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Timothy W. Fitzgerald
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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

THE GLENROSE ASSOCIATION, a
Washington non-profit corporation

Petitioner,

v.

JOHN PEDERSON, DIRECTOR OF
BUILDING AND PLANNING,
SPOKANE COUNTY,

Respondents.

Case No. 19-2-04762-32

AFFIDVIT OF JOHN PEDERSON

STATE OF WASHINGTON)
) ss.
County of Spokane)

I, John Pederson, Director of the Department of Building and Planning, Division of Public Works, Spokane County, do certify under penalty of perjury under the laws of the State of Washington that I have reasonable grounds to believe and in fact believe the following statements to be true and accurate:

- 1. I am over the age of eighteen (18) years, am competent to testify, and all matters stated in this affidavit are based upon my personal knowledge.

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2. Currently, I am employed as the Director of the Department of Building and Planning, Division of Public Works, Spokane County.
3. I have worked in the Planning Department and Department of Building and Planning for 35 years, the last ten years as the Planning Director and ten months as the Director of Building and Planning.
4. My educational background includes a degree in Urban and Regional Planning (1981) and regular attendance in seminars and conferences providing supplemental education on planning.
5. In the capacity of Director of Building Planning, it is my responsibility to oversee the day to day management and operations of the Department of Building and Planning. It is also my responsibility to interpret various land use codes and regulations adopted by Spokane County to implement the Growth Management Act, Critical Areas Ordinance, Subdivision Ordinance, and Shoreline Master Plan
6. As Director of Planning, I received the request from Glenrose Association dated July 9, 2019, for an administrative interpretation of provisions in the Spokane County Zoning Code (Eichstaedt Decl., Ex. K;).
7. The request asked for the administrative interpretation of the meaning, intent, and impact of two zoning code terms, “community recreational facility” and “participant sports and recreation (outdoor only)” as they relate to a community recreation facility proposed by Spokane Youth Sports Association, a non-profit entity (the “SYSA”). *Id.*, *Second page*. (the Spokane County Zoning Code can be accessed at <https://www.spokanecounty.org/DocumentCenter/View/26429>).
8. Following receipt of the request, I reviewed the file for 5814 E. 37th Avenue, property site in question to refresh my memory. The property was previously subject to a proposed community recreational facility in 2008 by Spokane South Little League (the “League”).
9. The League proposed a community recreation facility and applied for a 50,000 cu.ft. grading permit which requires review under State Environmental Policy Act (SEPA). A Mitigation Determination of Non-Significance (MDNS) was issued and appealed by Glenrose Association to the Spokane County Hearing Examiner.

- 1 10. A Staff Report was prepared and available prior to the appeal hearing.
2 The Staff Report identifies the project as a community activity center. (a
3 copy of the Staff Report may be accessed here
ftp.spokanecounty.org/BuildingandPlanning/GlenroseBaseball).
- 4 11. Following an open record hearing, the Examiner issued a decision
5 approving with added conditions (the full Decision is available at
ftp.spokanecounty.org/BuildingandPlanning/GlenroseBaseball).
- 6 12. The League was issued a grading permit but did not develop the
7 community recreation facility.
- 8 13. Permits are issued for specific sites and may not be transferred to other
9 properties; e.g., the permit stays with the land.
- 10 14. My review of the file for 5814 E. 37th Avenue, confirmed a different
11 applicant attended a pre-application meeting in 2017, and Plan Review
12 Comments were provided on September 21, 2017 (Eichstaedt Decl. Ex.
13 G).
- 14 15. The Glenrose administrative interpretation request was specific as to the
15 SYSA proposal. Information received from SYSA relating to the
16 proposed community recreational facility was limited to file information
17 regarding the pre-application meeting and comments. As noted in my
18 response to Glenrose, at the time of the request the Department had not
19 received an application.
- 20 16. When League made application for a grading permit for the proposed
21 community recreational facility, a determination was made it met the
22 criteria for a community recreational facility which is a permitted use in
23 Urban Reserve Zone. The property is Zoned Urban Reserve.
- 24 17. Based on my review of information received by the Department regarding
the 5814 E. 37th Avenue property at the time of Glenrose submitted their
request, the development of a community recreational facility very similar
to that proposed in the pre-development meeting was a use permitted and
already determined by the Department and affirmed by the Hearing
Examiner.
18. In review of the request for an administrative determination, I considered
the fact that the Zoning Code definition of a Community Recreational
Facility does not define the terms "area" "amusement" "relaxation" but it

1 does specifically reference any public or private building, structure, or
2 area which provides... and is not operated for profit. The terms are very
3 broad and allow a tremendous range of buildings or area to provide
activities much like a public park or by a private corporation or
association.

