

POTOMAC MMA

CONDITIONAL USE NO. CU202418

Description

The Applicant is requesting a Conditional Use, with two Parking Waivers, to replace the existing Home Occupation (Low Impact) for a Mixed Martial Arts (MMA) Studio with a Home Occupation (Major Impact).

No. CU202418

Completed: 1/24/2025

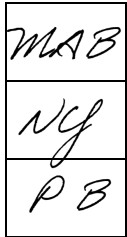
2425 Reddie Drive

Floor 14

Wheaton, MD 20902

Exhibit 38
OZAH Case No: CU 24-18

Planning Staff



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LOCATION/ADDRESS

8400 Postoak Road, Potomac

MASTER PLAN

2002 Potomac Subregion Master Plan

ZONE

R-90

PROPERTY SIZE

13,483 square feet

APPLICANT

Todd Margolis

ACCEPTANCE DATE

July 17, 2024

REVIEW BASIS

Chapter 59

HEARING EXAMINER PUBLIC HEARING

February 13, 2025

Summary:

- Staff recommends approval of the Conditional Use and two Parking Waivers, with conditions and transmittal of comments to the Hearing Examiner.
- The Subject Site has an existing Home Occupation (Low Impact) since 2018. The Proposal would allow for a Home Occupation (Major Impact).
- Staff has not received any public correspondence as of the date of this Staff Report.
- The Application is not subject to County Forest Conservation Law, Chapter 22A.
- The Application requests two parking waivers. One waiver is for seven on-site parking spaces, which can be accommodated with on-street parking (Zoning Code 59.6.2.4.B.). The second waiver allows parking up to the side property lines and along the Pepco property (59.6.2.5.K.2.b). Staff supports both waiver requests.

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SECTION 1: RECOMMENDATIONS AND CONDITIONS

CONDITIONAL USE NO. CU202418

Staff recommends approval of POTOMAC MMA, Conditional Use No. CU202418, with two Parking Waivers, for a Home Occupation (Major Impact) subject to the following conditions:

1. The use is limited to the Home Occupation (Major Impact) per Section 59.3.3.3.H.5.b.
2. All staff must reside onsite.
3. No queuing on Postoak Road is permitted.
4. Hours of operation are limited to 9:00 AM – 9:00 PM, Monday through Saturday.
 - a. No more than five (5) classes can be scheduled within a single day.
 - b. Weekday classes cannot be scheduled to begin before 10:00 AM.
 - c. Class start times will be staggered by fifteen (15) minutes to facilitate pick-up and drop-off and reduce queuing on Postoak Road.
5. Class sizes are limited to a maximum of twelve (12) students per hour.
6. Deliveries are limited to standard USPS mail or other residential neighborhood commercial carriers.
7. To screen the onsite parking spaces, a six-foot tall fence must be maintained along the southeastern Property line.
8. Adult students will be directed to park on Postoak Road in front of the Pepco Power lines, if there is no available parking on the site or in front of the site.
9. The Applicant will plant understory trees and three new trees as shown on the Parking Layout Plan in accordance with Section 59-6.2.9.B. prior to the issuance of the Home Occupation permit with the Department of Permitting Services.
10. Maximum of two weeks of summer camp, each being five days. Hours of operation are limited to 9:00 AM – 4:00 PM, Monday through Friday, with a maximum of 12 students.

SECTION 2: NEIGHBORHOOD & SITE DESCRIPTION

VICINITY/NEIGHBORHOOD

The Subject Property outlined in Figure 1 in the red dashed line is located at 8400 Postoak Road in Potomac, Maryland and is within the 2002 *Potomac Subregion Master Plan*.

As shown in Figure 1, Staff defined a neighborhood to analyze this Conditional Use and its possible impacts on the character of the surrounding area. Staff determined the neighborhood boundaries based on properties that the Conditional Use would most impact. The defined neighborhood comprises moderate-density residential development and a Pepco right-of-way. The properties to the north, south, east, and west are all zoned R-90. The properties to the northwest and southwest consist of a Pepco right-of-way.



Figure 1: Vicinity Map with Staff-defined neighborhood highlighted in solid yellow line

Staff identified no existing, approved conditional uses or special exceptions within the defined neighborhood. There is an approved special exception, S1270, for an accessory apartment at 8504 Wilkesboro Lane, which is west of the subject property.

PROPERTY DESCRIPTION

The subject property (outlined in red dashed line in Figures 1 and 2) consists of 13,483 square feet. The Property consists of Lot 1, Block D of Section 2 of the Regency Estates subdivision, as recorded on Plat No. 8405, and on Tax Map 04-00104621.

The Property contains an existing two-story house, detached two-story garage and associated driveway, and parking area. The Applicant resides in the house with his family. The Applicant has an existing Home Occupation (Low Impact) for Potomac Mixed Martial Arts (MMA) studio, which occupies the detached garage. The one-way circular driveway has access onto Postoak Road.



Figure 2 – Subject Property

SECTION 3: PROJECT DESCRIPTION

PROPOSAL

The Applicant proposes to change from a Home Occupation (Low Impact), which is allowed as a Limited Use, to a Home Occupation (Major Impact) with this application. The Applicant has operated a Home Occupation (Low Impact) since 2018. The Applicant has been teaching MMA to youth and adults in the Potomac area, including members of the Churchill High School, Hoover Middle School, and St. Andrew's Episcopal School wrestling team members. The Applicant built a training studio in the detached garage on the property. The Applicant installed padded floors and limited workout equipment such as handheld free weights.

