy commercial vehicle is prohibited.

O’C&L Comment: This condition is not relevant to this proposed development. The Applicant does not provide heavy commercial vehicle servicing as part of the MMA Studio. Bicycle parking is typically required in accordance with Table 59.6.2.4C of the Zoning Ordinance. Per this table, there are no bicycle parking requirements for a Conditional Use for a Home Occupation with a Major Impact per this table. The Applicant does own bicycle storage racks and will make them available to facility users.

Finally, O’C&L also reviewed the relevant loading regulations from Section 59.6.2.8 of the Zoning Ordinance. Due to the proposed use type, a dedicated loading space is not required for this development.

Based on these findings, it is O’C&L’s opinion that the proposed application meets these requirements of the Zoning Ordinance, pending approval of the Waivers as requested herein.

Parking Lot Landscaping, Lighting and Screening Requirements

Properties with conditional uses in residential zones often have additional landscape or screening requirements outside of those specific screening requirements as found in Section 59.6.5 of the Zoning Ordinance, for which this use is exempt. O’C&L evaluated the relevant Zoning Ordinance sections to determine the applicability of these requirements to this subject property and the proposed development.

Section 59.6.2.9.B of the Zoning Ordinance generally discusses the parking lot requirements for a Conditional Use requiring 5 – 9 parking spaces. As previously discussed, the on-site parking area supports a total of seven (7) parking spaces; therefore, this section of the Zoning Ordinance (rather than Section 59.2.9.C, which deals with surface parking lots with 10 or more spaces) is applicable to this particular development. O’C&L has re-printed this section of the Zoning Ordinance in italics below and has responded to individual requirements within this section of text in turn:

Zoning Ordinance Section 59.6.2.9.B: *Parking Lot Requirements for Conditional Uses Requiring 5 to 9 Spaces*

If a property with a conditional use requiring 5 to 9 parking spaces is abutting Agricultural, Rural Residential, or Residential Detached zoned property that is vacant or improved with an agricultural or residential use, the parking lot must have a perimeter planting area that:

1. satisfies the minimum specified parking setback under Article 59-4 or, if not specified, is a minimum of 8 feet wide;

O’C&L Comment: Only one of the three (3) sides of the Subject Property adjoins a site that is improved with a residential use. In particular, the east side of the Subject Property adjoins an area that is zoned for Residential Detached housing and is developed with a single family detached unit; therefore, this portion of the Zoning Ordinance applies only to this side of the Subject Property. As discussed in prior sections of this Report, the Applicant has requested a waiver from the side setback parking requirements and further requests a waiver from this section of the Zoning Ordinance.

2. contains a hedge, fence, or wall a minimum of 4 feet high; and

O’C&L Comment: There is a sight-tight, wooden fence that is approximately six (6) feet high across the overall length of the property line in every area where parking is proposed along the property line adjacent to the residential detached zoned area; thus, the application meets this condition.

3. has a minimum of 1 understory or evergreen tree planted every 30 feet on center.

O’C&L Comment: The length of area along this property line where parking is proposed is approximately 90 feet. The Applicant is committed to planting understory trees in accordance with this Zoning Ordinance requirement. The overall length of the “parking line” requires a total of three (3) new trees to meet this ordinance requirement.

O’C&L’s Parking Layout Plan shows an approximate location of three (3) proposed trees along this line. All final tree species and size selections shall meet the requirements as noted in Section 59.6.4.3.B of the Zoning Ordinance and other relevant manuals, although the species selection of trees is beyond the scope of this Report. O’C&L further notes that a number of off-site trees along this property line *already* provide screening along this line, although these trees are off-site.

Section 59.6.4 of the Zoning Ordinance provides the applicability and minimum standards for outdoor lighting on private property. In particular, Section 59.6.4.2 of the Zoning Ordinance states “Division 6.4 applies to...the installation of any new outdoor lighting fixture, and the replacement of any existing outdoor fixture. Replacement of a fixture means to change the fixture type or to change the mounting height or location of the fixture.”

The Applicant is not proposing new lighting fixtures or to change existing fixture types/heights as part of this application. Consequently, this section of the Zoning Ordinance is not applicable to this application.

Based on these findings, it is O’C&L’s opinion that the proposed application meets these requirements of the Zoning Ordinance, pending approval of the Waiver as requested herein.

Waiver Request Discussion

Section 59.6.2.10 of the Zoning Ordinance states “The deciding body may waive any requirement of Division 6.2, except the required parking in a Parking Lot District under Section 6.2.3.H.1, if the alternative design satisfies Section 6.2.1. Any request for a waiver of the vehicle parking space requirement under Section 6.2.4.B requires application notice under Section 7.5.D.” Section 59.6.2.1 of the Zoning Ordinance states “The intent of the vehicle and bicycle parking, queuing, and loading requirements is to ensure that adequate parking is provided in a safe and efficient manner.” In essence, many of the requirements associated with this section of the Zoning Ordinance can be waived by a deciding body if the proposed conditions are proven to operate effectively and assuming certain notification requirements are completed if an applicant wishes to reduce the number of off-street parking spaces required by the Zoning Ordinance.

As discussed within the body of this Report, that Applicant has herein requested four (4) separate waivers from individual sections of Section 59.6.2 of the Zoning Ordinance. Discussion about these individual sections of the Zoning Ordinance was previously located in this Report; for clarity, O’C&L has provided additional discussion about these individual Waiver requests in this section of the Report.