4 19. As to the pre-application process, Chapter 13.200 of County Code defines
5 "Pre-application meetings" as meetings where county or agency staff and
6 applicants meet to discuss regulatory requirements, process and procedural
7 submission requirements. These meetings are conducted by department
8 staff assigned to this task, they represent the department as a designee of
9 the Building Official and Planning Director, and their representations of
compliance are relied upon by applicants in further design of their project
and subsequent submittals. The information conveyed by Mr. Millgard at
the initial pre-application was clear and definitive that the proposed use
was consistent with the definition of a community recreational facility.

10 20. My response to the request for an administrative determination was not a
11 denial or refusal to act. It conveyed my determination that absent
12 additional project details or a permit application that were substantially
13 different in scope, scale, and intensity than the original proposal from the
14 League, the prior determinations the proposal was a community
15 recreational facility was binding. Both proponents/groups (Little League
or SYSA) are/were non-profit associations, the proposed site is the same,
the zoning is the same and the range of uses, sports fields did not change.
Sports fields striped for baseball, football, soccer, etc are the same use and
can be considered as multi-use fields.

16 21. The Glenrose request for an administrative interpretation, while submitted
17 as a request is largely comprised of narrative that appears intended to
18 change a determination already made. In support of the position they
19 referenced a grant application from SYSA which is not relevant and was
20 not part of any discussion with staff in review of the proposal, SEPA
analysis, or grading permit. How an applicant attempts to obtain grant
funds is not within the Department's purview and does not change their
non-profit status.

21 22. As I noted in my response, the Department was not in receipt of or
22 currently processing any land use or building permit application and prior
to issuance of a building permit the applicant must demonstrate
compliance with the zoning code.

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23. Since my response, SYSA has filed an application and the Department issued an Addendum to the previous MDNS (issued on October 14, 2009) which Glenrose has appealed. No permit has been issued at this time. The County Code limits the number of open record hearings allowed. SEPA appeals are heard by the Hearing Examiner but ministerial permits are not unless they accompany the SEPA appeal. Presently the Parties have agreed to delay the open record hearing by the Hearing Examiner until a decision is been made on the permit. At this time additional information has been requested from applicant but not received.

24. Consistent throughout the records on proposed development of multi-use sports fields on the property, including plan comments, applications, SEPA documents, Staff Reports, Hearing Examiner Decision, mitigating measures, and updated information in the form of Traffic Impact Analysis, concept drainage plan, grading and lighting plans, site plans, and building narrative and permits have clearly identified the project as a Community Recreational Facility with multi-use sports fields

John Pederson
John Pederson

SUBSCRIBED AND SWORN to before me this 10th day of June 2020.

Donna Monroe
of Washington, residing at Spokane.
My commission expires: 4/6/21



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CERTIFICATE OF SERVICE

Pursuant to RCW 9A.72.085, the undersigned certifies under penalty of perjury under the laws of the State of Washington, that she caused the foregoing to be delivered to the following persons in the manner indicated:

Rick Eichstaedt, WSBA #36487	<input checked="" type="checkbox"/>	U.S. Mail, postage prepaid
David A. Bricklin, WSBA #7583	<input type="checkbox"/>	Facsimile
BRICKLIN & NEWMAN, LLP	<input checked="" type="checkbox"/>	E-Mail: eichstaedt@bnd-law.com
1424 Fourth Avenue, Suite 500		bricklin@bnd-law.com
Seattle, WA 98101	<input type="checkbox"/>	Via Hand Delivery
<i>(Attorney for Petitioner Glenrose Assoc.)</i>		

I certify under penalty of perjury under the laws of the State of Washington that the foregoing statement regarding services is true and correct.

DATED this 11th day of June, 2020, in Spokane, Washington.



Shelly M. Koegler