

NOTICE OF APPEAL OF ACTION

The Glenrose Association			David A. Bricklin, Bricklin & Newman, LLP		
Appellant's Name			Appellant's Agent		
Address			Address		
City	State	Zip	City	State	Zip
()	()	509-475-2448	()	206-264-8600	()
Home Telephone		Work Telephone	Telephone		Fax

Type of appeal:☐ SEPA☐ Administrative
Decision☐ Compliance-Notice
of Violation☐ Land Use Action☐ Shorelines☐ Construction☐ Other**Subject of the appeal:**

(a) Proposed action for which review is sought <i>(a copy must be attached):</i>	
(b) The official who took the proposed action:	
(c) The location or proposed location of the subject of the action:	
(d) On what date and how you received notice of the action:	

Facts of the appeal:

The objections to the action must be factual or legal and must be specific. If you fail to state an objection here, you may be barred from raising it later in your appeal. **Attach additional sheets, if necessary.**

THIS FORM MUST BE RETURNED; APPEAL FEES MUST BE PAID, AND RECEIVED IN THIS OFFICE WITHIN 14 DAYS OF THE DATE OF THE DECISION OF THE ACTION OF THE DEPARTMENT THAT YOU ARE APPEALING. MAIL OR HAND-DELIVER TO:

SPOKANE COUNTY
DEPARTMENT OF BUILDING AND PLANNING
1026 W BROADWAY AVENUE
SPOKANE, WA 99260

Signature of Appellant or Appellant's Agent

Date Submitted

For department use only:

Accepted by: _____

Hearing body:☐ Hearing Examiner☐ Construction Review Board**Fees paid:**

\$ _____ Date: _____ Receipt #: _____

Appeal hearing:

Date

Time

Location

NOTICE OF APPEAL OF ACTION

INFORMATION SHEET

While we strive to make reasonable decisions in accordance with the regulations the County is required to enforce, there will be times where one party or another will be aggrieved by a staff decision and wish to pursue an appeal.

First and foremost, if you disagree with a staff decision, tell the staff person making the decision and explain your perspective. If you cannot resolve the issue, ask to discuss the matter with their supervisor. Many times equitable resolution can be reached at this level. If still not satisfied, you can move up the organizational structure and discuss the issue with section managers, assistant directors, or the director of the department. Resolving issues at any one of these levels is much more timely and less costly than pursuing formal appeals.

If these methods are unproductive, there are ordinances in place outlining formal appeal processes for administrative decisions. Formal variance and design deviation processes are also available which, depending upon the issues, can lend them towards rectifying concerns.

If in the end, however, you wish to pursue a formal appeal, we strongly recommend you seek legal advice and pay strict attention to any time frames within which an appeal may need to be filed, any required contents of that appeal, and any fees that may be associated with the filing. Please keep in mind that even a hearing body or appeals board is limited in what they can do. Generally, they cannot waive an ordinance requirement.

All appeal hearings will be conducted in facilities that are accessible to persons with physical disabilities.

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6 **SPOKANE COUNTY**
HEARING EXAMINER

7 **IN RE:**

8 ADMINISTRATIVE
9 INTERPRETATION

10 FILE #AI-1-20

THE GLENROSE ASSOCIATION
STATEMENT OF APPEAL

11
12 **I. INTRODUCTION**

13 This statement of appeal is submitted on behalf of the appellant, The Glenrose Association.
14 The subject of the appeal is Spokane County Planning Director's August 25, 2020 Administrative
15 Interpretation ("AI"), File #AI-1-20. A copy of the AI decision is attached hereto.
16

17 The AI determines that the proposed multi-sport athletic complex by Spokane Youth Spokane
18 Association ("SYSA") on approximately 19.4 acres of land located at the intersection of Glenrose
19 Road and 37th Avenue is an outright permitted use in the UR zone (the applicable zoning) because the
20 use is "consistent with" the definition of "Community Recreational Facility" as specified in the zoning
21 code.

22 The AI was issued in response to a request by The Glenrose Association seeking a
23 determination that the proposed use most nearly resembles the zoning code's category of "Participant
24 Sports and Recreation." Those uses are not an allowed use in the UR zone.
25

26 For the reasons set forth below and that will be presented in more detail at the hearing for this
matter, appellant requests the Hearing Examiner to rule that the AI is legally and factually erroneous

1 and determine that the proposed use does not most nearly resemble a “Community Recreational
2 Facility,” but rather most nearly resembles a “Participant Sports and Recreation” use and, therefore,
3 that the proposed use is not allowed in the UR zone..

