IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR LINCOLN COUNTY

THE GLENROSE ASSOCIATION Petitioner, v. SPOKANE COUNTY AND SPOKANE YOUTH SPORTS ASSOCIATION Respondents.	NO. 21-2-00023-22 **THE GLENROSE ASSOCIATION'S OPENING BRIEF**

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I. INTRODUCTION

The Spokane Youth Sports Association ("Sports Association") seeks to develop and operate a regional sports complex in the rural Glenrose neighborhood. The complex would include six sports fields for soccer, baseball and other team sports. The fields would be lighted, allowing use during the evening. The complex is not a neighborhood park. The Sports Association states the complex will attract sports teams from throughout the county.

The complex will include 387 parking spaces, a food truck parking lot, a building with concessions and restrooms, a basketball court, a playground, a maintenance building, and trash enclosures. Primary access would be from two-lane, neighborhood streets, Glenrose Road and tiny 37th Avenue which would need to be widened. AR 243 (Q. 11), AR 254.[1]

The Glenrose neighborhood, including the proposed site and the surrounding properties are all designated as a Rural area in the county's Comprehensive Plan and zoned exclusively for rural use. A regional sports complex, operating day and night, is not an allowed use in this rural zone. But the county decided that the facility was allowed. The county's decision was in error. This appeal was brought to challenge

[1] "AR" refers to the administrative record filed with the Court on October 8, 2024. Page references are to the Bates numbers stamped at the bottom of each page (not the PDF numbers assigned by the PDF-reading software).

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the county's erroneous ruling.

II. SUMMARY OF ARGUMENT

This appeal primarily presents issues of law (the meaning of the code's definition of certain allowed and prohibited uses) and issues of applying the law (the words of the zoning code) to the facts of this case (the proposed sports complex). The county's construction of the code violates numerous rules of statutory construction and was a clearly erroneous application of the law to the facts. A summary of our principal arguments follows:

1. A code must be construed in accordance with the plain meaning of the words used. The county's zoning code specifies the uses allowed in any given zone by reference to use matrices. There is one use matrix for each zone. Each matrix lists various uses that are allowed, conditionally allowed, or prohibited in that zone. Importantly, uses not listed are prohibited, too. SCC 14.606.210.4.

One use that is allowed in some urban zones is "Participant Sports and Recreation (outdoor only)." This use also is allowed in other zones where more intense uses area allowed, like commercial zones and some industrial zones. Because of the intensity of this use (e.g., lights, traffic), it is not allowed in rural zones. This use is defined in the code and aptly describes the Sports Association's proposed use:

> **Participant sports and recreation (outdoor only):** Participant sports and recreation use in which the sport or recreation is conducted outside of an enclosed structure.

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> Examples include tennis courts, water slides, and driving ranges.

SCC 14.300.100.

Because the "Participant Sports and Recreation (outdoor only)" use is not allowed in the rural zones generally, it is not allowed in the specific rural zone at this site (the UR zone). The county erred in applying the plain language of the code to this proposal when it decided that the proposed six-field, lighted, sports complex is not a use encompassed by the "Participant Sports and Recreation (outdoor only)" category as defined in the zoning code.

2. The county decided that because "Participant Sports and Recreation (outdoor only)" is not listed in the use matrix for rural zones that it did not need to consider that use category in its analysis. That reasoning is contrary to the express language of the code. The code expressly provides two ways to prohibit a use. One, the use can be included in the matrix and expressly identified there as a prohibited use. Two, a use can be categorized as prohibited simply by being omitted from a given matrix: "All uses not specifically authorized by this Code are prohibited." SCC 14.606.210.4. The county recognized that rule, AR 92, but failed to apply it.

When the county ignored that omitted uses are prohibited uses, the county allowed an omitted, prohibited use (a regional sports complex) to sneak back in as a permitted use on the basis that it "resembles" some other permitted use. When uses are

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expressly defined in the code and prohibited in a given district (explicitly or my omission), those uses cannot be allowed in that district on grounds that they "resemble" a permitted use.

The county's failure to apply that rule was a clearly erroneous application of the law to the facts or a simple error of law. By failing to apply that rule, the county erroneously ignored the prohibition on "Participant Sports and Recreation (outdoor only)" in the rural zones and permitted the project to proceed.

3. When determining the plain meaning of a code, the Court should also consider the language in the context of the whole code and related laws. Unlikely and absurd results are to be avoided. The county's rationale for ignoring the "Participant Sports and Recreation (outdoor only)" use was that it was not expressly prohibited in the matrix. That rationale applied in other contexts would generate highly unlikely results.

For instance, the only multi-family projects allowed in the rural zones are two-unit duplexes; larger multi-family developments are not allowed. But the prohibition on larger multi-family projects is not accomplished by affirmatively listing larger multi-family uses as a prohibited use. They are prohibited because they are not listed in the rural use matrix. SCC 14.606.210.4. Yet according to the county's logic, even though larger multi-family uses are not allowed in the rural zone, a multi-family development slightly larger than a two-unit duplex (*e.g.*, 3, 5 or 10 units) would be allowed because

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in the absence of an express reference, the county must determine whether it resembles a use that is listed. Employing that analysis, because a small multi-family project "resembles" a 2-unit project, small multi-family projects would be allowed in the rural zones.

It is inconceivable that the drafters of the code which expressly limits multi-family projects in the rural zones to two-unit duplexes intended that to open the door for 3-, 5- or 10-unit projects because the somewhat larger project "resembles" the smaller, 2-unit project. Yet that is the necessary outcome of the county's reasoning here.

The duplex/multi-family scenario is not the only improbable result stemming from the county's position. As another example, if the county were correct that a major sports complex is an allowed use in the rural zones, then it is allowed not only in the UR zone (the specific rural zone that includes the Glenrose neighborhood), but all other rural zones, too, including the Rural Conservation zone. Yet allowing a sports complex in the Rural Conservation zone is unthinkable. The Rural Conservation zone applies to "environmentally sensitive areas, including critical areas and wildlife corridors." SCC 14.618.100. Low-impact uses are encouraged. *Id.* If the county's construction were correct, then a large, urban-scale lighted multi-field sports complex would be an allowed use in the Rural Conservation zone. It is inconceivable that the authors of the code intended that, yet that is the necessary consequence of the county's decision. The

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county's decision must be rejected because it leads to unreasonable outcomes like these.

4. Because the plain meaning of a code is to be determined also by reference to other related laws, consideration should be given to the goals of the county's Comprehensive Land Use Plan. The Comprehensive Plan seeks to protect the traditional rural way of life in rural areas, including typical rural recreational and open space uses. The proposal would introduce an urban-scale sports complex with nighttime lighting in a rural area. The project would be incompatible with the rural uses in the area and inconsistent with the Comprehensive Plan's goals and policies to nurture and protect traditional rural uses.

5. The code provides that if a proposed use is not expressly addressed *anywhere* in the matrices, then the county is to determine whether it "resembles" any of the uses listed "in the matrices." SCC 14.604.300.2. If so, the use is treated as the use in the matrices that it resembles. If the proposed use resembles more than one use described in the matrices, the county is to determine the one it "most nearly resembles." *Id.* But because the sports complex clearly fits within the definition of a "Participant Sports and Recreation (outdoor only)," there was no need to employ the "most nearly resembles" analysis.

