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SPOKANE COUNTY HEARING EXAMINER

APPEAL OF ADMINISTRATIVE
INTERPRETATION OF THE SPOKANE
COUNTY ZONING CODE BY THE
DIRECTOR, DATED AUGUST 25, 2020,

APPELLANT: GLENROSE
ASSOCIATION

PROPERTY OWNER: SPOKANE YOUTH
SPORTS ASSOCIATION

FILE NO. AI-01-2020

DECISION

I. SUMMARY OF DECISION

Hearing Matter: Appeal of an Administrative Interpretation of the Spokane County Zoning Code definitions of “Community Recreational Facility” (Spokane County Zoning Code 14.300.100) and “Participant sports and recreation (outdoor only)” (Spokane County Zoning Code 14.300.100) by the Director of the Spokane County Building & Planning Department, dated August 25, 2020, of the Spokane County Zoning Code.

Summary of Decision: Appeal of the Administrative Interpretation is denied.

II. PROCEDURE AND SCOPE OF REVIEW

A. Procedural Matters:

On or about July 20, 2020, the Superior Court of Spokane County issued an Order Issuing Peremptory Writ of Mandamus, which order directed John Pederson, Director of the Spokane County Building & Planning Department, to issue an administrative interpretation in response to a request for such from Rick Eichstadt of Bricklin and Newman LLC, Attorneys at Law, dated July 19, 2019, within thirty (30) days of the court’s ruling. The ordered Administrative Interpretation was issued by Mr. Pederson on August 25, 2020.

On September 1, 2020, the Glenrose Association, through its attorney, David A. Bricklin, timely filed a Notice of Appeal with the Spokane County Building & Planning Department (Department). Notice of Hearing for the appeal was mailed to the parties on December 15, 2020. Certification of Mailing, dated December 15, 2020. Notice of Hearing was also published in the Spokesman Review newspaper on February 9, 2021. Affidavit of Publication, dated February 9, 2021. By agreed order the hearing of the appeal was

1 continued from the original hearing date of January 13, 2021 to February 24, 2021 at 1:30
2 p.m.

3 The appeal of the Administrative Interpretation came before the Hearing Examiner
4 for hearing on February 24, 2021, 1:30 p.m., in an open public hearing. The hearing was
5 conducted pursuant to the procedures set forth in SCC Chapter 1.46 (Hearing Examiner
6 Ordinance); Spokane County Code (SCC) 13.900; Spokane County Zoning Code (SCZC)
7 14.502; the Hearing Examiner Rules of Procedure; and other applicable development
8 regulations. The Examiner conducted a visit and inspection of the site on January 22, 2021.

9 The individuals identified herein below were in attendance at the hearing via the
10 Zoom conference platform over the internet. Oral argument was presented by the attorneys
11 for each of the parties to this matter; David Bricklin representing the appellants, and
12 Elizabeth Tellesen representing the Spokane Youth Sports Association. Mark McClain,
13 Deputy Prosecuting Attorney representing Spokane County, was present during the hearing
14 though he did not provide argument or comment. No testimony offered at the hearing, only
15 the arguments of counsel.

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The record includes the documents in the Department File: AI-01-2020 at the time of the commencement of the hearing, the electronic recording of the hearing, the roster of attendees at the hearing, and the items taken notice of by the Hearing Examiner.

The following exhibits were submitted at the hearing:

- Exhibit 1: B&P_Doc1_AI-1-2020 STAFF REPORT (36 pages)
- Exhibit 2: Bricklin_Exh. 01_2018 10 10 PRR to Spokane County (2 pages)
- Exhibit 3: Bricklin_Exh. 02_2019 05 06 Traffic Impact Assessment_excerpt (25 pages)
- Exhibit 4: Bricklin_Exh. 03_2019 07 09 Request for Admin Interpretation (25 pages)
- Exhibit 5: Bricklin_Exh. 04_2019 08 27 Pederson to Eichstaedt (10 pages)
- Exhibit 6: Bricklin_Exh. 05_2019 AI Request_Att B (full copy) RCO Evaluation Criteria.SYSA 07.16 2018 (4 pages)
- Exhibit 7: Bricklin_Exh. 06_2020 07 20 Order Issuing Peremptory Writ of

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Mandamus (4 pages)