4 **II. REASONS AND GROUND FOR APPEAL.**

5 The evidence and testimony presented at the hearing by Appellant will demonstrate the
6 following:
7

8 **A. The AI Employed the Wrong Standard, Failing to Assess which Zoning** 9 **Code Use “Most Nearly Resembles” the Proposed Unclassified Use.**

10 When a use is proposed that does not fit squarely within the various uses listed in the zoning
11 code use matrix, the administrator is required to determine which defined use “most nearly resembles”
12 the unclassified use. SCC 14.604.300(2). The AI failed to employ that standard. Instead, the AI utilized
13 a standard of whether the proposed use merely “resembles” an identified use. If the proper standard
14 of SCC 14.604.300(2) had been employed, the AI would have (and should have) concluded that the
15 proposed use “most nearly resembles” the code’s “Participant Sports and Recreation” use. Because
16 Participant Sports and Recreation are not allowed in the UR zone, the AI should have concluded that
17 the proposed use is not allowed at the proposed location.
18

19 **B. The Proposed Use Most Nearly Resembles Uses the Code Describes as** 20 **Participant and Sports Recreation.**

21 The Hearing Examiner should determine that the proposed use most nearly resembles the
22 Participant and Sports Recreation use for a variety of reasons.

23 1. The proposed use would use the property for sports, in particular, organized baseball
24 and soccer teams that are members of the SYSA. Because the use proposed is for “sport” teams, the
25 use most nearly resembles the Participant and Sports Recreation use, which uses the term “sport”
26 both in its title and in the definition of that use. SCC § 14.300.100. In contrast, the Community

1 Recreation Facility use makes no reference to “sport” either in its title or in the definition of that
2 use. *Id.*

3 2. The proposed use would draw SYSA sport teams from throughout Spokane County.¹
4
5 The Community Recreation Facility term includes an area limitation. Such uses are intended to
6 serve only the “community” *i.e.*, “the area within which it is located.” *Id.* There is no similar
7 geographic limitation on Participant Sports and Recreation uses. *Id.* Because the proposed use
8 serves the entire region, the proposed use more nearly resembles the geographically unconstrained
9 Participant Sports and Recreation term than it does the Community Recreational Facility term,
10 which is limited to a specific community area.

11 3. A Community Recreational Facility use must be available to the “persons within the
12 area in which it is located.” *Id.* That is, it is a *community* facility intended for everyone in the local
13 community. But the SYSA proposal is not intended to be used by the local community. It will be
14 available primarily to sports teams that sign up with SYSA for camps, clinics and
15 tournaments. Thus, the proposed use does not resemble the uses described by the Community
16 Recreational Facility term which are more freely open to the entire community. Instead, the
17 proposed use more nearly resembles the uses encompassed by the Participant Sports and Recreation
18 term, which includes no requirement that the use be readily available to everyone in the local
19 community.
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22 4. We also adopt by reference all reasons set forth in our request for the AI (Letter from
23 Bricklin & Newman to Pederson (July 9, 2019)).
24
25

26 ¹ SYSA has admitted that the facility will not be limited to serving the immediate area or community,
stating, “We expect that many teams from the entire Spokane community will travel as far as 20 miles from *outlying 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.” (Emphasis supplied.)

1 **C. The AI Overbroadly Defines and Misapplies the Term “Community.”**

2 The AI overbroadly defines and applies the term “community” to include “an interacting
3 population”, “a body of persons or nations,” or “society at large.” This is contrary to the zoning code,
4 which provides that a “community recreation facility” serves “persons within the area in which it is
5 located.” Other definitions and documents support a narrow definition of “community.”
6

7 **D. The AI Erroneously Concludes that the “Participant Sports and
8 Recreation” Use Applies Only to For-Profit Ventures.**

9 The AI erroneously suggests that a “Participant Sports and Recreation” use do not include not-
10 for-profit entities. However, nothing in the code’s definition of “Participant Sports and Recreation”
11 limits the term to either a for-profit or non-profit operation. The AI notes that the Community
12 Recreational Facility term is limited to non-profits. But that does not mean that Participant Sports and
13 Recreation uses only encompass for-profit operations. The Participant Sports and Recreation term
14 does not limit its reach to either for-profit or non-profit operations. Therefore, it includes both. The AI
15 was in error to conclude otherwise.
16