6. Even if the "most nearly resembles" analysis were employed, it still should result in precluding this urban-style sports complex in the rural area. If that test

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were employed, the county should have decided whether the proposal most nearly resembles the "Participant Sports and Recreation (outdoor only)" use or the "Community Recreational Use." But the county did not compare those two uses. Instead, it omitted the "Participant Sports and Recreation (outdoor only)" from its "most nearly resembles" analysis. With one of the two prime contenders for the "most clearly resembles" determination omitted from the analysis, the county readily—and wrongly—concluded that the proposal most nearly resembles the Community Recreational Facility use (a use allowed in rural zones). It is as if the fans showed up to watch the Super Bowl, only to find that one of the two finalists was not allowed to compete.

The county explained its rationale for omitting the "Participant Sports and Recreation (outdoor only)" use from its analysis. That rationale was based on an obvious misreading of the law. The county reasoned that because the "Participant Sports and Recreation (outdoor only)" use is not included in the matrix for the rural zoning districts, it should not be included in the analysis. But the code instructs that the "most nearly resembles" analysis is not limited to uses listed in the rural matrix or any other single matrix. Rather, the code unambiguously states that the county is to consider uses in zoning code's "matrices" (plural). SCC 14.604.300.2. Therefore, the absence of the "Participant Sports and Recreation (outdoor only)" use in the rural zone matrix did not mean that the "Participant Sports and Recreation (outdoor only)" category should

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have been ignored in the "most nearly resembles" analysis; it should have been included. But the county ignored that use in its analysis—and erred by doing so. Omitting the "Participant Sports and Recreation (outdoor only)" use from the analysis was a clear error of law and a clearly erroneous application of the code to the facts of this case.

7. Other errors infect the county's use of the "most nearly resembles" analysis. That analysis is to be done "in terms of intensity and character." SCC 14.604.300(2). A region-wide sports complex has a distinctly different intensity and character than a neighborhood park. The "Community Recreational Facility" term is for low-intensity, recreational activities (like playgrounds and picnic areas) in a neighborhood context. In the words of the code, a "Community Recreational Facility" is limited to facilities that provide recreational opportunities for people "within the area in which it is located." SCC 14.300.100. The county's records indicate that only small neighborhood parks have been permitted as a "Community Recreational Facility" use. AR 7, 120. The County uses the term "community park" to refer to parks with a 1- to 3-mile service area. AR 119 (quoting Spokane County Parks, Recreation and Open Space Plan at 18).

The county circumvented the neighborhood character of the "Community Recreational Facility" use category by construing the "area in which it is located" to include all of Spokane County. AR 20, 34, 101. The county undercut both the plain

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meaning of the code and the intent of the code by applying the "Community Recreational Facility" use to a multi-field, lighted sports complex serving the entire county day and night.

8. The county's rationale also ignores that a "Community Recreational Facility" is categorized in the zoning code as an "institutional" use. To support its claim that the regional sports complex would be an "institutional" use, the Sports Association asserted that the sports complex would be "accessible to or shared by all members of the community." But the proposed sport field complex will be used primarily by the Sport Association's members and for their tournaments. At most times, it will not be available to the community.

Indeed, the Sports Association expects so little use by the surrounding community that its traffic analysis states there will be little demand for pedestrian facilities. It is not a neighborhood recreation facility. It would primarily be a private facility for the club and its members. The county failed to consider all of the evidence of the intended use of the proposed sports complex and erred in concluding that the proposed sports field complex resembles a "Community Recreation Facility" as that term is used in the zoning ordinance.

9. The county erred in reasoning that because the County allows public parks in rural areas that the County Commissioners intended to allow private sports complexes in rural areas, too. The zoning code and the related Comprehensive Plan

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distinguish between public parks and private facilities. The county erred in conflating the two.

III. FACTS AND PROCEDURAL HISTORY

A. The Rural Glenrose Community

1. The Comprehensive Plan Designates the Glenrose Community as Rural.

The Glenrose community is located generally east of Havana Street, west of Dishman Hills and south of the city of Spokane Valley. The neighborhood at issue is designated as "Rural" in the Spokane County Comprehensive Plan. AR 80, 164. It lies outside the designated "urban growth area." State law prohibits urban growth outside of the designated urban growth area. RCW 36.70A.110(1) ("growth can occur [outside of designated urban areas] only if it is not urban in nature").

Exclusion of this neighborhood from the designated urban growth area was the result of the settlement of a lawsuit between The Glenrose Association (and others) and Spokane County. *See* Spokane Cy. Comp. Plan, App. J (Spok. Cy. Res. 2016-0464 Settlement Agreement).[2]

2. The Zoning Classification is a Rural Zone (UR)

The property at issue and the surrounding neighborhood are zoned "Urban

[2] The Spokane County Comprehensive Plan is accessible at: https://www.spokanecounty.org/DocumentCenter/View/52538/Comp-Plan-2023-Printing?bidId=.

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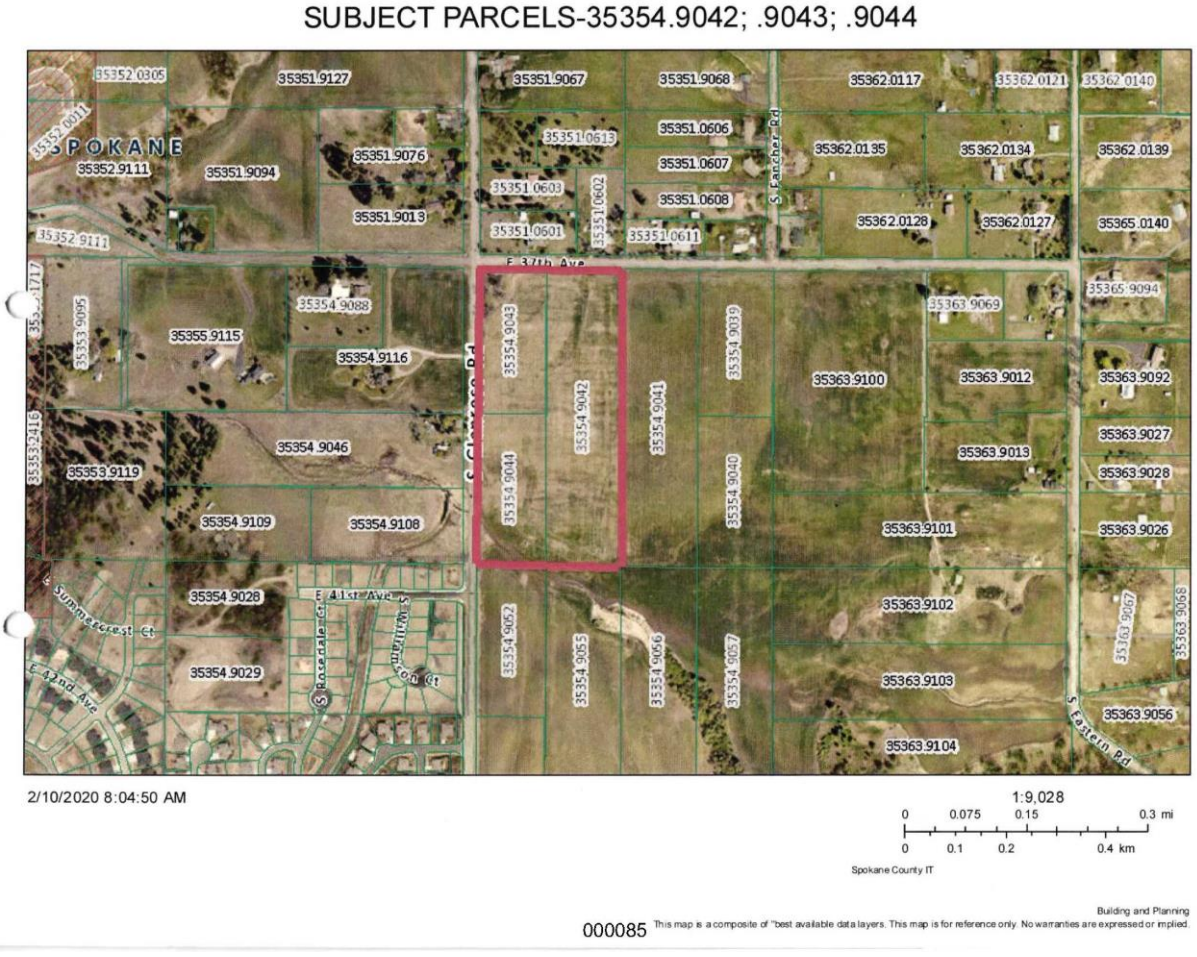
Reserve." Despite the word "urban" in the name of this zone, the Urban Reserve zone is a rural zone. SCC 14.618.100. It is used to designate rural areas that sometime in the "long term" may be urbanized. *Id.* But currently, land uses are limited to rural uses. *Id.*

B. The Proposed Sports Complex

The proposed sports complex would be in the heart of the Glenrose rural residential neighborhood. The neighborhood is characterized by large lots, scattered residences, and open fields:



AR 85.