- Exhibit 8: Bricklin_Exh. 07_CP_Rural Element (17 pages)
- Exhibit 9: Bricklin_Exh. 08_Stonehorse Community Rec Facility and map (1 page)
- Exhibit 10: Bricklin_Exh. 09_Stonehorse Community Recreational Facility Dec 03 2018 (3 pages)
- Exhibit 11: Bricklin_Exh. 10_SYSA Facilities for Rent (1 page)

B. Description of Site:

The subject property is located east of and adjacent to Glenrose Road which is designated as an Urban Minor Arterial and south of and adjacent to 37th Avenue which is designated as an Urban Collector Arterial west of its intersection with Glenrose Road.

Lands surrounding the site are generally zoned Urban Reserve (UR) established January 15, 2002. Land uses in the near vicinity of the subject site include residential dwellings on large lots, and open undeveloped parcels. To the southwest of the subject site and further to the west are Joint Planning Areas with the City of Spokane and urban style development within the Urban Growth Area Boundary Staff Report, Zoning Map.

C. Description of Proposed Project:

The catalyst for the request for the Administrative Interpretation and this appeal is the proposal by the Spokane Youth Sports Association to develop the subject site, 19.4 acres in size, into multi-use sports fields and accessory uses to be known as the Zakheim Youth Sports Complex. The proposed development would include 2 Multi Sports Fields, 4 Youth Baseball/Softball fields, a Hoopfest Basketball Court and ADA walking path.

D. Scope of Review:

Appellant contends that the use proposed by Spokane Youth Sports Association (SYSA) is a "Participant sports and recreation (outdoor only)" use as defined in SCZC 14.300.100 as opposed to a "Community Recreational Facility" use as defined in SCZC 14.300.100 and as determined by the Department Director in his Administrative Interpretation. This is thus an appellate review of the Administrative Interpretation dated August 25, 2020.

As this proceeding is an appeal of the interpretation of the zoning code by the Department Director pursuant to SCZC 14.502 and SCZC 14.504, review of the legal conclusions in the administrative interpretation is de novo. *Vance v. Department of Retirement Systems*, 114 Wn. App. 572, 576, 59 P.3rd 130, 2002 Wash. LEXIS 3056 (2002).

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III. ANALYSIS AND DECISION

The purpose of the Spokane County Zoning Code is to promote and protect the public health, safety, and general welfare and to implement the goals and policies of the Spokane County Comprehensive Plan. SCZC 14.100.102. Interpretation of the Spokane County Zoning Code must include consideration of the goals and policies of the Spokane County Comprehensive Plan.

In its introduction to the topic of Rural Lands the Comprehensive Plan explains that typically, rural areas have received their identity from a rural way of life rooted in history and resource-based industries, including farming and forestry, and that more recently, recreation and open space uses have played an increasing role in rural areas. Comprehensive Plan, p. RL-1. Specifically, lands categorized as Urban Reserve include lands outside the Urban Growth Area where growth is projected to occur within a 40-year planning horizon from the date of designation as Urban Reserve. Lands categorized as Urban Reserve are given special consideration, such as low-density, large-lot development, designed to establish land uses that do not preclude their eventual conversion to urban densities. Innovative techniques such as residential clustering is encouraged in the Urban Reserve category to allow residential development rights and ensure that these areas will be available for urban development in the future. Comprehensive Plan, p. RL-2.

Regarding the eventual urbanization of the Spokane region the Comprehensive Plan notes that homes, businesses and roads are replacing large sections of open space. This growth brings a very real need for more park and recreation services. Comprehensive Plan, p. PO-1. Open space contributes directly and indirectly to the economic value of property nearby and to the economic value of the community by enhancing its attractiveness to existing and prospective residents. Over time, this abundant open space is slowly being displaced by development to satisfy the needs of a growing community. Comprehensive Plan, p. PO-4. It is clear from the Comprehensive Plan that the preservation of open space for parks and recreational uses is a fundamental governing principle behind the Comprehensive Plan and the zoning code. The proposed sports field complex, that is the subject of this appeal, is consistent with the goals and policies of the Comprehensive Plan regarding the preservation of open space for recreational purposes, subject to the requirements and limitations stated in the zoning code.