The Applicant is not proposing any additional improvements to the Site, besides additional tree plantings. The Applicant will continue to reside in the single-family detached house. No new pavement will be created on site, and no new lighting will be proposed. The Applicant is proposing the following features with this petition:

- The number of students will be limited to 12 per hour within the MMA studio.
- The Applicant is not proposing any signage with this Application.
- The Applicant proposes to operate between Monday through Saturday from 9 a.m. to 9 p.m.
- The Applicant is not proposing business hours on Sunday. Drop-off and pick-up will be done using the circular driveway on site, which also provides some parking.
- The Applicant is also requesting two parking waivers, one to allow the use of existing on-street parking to meet the parking minimums, and another to allow eight spaces closer to the western Property line adjacent to the PEPCO power lines property less than the standard setback requires.
- The Applicant also proposes a maximum of two weeks of summer camp, each five days.

As conditioned, the Home Occupation will be limited to operate Monday through Friday between 9 a.m. and 4 p.m. with a maximum of 12 students. Students would remain onsite for the full day.

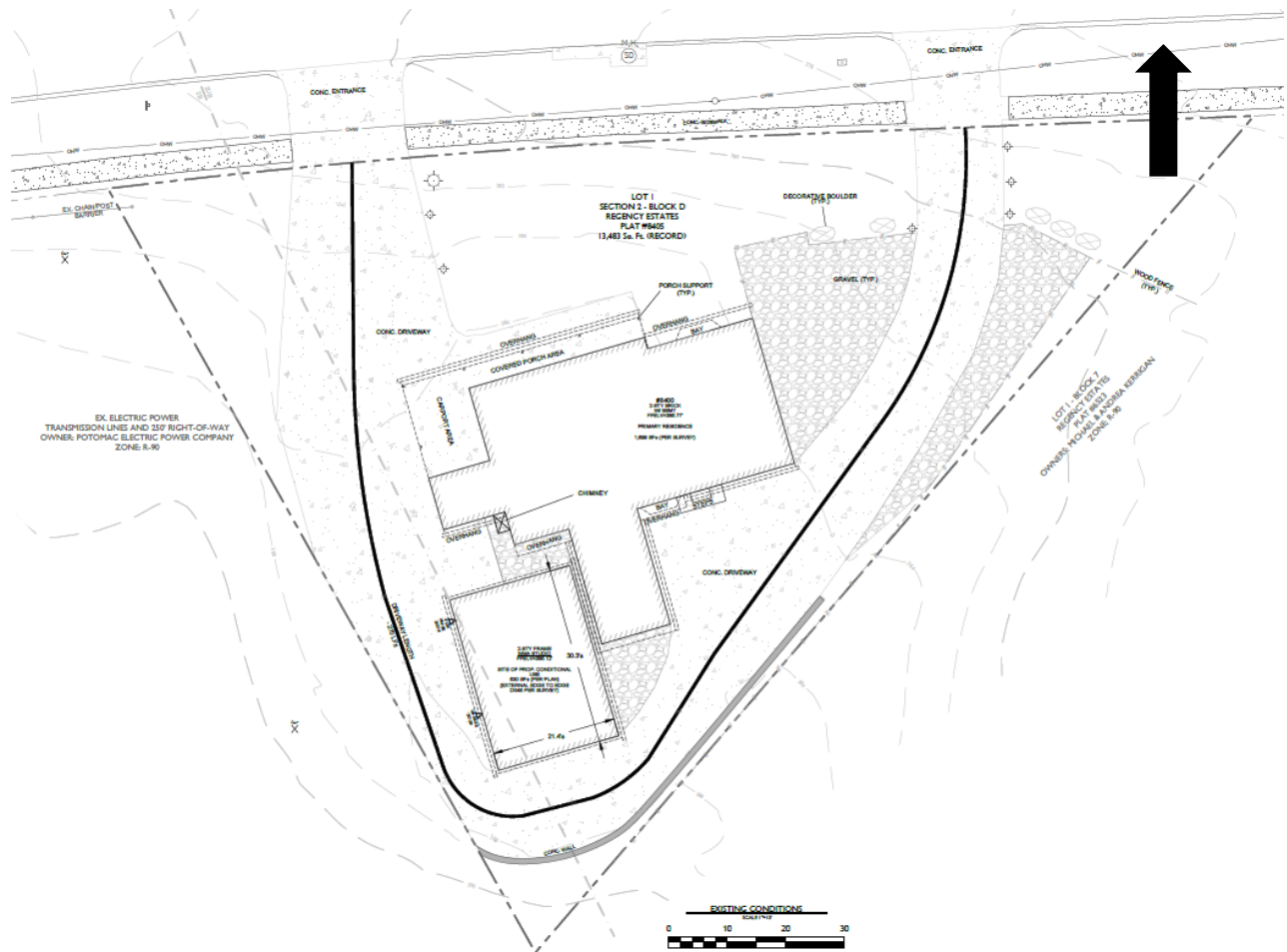


Figure 3: Existing Site Conditions

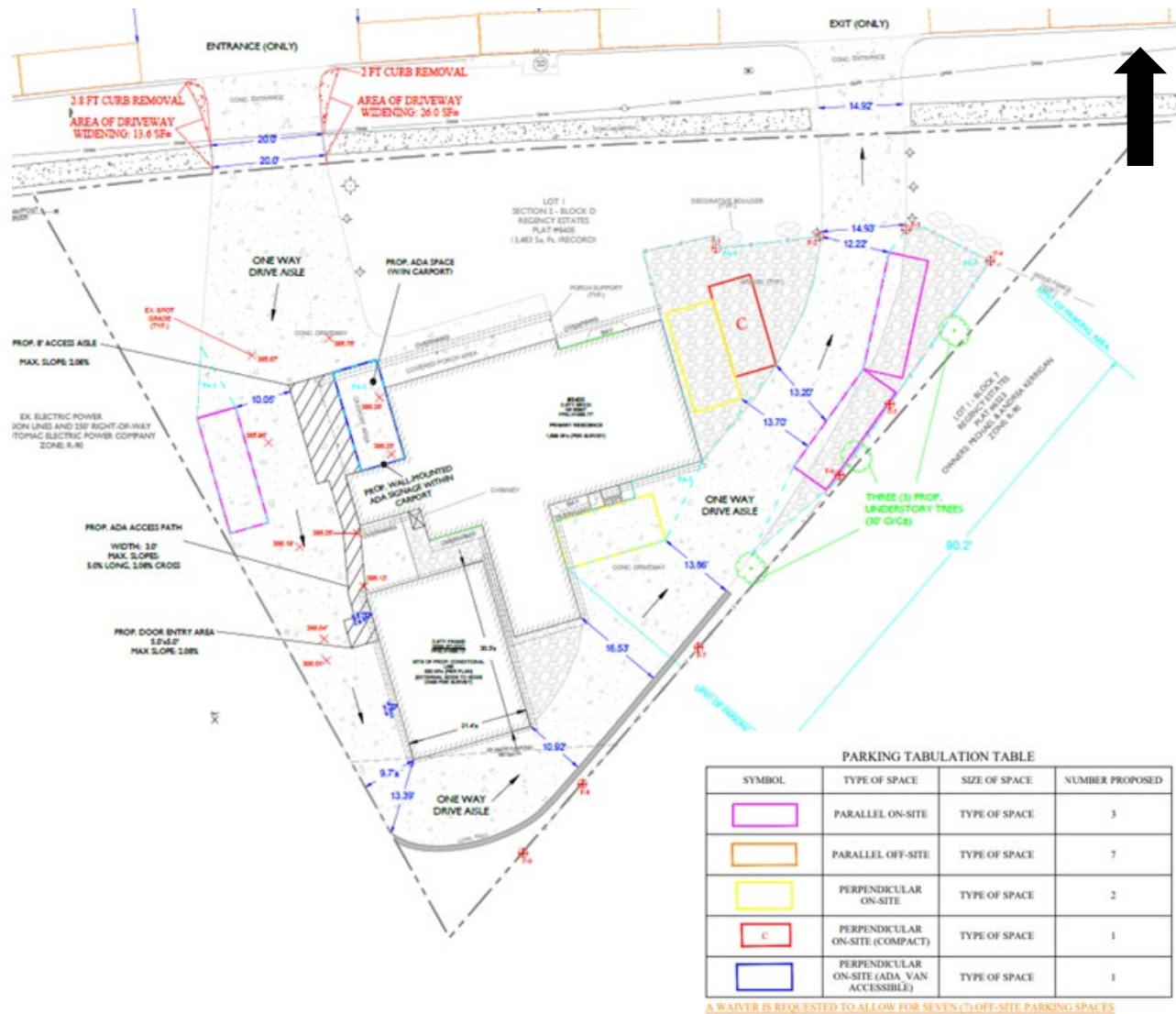


Figure 4: Proposed Conditional Use Plan

ACCESS, CIRCULATION, AND PARKING

Vehicular access to the Site will be provided by the existing one-way circular driveway that wraps around the rear of the house. It facilitates an efficient means for the youth student's drop-off and pick-up and will prevent queuing on Postoak Road. Pedestrian access to the Site will continue to be provided by the existing buffered sidewalks on either side of Postoak Road. Pedestrians will access the buildings on the Site through the existing driveway.



A minimum of fourteen (14) total parking spaces are required for the single-family dwelling unit and the home occupation: two (2) spaces for residential use and twelve (12) off-street spaces for the martial arts studio (one space for each person allowed per hour). One (1) ADA-accessible parking space is provided within the existing carport for visitors to the Home Occupation. Six (6) additional vehicular parking spaces are available on-site for a total of seven (7) spaces on-site. The Applicant is seeking a waiver from Zoning Code § 59.6.2.4.B to provide the remaining seven (7) spaces on-street instead of on-site. Postoak Road is wide enough to support unrestricted parking on both sides (without impeding traffic in either direction). There is space for four on-street parking spaces in front of the Property and space for eight more immediately west of the Property in front of Pepco's land. The Applicant also seeks a waiver to allow parking up to the side property lines and along the Pepco property (59.6.2.5.K.2.b). Staff supports both waiver requests.