Waiver Request #1: Section 59.6.2.2.A – This particular section of the Zoning Ordinance requires this potential additional use to recalculate the parking requirement and provide off-street parking for the required number of vehicles as recalculated under Zoning Ordinance Section 59.6.2. This particular waiver request is discussed in more depth in Waiver Request #2 – Section 59.6.2.4, because the total number of spaces recalculated under the terms of the Zoning Ordinance are not proposed to be entirely provided on the Subject Property. However, this particular waiver request

is included herein for completeness; however, the actual functionality discussion is located below.

Waiver Request #2: Section 59.6.2.4 – As discussed previously in this Report, a total of 14 parking spaces are required to meet the requirements of the on-site uses; seven (7) vehicles can comfortably park on the Subject Property. As shown on the provided exhibits that accompany this submission, spaces for seven (7) vehicles can comfortably park directly in front of the subject property on Postoak Road, and there is further additional space to park and access the property on Postoak Road adjacent to the PEPCO easement. The Applicant hereby requests consideration under Section 59.6.2.10 of the Zoning Ordinance for a Waiver herein. This Waiver is justifiable because adequate parking is available directly in front of the Subject Property, these additional parking spaces will not impact operations on Postoak Road, reducing the number of on-site parking spaces through waiver allows for efficient on-site queuing, and, from an operations standpoint, the parking requirement is greater than the typical need, as many of the students at the MMA Studio are not of legal driving age and will not park at the property anyway. The Applicant has shown that he has provided a reasonable number of on-site parking spaces, with the balance of parking easily accessible on the road and has further provided a suitable queuing path to allow for drop-offs and pick-ups without any safety concerns. In O’C&L’s opinion, this clearly demonstrates that the Applicant has provided for safe and efficient parking operations, and therefore, this waiver request is justifiable. Further, the Applicant recognizes the responsibility to provide notification for this waiver request in accordance with Section 59.7.5.2.D of the Zoning Ordinance. This particular notification is part and parcel to any Conditional Use application; the Applicant is committed to meeting all necessary notification requirements.

Waiver Request #3: Section 59.6.2.5.K.2.b – As discussed previously in this Report, the Applicant is proposing parking area adjacent to a side parking line. The Subject Property, which is triangular shaped, has a unique configuration that limits the potential parking area in the area of the building. Consequently, the Applicant has maximized the use of the side yards to place suitable material for on-site parking area to support the MMA Studio business. This necessitates parking in the side yards of the property, which is not in accordance with Section 59.6.2.5.K.2.b of the Zoning Ordinance. The Applicant hereby requests consideration for a Waiver from this Section of the Zoning Ordinance; this waiver is justified because, by proposing parking in the side yards, the Applicant maximizes the number of on-site parking while maintaining a suitable queueing and turnaround path on the Subject Property, and thus improving operations on-site and on Postoak Road. As discussed in Waiver Request #2, the on-site parking is suitable for the operations of the facility – the placement within the side setback promotes effective operations. In O’C&L’s opinion, this waiver request is justifiable.

Waiver Request #4: Section 59.6.2.9.B.1 – As discussed in Waiver Request #3, above, the Applicant is maximizing the use of the side yard for parking area as a means of facilitating parking and queuing operations; consequently, the Applicant hereby requests a Waiver under Section 59.6.2.10 of the Zoning Ordinance for the reference section above, which typically requires an perimeter planting area satisfying a side setback requirement. O’C&L has previously described why the Applicant has chosen to use this area for parking and has previously noted that placing parking in this location allows for the safe and efficient parking and queuing operations

on this Subject Property. For these reasons, it is O'C&L's opinion that this waiver request is justifiable. O'C&L also notes that the Applicant currently meets or is proposed to meet the requirements in Section 59.6.2.9.B of the Zoning Ordinance, as previously discussed in this Report. Further, O'C&L notes that landscaping exists on the opposite side of the fence and helps to screen the Subject Property from the adjoining residential properties.

Based on these findings, it is O'C&L's opinion that the Waiver requests listed herein are justifiable. The Applicant appreciates consideration of these requests.

Conclusion

Based on the findings as described herein, it is O'C&L's opinion that the proposed application meets these requirements of the Zoning Ordinance. In the expert opinion of Douglas G. Tilley, P.E., R.P.L.S., the proposed site as described herein and as shown on the Conditional Use Site Plan satisfies the Conditional Use requirements discussed herein for a Home Occupation with a Major Impact; this opinion is based on the Applicant's receipt of the Waivers as described herein.

The opinions and conclusions expressed in this report fall well within a reasonable degree of engineering certainty. O'C&L reserves its right to modify any opinions and conclusions contained herein upon receipt of additional or new information.

Very truly yours,

O'Connell & Lawrence, Inc.

DocuSigned by:

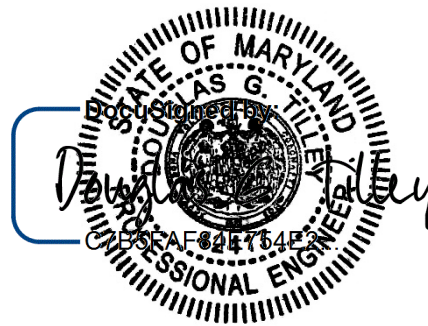
Douglas G. Tilley

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Douglas G. Tilley, P.E., R.P.L.S.

Vice President of Engineering and Surveying

Douglas G. Tilley, P.E.
Registered Professional Engineer
Maryland No. 42417



Sealed Date: 5/16/2024

Professional Certification: I hereby certify that these documents were prepared or approved by me and that I am a duly licensed Professional Engineer under the laws of the State of Maryland, License #42417, Expiration Date June 6, 2026.