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The sports field complex would include six baseball and soccer fields, along with storage buildings, restrooms, concession stands and bleachers. Large lighting arrays towering above the fields would make the fields available for use day and night. The Sports Association has acknowledged both the size of the facility and the large number of hours that it would be in operation throughout the year, during the day and after dark:

> "4 youth baseball fields, 2 multi-sports fields, with lights, basketball court, storage facilities, restrooms and ADA walking path."
>
> "Scoreboards, Spectator seating."
>
> "The Zakheim Youth Sports Complex turfed multi-use field would be used year-round and the only synthetic turf field on the south hill. During spring, fall, and winter months the field would be used 46.5 hours per week for 39 weeks, 1,813.5 hours. In the summer the field will be used 84 hours per week for 13 weeks, 1,092 hours for a total of 2,905.5 hours of playing time."

AR 122, 123.

The facility is not intended to serve the Glenrose community. The primary users will be sports clubs from around the region and perhaps the state. According to the Sports Association, users will include:

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- Washington East Soccer Club;
- Spokane Shadow Soccer Club;
- Washington Surf Soccer Club;
- Inland Empire Youth Soccer Association;
- Adult Soccer;
- Spokane Youth Lacrosse;
- Pop Warner Football;
- Adult flag Football;
- Rugby;
- Little league. Spring, summer and fall leagues;
- Spokane Indians Youth baseball. Spring, summer and fall leagues; and
- Legion Baseball summer league.

AR 153.

The Association expects so little use by the surrounding community that its traffic analysis states there will be little demand for pedestrian facilities. AR 116. Rather, it is intended to attract sports teams from the entire region:

> We expect that many teams from the entire Spokane community will travel as far as 20 miles from outlining areas including the Northside, Mead, Deer Park, Spokane Valley and Airway Heights to utilize the fields for tournament play, as well as turfed playing time during the winter months.

AR 128.

According to the Sports Association, the sports field complex will draw people from so far away that overnight accommodations will be necessary. AR 125. The association estimates that the sports complex will have a service area of at least 60,000 people. AR 128.

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C. Procedural History

On July 9, 2019, The Glenrose Association requested an Administrative Interpretation as to whether the proposed sports field complex is an allowed use in the Glenrose neighborhood. (Administrative interpretations are akin to a judicial declaratory judgment and are authorized by SCC 14.504.200.)

Initially, the planning director refused to provide a ruling, AR 142 – 43, but a superior court ordered him to do so. AR 79, 156 - 159.

On August 25, 2020, in response to the court order, the planning director issued an administrative determination (Al-1-2020). AR 199 – 204. That is the administrative determination that forms the basis for this proceeding. For the Court's convenience, a copy of the director's administrative determination is attached as Appendix A to this brief.

The director decided that the proposed sports complex was an allowed use in the Urban Reserve zone. As noted earlier, while "Participant Sports and Recreation" uses are not allowed in the rural zones, "Community Recreational Facility" uses are allowed. The director reasoned that because "Community Recreational Facility" uses are limited to non-profits and "Participant Sports and Recreation" includes both for-profit and non-profits, that the sports complex should be classified as the former: "[N]otably absent from the definition of Participant sports and recreation (outdoor only) is the term 'non-profit.'" AR 93. This reasoning ignores that the project's non-profit status provides no

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useful distinction as non-profit projects are included in both the Participant Sports and Recreation" category and the "Community Recreational Facility" category.

The Glenrose Association appealed the director's decision to the county hearing examiner. The examiner affirmed the director's decision. AR 52 – 65. A copy of the examiner's denial of the appeal is attached as Appendix B to this brief. This appeal followed.

IV. ARGUMENT

A. Standard of Review

The Land Use Petition Act (LUPA) governs judicial review of land use decisions by counties and cities. It is like the Administrative Procedure Act (APA) which governs judicial review of decisions by state agencies.

LUPA sets forth the standards of review this Court must apply when reviewing a local land use decision. RCW 36.70C.130. Review is appellate review on the record created by the county. RCW 36.70C.120.

Questions of law are reviewed de novo. RCW 36.70C.130(1)(b). Deference may be given to a county's interpretation of its own code. But deference should not be equated with abandonment of judicial oversight. Case law makes clear that deference is not always due and never is absolute.

First, deference is not triggered *unless the local ordinance is ambiguous*. *Waste*

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Mgmt. of Seattle, Inc. v. Utilities & Transp. Comm'n, 123 Wn.2d 621, 628, 869 P.2d 1034 (1994).

Second, even if the local code is ambiguous, the municipality's construction of its code is entitled to some deference *only if* the municipality can demonstrate a history of construing the ambiguous term in a certain way. "One off" constructions receive no deference:

> But it is undisputed that we will never defer to ad hoc agency determinations adopted during the course of litigation on the very topic of that litigation. We will only consider deferring to an agency's "uniformly applied interpretation." *Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 815, 828 P.2d 549 (1992) (agency cannot "bootstrap a legal argument into the place of agency interpretation"); *Sleasman v. City of Lacey*, 159 Wn.2d 639, 646, 151 P.3d 990 (2007) (agency interpretation not given deference because "claimed definition was not part of a pattern of past enforcement, but a by-product of current litigation").

Alaska Airlines, Inc. v. Dep't of Labor & Indus., 1 Wn.3d 666, 683 - 684 (2023).

Given the lack of any evidence that the county has previously construed its code as it now intends, its construction developed in the context of this appeal should not receive any deference.

Third, even if the municipality can meet that standard, its construction receives some deference, but deference does not equal blind acceptance by the reviewing court. *Franklin Cy. Sheriff's Office v. Sellers*, 97 Wn.2d 317, 325–26 (1982), *cert. den.*, 459 U.S. 1106 (1983). The reviewing court retains the ultimate authority to interpret the

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law. *Id.*

Fourth, only pure issues of law potentially trigger deference. Where the issue posed is the application of law to the facts, review is under the "clearly erroneous" standard. RCW 36.70C.130(1)(c). A decision is clearly erroneous when the court is left with a definite and firm conviction that a mistake was committed even if some evidence supports the decision. *Norway Hill Preservation and Protection Ass'n v. King Cty Council*, 87 Wn.2d 267, 274 (1976). "[T]he court is expected to do more than merely determine whether there is substantial evidence to support an administrative or governmental decision. The entire record is opened to judicial scrutiny and the court is required to consider the public policy and environmental values of SEPA as well." *Sisley v. San Juan Cty*, 89 Wn.2d 78, 84 (1977).