FOREST CONSERVATION

This Project is not subject to Chapter 22A (Forest Conservation) because (1) the Application applies to a property of less than 40,000 square feet, (2) The Property is not subject to a previously approved Forest Conservation Plan, and (3) the Conditional Use proposal will not impact any champion tree, as defined by the Montgomery County Forestry Board.

SECTION 4: COMMUNITY CORRESPONDENCE

As of the date of this Staff Report, Staff has not received any letters of correspondence from the community.

SECTION 5: ANALYSIS AND FINDINGS

CONDITIONAL USE NO. CU202418

1. Per Section 59.3.3.H.2., Use standards for all Home Occupations

a. Screening under Division 6.5 is not required.

b. To maintain residential character of the dwelling:

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

The Applicant for the Application is the owner and resides at the Property. The Applicant has provided the deed as proof.

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.

The primary use of the Property is residential for the Applicant and his family. The Home Occupation (Major Impact) is an accessory use to the residence. The use will be conducted in the accessory structure and not in the open yard area on the Property.

iii. Exterior storage of goods or equipment is prohibited.

The Applicant is not proposing storage of goods or equipment outside the accessory structure.

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.

The Applicant is only proposing to use the accessory structure for the Home Occupation (Major Impact), which totals under 700 sq. ft. The house and

accessory structure combined are 2,990 sq. ft. The total area of the proposed conditional use is less than 33% of the total area and less than 1,500 sq. ft.

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

The Applicant proposes using the accessory structure for the proposed conditional use. The applicant will not be using the areas outside the structure so there will be no evidence of the use from the outside. The Applicant is only using one accessory structure for the proposed conditional use.

- vi. *Equipment or facilities are limited to:***

- 1. *Domestic or household equipment;***

The Applicant is not proposing to use any commercial equipment as part of this Application.

- 2. *Office equipment; or***

The proposed use is not an office use, so this section does not pertain to this Application.

- 3. *Any equipment reasonably necessary for art production, handcrafts, or making beer or wine***

The Applicant is not proposing any of these uses; therefore, this section does not apply.