Interpretation of the zoning code is the responsibility of the Department Director as governed by SCZC 14.504.200¹. The Administrative Interpretation that is the subject of this

¹ 14.504.200 Interpretation of the Zoning Text

- 1. Rulings and/or interpretations as to the meaning, intent, or proper general applications of the Zoning Code, and its impact to development and use of land or structures shall be made by the Director.
- 2. In interpreting and applying the provisions of this Chapter, the provisions of the Zoning Code shall be held as the minimum requirements necessary for the promotion of public health, safety, and general welfare.

1 appeal was initiated by a request for an interpretation regarding the “meaning, intent and
2 impact of certain definitions in the zoning code (SCC 14.300.100) as they relate to Spokane
3 Youth Sports Association’s (“SYSA”) proposed sports field complex in the Glenrose
4 neighborhood”. Bricklin & Newman, LLC letter, dated July 9, 2019. The definitions sought to
5 be interpreted are:

6 Community Recreational Facility: Any public or private building, structure, or area
7 which provides amusement, relaxation, or diversion from normal activities for persons
8 within the area in which it is located and which is not operated for profit.

9 and

10 Participant sports and recreation (outdoor only): Participant sports and recreation use
11 in which the sport or recreation is conducted outside of an enclosed structure.
12 Examples include tennis courts, water slides, and driving ranges.

13 SCZC 14.300.100

14 The Administrative Interpretation declares that the proposed sports field complex is a
15 Community Recreational Facility, and is thus subject to the zoning code requirements of that
16 use, while the Appellants asserted to the Director that the sports field complex as proposed is
17 a Participant sports and recreation (outdoor only) use subject to the requirements of that
18 use. If the proposed SYSA development is a Community Recreational Facility it is allowed in
19 the Urban Reserve zone and could proceed subject to the applicable regulations etc. If the
20 SYSA development is a Participant sports and recreation (outdoor only) use then the
21 development would not be allowed in the Urban Reserve zone as it is proposed.

22 **A. Administrative Classification Pursuant to SCZC 14.604.300:**

23 Appellant asserts that the Director used the wrong standard in determining that the
24 proposed use was a Community Recreational Facility. Statement of Appeal, p. 2:8-18.
Appellant correctly cites SCZC 14.604.300(2) as the standard to be employed by the Director
in issuing an Administrative Interpretation of the zoning code. SCZC 14.604.300 in pertinent
part reads:

14.604.300 Zoning Matrix-General

1. Uses are permitted within the various zones as depicted by the matrices in Chapters 14.606, 14.608, 14.610, 14.612, 14.614, 14.616, 14.618, and 14.620, and as otherwise provided for in the individual zone classifications.
2. It is recognized that all possible uses and variations of uses that might arise cannot reasonably be listed or categorized. Mixed uses/sites or any use not specifically mentioned or about which there is any question shall be administratively classified by comparison with other uses identified in the matrices. If the proposed use resembles identified uses in terms of intensity and character, and is consistent with the purpose of this code and the individual zones classification it shall be considered as a

3. The Division of Building and Planning shall maintain a public file of all written rulings and interpretations.

1 permitted/nonpermitted use within a general zone classification, matrix or zone,
2 subject to the development standards for the use it most nearly resembles. If a use
3 does not resemble other identified allowable uses within a matrix, it may be permitted
4 as determined by an amendment to this code pursuant to chapter 14.402.

5 Appellant suggests that, in determining which use the proposed sports field complex
6 resembles in terms of intensity and character, the Director should have compared the
7 proposed use to each use identified in all of the matrices of permitted/nonpermitted uses
8 across all zones identified in the zoning code. Id. Thus, Appellant would have the Director
9 compare the proposed sports field complex to every use designated in all of the zoning
10 classifications identified in the zoning code and then determine which if any designated use
11 the sport field complex most closely resembles.

12 In response SYSA argues that, first a Community Recreational Facility is an allowed
13 use within the Urban Reserve zone and the Administrative Interpretation adequately
14 support a finding that the sports field complex is a Community Recreational Facility so no
15 administrative classification under SCZC 14.604.300(2) is necessary. Response to Glenrose
16 Association's Appeal (Response), p. 3:5-24 and 4:1-4. In the alternative SYSA asserts that
17 Appellant erroneously relies upon the phrase "most nearly resembles" in SCZC 14.604.300(2)
18 to arrive at the Appellant's conclusion. Response, p. 4. Neither the Appellant nor SYSA are
19 completely accurate in their assertions regarding the application of SCZC 14.604.300(2).