Findings of fact are reviewed for "substantial evidence," requiring a sufficient quantum to persuade a fair-minded person of the truth or correctness of the finding. RCW 36.70C.130(1)(c); *Thornton Creek Legal Def. Fund v. City of Seattle*, 113 Wn. App. 34, 61 (2002).

B. The Use Tables in the Spokane County Zoning Code

While the Comprehensive Plan specifies that the uses allowed in the Glenrose neighborhood are to be "rural," it is left to the zoning code to flesh out the details: "Zone classifications are provided in sufficient number and diversity to permit an even greater

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breakdown of land uses and densities than depicted in the more generalized Comprehensive Plan." SCC 14.604.100.

But the allowed uses in the zoning code must be construed in a manner that is consistent with the Comprehensive Plan's rural designation: "The intent of zone classifications is to establish a framework whereby development will be carried out in a manner consistent with the use and density characteristics expressed for different areas in the Comprehensive Plan." *Id.*

To that end, each zone classification begins with an intent statement, identifying the "purpose to be accomplished by" that zone. *Id.* The statement of intent for the rural zones emphasizes protection of the "traditional rural landscape":

> The intent of the Rural Zones classifications is to provide for a traditional rural landscape including residential, agricultural and open space uses. Rural zones are applied to lands located outside the urban growth area and outside of designated agricultural, forest and mineral lands. Public services and utilities will be limited in these areas. Housing will be located on large parcels except for cluster development, which results in open space preservation. Small towns and unincorporated communities provide services for surrounding rural areas and the traveling public.

SCC 14.618.100.

Uses allowed with any given zoning district are specified in a use matrix. Separate matrices exist for urban residential zones (SCC 14.606.220), mixed use zones (SCC 14.608.220), commercial zones (SCC 14.612.220), industrial zones (SCC

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14.614.220), resource zones (SCC 14.616.220), rural zones (SCC 14.618.220) and mineral lands (SCC 14.620.210).

If a use is not listed in a matrix, it is prohibited: "All uses not specifically authorized by this Code are prohibited." SCC 14.606.210.4.

The code recognizes that a proposed use might not fall neatly within any of the uses specified in the matrices: "It is recognized that all possible uses and variations of uses that might arise cannot reasonably be listed or categorized." SCC 14.604.300.2. In that event, two options are provided. If the use resembles one of the defined uses, it shall be treated as that use. If the proposed use resembles more than one defined use, then the director is to classify it like the use it most nearly resembles:

> 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.

Id.

The "most nearly resembles" test focuses on the intensity and character of the use as well as consistency with the purpose of the code and the purpose of the individual zone. *Id.*

If a proposed use does not resemble any of the uses listed in the matrices, then another option applies—an amendment of the zoning code is required: "If a use does

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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." SCC 14.604.300.2.

C. The Uses Relevant to the Current Sports Complex Proposal

Two uses in the use matrices are relevant to the current dispute:

- The "Participant Sports and Recreation (outdoor only)" use.
- The "Community Recreational Facility" use.

The "Participant Sports and Recreation (outdoor only)" use is not an allowed use in the UR zone because it is not listed as an allowed use in the UR matrix. "All uses not specifically authorized by this Code are prohibited." SCC 14.606.210.4. The "Community Recreational Facility" use is an allowed use in the UR zone.

The code defines both of these uses:

> **Participant Sports and Recreation (outdoor only):** Participant sports and recreation use in which the sport or recreation is conducted outside of an enclosed structure. Examples include tennis courts, water slides, and driving ranges.
>
> **Community Recreational Facility**: Any public or private building, structure, or area which provides amusement, relaxation, or diversion from normal activities for persons within the area in which it is located and which is not operated for profit.

SCC 14.300.100.

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D. The Proposed Sports Complex Fits the Definition of a "Participant Sports and Recreation (Outdoor Only)" use.

The Court should determine as a matter of law that the proposed use is a use included in the "Participant Sports and Recreation (outdoor only)" use definition for two basic reasons. One, a reading of the plain language of the code supports that conclusion. There is no need for a "most clearly resembles" analysis.

Two, if the "most clearly resembles" analysis is used, the Court should determine (1) that the county erred in omitting the "Participant Sports and Recreation (outdoor only)" use from that analysis and, (2) once that use is included, the Court should conclude the proposed sports complex most nearly resembles the Participant Sports and Recreation (outdoor only)" use.

1. A Plain Reading of the Code Demonstrates that the Sports Complex falls within the Definition of "Participant Sports and Recreation (Outdoor Only)."

The same rules of statutory construction apply to the interpretation of municipal ordinances as to the interpretation of state statutes. *City of Seattle v. Green,* 51 Wn.2d 871, 874 (1958). Issues of statutory construction begin by discerning legislative intent from the plain meaning of the words used by the legislative body:

> We determine legislative intent by starting with the plain language of the statute, and we consider the meaning of that language in the context of the whole statute and related statutes. *Dep't of Ecology v. Campbell & Gwinn, LLC*, 146 Wn.2d 1, 11, 43 P.3d 4 (2002).

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Alaska Airlines, Inc. v. Dep't of Labor & Indus., supra, 1 Wn.3d at 675 (2023).

The proposed sports complex would use the property for sports. More specifically, the sports complex is primarily intended for use by organized baseball and soccer teams that are members of the Spokane Youth **Sports** Association. Because the use proposed is for "sports" teams by a "sports" association, the proposed use should be classified as a "Participant Sports and Recreation (outdoor only)" use. The plain language of the code, which uses the term "sports" both in its title and in the definition of that use, SCC § 14.300.100, requires that conclusion.

Other elements of the plain language of the code support that conclusion. The proposed sport field complex is for "participant" sports. Participant sports is precisely the use proposed by the Sports Association. The fields are not intended for use by anyone other than participant sports teams.

Oddly (and incorrectly), the county rationalized that focusing on the plain meaning of the words in the code was "too simplistic." AR 18. That ignores that the starting point for any statutory construction must be the words in the code. *Alaska Airlines, Inc. v. Dep't of Labor & Indus., supra*. The county glossed over that fundamental starting point in contravention of basic statutory construction rules. But ignoring the words of the code cannot make them go away for purposes of this judicial review. Those words have meaning. They direct a result by this Court at odds with the one reached by the county.

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In contrast to the references to "sports" in the "Participant Sports and Recreation" term and definition, the Community Recreational Facility term makes no reference to "sports" either in its title or in the definition of that use. *Id.* Courts have "consistently applied the rule that when two statutes are concurrent, the specific statute prevails over the general." *State v. Danforth*, 97 Wn.2d 255, 257 (1982). This rule applies in situations like this when one word has a very broad meaning which, in context, may not be the meaning intended by the legislative body. In that case, a second term that is more narrowly defined is used to provide reasonable boundaries to the first term:

> As is clearly apparent, the term 'structure' is quite broad in its application. It could, for example, apply equally to a building or an apple box. Since it is doubtful that the legislature intended the word 'structure' to have such broad application, we must resort to a second principle of statutory construction, *Noscitur a sociis*. This principle requires that more general terms in a statute or ordinance be interpreted in a manner consistent with and analogous to the more specific terms in the statute or ordinance.

State v. Roadhs, 71 Wn.2d 705, 708 (1967).

To similar effect, statutes relating to the same subject are to be read together so as to constitute a unified whole. *Waste Mgmt. of Seattle, Inc. v. Utils. & Transp. Comm'n*, 123 Wash.2d 621 (1994):

> Where possible, we will read statutes as complementary, rather than in conflict with each other. *Id.* To the extent there are apparent conflicts between statutes, courts generally

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> resolve such conflicts by giving "'preference to the more specific and more recently enacted statute.'" *Gorman v. Garlock, Inc.*, 155 Wash.2d 198, 210, 118 P.3d 311 (2005) (quoting *Tunstall v. Bergeson*, 141 Wash.2d 201, 211, 5 P.3d 691 (2000)).