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

The Applicant is not proposing to use any equipment that falls into these categories; therefore, this section does not apply.

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

- 1. *A quantity of petroleum product sufficient to require a special license or permit from the Fire Marshall; or***

The Applicant is not proposing to use petroleum products; therefore, this section does not apply.

- 2. *Any material defined as hazardous or required to have a special handling license under State and County law.***

The Applicant is not proposing to use any hazardous materials with this use and therefore this section does not apply to this application.

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

The Applicant is not proposing to have deliveries related to this use. Any deliveries would be associated with the residential use.

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

The Applicant is not proposing to store or display and merchandise with this Application.

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

The Applicant is not proposing a second kitchen with this Application.

- xii. *The maintenance or repair of motor vehicles for compensation is prohibited.***

The Applicant is not proposing any motor vehicle repair with this Application.

- 2. *Per Section 59.3.3.3.H.5, 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:***

Section 59.3.3.3.H.5.b. Use Standards

- ii. 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:***

- (a) The maximum number of visits and deliveries is determined by the Hearing Examiner.***

As conditioned, the Applicant is limited to up to 12 students per hour (a maximum of 60 per day) to visit the MMA studio¹. Staff has provided proposed conditions to limit the visits and deliveries accordingly.

- (b) An indoor waiting room must be provided.***

¹ As conditioned the Applicant is limited to scheduling up to five classes per day. With a max of 12 students per class, this amounts to no more than 60 students in a single day.

The entire accessory structure is dedicated to the MMA studio with ample room for waiting inside between classes.

(c) *In-person sale of goods is limited to:*

(1) 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

The Applicant is not proposing to sale of goods with this Application; therefore, this section does not apply.

(2) 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).

The Applicant is not proposing the sale of any products onsite, so this section does not apply.

(d) *Display or storage of goods is limited to:*

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

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

The Applicant is not proposing to display any products or merchandise with the Subject Application.

(e) 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.

The Application does not propose any outdoor displays or storage of merchandise.

(f) 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 if the Hearing Examiner 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.

There is currently a Home Occupation (Low Impact) on the Property, but it is being replaced with this Application. There are no other Home Occupations or Home Health Practitioners on the Subject Property.

(g) 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.

The Property does not currently have a Conditional Use; therefore, this section does not apply to this Application.

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

The Applicant has provided the recorded deed to prove ownership (Attachment D).

(i) Screening under Division 6.5 is not required.

The Applicant is not proposing new screening with this Application. However, there is an existing fence along the southeast Property line and along the sides of the eastern driveway entrance/exit. The Applicant proposes three new understory trees along the southeastern property line (Figure 9).

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

The Property is zoned R-90; therefore, this section does not apply.

3. Per Section 59.7.3.1.E., to approve a conditional use application, the Hearing Examiner must find that the proposed development:

a) satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended.

The Subject Property does not have a Home Occupation (Low Impact) on the Property, which is being replaced with this Home Occupation (Major Impact) petition.

b) satisfies the requirements of the zone, use standards under Article 59-3, and to the extent the Hearing Examiner finds necessary to ensure compatibility, meets applicable general requirements under Article 59-6;

- ***Use Standards for Home Occupation (Major Impact)- Section 59.3.3.3.H.5***

As detailed above, the proposed Home Occupation (Major Impact) satisfies the requirements and use standards in Section 59.3.3.3.H.5 and will be a home occupation limited to two (2) non-resident employees in any 24-hour period.

- **Development Standards**

The Subject Property is in the R-90 zone, which allows a Home Occupation (Major Impact) as a Conditional Use. The Project complies with all development standards of the R-90 zone, as shown on the Development Standards Table below.

Table 1: Development and Parking Standards (R-90)

Development Standard Section 59.4.4.B	Permitted/ Required	Existing/Proposed*
Minimum Lot Area	9,000 sq. ft.	13,483 sq. ft.
Minimum Lot Width at Front Building Line	75 ft.	155 ft.
Minimum Lot Width at Front Lot Line	25 ft.	192 ft.
Maximum Density	1 dwelling unit/lot	1 dwelling/lot
Maximum Lot Coverage	30%	24.9%
Minimum Front Setback	30 ft.	31 ft.
Minimum Side Setback	8 ft.	18 ft. & 20 ft.
Minimum Sum of Side Setbacks	25 ft.	38 ft.
Minimum Rear Setback	25 ft.	25 ft.
Accessory Structure Side Setback	5 ft.	9 ft.
Accessory Structure Rear Setback	5 ft.	10 ft.
Maximum Height	30 ft. mean or 35 ft. peak	23 ft. mean & 26 ft. peak (est.)
Vehicle Parking Requirement (Section 59.6.2.4.B)	Residence: 2 1 Per student allowed per hour: 12 Total: 14	On-site: 7 On-street: 7**

*There is no proposed development with this Application.

** Parking along Postoak Rod is allowed and unrestricted. This application is subject to approval of a waiver from Zoning Code § 59.6.2.4.B to allow seven vehicles to be parked along Postoak Road.

- **General Requirements –**

(1) Access

Vehicular access to the Site will be provided by the existing one-way circular driveway that wraps around the rear of the house. It facilitates an efficient

means for of the youth students' drop-off and pick-up and will prevent queuing on Postoak Road. Pedestrian access to the Site will continue to be provided by the existing buffered sidewalks on either side of Postoak Road. Access to the buildings is provided via the existing driveway.

Parking, Queuing and Loading

A minimum of 14 parking spaces are required for the single-family dwelling unit and the home occupation. This total is arrived after accounting for two required for residential use, and 12 required for the martial arts studio (one space for each person allowed per hour). One ADA-accessible parking space is provided within the existing carport. Six additional vehicular parking spaces are available on-site. The Applicant is seeking a waiver from Zoning Code 59.6.2.4.B to provide the remaining seven spaces on-street instead of on-site. Loading is not required nor necessary for the use.