20 When a proposed use is not specifically mentioned or about which there is any
21 question, SCZC 14.604.300(2) requires the Director begin with an administrative
22 classification of the proposed use. If not before the request for an Administrative
23 Interpretation, when the request was made it put into question what listed use the proposed
24 use resembles, if any. Where the Appellant errs however is in its assertion that the proposed
use must then be compared to all possible uses identified in the entire zoning code across all
zoning classifications.

SCZC 14.604.300(2) uses the term "matrices" generally and the term "matrix"
specifically.

"It is recognized that all possible uses and variations of uses that might arise cannot
reasonably be listed or categorized. *Mixed uses/sites or any use not specifically
mentioned or about which there is any question shall be administratively classified by
comparison with other uses identified in the **matrices**. If the proposed use resembles
identified uses in terms of intensity and character, and is consistent with the purpose
of this code **and the individual zones classification** it shall be considered as a
permitted/nonpermitted use **within a general zone classification, matrix or
zone**, subject to the development standards for the use it most nearly resembles. If a
use does not resemble **other identified allowable uses within a matrix**, it may be
permitted as determined by an amendment to this code pursuant to chapter 14.402."*

Emphasis added.

The first italicized sentence above focuses upon "any proposed use not specifically
mentioned or about which there is a question, in any of the matrices contained in the zoning

1 code that identifies uses permitted/nonpermitted in an identified zone”, and then requires
2 that an administrative classification be made. The second italicized sentence focuses on the
3 uses within the “individual zone classification” and the “matrix or zone”. The administrative
4 classification referred to in SCZC 14.604.300(2) begins with reference to the “individual zone
5 classification” of the property where the use is proposed. Then, if the proposed use resembles
6 a use identified in the subject zone in terms of intensity and character, and is consistent with
7 the purpose of this code and the individual zones classification, the proposed use shall be
8 considered as a permitted or an nonpermitted use within a general zone classification,
9 matrix or zone. If the use is a permitted use then it is also subject to the development
10 standards for the use it most nearly resembles.

11 **B. Resemblance to Community Recreational Facility:**

12 Next, Appellant argues that the Director erroneously interpreted the definition of the
13 uses – “Community Recreational Facility” and “Participant sports and recreation (outdoors
14 only)”. Statement of Appeal, p. 2.

15 Appellant dives into a lengthy argument regarding its interpretation of the two uses
16 as defined in the zoning code. Analysis of the definition of “Participant sports and recreation
17 (outdoors only)” is unnecessary under SCZC 14.604.300(2) as discussed above. The matrix
18 that identifies the permitted/nonpermitted uses within the Urban Reserve zone is found in
19 SCZC 14.618.220 Rural Zones Matrix. A determination of whether the proposed sports fields
20 complex is a permitted or nonpermitted use in the Urban Reserve zone is to be based upon a
21 comparison of the proposed use with the identified uses in SCZC 14.618.220. SCZC
22 14.604.300(2). The use “Participant sports and recreation (outdoors only)” is not identified
23 anywhere in the Rural Zones Matrix. The permitted uses in the Rural Zone Matrix, Urban
24 Reserve zone include feed mill, general agriculture, green house, storage structure, winery,
residential dwellings – single family and duplex, day care, golf course, public utilities
distribution, stormwater treatment, animal rehabilitation, church, community recreational
facility, community hall – lodge, fire station, park – public, school – elementary, middle
school, high school, all of which are outright allowed uses. Limited uses permitted in the
Urban Reserve zone include marijuana processing (recreational only), marijuana production
(both indoors or outdoors), day care for 30 or less children, and zoo.

Of the uses identified in the Rural Zones Matrix – Urban Reserve zone, golf course,
community recreational facility, and park immediately appear to be similar in some respects
to the proposed use. Golf course can easily be eliminated from consideration because the
proposed use does not propose any activity resembling golf. Parks – public can be eliminated
because by definition the land must be owned by a public agency, of which the SYSA is not.
The only remaining possible use that the proposed use resembles is “Community
Recreational Facility”.