Lenander v. Washington State Dep't of Ret. Sys., 186 Wn.2d 393, 412 (2016).

Because the sports complex clearly fits within the scope of the narrower "Participant Sports and Recreation" use—indeed, the exact word "sports" appears in both the proposed use and the code term and definition, and there is no reference to "sports" in the Community Recreational Facility term—the more specific "Participant Sports and Recreation" term and definition that expressly reference "sports" should apply. The county never considered that possibility because it wrongly dismissed a focus on the words as "too simplistic." AR 18.

While certainly sports are a form of recreation, the "Community Recreational Facility" term is worded and defined in a way that makes clear that not all recreation falls within its scope. Rather than including "sports" in the "Community Recreational Facility" title or definition, the code limits "recreation" with the modifier "community." That word is in the title and repeated in the definition. Per that definition, the word "community" refers to "the area within which it [the facility] is located." SCC 14.300.100. There is no similar geographic limitation on Participant Sports and Recreation uses. *Id.*

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The county's records indicate that only small neighborhood parks have been permitted as a "Community Recreational Facility" use. AR 211, 213. The County uses the term "community park" to refer to parks with a 1- to 3-mile service area. AR 119 (quoting Spokane County Parks, Recreation and Open Space Plan at 18).

As noted earlier, the sports complex is not intended to serve the Glenrose community. The facility is not a neighborhood park serving the Glenrose community. The Sports Association expects so little use by the surrounding community that its traffic analysis states there will be little demand for pedestrian facilities. AR 116. Rather, it is intended to attract sports teams from the entire region:

> We expect that many teams from the entire Spokane community will travel as far as 20 miles from outlining areas including the Northside, Mead, Deer Park, Spokane Valley and Airway Heights to utilize the fields for tournament play, as well as turfed playing time during the winter months.

AR 128.

The county should have construed the geographically unconstrained term "Participant Sports and Recreation (outdoor only)" to include large (parking for more than 300 cars) multi-field, lighted sports complexes. Upon doing so, the county should have given effect to its zoning code and determined that the proposed urban-scale use was not allowed in this rural zone.

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2. Construing "Participant Sports and Recreation (outdoor only)" to apply to a Regional Sports Complex is Consistent with the Stated Purpose of the Rural Zones.

The definitions in the code should be applied in a manner consistent with the expressly stated intent of the code. The stated intent of the rural zones is to provide an area generally free from more intense urban uses:

> Public services and utilities will be limited in these areas. Housing will be located on large parcels except for cluster development, which results in open space preservation. Small towns and unincorporated communities provide services for surrounding rural areas and the traveling public.

SCC 14.618.100.

Construing the code to allow an urban, regional sports complex in this rural area is inconsistent with the stated purpose of the rural zone. The county's construction of the code is contrary to the code's stated purpose and should be rejected.

3. The Plain Meaning Also is Evident from the Need to Avoid Unlikely Results when Construing the Code as a Whole.

A bedrock rule for construing a code is to assure that all the sections of the code work together:

> The primary goal of statutory construction is to carry out legislative intent." *Cockle v. Dep't of Labor & Indus.*, 142 Wash.2d 801, 807, 16 P.3d 583 (2001); *Cherry v. Municipality of Metro. Seattle*, 116 Wash.2d 794, 799, 808 P.2d 746 (1991). We derive that legislative intent primarily from the statute's language. *City of Bellevue v. E. Bellevue Cmty. Council*, 138 Wash.2d 937, 944, 983 P.2d 602 (1999).

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> In doing so, **we read the statute as a whole**. *Miller v. City of Tacoma,* 138 Wash.2d 318, 338, 979 P.2d 429 (1999) (Madsen, J., concurring/dissenting); *Clausing v. State*, 90 Wash.App. 863, 873, 955 P.2d 394 (1998). **We try to place the language in the context of the overall legislative scheme.**

Subcontractors & Suppliers Collection Servs. v. McConnachie, 106 Wn. App. 738, 741 (2001) (emphasis supplied).

Courts also must construe the statute as a whole in a manner that avoids unlikely or absurd results:

> On numerous occasions this court has indicated that a statute should be construed as a whole in order to ascertain legislative purpose, and thus avoid unlikely, strained or absurd consequences which could result from a literal reading. That the spirit or the purpose of legislation should prevail over the express but inept language is an ancient adage of the law.

Alderwood Water Dist. v. Pope & Talbot, Inc., 62 Wn.2d 319, 321 (1963).

The error in the county's conclusion is evident when these rules are applied. If the county were correct that it should ignore a use identified in one of the matrices (though not in the matrix for the zone at issue), "unlikely, strained, or absurd" results would occur.

For instance, two-unit duplexes are allowed in rural zones, but larger multi-family developments are not. SCC 14.618.220. But multi-family uses are not prohibited in the Rural matrix by the mechanism of listing them as a prohibited use; they are

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prohibited because they are not listed at all. *Id.* Yet, according to the county's logic, because multi-family developments are not explicitly listed as a prohibited use (but rather are prohibited by the device of not being listed in that matrix at all), a small multi-family development (*e.g.*, 3 to 10 units) would be allowed in the rural zones because it "most nearly resembles" a duplex.

Given the prohibition of urban uses in rural areas and the omission in the Rural matrix of an allowance for multi-family projects (other than duplexes), it is "unlikely" that the county intended to allow multi-family projects in the rural zones. Yet if the county's reasoning in this case were correct—that it should ignore uses prohibited by virtue of not being listed in a particular matrix—the county would be forced to allow various multi-family projects larger than a duplex in the rural zones. The Court should avoid adopting the county's rationale which leads to such unlikely results.

Another unlikely result stems from the code's allowance of Community Recreation Facility uses in all rural zones, including the Rural Conservation zone. It is one thing to allow small, neighborhood recreational facilities in this zone; it is quite another to allow a large, lighted sports field complex. The Rural Conservation zone applies to "environmentally sensitive areas, including critical areas and wildlife corridors." SCC 14.618.100. Low-impact uses are encouraged. *Id.* It makes sense that a small, community playground might be allowed in such a sensitive area. But if the county's construction were correct, then a large, urban-scale lighted sports complex

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would be an allowed use in the Rural Conservation zone, too. It is inconceivable that the authors of the code intended that result in environmentally sensitive areas zoned Rural Conservation, yet that is the necessary consequence of the county's decision.

Also, recall that the Participant Sports and Recreation (outdoor only)" is an allowed use only in zones that allow more intense uses (the urban zones, the commercial zones, and some industrial zones). It makes no sense to allow a high-intensity, regional sports complex in the rural zones—zones intended for less impact uses. Yet the county's reasoning leads to that improbable result, too.

In sum, when the code is considered as a whole, the county's rationale generates absurd results. This provides further support for the conclusion that the plain language of the code means that the "Participant Sports and Recreation (outdoor only)" term includes an urban-scale, lighted sports complex.

4. Because the meaning of "Participant Sports and Recreation (outdoor only)" is clear from the plain language of the code, resort to rules of statutory construction are not necessary.

Courts "apply the rules of statutory construction only if the statute is ambiguous, meaning that it is susceptible to more than one reasonable interpretation." *In re Lofton*, 142 Wn. App. 412, 415 (2008). Because the plain meaning of the words is not ambiguous, the court should construe them as such and need not consider the rules of statutory construction that apply when a law is ambiguous.