Section 6.2.10 Parking Waiver

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.0, if the alternative design satisfies Section 6.2.1, which provides that 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”.

The Applicant is seeking a waiver for seven off-street parking spaces. As discussed above, 14 vehicular parking spaces are required for the site's residential, and the home occupation uses. The Site can accommodate seven of the spaces on-site. There is ample space for on-street parking on Postoak Road both along the Site frontage and immediately adjacent to the Site in front of the Pepco property. Postoak Road is approximately 36 feet in width (measured curb-to-curb), allowing for two travel lanes, and two on-street parking lanes.



Figure 8: On-street parking image

There is a significant number of on-street, parallel, parking spaces available within the immediate vicinity of the Site. These spaces are required to be seven feet in width and 21 feet in length. There is approximately 80 feet of curb on the south side of Postoak Road between the two driveways, which is enough for two parking spaces. Between the property line and the intersection of Enid Drive is another 100 feet, which provides room for two more spaces after accounting for the 30 feet clear space for the intersection. Although these are just beyond the Site frontage, the adjacent property is oriented towards Enid Drive. Additionally, approximately 260 feet of on-street parking is available directly west of the Site along property owned and occupied by Pepco. This segment of Postoak Road provides space for eight parallel parking spaces. Adult students will be directed to park in this location in times of overflow because it is safely connected to the Site by an existing buffered sidewalk, and it will not disturb any of the surrounding residences. This total of 12 on-street parking spaces exceeds the minimum seven requested in the waiver.

Table 2: Parking Capacity Analysis

Parking Location	Number of spaces
Onsite	7
On street, front of house	2
On street, east of house	2
On street, west of house	8
Total spaces	19

Staff recommends approval of the waiver due to the ample on-street parking on Postoak Road, including in front of the Property's frontage. Accordingly, the waiver satisfies the intent of Section 59-6.2.1 because the provided parking, on-site and on-street will be safe and efficient.

Section 59-6.2.5.K

Facilities for Conditional Uses in Residential Detached Zones

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.

All proposed on-site parking spaces are 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/south screens the parking area from the only residential property adjacent to it. Additional plantings are also proposed along the southeastern Property line. 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.

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 feet in length between the side lines and parallel to the front lot line, then taking the rear setback distance (in this case, 25 feet)

25' Rear Setback Line

Legend

- Onsite-parking space
- 25' Rear Setback Line

Mini Van	16'000ft
Overall Length	6'511ft
Overall Width	6'511ft
Overall Body Height	6'511ft
Min Body Ground Clearance	6'058ft
Max Total Width	6'058ft
Look-back Time	3.240s
Max Steering Angle (Virtual)	3.240s

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

Staff supports the request for a waiver to allow the parking spaces on the Property line on the west side adjacent to the PEPCO power lines because the abutting property is improved with a public utility use and is not a single-family residence. Further, the waiver for spaces on the east side is supported because a six-foot-tall wooden sight-tight fence fully screens the parking spaces from the adjacent residential property to the east. Accordingly, adequate parking can be provided in a safe and efficient manner in these locations without the required setbacks.

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.***

These conditions are not relevant to the Subject Site. The Applicant proposes seven on-site parking spaces.

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.

- a. The maximum surfaced parking area between the lot line and the front or side street building line . . . is in the R-200 and R-90 zones, 30% or 320 square feet, whichever is greater.***

The Subject Property is located in the R-90 zone. The approximate area between the right-of-way and front building line (house) is 5,272 square feet. Thirty percent of 5,272 square feet is 1,581.6 square feet. Between Postoak Road and the front of the existing house, there is approximately 388 square feet of surfaced parking area. This potential parking area is well below the 1,581.6 square foot limit; 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.***

The surface parking area does not need to exceed the permissible amount. Therefore, this condition is not relevant to the Subject 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.

All parking spaces provided onsite are aligned with the front of the building or are located completely behind the building. All spaces are on hardscape (pavement) surfaces. Therefore, the Application meets this condition.

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

All onsite parking spaces meet the minimum size for a standard parking space per 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.

The Applicant is not proposing any temporary parking areas with this Application.

7. Servicing a heavy commercial vehicle is prohibited.

The Applicant is not proposing servicing of heavy commercial vehicles with this Application.

Section 59-6.2.9.B-Parking Lot Landscaping and Outdoor Lighting

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;

The Applicant has requested a waiver. See the Parking Waiver Section above.

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

The Applicant has an existing six-foot high fence along the southeastern property line. This section does not apply to the western property line because the abutting property is improved with a public utility use.

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

A total of 14 parking off-street parking spaces are required for the Project and the existing single-family dwelling unit. Seven spaces will be provided on-site, and seven on-street spaces are proposed. The proposed vehicle parking spaces meet the minimum dimensions as required by Section 59-6.2. of the Zoning Ordinance, which are 8.5 feet in width and 18 feet in length for a standard perpendicular space and 7 feet in width and 21 feet in length for a parallel parking space.

A six-foot tall wooden, sight-tight fence provides screening for five of the seven spaces along the front of the property and around the sides and rear. Two parking spaces are visible from the street (one in the driveway and one within the existing carport), which is typical and within the established character of a residential property.

The area along the length the property line where parking is approximately 90 feet in length. The Applicant is committed to planting understory trees in accordance with the Zoning Ordinance requirement. The overall length of the “parking line” requires a total of three new trees to meet this ordinance requirement. The locations of these three trees are shown on the Parking Layout Plan (Figure 10). As conditioned, all final tree species and size selections shall meet the requirements noted in Section 59-6.4.3.B of the Zoning Ordinance and other relevant manuals.