Having concluded that the Director was required to make an administrative
classification of the proposed use – sports field complex, the Director was then required to
determine if the proposed use resembles the identified use (Community Recreational

1 Facility) in terms of intensity and character, and whether the proposed use is consistent with
2 the purpose of the zoning code and the zone classification of Urban Reserve. SCZC
3 14.604.300(2).

4 Appellant first points out that the Community Recreational Facility use does not use
5 the term “sport” or “sports” in its title or definition and thus could not resemble a “sports
6 field complex”. Statement of Appeal, p. 2. The argument is too simplistic and ignores literally
7 any analysis of the comparison between the permitted use and the proposed use as to form a
8 basis for rejecting the comparison outright.

9 Next, Appellant challenges several of the terms in the definition of Community
10 Recreational Facility as discussed herein below. Appellant asserts that the “community”
11 intended to be served by the permitted use is “the area in which [the use] is located” or the
12 immediate neighborhood surrounding the proposed use. Id., p.3. In support of its argument
13 Appellant relies upon the Spokane County Parks, Recreation, and Open Space Plan (2014)
14 reference to “community park” as having a service area of 1 to 3 miles, the definition of
15 neighborhood in SCZC 14.300.100, and “other definitions and documents” that allegedly
16 support a narrow definition of community. Request for Administrative Interpretation, dated
17 July 9, 2019. The “other definitions and documents” referred to by Appellant are not cited in
18 its request for Administrative Interpretation or in its briefing. Further the language in the
19 Comprehensive Plan clearly differentiates between “neighborhood” and “community”
20 indicating that the neighborhood is a smaller more distinct area. At page PO-4 of the
21 Comprehensive Plan there is a clear distinction made between “property nearby”, or as
22 Appellant defines it – neighborhood, and the community².

23 Regarding the term “area” as used in the zoning code definition, Appellant asserts
24 that the term must be limited to a small geographic area, inferring the Glenrose
neighborhood. Statement of Appeal, p. 3:11-21, p. 5:14-23; Request, p. 3-4. No citations to
authority are given by Appellants regarding the asserted limitation on the word “area”.

Appellant suggests that the proposed sports field complex is a thinly disguised
private/members only facility to the exclusion of the general public at any distance from the
proposed use. Statement of Appeal, p. 6; Request. In support of its assertion, Appellant
points to the facts that the complex will be used by a long list of clubs, teams, and
associations involved in athletic activities and competitions. Id. The inference being that the
complex will be so overrun by the athletic competitors and events that the property will be
unavailable to non-members of the athletic community to enjoy the site. Id.

SYSA responds to Appellant’s argument regarding the terms “community” and “area”
with the dictionary definition of “community” asserting that the Director has the authority to
define community as a geographic or political boundary. Response, p. 5. SYSA argues that

² “Open space contributes directly and indirectly to the economic value of *property nearby* and to the economic value of the *community* by enhancing its attractiveness to existing and prospective residents.” (Emphasis added)

1 the Community Recreational Facility use is identified in the Code as an “Institutional Use”
2 and that “institution” is defined in the dictionary as “an established organization or
3 corporation ... esp. of a public character”. The inference there being that the SYSA is an
4 association, an institution and thus public in character and the complex then is akin to a
5 public facility available to all. Response, p. 4.

6 Finally, Appellant argues that the classification of the proposed use as a Community
7 Recreational Facility is not consistent with the Spokane County Comprehensive Plan.
8 Statement of Appeal, p. 5:1-13. It asserts that the Comprehensive Plan speaks of “outdoor
9 recreation as consistent with rural life, but that the Spokane County planning documents
10 generally refer to hiking, biking, fishing, and other outdoor-oriented activities, which in
11 Appellant’s opinion cannot include organized team sports. Id. As discussed above, the
12 proposed sports fields complex is consistent with the goals and policies of the Comprehensive
13 Plan related to rural lands.

14 In this matter the Hearing Examiner is asked to determine whether the
15 Administrative Interpretation by the Director is correct under the rules that govern
16 Administrative Interpretations. SCZC 14.502.060. The interpretation of an ambiguous code
17 or regulation given by the administrative agency that has the responsibility of
18 administration and enforcement of the code or regulation should be given great weight in
19 determining the legislative intent of the code or regulation. *Hama Hama Co. v. Shorelines
20 Hearings Board*, 85 Wn.2d 441, 448, 536 P.2d 157, 1975 Wash. LEXIS 898 (1975).