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Simply because two interpretations are possible does not mean that a code is ambiguous. "A statute is ambiguous if 'susceptible to two or more reasonable interpretations,' but 'a statute is not ambiguous merely because different interpretations are conceivable.'" *Matter of Det. of Ross*, 30 Wn. App. 2d 930, 935, *rev. den.*, 551 P.3d 436 (2024). Thus, the examiner erred when he stated that simply because a request for a code interpretation was filed, there must be ambiguity. AR 19. The foregoing analysis based on the plain language of the code and reading all parts of the code together demonstrates clearly that the Participant Sports and Recreation (outdoor only)" use is intended to apply to large, urban-scale sports complexes like the one at issue here.

5. Even if rules of statutory construction were applied, the result would be the same.

While delving into the rules of statutory construction is not appropriate for this unambiguous term, even if those rules were employed, the result would be the same. One rule is that an agency's past, consistent construction of a term can be employed to determine its meaning. *Cowiche Canyon Conservancy v. Bosley,* 118 Wn.2d 801, 815 (1992). Here, the county's historic use of the Community Recreation Facility term has been to approve small-scale neighborhood parks, not large, urban-scale sports complexes. AR 211, 213. That past construction of the term is consistent with limiting the term to neighborhood recreational uses.

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Another rule is that legislative history can be considered to discern the meaning of an ambiguous code. *State v. Wixon*, 29 Wn. App. 2d 675, 680 (2024). Zoning codes must be "consistent with and implement the comprehensive plan." RCW 36.70A.040(3)(d). Thus, the zoning code must be construed consistently with the Comprehensive Plan. SCC 14.604.100.

The Comprehensive Plan designates Glenrose as a Rural area. AR 164. That plan's Rural designation is used to protect the traditional rural way of life in rural areas, including typical rural recreational and open space uses. AR 56. The lighted, six-field sports complex would inject an urban-scale sports facility in this rural area. The project, including the traffic it would spawn, would be incompatible with the rural uses in the area and inconsistent with the Comprehensive Plan's goals and policies to nurture and protect traditional rural uses.

The county seems to have concluded that because Urban Reserve (UR) zoned lands may be developed with urban uses decades from now, it is appropriate to locate urban-scale recreational facilities there now. AR 14. Reserving land for future urban use is not the same as developing it with urban uses now. The county clearly erred in concluding that allowing an urban-scale recreational facility in the rural lands now is consistent with the Comprehensive Plan's objective of reserving these lands for urban uses decades from now.

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E. The County's Use of the "Most Nearly Resembles" Analysis was Both Unnecessary and Flawed.

The code provides that if a proposed use does not fit within any of the defined use categories, then the director is to determine whether it "resembles" one of the defined uses. If it resembles more than one, the director is to determine the one it "most nearly resembles." SCC 14.604.300.2.

The county used the "most nearly resembles" analysis to reach its conclusion that the proposed sports complex should be treated as a Community Recreational Facility, an allowed use in the rural zones. AR 17 – 19. This analysis suffered two defects. One, it was not appropriate to use the analysis and, two, even if it were employed, the county misapplied it.

1. The absence of "Participant Sports and Recreation" from the UR Matrix should not have triggered use of the "most nearly resembles" analysis.

The county's use of the "most nearly resembles" test was unnecessary and inappropriate. That test applies only if the proposed use does not fit within one of the defined uses. SCC 14.604.300.2. Because the proposed use fits the "Participant Sports and Recreation (outdoor only)" definition, it was unnecessary and improper to employ the "most nearly resembles" test.

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2. The County Misapplied the "Most Nearly Resembles" Test

Even if the "most nearly resembles" test were to be employed, it should have involved a comparison of the two uses in dispute: the "Participant Sports and Recreation (outdoor only)" use and the "Community Recreational Use." But shockingly, the county omitted the "Participant Sports and Recreational (outdoor only)" use from its analysis.

The county's most glaring error in its analysis of the "most nearly resembles" analysis is its statement that "[a]nalysis of the definition of 'Participant sports and recreation (outdoors only)' is unnecessary." AR 17. Based on this, the county omitted Participant Sports and Recreation (outdoor only)" from its "most nearly resembles" analysis. AR 17 – 19, 81, and 191 – 192. The county preordained the outcome by disqualifying the main contender from the comparison.

The county stated that it omitted "Participant Sports and Recreation (outdoor only" from the analysis because that use is prohibited in rural zones is not listed explicitly as a prohibited use in the rural zones matrix; rather it is prohibited by not being listed at all. AR 17. The county's decision to omit "Participant Sports and Recreation (outdoor use)" from the analysis is severely flawed.

The county's reasoning ignores the express code provision that the omission of a use from a matrix does not mean that use should be ignored; it means that the use is

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prohibited. SCC 14.606.210.4. Indeed, the director recognized this rule (though he failed to apply it):

> Neither category of *Participant sports and recreation* is a recognized use in the Rural Zones Matrix (Table 618-1) and, as specified in SCZC 14.618.210 "All uses not specifically authorized by this code are prohibited."

AR 92.

Thus, the omission of Participant Sports and Recreation from the UR matrix means that the Participant Sports and Recreation use is a prohibited use in the UR zone. The county should have conducted the "most nearly resembles" analysis by assessing whether the sports complex most nearly resembles the prohibited "Participant Sports and Recreation (outdoor only)" or the allowed "Community Recreational Facility." The county's rationale for excluding the "Participant Sports and Recreation Use (outdoor only)" use from the analysis was fundamentally and fatally flawed.

To repeat, the county stated: "Analysis of the definition of 'Participant sports and recreation (outdoors only)' is unnecessary." AR 17. The county was wrong. As the director stated (but ignored), "All uses not specifically authorized by this code are prohibited." AR 92 (quoting the code). This court cannot defer to the county's analysis when the county failed to analyze whether the sports complex meets the "Participant Sports and Recreation (outdoor only)" definition.

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The county's error here (application of the "most nearly resembles" test) is glaring because the "most nearly resembles" test makes explicit reference to uses listed "in the matrices" (plural), SCC 14.604.300.2.—not just the uses listed in the Rural zone matrix. Omission of the Participant Sports and Recreation use in the rural zones matrix (singular) does not mean that it need not be considered when deciding which use in "the matrices" (plural) "most nearly resembles" the proposed use. Rather, the code directs the inquiry to consider any use listed in any of the matrices:

> In that event, two options are provided. If the use resembles one or more uses specified **in the matrices**, then the director is to classify it like the use it most nearly resembles."

SCC 14.604.300.2 (emphasis supplied).

The Participant Sports and Recreation use is listed in several matrices. *See, e.g.*, SCC 14.606.220 (urban residential zones matrix); SCC 14.612.220 (commercial zones); SCC 14.614.220 (industrial zones). Because Participant Sports and Recreation appears "in the matrices," it had to be considered when the county determined which use the sports complex "most nearly resembles." The county committed a clear error of law in deciding it did not need to consider "Participant Sports and Recreation (outdoor only)" use in its "most nearly resembles" analysis.

V. CONCLUSION

An urban-scale sports complex, attracting participants from the entire region does not belong in the rural Glenrose community.

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The county incorrectly construed its code and incorrectly applied the code to the facts of this case. The county also lacked substantial evidence to support key factual findings regarding the use of the facility by the Glenrose community. The county's decision should be vacated and reversed.

Dated this 25th day of November, 2024.

Respectfully submitted,

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APPENDIX A

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

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

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

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

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).

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 14.504.200[1]. 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.