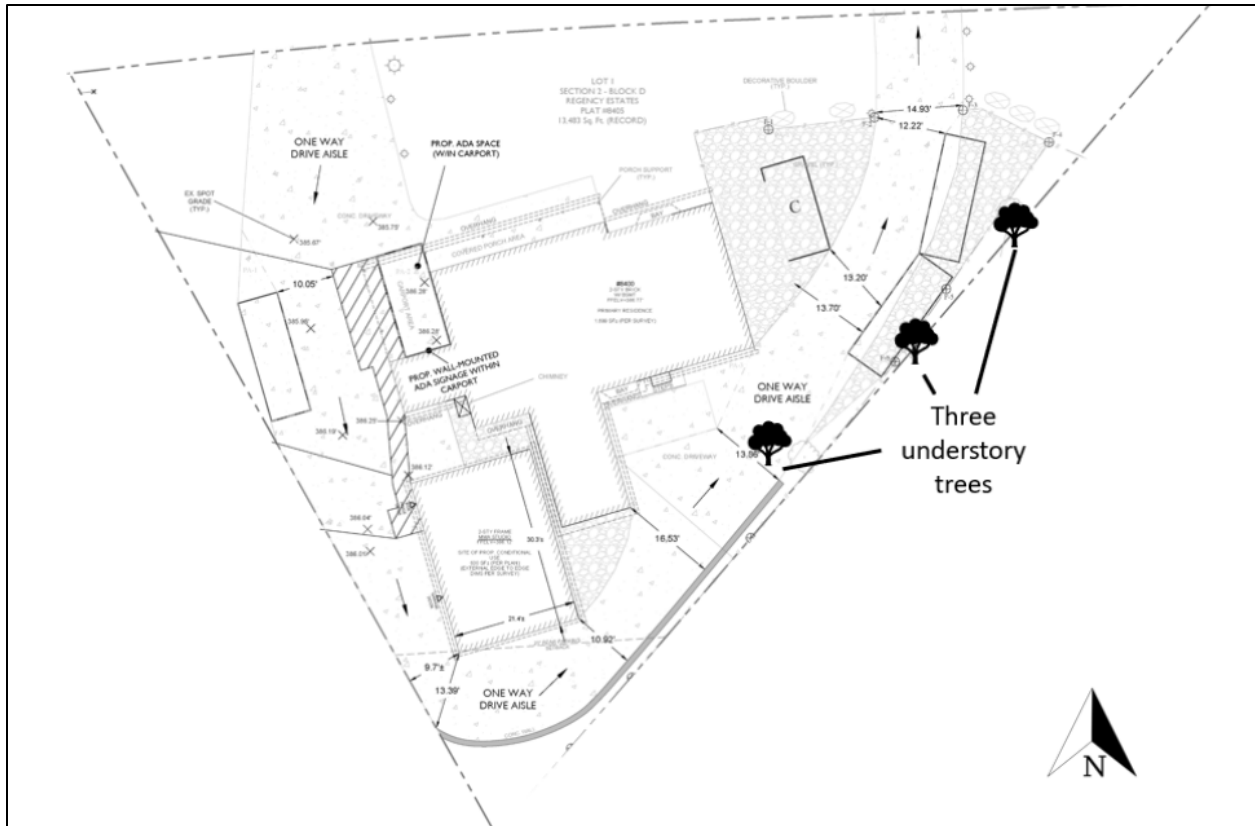


Figure 10: Parking Lot Layout Exhibit, modified by staff showing placement of proposed understory trees.

Division 6.3 Open Space and Recreation

Open Space and Recreation are not requirements for this Application; therefore, this section is not applicable.

Division 6.4 General Landscaping and Outdoor Lighting

Section 59.6.4 of the Zoning Ordinance provides the applicability and minimum standards for outdoor lighting on private property. Section 59.6.4.2 of the Zoning Ordinance states that 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 any new lighting or replacement lighting with this Application; therefore, this section does not apply to this Application.

Division 6.5 Screening

In the Agricultural, Rural Residential, and Residential Detached zones, a conditional

use in any building type, except a single-family detached house, must provide screening under Section 6.5.3 if the subject lot abuts property in an Agricultural, Rural Residential, or Residential Detached zone that is vacant or improved with an agricultural or residential use. All conditional uses must have screening that ensures compatibility with the surrounding neighborhood.

The Applicant is not proposing screening with this application. However, there is an existing fence along the southeast property line as well as along the sides of the eastern driveway entrance and exit. The western property line abuts an elevated Pepco right-of-way. Staff recommends a condition for the fence to be maintained at all times.

Division 6.6 Outdoor Display and Storage

There will be no outdoor displays or storage with this Application.

Division 6.7 Signage

The Applicant is not proposing any signage with this Application.

c) *substantially conforms with the recommendations of the applicable master plan;*

The Site is located within the 2002 *Potomac Subregion* Master Plan area, which has recommendations for maintaining the residential character. The Applicant is utilizing the existing residential property for the Home Occupation (Major Impact) and will continue to reside in the detached residential house and the conditional use will take place in the accessory structure to the rear of the Property. The house, accessory structure, driveway, fence, and landscaping are compatible with the rest of the neighborhood and surrounding areas.

The existing frontage improvements substantially conform to the 2024 *Complete Streets Design Guide* and the 2018 *Bicycle Master Plan*. This report discusses the substantial conformance of the master-planned transportation facilities in further detail in Finding f).

