



September 5, 2019

TECHNICAL STAFF REPORT

Planning Board Meeting of September 19, 2019

Case No./Petitioner: ZRA-189 – David Yungmann

Request: Amend Section 131.0.O.1.b. to eliminate the 75-foot setback between properties under common ownership and to allow the Hearing Authority to reduce the 75-foot setback to no less than 25 feet if the use is screened from neighboring properties by landscaping and a fence/wall.

I. BACKGROUND AND HISTORY OF EXISTING ZONING REGULATIONS

In 2016, Council Bill 60-2016/ZRA-165 added *Athletic Facilities, Commercial*, as a Conditional Use in RC and RR zoning districts as shown below:

Athletic Facilities, Commercial

A Conditional Use may be granted in the RC and RR districts for an indoor commercial athletic facility provided that:

- a. A Conditional Use is not required for facilities that are reserved for use by residents of a community and their guests and are located within neighborhoods or communities where all properties are subject to recorded covenants and liens that provide for the operation and maintenance of the facilities.
- b. Buildings and parking uses shall be at least 75 feet from a residential lot or parcel.
- c. Reasonable standards for hours of operation shall be proposed by the petitioner and approved by the Hearing Authority.
- d. Outdoor uses, except parking uses and any outdoor lighting, shall not be permitted unless approved under the athletic facilities, outdoor Conditional Use category.
- e. The land area used for the Conditional Use shall not be subject to an ALPP purchased or other dedicated easement.
- f. The minimum lot size shall be 3 acres.

II. DESCRIPTION AND EVALUATION OF PROPOSAL

This section contains the Department of Planning and Zoning (DPZ) technical evaluation of ZRA-189. The Petitioner's proposed amendment text is attached as Exhibit A, Petitioner's Proposed Text.

The Petitioner contends that commercial uses in the rural west require flexibility regarding setbacks due to the nature of rural development, which can consist of numerous residential, agricultural, and commercial buildings spread throughout a property. Pursuant to Sec. 131.0.D, variances may not be granted to the requirements of Sec. 131.0.N and O. However, the Hearing Authority may reduce setbacks where specifically identified in the Conditional Use criteria. Therefore, the Petitioner proposes the following amendments to add flexibility for Commercial Athletic Facilities in complying with the 75-foot Conditional Use setback.

Sec. 131.0.O.1.b.1

The Petitioner proposes to eliminate the 75-foot setback requirement between properties that on the date of Conditional Use approval are under common ownership.

DPZ does not recommend eliminating this requirement because a property could be sold or transferred before the Conditional Use is established. Consequently, a new owner may not be aware of the Conditional Use and its approved location on or near an intervening property line. Further, if the second proposed text amendment, described below, can provide setback relief it is unclear why additional relief is necessary.

Sec. 131.0.O.1.b.2

The Petitioner proposes to allow the Hearing Authority to reduce the 75-foot setback to no less than 25 feet if the use is screened from neighboring properties by landscaping and a fence/wall.

This amendment provides the Hearing Authority the discretion, with public input, to require an appropriate separation distance and screening to mitigate the potential impacts of the proposed use. This is consistent with other commercial Conditional Use categories permitted in RC/RR, such as Funeral Homes and Kennels, that allow the Hearing Authority to reduce setbacks. Therefore, DPZ supports the proposed amendment.

III. GENERAL PLAN

The Petitioner asserts that ZRA-189 is also in harmony with the Parks and Recreation section of Chapter 8, Public Facilities and Services of the PlanHoward 2030 General Plan. Although this section only focuses on public parks and recreation facilities, one policy addresses an overall need for more recreation options in the future.

Policy 8.13

“Enhance community recreational opportunities.”

The Petitioner states that amending the Zoning Regulations to allow non-public recreational facilities is in harmony with General Plan policies. In addition, the Petitioner notes that allowing non-public recreational facilities provides additional recreational opportunities at no cost to the County. DPZ concurs that the proposed ZRA is in harmony with the General Plan and will allow for additional recreational opportunities for county residents, specifically in rural areas.

IV. RECOMMENDATION

For the reasons noted above, the Department of Planning and Zoning recommends that the ZRA-189 be **APPROVED WITH MODIFCATIONS**, as described above and drafted in Exhibit B.

Approved by:


Valdis Kazdins, Director

9/5/19

Date

NOTE: The file is available for public review at the Department of Planning and Zoning Public Information Counter.

Exhibit A

Petitioner's Proposed Text

131.0.O.1.b.