21 Regarding the interpretation of the code, as in this matter, the case of *Lake v.
22 Woodcreek Homeowners Ass’n*. 169 Wn.2d 516, 243 P.3d 1283 (2010) is instructive.

23 “The court's fundamental objective in construing a statute is to ascertain and carry
24 out the legislature's intent.” *Arborwood Idaho, LLC v. City of Kennewick*, 151 Wn.2d
359, 367, 89 P.3d 217 (2004). Statutory interpretation begins with the statute's plain
meaning. Plain meaning “is to be discerned from the ordinary meaning of the
language at issue, the context of the statute in which that provision is found, related
provisions, and the statutory scheme as a whole.” *State v. Engel*, 166 Wn.2d 572, 578,
210 P.3d 1007 (2009). While we look to the broader statutory context for guidance, we
“must not add words where the legislature has chosen not to include them,” and we
must “construe statutes such that all of the language is given effect.” *Rest. Dev., Inc.
v. Cananwill, Inc.*, 150 Wn.2d 674, 682, 80 P.3d 598 (2003). If the statute is
unambiguous after a review of the plain meaning, the court's inquiry is at an end.
State v. Armendariz, 160 Wn.2d 106, 110, 156 P.3d 201 (2007). But if the statute is
ambiguous, “this court may look to the legislative history of the statute and the
circumstances surrounding its enactment to determine legislative intent.” *Rest. Dev.,
150 Wn.2d at 682*. Emphasis added.

Lake v. Woodcreek Homeowners Ass’n., supra, at 526.

25 The request for an administrative interpretation of the zoning code indicates the
26 ambiguity in the code regarding the proposed use in the Urban Reserve zone. The Hearing
27 Examiner is charged with looking to the intent of the Spokane County Board of County
28 Commissioners in adopting the subject code, while taking into account and granting

1 deference to the Director’s interpretation.

2 SCZC 14.300.100 defines “Community Recreational Facility” as

3 “Any public or private building, structure, or area which provides amusement,
4 relaxation, or diversion from normal activities for persons within the area in which it
5 is located and which is not operated for profit”. At issue is the intended meaning of
6 the terms “amusement, relaxation, or diversion from normal activities” and the
7 phrase “area in which it is located”.

8 “Area in which it is located”:

9 Because the term “area” is not defined in the code it is appropriate to look to the
10 ordinary meaning of the word. *Lake v. Woodcreek Homeowners Ass’n.*, supra. “Area” is
11 defined as 1. A flat surface of space, 2. The amount of surface included (as within the lines of
12 a geometric figure), 3. Range of extent of some thing or concept: Field, 4. Region. *The*
13 *Merriam-Webster Dictionary* (2019). That definition is of little use in this application.

14 Appellant suggests that the term “area” means a “community” as appears in the title
15 of the permitted use. Appellant suggests further that the “community” intended to be
16 benefited by the permitted use is the Glenrose neighborhood. Merriam-Webster defines
17 “community” as 1. A body of people living in the same place under the same laws, 2. Society
18 at large, 3. Joint ownership, 4. Similarity, likeness (~of interests). *Id.* The dictionary
19 definition seems to allow Appellant’s definition of community, but clearly includes something
20 much larger than merely the neighborhood. Under the dictionary definition, community
21 could be interpreted to mean a group who share a common interest, such as youth sports, or
22 soccer, or athletics. Giving the required deference to the Director’s interpretation of the
23 phrase, “area in which it is located” reasonably includes the area centered at the site of the
24 proposed sport field complex and the region around about including the City of Spokane,
Spokane Valley, Liberty Lake, Cheney, Medical Lake, Deer Park, etc. Appellant’s reference
to Spokane County Parks, Recreation, and Open Space Plan (2014) is inapposite to the issue
here. The language of the plan referred to does not have the binding effect of the code and
appears to be expressed as a goal of the Parks Department rather than a requirement of a
community park. The Hearing Examiner finds no error in the Director’s interpretation
regarding the area in which it (the proposed use) is located.