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

> Community Recreational Facility: Any public or private building, structure, or area which provides amusement, relaxation, or diversion from normal activities for persons within the area in which it is located and which is not operated for profit.
>
> and
>
> Participant sports and recreation (outdoor only): Participant sports and recreation use in which the sport or recreation is conducted outside of an enclosed structure. Examples include tennis courts, water slides, and driving ranges.
>
> SCZC 14.300.100

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

A. Administrative Classification Pursuant to SCZC 14.604.300:

Appellant asserts that the Director used the wrong standard in determining that the 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
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> 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.
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> 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

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

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.

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

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

When a proposed use is not specifically mentioned or about which there is any question, SCZC 14.604.300(2) requires the Director begin with an administrative classification of the proposed use. If not before the request for an Administrative Interpretation, when the request was made it put into question what listed use the proposed 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."
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> 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

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

B. Resemblance to Community Recreational Facility:

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

Appellant dives into a lengthy argument regarding its interpretation of the two uses as defined in the zoning code. Analysis of the definition of "Participant sports and recreation (outdoors only)" is unnecessary under SCZC 14.604.300(2) as discussed above. The matrix that identifies the permitted/nonpermitted uses within the Urban Reserve zone is found in SCZC 14.618.220 Rural Zones Matrix. A determination of whether the proposed sports fields complex is a permitted or nonpermitted use in the Urban Reserve zone is to be based upon a comparison of the proposed use with the identified uses in SCZC 14.618.220. SCZC 14.604.300(2). The use "Participant sports and recreation (outdoors only)" is not identified anywhere in the Rural Zones Matrix. The permitted uses in the Rural Zone Matrix, Urban 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

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

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

Next, Appellant challenges several of the terms in the definition of Community Recreational Facility as discussed herein below. Appellant asserts that the "community" intended to be served by the permitted use is "the area in which [the use] is located" or the immediate neighborhood surrounding the proposed use. Id., p.3. In support of its argument Appellant relies upon the Spokane County Parks, Recreation, and Open Space Plan (2014) reference to "community park" as having a service area of 1 to 3 miles, the definition of neighborhood in SCZC 14.300.100, and "other definitions and documents" that allegedly support a narrow definition of community. Request for Administrative Interpretation, dated July 9, 2019. The "other definitions and documents" referred to by Appellant are not cited in its request for Administrative Interpretation or in its briefing. Further the language in the Comprehensive Plan clearly differentiates between "neighborhood" and "community" indicating that the neighborhood is a smaller more distinct area. At page PO-4 of the Comprehensive Plan there is a clear distinction made between "property nearby", or as Appellant defines it – neighborhood, and the community[2].

Regarding the term "area" as used in the zoning code definition, Appellant asserts 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

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[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)

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

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

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

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

> "The court's fundamental objective in construing a statute is to ascertain and carry 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.
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> *Lake v. Woodcreek Homeowners Ass'n.*, supra, at 526.

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

deference to the Director's interpretation.

SCZC 14.300.100 defines "Community Recreational Facility" as

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

"Area in which it is located":

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

Appellant suggests that the term "area" means a "community" as appears in the title of the permitted use. Appellant suggests further that the "community" intended to be benefited by the permitted use is the Glenrose neighborhood. Merriam-Webster defines "community" as 1. A body of people living in the same place under the same laws, 2. Society at large, 3. Joint ownership, 4. Similarity, likeness (~of interests). Id. The dictionary definition seems to allow Appellant's definition of community, but clearly includes something much larger than merely the neighborhood. Under the dictionary definition, community could be interpreted to mean a group who share a common interest, such as youth sports, or soccer, or athletics. Giving the required deference to the Director's interpretation of the phrase, "area in which it is located" reasonably includes the area centered at the site of the 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.

"Recreation, Amusement, Relaxation, Diversion from Normal Activity":

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

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

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

Legislative Intent Regarding Community Recreational Facility:

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

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

The list of permitted/nonpermitted uses in the Rural Zones and Urban Reserve zone includes "Park, public (including caretaker's residence)" in the Institutional Uses section of 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.

14. *Food concession or snack vending machine facilities.*
15. *Merchandise sales areas.*
16. Natural and/or cultural resource preservation areas.
17. Fish and wildlife habitat management areas.
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.*
19. Winter recreation areas, including downhill, Nordic and cross-country skiing, snowmobiling and ice skating.

SCZC 14.300.100 (Emphasis added.)

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

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

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

Conclusion:

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

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

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

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

DATED this 25th day of March, 2021.

SPOKANE COUNTY HEARING EXAMINER

David W. Hubert, WSBA #16488

NOTICE OF FINAL DECISION AND NOTICE OF RIGHT TO APPEAL

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

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

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

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

The complete record in this matter, including this decision, is on file during the appeal period with the Office of the Hearing Examiner, Third Floor, Public Works Building, 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.

APPENDIX B

Spokane County
WASHINGTON

BUILDING & PLANNING DEPARTMENT
JOHN PEDERSON, DIRECTOR

August 25, 2020

David A. Bricklin
Bricklin & Newman
1424 Fourth Avenue, Suite 500
Seattle, WA 98101

RE: Request for Administrative Interpretation

Subject: File #AI-1-20; Request for an Administrative Interpretation pursuant to Section 14.504.200 (1) of the Spokane County Zoning Code to address the meaning, intent, and general application of the definitions of Community Recreational Facility and Participant sports and recreation (outdoor only) as they apply to Spokane Youth Sports Association (SYSA) proposed sports field complex in an Urban Reserve Zone (UR).

Authority: Spokane County engages in comprehensive land use planning under the Growth Management Act, Chapter 36.70A RCW (GMA). The County has adopted a Comprehensive Plan to guide land use planning and various land use controls to implement it. The Spokane County Zoning Code (SCZC) is such a development regulation or land use control used to implement the County's Comprehensive Plan (SCZC 14.100.102).

SCZC implements zoning consistent with Comprehensive Plan designations. Chapter 14.600 SCZC identifies Zone Classifications. The general nature of a "use" identified within zone classifications are summarized in zone matrix tables. The matrix tables list generic types of use recognized in the zone designation and identify whether the use is a permitted use (P), limited use (L), conditional use (CU), or not permitted use (N). Some matrix table also categorize group uses into categories such as residential uses, commercial uses, utilities/facilities, and institutional uses.

For all practical purposes, it is impossible to address all variations of uses listed or categorized in an applicable zone matrix. SCZC 14.604.300(2) provides that if the proposed use resembles identified uses in terms of intensity and character

and is consistent with the purpose, it shall be considered a permitted use. When required, it is the responsibility of the Director of the Building and Planning Department to make rulings or interpretations of zoning code text as to meaning, intent, and general applications of the Zoning Code, and its impact to development and use of land or structures (SCZC 14.504.200). The definition of "Director" in SCZC 14.300.100 allows the use of designees on his or her behalf.

The administrative interpretation requested asks for information on application definitions of two defined uses as they apply to the SYSA proposal.

Background: SYSA is registered with the Washington Secretary of State as a Public Benefit Corporation, maintaining a principal place of business in Spokane, WA. SYSA was initially formed in or about 1966, and is incorporated as a 501-C3 Nonprofit which provides sports activities to youth. SYSA has proposed construction of a multi-use sports field complex with artificial turf fields, off-street parking and lighting, storage areas, and portable restrooms on property it owns, identified as Parcel No's 35354.9043, .9042, and .9044 (the "subject property"). In 2019, SYSA applied for a 15,000-cubic yard grading permit for phase one of the proposed multi-use sport fields and associated parking area of the community recreational facility.

SYSA's proposal is the second multi-use community recreational facility proposed on the subject property. A previous property owner proposed development of a similar community recreational facility complex to provide youth baseball/football fields in 2008. In 2010, the County issued a grading permit for 50,000 cubic yards for the prior proposal but the proposed complex was abandoned prior to grading.