4. *is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan;*

The proposed conditional use will not change the existing residential character of the Subject Property or the neighborhood. The Applicant is not proposing any physical changes with the conditional use application. The Applicant will still reside in the single-family detached house, and the conditional use will take place in the accessory structure to the rear of the Property. The house, accessory structure, driveway, fence, and landscaping are compatible with the rest

of the neighborhood and surrounding areas. There will be no changes to the pavement and no changes to the house or detached garage. The onsite parking in the Application is located on the existing pavement. The Applicant is installing three new understory trees along the southeastern Property line to provide additional screening. The Applicant proposes limiting the operation to weekdays and Saturdays, limiting the hours of operation, and limiting the number of classes and students to ensure the Home Occupation (Major Impact) remains the accessory use for the Property. The Applicant resides at the Property, so the primary use of the Property is a residential use.

d) *will not, when evaluated in conjunction with existing and approved conditional uses in any neighboring Residential Detached zone, increase the number, intensity or scope of conditional uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area; a conditional use application that substantially conforms with the recommendations of a master plan does not alter the nature of an area;*

There are no recorded conditional uses in the neighborhood defined for this petition. The master plan recommends that the area remain residential in character, and the proposed conditional use will not change the subject property's existing residential character. As mentioned above, it substantially conforms to the Master Plan recommendations.

e) *will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the conditional use is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:*

- if a preliminary subdivision plan is not filed concurrently or required subsequently, the Hearing Examiner must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage, or***
- if a preliminary subdivision plan is filed concurrently or required subsequently, the Planning Board must find that the proposed development will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage, and***

A Preliminary Plan of Subdivision is not required because the Property is already a recorded lot. As discussed in more detail below, the Project will be served by adequate public services and facilities.

(1) Transportation

Master-Planned Roadways and Bikeway

The 2024 *Complete Streets Design Guide* classifies Postoak Road as a Neighborhood Connector with a master-planned total right-of-way width of 70 feet. Plat 8405, recorded October 17, 1966, shows that Postoak Road is fully dedicated with 70 feet total width.

Pedestrian Facilities

Neighborhood Connectors are recommended to provide six-foot-wide sidewalks with six-foot-wide street buffers. Postoak Road is classified as a Neighborhood Connector between Victory Lane and Seven Locks Road (includes the Site frontage). Today, Postoak Road is improved with 11-foot-wide street buffers and four-foot-wide sidewalks on either side of the street. Although the sidewalk is narrower than what is recommended, it meets the minimum requirements of the Public Right-of-Way Accessibility Guidelines (PROWAG) and is continuous throughout the neighborhood. Therefore, the existing sidewalk substantially conforms with the Master Plan.

The 2018 *Bicycle Master Plan* recommends a sidepath along the north side of the street, opposite the Site. No designated bicycle facilities are planned along the Site frontage; therefore, the Subject Application is not obligated to participate in future implementation of such facilities.

Transit Service

RideOn Route 42 stops on either side of Postoak Road at Enid Drive, approximately 150 feet from the Property. Route 42 provides service between Boiling Brook Parkway and Westfield Montgomery Mall, Mondays through Saturdays, with 30- to 40-minute headways.

Parking and Drop-Off/Pick-Up

Drop-off and pick-up will occur onsite via the existing circular driveway which wraps around the rear of the house, where the main door to the studio will be located. Classes will be 45 minutes long, scheduled on the hour to allow 15 minutes for pick-up and drop-off.

The Site is required to provide 14 spaces to serve both uses on the Site. A total of seven parking spaces are available on-site. Two will be provided for the

residents and the remaining five will serve the studio. The remaining seven spaces can be accommodated on Postoak Street, either in front of the house (approximately 2-4 on-street parallel parking spaces), or immediately west of the Site along the Pepco power line right-of-way frontage (eight parallel parking spaces). As discussed in the Site Access portion of this Report, a waiver is requested to allow the Applicant to count on-street parking spaces to meet the required minimum. As on-street parking is not restricted on Postoak Road, and there is ample space available that is not in front of other residences, staff supports the request for a waiver.

Local Area Transportation Review

Montgomery County's *Growth and Infrastructure Policy* (GIP)² requires Local Area Transportation Review (LATR) adequacy tests of the various modes of the transportation system for any subdivision that generates 50 or more peak hour weekday person trips. Per the LATR Guidelines, the weekday peak hours occur between the hours of 6:30 am and 9:30 am and between 4:00 pm and 7:00 pm, when public schools are in session. Since there are no classes during the morning weekday hours when schools are in session, the morning peak hour is not evaluated.

As conditioned, the training classes are limited to 12 participants. This applies to all classes offered weekdays, Saturdays, and during the two weeks of summer camp. As shown in Table 3, fewer than 50 person trips will be generated during any hour when classes are being held.³ The table shows the trip generation calculation. As shown, a maximum of 48 new person trips will be generated by the proposed MMA studio training. As all classes are limited to 45 minutes to provide 15 minutes for pick-up and drop-off, all students (children or adults) will travel to and from the studio within the hour. At the busiest time, the pick up and drop off period for two classes will overlap in the same hour. In other words, at the top of the 15 minutes, parents will pick up their children and at the bottom of the 15 minutes parents be dropping off their children to attend the upcoming class. If this is an adult class, there are even fewer trips because adults will arrive and park for the duration of class. It is important also to note that the only employee of the studio is Mr. Margolis, the Applicant, who lives on Site. Therefore, this proposal does not generate any employee related trips.

² Note that the conditional use was accepted and reviewed in 2024 and is subject to the 2020-2024 GIP.

³ In this case, it is assumed that all person trips are vehicle driver trips, with one child (no-carpooling) as a conservative measure.

Therefore, accounting for both “in” and “out” trips, the maximum number of estimated trips within the peak hour is 48.

Table 3: Trip Generation for the Proposed Use

Use	PM Peak Hour		
	In	Out	Total
MMA Studio 12 students, two classes	24	24	48

Source: Transportation Impact Study, dated May 21, 2024, by Galloway, as modified by staff

As the proposed MMA studio will generate fewer than 50 peak hour person trips, the Conditional Use is exempt from a LATR transportation impact study. In accordance with the 2020-20204 *Growth and Infrastructure Policy (GIP)*, there are adequate transportation facilities to accommodate the proposed use.

(2) Schools

The Application has no impact on schools as no new residences are proposed.