25 “Recreation, Amusement, Relaxation, Diversion from Normal Activity”:

26 Appellant asserts that because the definition of Community Recreational Facility does
27 not contain the words “sports” or “sport”, the proposed sports field complex cannot resemble a
28 community recreational facility. See SCZC 14.604.300(2). Recreation is not defined in the
29 zoning code, but Recreational Area, Commercial is defined as:

30 “An indoor and/or outdoor area or structure(s) operated for profit and devoted to
31 facilities and equipment for recreational purposes, including, but not limited to,
32 swimming pools, tennis courts, racquetball courts, dance and other similar uses,
33 whether the use of such area is limited to private membership or whether open to the
34 public upon the payment of a fee.” SCZC 14.300.100.

1 That definition includes in recreational activities “sports” such as swimming, tennis,
2 racquetball and other similar activities. Merriam-Webster defines “amuse” as “to entertain in
3 a light or playful manner”. Merriam-Webster Dictionary (2014). The definitions of relaxation
4 and diversion refer to amusement and recreation. Id. Those definitions taken together
5 support a conclusion that the terms recreational, amusement, relaxation, and diversion from
6 normal activities include playing and/or watching soccer or baseball/softball. The Hearing
7 Examiner rejects Appellant’s suggestion that the Community Recreational Facility use
8 cannot include a facility that is used for sports, specifically soccer, baseball/softball, and
9 basketball. The Director’s interpretation that the proposed sports field complex could
10 resemble a Community Recreational Facility is not error.

11 Legislative Intent Regarding Community Recreational Facility:

12 Although the above discussion supports a conclusion that the proposed sports field
13 complex could resemble a Community Recreational Facility, the issue of legislative intent is
14 yet to be addressed. The fundamental objective in interpreting the language of the zoning
15 code is to ascertain and carry out the legislative intent of the Board of County
16 Commissioners in adopting the zoning code. *Lake v. Woodcreek Homeowners Ass’n.*, supra, at
17 526.

18 To find the legislative intent behind the zoning code resort should be made the
19 context of the zoning code, related provisions, and the statutory scheme of the zoning code as
20 a whole. *Lake v. Woodcreek Homeowners Ass’n.*, supra, at 526 (citing *State v. Engel*, 166
21 Wn.2d 572, 578, 210 P.3d 1007 (2009)).

22 The list of permitted/nonpermitted uses in the Rural Zones and Urban Reserve zone
23 includes “Park, public (including caretaker’s residence)” in the Institutional Uses section of
24 the matrix as a permitted use without specific limitations or conditions. SCZC 14.618.220.
The definition of “Park, Public” reads:

Park, Public: Land owned by a public agency and intended for public use and
enjoyment that includes any or all of the following:

1. Walkways or trails for motorized or non-motorized use, including winter activities.
2. *Drives/roads and vehicular parking areas.*
3. Formal and informal picnic areas, including shelters and cooking facilities.
4. Camping areas, including sites for tents, recreational vehicles with hookups, and small cabins or temporary/seasonal camping structures.
5. *Restrooms/showers facilities.*
6. *Athletic playing fields, including baseball, football, basketball, and/or soccer.*
7. Playground structures/equipment.
8. *Informal play areas.*
9. Environmental education/interpretation facilities.
10. Swimming facilities, including beaches and pools.
11. Boat launches, moorage docks and parking areas.
12. Bank fishing areas and fishing piers/docks.
13. Utility infrastructure facilities, including sewage treatment facilities, domestic water wells, pump stations, electrical power panels and all distribution lines.

- 1 14. *Food concession or snack vending machine facilities.*
- 2 15. *Merchandise sales areas.*
- 3 16. Natural and/or cultural resource preservation areas.
- 4 17. Fish and wildlife habitat management areas.
- 5 18. *Support facilities directly related to the operation and maintenance of a park including staff offices, maintenance work, storage areas, and staff/public meeting space.*
- 6 19. Winter recreation areas, including downhill, Nordic and cross-country skiing, snowmobiling and ice skating.