[[Buildings]] (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SECTION, BUILDINGS and parking uses shall be at least 75 feet from a residential lot or parcel NOT HELD IN COMMON OWNERSHIP WITH OR OTHERWISE HELD BY AN ENTITY THAT IS OWNED BY THE PETITIONER FOR THE CONDITIONAL USE ON THE DATE OF APPROVAL OF THE CONDITIONAL USE.

(2) THE HEARING AUTHORITY MAY REDUCE THE SETBACK SPECIFIED IN THIS SECTION TO NO LESS THAN 25 FEET IF THE PETITION INCLUDES DETAILED PLANS FOR SCREENING, CONSISTING OF A COMBINATION OF A SOLID FENCE OR WALL AND LANDSCAPING OR AN EQUIVALENT COMBINATION, THAT PRESENTS AN ATTRACTIVE AND EFFECTIVE VISUAL BUFFER FOR NEIGHBORING PROPERTIES.

How The Text Would Appear If Adopted As Proposed

O. New Conditional Use Categories

Completely new Conditional Use categories established after the effective date of the current Zoning Regulations are listed below along with the zoning districts in which the Conditional Use category is permitted and the specific criteria required for approval.

1. Athletic Facilities, Commercial

A Conditional Use may be granted in the RC and RR districts for an indoor commercial athletic facility provided that:

a. A Conditional Use is not required for facilities that are reserved for use by residents of a community and their guests and are located within neighborhoods or communities where all properties are subject to recorded covenants and liens that provide for the operation and maintenance of the facilities.

b. (1) Except as provided in paragraph (2) of this section, buildings and parking uses shall be at least 75 feet from a residential lot or parcel not held in common ownership with or otherwise held by an entity that is owned by the petitioner for the conditional use on the date of approval of the conditional use.

(2) The Hearing Authority may reduce the setback specified in this section to no less than 25 feet if the petition includes detailed plans for screening, consisting of a combination of a solid fence or wall and landscaping or an equivalent combination, that presents an attractive and effective visual buffer for neighboring properties.

c. Reasonable standards for hours of operation shall be proposed by the petitioner and approved by the Hearing Authority.

d. Outdoor uses, except parking uses and any outdoor lighting, shall not be permitted unless approved under the athletic facilities, outdoor Conditional Use category.

e. The land area used for the Conditional Use shall not be subject to an ALPP purchased or other dedicated easement.

f. The minimum lot size shall be 3 acres.

Exhibit B

DPZ's Proposed Text

131.0.O.1.b.

[[Buildings]] (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SECTION, BUILDINGS and parking uses shall be at least 75 feet from a residential lot or parcel.

(2) THE HEARING AUTHORITY MAY REDUCE THE SETBACK SPECIFIED IN THIS SECTION TO NO LESS THAN 25 FEET IF THE PETITION INCLUDES DETAILED PLANS FOR SCREENING, CONSISTING OF A COMBINATION OF A SOLID FENCE OR WALL AND LANDSCAPING OR AN EQUIVALENT COMBINATION, THAT PRESENTS AN ATTRACTIVE AND EFFECTIVE VISUAL BUFFER FOR NEIGHBORING PROPERTIES.

How The Text Would Appear If Adopted As Proposed

O. New Conditional Use Categories

Completely new Conditional Use categories established after the effective date of the current Zoning Regulations are listed below along with the zoning districts in which the Conditional Use category is permitted and the specific criteria required for approval.

1. Athletic Facilities, Commercial

A Conditional Use may be granted in the RC and RR districts for an indoor commercial athletic facility provided that:

a. A Conditional Use is not required for facilities that are reserved for use by residents of a community and their guests and are located within neighborhoods or communities where all properties are subject to recorded covenants and liens that provide for the operation and maintenance of the facilities.

b. (1) Except as provided in paragraph (2) of this section, buildings and parking uses shall be at least 75 feet from a residential lot or parcel.

(2) The Hearing Authority may reduce the setback specified in this section to no less than 25 feet if the petition includes detailed plans for screening, consisting of a combination of a solid fence or wall and landscaping or an equivalent combination, that presents an attractive and effective visual buffer for neighboring properties.

c. Reasonable standards for hours of operation shall be proposed by the petitioner and approved by the Hearing Authority.

d. Outdoor uses, except parking uses and any outdoor lighting, shall not be permitted unless approved under the athletic facilities, outdoor Conditional Use category.

e. The land area used for the Conditional Use shall not be subject to an ALPP purchased or other dedicated easement.

f. The minimum lot size shall be 3 acres.