The subject property is located outside the Urban Growth Area (UGA) Boundary and is designated as Urban Reserve Area on the Comprehensive Plan Maps, and zoned Urban Reserve (UR) per the Spokane County Zoning Code. Classification of the subject property and surrounding area as UR indicates it is considered reserved for future development at urban densities and inclusion in the UGA in the 20 to 40-year planning period. The subject property and surrounding area was established UR January 15, 2002. Permitted uses in the UR zone are specified in SCZC Table 618-1 (Rural Zones Matrix) and include a Community Recreational Facility as a permitted use.

Spokane County
WASHINGTON

BUILDING & PLANNING DEPARTMENT
JOHN PEDERSON, DIRECTOR

Administrative Interpretation: It is not necessary to specifically define or deconstruct each word or term contained in a definition in Chapter 14.300 SCZC to render an administrative interpretation. The County recognizes or acknowledges not all possible variations of uses can reasonably be listed or categorized in an applicable zone matrix and provides that if the proposed use resembles identified uses in terms of intensity and character and is consistent with the purpose, it shall be considered a permitted use (SCZC 14.604.300(2)). Administrative interpretations require the Director to interpret as to meaning, intent, and general applications of the Zoning Code, and its impact to development and use of land or structures (SCZC 14.504.200).

The SCZC provides definitions of some terms under Chapter 14.300 SCZC. Also provided are zone matrix tables regarding uses and development standards within Rural zones Chapter 14.618 SCZC. The use matrix tables list generic types of uses for each zoning designation and whether it is designated as a permitted use (P), limited use (L), conditional use (CU), or not permitted use (N). Each matrix also lists uses into categories like residential uses, commercial uses, utilities/facilities, and institutional uses.

The SCZC recognizes *Community Recreational facility* in two zone matrixes, it is listed as a permitted use in the Institutional Uses section of both the Residential Zones Matrix (Table 606-1) and the Rural Zones Matrix (Table 618-1). A use designated as "P" (permitted) in a Zone Matrix is allowed if it complies with the zone's development standards.

Community Recreational Facility is defined in SCZC 14.300.100 as "*any public or private building, structure, or area which provides amusement, relaxation, or diversion from normal activities for persons within the area in which it is located and which is not operated for profit*".

The SCZC defines two types of *Participant sports and recreation* based on whether the use occurs within an enclosed structure. Under SCZC 14.300.100, *Participant sports and recreation (indoor only)* is defined as use in which the sport or recreation is conducted within an enclosed structure. Examples of "indoor only" uses include bowling alleys, roller and ice-skating rinks, dance halls, racquetball courts, physical fitness centers and gyms, and videogame parlors.

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JOHN PEDERSON, DIRECTOR

Whereas *Participant sports and recreation (outdoor only)* is defined as use in which the sport or recreation is conducted outside an enclosed structure. Examples involving "outdoor only" include tennis courts, water slides, and driving ranges.

The SCZC recognizes *Participant sports and recreation (indoor only)* and *Participant sports and recreation (outdoor only)* in three zone matrixes. The SCZC lists them in under the Commercial Uses section of the Residential Zones Matrix (Table 606-1), lists them in the Commercial Zones Matrix (Table 612-1), and lists them under the Commercial Business section of the Industrial Zones Matrix (Table 614-1). Whether the use is identified as permitted use (P), limited use (L), conditional use (CU), or not permitted use (N) varies. Neither category of *Participant sports and recreation* is a recognized use in the Rural Zones Matrix (Table 618-1) and, as specified in SCZC 14.618.210 "All uses not specifically authorized by this code are prohibited.

SCZC 14.300.100 defines *Commercial Use* as *Any activity carried out for pecuniary gain or loss.*

The Spokane County Comprehensive Plan, Chapter 3 – Rural Land Use addresses development of rural lands located outside the UGA. The Rural Residential Development section identifies goals and policies. Goal RL.1 is to "Provide for rural residential development consistent with traditional rural lifestyles and rural character.
Policy RL.1.4 identifies outdoor recreation and entertainment among the appropriate uses in rural zone.

The SYSA proposed multi-use sports field complex for youth provides both outdoor recreation and entertainment, appropriate uses in the rural area.

The above cited definitions and Zone Matrices clearly establishes, siting of commercial uses differ from siting of institutional uses. Siting of allowable uses based on criteria that includes whether pecuniary gain is involved, profit status is one factor that differentiates commercial uses those allowed as Participant sports and recreation involving pecuniary gain and institutional non-profit uses allowed as Community Recreational Facilities by not for profit entities.

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The definition of Community Recreational facility is specific and the use is allowed in any area that is zoned UR. The use may consist of any private or public building without limitation on size or scope, the use must be non-profit, and the use must provide for amusement, relaxation, or diversion from normal activities for persons within the area. For the SYSA proposal, the multi-use sports fields and accessory structures, off-street parking and restroom are provided as a source of diversion from normal activities, sports and sporting activity involving outdoor recreation which will be a source of amusement and a form of outdoor recreation. The SYSA proposal is consistent with the definition of a Community Recreational Facility.

The key terms in the definition of a Community Recreational Facility are the words "community", "recreation", "area" and "any". Per Webster's New Collegiate Dictionary, "any" equates to "one selected without restriction" "unmeasured, unmetered in amount, number or context" while "area" is defined as "a particular extent of space, or surface or one serving a special function" Community is defined as "an interacting population" "a body of persons or nations" or "society at large" Recreation is defined as "a means of or refreshment or diversion" Taken as a group in the context of a Community Recreational Facility, the above terms are clearly tied to the meaning of the definition to support the conclusion that sports fields operated by a non-profit corporation or entity like SYSA are consistent with the definition of a Community Recreational Facility.

As referenced above, allowable uses must comply with development standards that provide setbacks to property lines, maximum building height and lot coverage, landscaping standards, parking standards, signage and lighting standards, all of which must be complied with prior to issuing a building permit per Section 14.410.020. Development standards are designed in part to address any impacts of allowed uses.

In comparison, notably absent from the definition of Participant sports and recreation (outdoor only) is the term "non-profit" and the term "any" as it relates to a building structure or area. Outdoor sporting activities in this region include for profit driving ranges, for profit water slides, and indoor and outdoor tennis courts and associated facilities open to members for a fee.

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BUILDING & PLANNING DEPARTMENT
JOHN PEDERSON, DIRECTOR

In addition, Participant sports and recreation (indoor only) are not permitted in the UR zone and Participant sports and recreation (outdoor only) are listed as a Commercial Use that requires a Conditional Use Permit by Table 606-1 (Residential Zones Matrix) in Urban Residential Zones inside the Urban Growth Area where a full range of infrastructure is available and where urban densities are present to support the activity.

In summary, the proposal by SYSA for multi-use sports fields and accessory uses is consistent with the definition of a Community Recreational Facility as specified in Chapter 14.300 of the Spokane County Zoning Code and is an outright permitted use in the UR zone.

Appeal Rights: This correspondence is an Administrative Interpretation pursuant to Chapter 14.504.200 (1) of the Spokane County Zoning Code and may be appealed under the provisions of Section 14.502.060 Any person aggrieved by an administrative interpretation of the Zoning Code by the Department may make a written request for a public hearing before the Hearing Examiner to contest such decision. Such request shall contain reference to the specific decision or interpretation contested and shall be submitted to the Department of Building and Planning office no later than 14 calendar days from the date of the written decision. The appropriate appeal form and fee information may be obtained from the Department. Upon receipt of a complete application and appeal fee a public hearing will be scheduled.

Sincerely,

John Pederson

John Pederson
Director, Department of Building and Planning

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