7 SCZC 14.300.100 (Emphasis added.)

8 Athletic playing fields, including baseball, football, basketball, and/or soccer, the
9 activities proposed at the sports field complex, are all allowed uses at a public park. Because
10 of the limitation on a public park that the property be publicly owned prevents the sports
11 field complex from being identified as a public park, however the definition clearly indicates
12 that the legislative intent regarding the Community Recreational Facility was that athletic
13 playing fields, including baseball, football, basketball, and/or soccer are a recreational use
14 intended to be allowed in rural zones, including the Urban Reserve zone.

15 Appellant addresses the idea that athletic fields should be included in the Community
16 Recreational Facility use by pointing out that the use of the proposed sports fields would be
17 controlled by the SYSA, a private non-profit association, to the exclusion of the general
18 public from enjoying and using the fields. Statement of Appeal, p. 3. Appellant cites no
19 authority or documented basis for its assertion on that point.

20 The error in Appellant's argument is that it ignores the fact that Spokane County
21 owns and controls at least one facility in Spokane Valley, that is primarily a sports field
22 complex dedicated to soccer and baseball/softball. The Plante's Ferry Sports Complex is a
23 park owned by Spokane County and managed by a private non-profit organization, the
24 Spokane Valley Junior Soccer Association. Use of the park is under the management of the
25 SVJSA and is heavily used during the soccer and softball seasons for team play and
26 tournament competitions. Notwithstanding the management and use of the park for sporting
27 events there is still ample time and space for "non-sports participants" to use and enjoy the
28 Spokane Valley Plante's Ferry Sports Complex. Appellant's assertion that the proposed
29 facility would be unavailable to the public in general and nearby residents specifically is
30 without basis.

31 Conclusion:

32 The challenge to the Director's Administrative Interpretation dated August 25, 2020,
33 is unfounded in fact or law. A review of the zoning code in its entirety, and specifically
34 Chapter 14.618 reveals that the legislative intent behind the adoption of the zoning code as it
35 relates to rural lands and specifically to allowing the proposed sports field complex supports
36 the conclusion that the proposed sports field complex does most closely resemble the
37 Community Recreational Facility use identified in SCZC 14.618.220.

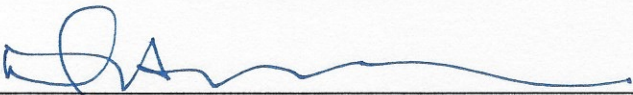
38 Any finding of fact above that is a conclusion of law is deemed a conclusion of law.

1 Any conclusion of law above that is a finding of fact is deemed a finding of fact.

2 The appeal of the Administrative Interpretation dated August 25, 2020 is denied.

3 DATED this 25th day of March, 2021.

4 SPOKANE COUNTY HEARING
5 EXAMINER

6 

7 David W. Hubert, WSBA #16488

8 **NOTICE OF FINAL DECISION AND NOTICE OF RIGHT TO APPEAL**

9 Pursuant to Chapter 1.46 (Hearing Examiner) of the Spokane County Code, the
10 decision of the Hearing Examiner on the Appeal of Administrative Interpretation is final and
11 conclusive unless within twenty-one (21) calendar days from the issuance of the Examiner's
12 decision, a party with standing files a land use petition in Superior Court pursuant to
13 Chapter 36.70C of the Revised Code of Washington (RCW).

14 Pursuant to RCW Chapter 36.70C, the date of issuance of the Hearing Examiner's
15 decision is three (3) days after it is mailed, counting to the next business day when the last
16 day for mailing falls on a weekend or holiday.

17 On March 26, 2021, a copy of this decision will be mailed by certified mail and by first
18 class mail to the Applicant, and by first class mail to other parties of record. The date of
19 issuance of the Hearing Examiner's decision is March 31, 2021.

20 **THE LAST DAY FOR APPEAL OF THIS DECISION TO SUPERIOR COURT BY
21 LAND USE PETITION IS APRIL 21ST, 2021.**

22 The complete record in this matter, including this decision, is on file during the
23 appeal period with the Office of the Hearing Examiner, Third Floor, Public Works Building,
24 1026 W. Broadway Avenue, Spokane, Washington, 99260-0245, (509) 477-7490. The file may
be inspected Monday through Friday of each week, except holidays, between the hours of
8:00 a.m. and 4:30 p.m. Copies of the documents in the record will be made available at the
cost set by Spokane County.

Pursuant to RCW 36.70B.130, affected property owners may request a change in
valuation for property tax purposes notwithstanding any program of revaluation.