(3) Other Public Facilities

The Property is located within water and sewer categories W-1 and S-1 and is serviced by existing water and sewer. The Washington Suburban Sanitary Commission (“WSSC”) will continue to provide water and sewer needs. Other utilities, public facilities, and services, such as electricity, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the Growth and Infrastructure Policy in effect at the time that the Application was submitted.

f) will not cause undue harm to the neighborhood as a result of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in any of the following categories:

- **the use, peaceful enjoyment, economic value or development potential of abutting and confronting properties or the general neighborhood;**
- **traffic, noise, odors, dust, illumination, or a lack of parking; or**
- **the health, safety, or welfare of neighboring residents, residents, visitors, or employees.**

This finding requires consideration of the inherent and non-inherent adverse effects of the proposed use on nearby properties and the general neighborhood. Section 1.4.2 of the Zoning Ordinance defines inherent adverse effects as “adverse effects created by physical or operational characteristics of a conditional use necessarily

associated with a particular use, regardless of its physical size or scale of operations.” Inherent adverse effects alone are not a sufficient basis for denial of a conditional use.

Non-inherent adverse effects are defined as “adverse effects created by physical or operational characteristics of a conditional use not necessarily associated with the particular use or created by an unusual characteristic of the site.” Non-inherent adverse effects are a sufficient basis to deny a conditional use, alone or in combination with inherent effects, if the adverse effect causes “undue” harm to the surrounding neighborhood. When analyzing whether impacts are inherent or non-inherent, Staff examines the proposed use’s size, scale, scope, light, noise, traffic, and environmental effects.

Staff identified the following physical and operational characteristics necessarily associated with a Home Occupation (Major Impact):

- Vehicle trips
- Parking areas
- Hours of operation

These inherent aspects of this Home Occupation (Major Impact) for a martial arts school are limited by the design of the existing site, which allows for vehicle queuing onsite and will prevent queuing and spillback on Postoak Road. Also, the parking areas are screened onsite by fencing and proposed landscaping to minimize visibility from the road and neighbors. There is ample parking on the street in front of the property, as well as in front of the Pepco right-of-way. The hours of operation are limited to weekdays and Saturdays and only five classes per day. The number of students and non-resident employees are also limited with this Application.

Staff did not identify any non-inherent characteristics of the proposed use or the Property. To the contrary, the Property is triangular in shape and bounded on one side by a large PEPCO transmission line and on another by a road. Its physical characteristics will provide an appropriate setting for the use, and there are no light, noise, traffic or environmental concerns. Accordingly, the proposed use will not cause undue harm to the neighborhood due to non-inherent adverse effects alone or the combination of inherent and non-inherent adverse effects.

5. Any structure to be constructed, reconstructed, or altered under a conditional use in a Residential Detached zone must be compatible with the character of the residential

neighborhood.

No proposed changes to the buildings or site are proposed, so this section is not applicable to the Application.

- 6. The fact that a proposed use satisfies all specific requirements to approve a conditional use does not create a presumption that the use is compatible with nearby properties and is not sufficient to require conditional use approval.***

The Applicant does not presume approval of the conditional use because they meet the requirements, and the Property is compatible with the surrounding properties. The Property has an existing house with an existing accessory structure, both built to residential standards and have residential character. When looking at the Property from the road, the Property looks like any of the other properties in the neighborhood. The Applicant proposes to limit operation of the classes to weekdays and Saturdays, limiting the hours of operation, and limiting the number of classes and students to make sure the Home Occupation (Major Impact) remains the accessory use for the Property. The Applicant resides at the Property so the primary use on the Property is a residential use.

- 7. In evaluating the compatibility of an agricultural conditional use with surrounding Agricultural or Rural Residential zoned land, the Hearing Examiner must consider that the impact does not necessarily need to be controlled as stringently as if it were abutting a Residential zone.***

The proposed use is a Home Occupation (Major Impact) in the R-90 Zone. Therefore, this section does not apply to the Application.

- 8. The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use to serve the population in the general neighborhood, considering the present availability of identical or similar uses to that neighborhood:***

- a) Filling Station;***
- b) Light Vehicle Sales and Rental (Outdoor);***
- c) Swimming Pool (Community); and***
- d) the following Recreation and Entertainment Facility use: swimming pool, commercial.***

The proposed use is a Home Occupation (Major Impact) and none of the above listed uses. Therefore, this section does not apply to the Application.

- 9. The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use due***

to an insufficient number of similar uses presently serving existing population concentrations in the County, and the uses at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood:

- a) Funeral Home; Undertaker;***
- b) Hotel, Motel;***
- c) Shooting Range (Outdoor);***
- d) Drive-Thru***
- e) Landfill, Incinerator, or Transfer Station; and***
- f) a Public Use Helipad, Heliport or a Public Use Helistop.***

The proposed use is a Home Occupation (Major Impact) and none of the above listed uses. Therefore, this section does not apply to the Application.

FOREST CONSERVATION

The Application is not subject to County Forest Conservation Law, Chapter 22A, under Section 22A-4(b), as the Applicant is seeking approval of a conditional use on a tract of land that is less than 40,000 square feet.

Consistency with Environmental Guidelines

The Property has no significant environmental features, such as wetlands, streams, seeps, erodible soils, or forests.

SECTION 6: CONCLUSION

The proposed Conditional Use with Parking Waivers complies with the findings required for approval of a Home Occupation (Major Impact), subject to the recommended conditions of approval. The proposed use meets the required findings set for in Section 59.7.3.1.E. and other relevant sections of the Zoning Ordinance, is in substantial compliance with the goals and recommendations of the 2002 *Potomac Subregion Master Plan*, will not alter the residential character of the surrounding neighborhood, and will not result in any unacceptable noise, traffic, or environmental impacts on surrounding properties. Staff recommends approval of the Conditional Use and Parking Waivers with conditions and transmittal of comments to the Hearing Examiner.

ATTACHMENTS

- Attachment A: Conditional Use Plans
- Attachment B: Letters of Support submitted by the Applicant
- Attachment C: Subdivision Plat
- Attachment D: Deed

Recommended BY:

A handwritten signature in black ink, appearing to read "Jason K. Sartori", written over a horizontal line.

Jason K. Sartori, Planning Director

January 31, 2025

Date Approved