17 **E. The AI Erroneously Determines that the “Community Recreational
18 Facility” Is Applicable by Ignoring that the Term “Sport” Is Missing
19 from Its Title and Definition.**

20 The AI disregards that the term “sport” is missing from the title and definition of “Community
21 Recreational Facility.” As noted above, the term “sport” appears only in the definition of “Participant
22 sports and recreation (outdoor only).” The word “sport” is part of the term being defined. In contrast,
23 the term “sport” does not appear in the definition of “Community Recreational Facility” (nor is it part
24 of the term being defined). Even though we emphasized this distinction in our request for an AI, the
25 Director totally ignored it. But ignoring the term does not make it irrelevant. The AI’s erroneous
26 conclusion was based in part on it ignoring the applicable words of the code.

1 **F. The AI Erroneously Concluded that the Conclusion Reached in the AI**
2 **Was Supported by Comprehensive Plan Policies.**

3 The AI erroneously concludes that the AI was supported by the Comprehensive Plan. First,
4 AI cites RL.1. However, the AI fails to recognize that the traffic, noise, light, and other impacts of the
5 SYSA facility are inconsistent with the “traditional rural lifestyles and rural character” of the area as
6 called for by RL.1. and similar Comp Plan goals and policies.

7 Second, the AI finds that the SYSA facility provides “outdoor recreation” and is consistent
8 with RL.1.4. However, “outdoor recreation” as used in Spokane County planning documents generally
9 refers to hiking, biking, fishing, and other outdoor-oriented activities and not organized team sports,
10 such as those that will be offered at the SYSA facility.

11 The AI’s determination that a large sports complex is consistent with rural goals and policies
12 of the Comprehensive Plan is simply wrong. It may also be irrelevant.

13 **G. The AI Failed to Apply a Reasonable Definition of “Area” as that Term**
14 **is Used in the Code’s Definition of “Community Recreation Facility.”**

15 The AI utilizes a vague and amorphous definition of the term “area” to justify its decision. The
16 AI quotes one dictionary definition of “area” as “a particular extent of space, or surface or one serving
17 a special function.” That definition is meaningless in this context and contrary to the obvious intent of
18 the code, which provides that a “Community Recreation Facility” is intended to serve a small
19 geographic area, particularly “persons within the area in which it is located.” The AI’s interpretation
20 would provide no geographic limitation to use of a facility and is contrary to the intent and plain
21 language of the term.
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H. The AI Ignored that the Proposed Use Will Not Be Available to All Persons “in the Area” or the “Community,” but Only Those Who Are SYSA Members.

The AI ignores that the use of the SYSA facility will be primarily limited to SYSA members and organizations that otherwise lease the facility, not community members in the area, including:

- 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.

The AI failed to consider that the SYSA facility will not be generally available for activities by residents of the area or the community, as required by the zoning code.

III. CONCLUSION

As discussed above and as will be demonstrated on the hearing in this matter, the AI misinterprets and misapplies the law and facts as to the proposed SYSA facility to apply the “Community Recreation Facility” use. The law and the facts demonstrate that the proposed SYSA facility most nearly resembles and should be designated as “Participant Sports and Recreation.” Accordingly, appellant requests an order declaring that the AI is legally and factually erroneous; that “Community Recreational Facility” use is not applicable; that the “Participant Sports and Recreation” use most nearly resembles the proposed SYSA facility; and that, therefore, the proposed use is not allowed in the UR zone.

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DATED this 1st day of September 2020.

Respectfully submitted,

BRICKLIN & NEWMAN, LLP

By:



David A. Bricklin, WSBA No. 7583
Attorney for The Glenrose Association

ATTACHMENT



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



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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.



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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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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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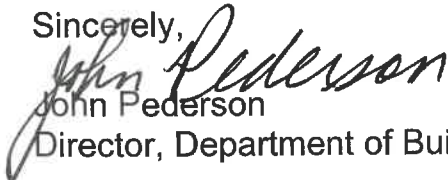
BUILDING & PLANNING DEPARTMENT
JOHN PEDERSON, DIRECTOR

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

Director, Department of Building and Planning