



July 7, 2016

## TECHNICAL STAFF REPORT

*Planning Board Meeting on July 21, 2016*

**Case No./Petitioner:**                    **ZRA-165 – Robert Haney**

**Request:**                    Amend Section 131.0.O – New Conditional Use Categories to establish a use category and specific criteria for Commercial Athletic Facilities in the RC and RR Districts.

### **I.        BACKGROUND**

The zoning regulations for commercial athletic and commercial recreation uses in residential districts have significantly evolved over time. The 1975 Zoning Regulations, contained a Special Exception use category for “Golf Driving Ranges, Public Swimming Pools, Baseball Batting Ranges, Miniature Golf Courses and Swim Clubs”, which could be granted in all zoning districts subject to “...reasonable standards for hours of operation and lighting standards” established for each use by the Board of Appeals.

In the 1985 Zoning Regulations this Special Exception use category became “Golf Driving Ranges, Swimming Pools for Public Use, Baseball Batting Ranges, Miniature Golf Courses and Swim Clubs which are Located Within Neighborhoods and Communities Where All Properties Are Not Included Within Recorded Covenants and Liens Which Provide for the Operation and Maintenance of the Facilities.” This Special Exception category could be granted in the R, R-ED, R-20, R-12, R-SC, R-SA-8, R-A-15 or R-MH Districts subject to the same criterion noted above.

The commercial recreation aspect of the use category ended in ZB 928R&M, the 1992 Comprehensive Zoning of Western Howard County. Subsequently, in the 1993 Zoning Regulations, the following Special Exception use category was established which excluded golf driving ranges, miniature golf courses and batting cages:

#### Athletic Facilities

Except where permitted as a matter of right, a special exception may be granted in the RC, RR, R-ED, R-20, R-12, R-SC, R-SA-8, R-A-15 or R-MH Districts for athletic fields, community swimming pools, commercial swimming pools, tennis clubs and similar uses (excluding golf driving ranges, miniature golf courses and batting cages) provided that:

- a.        A special exception shall not be required for facilities which are reserved for use by residents of a community and their guests, and which are located within neighborhoods and communities where all properties are included within recorded covenants and liens which provide for the operation and maintenance of the facilities.
- b.        Reasonable standards for hours of operation and lighting standards shall be proposed by the petitioner and established by the Board of Appeals for each use.

This new Athletic Facilities use category is noteworthy in context of the proposed ZRA-165 because indoor uses could have been permitted under the “similar uses” provision, even though the uses specifically listed were predominately outdoor uses.

The potential for any indoor commercial athletic facilities in the rural and residential zoning districts ended in 2001 with the approval of Zoning Regulation Amendment ZRA-30. Former Special Exception use categories became Conditional Use categories, some of which changed significantly. The Athletic Facilities use category became exclusively for outdoor facilities and the specific criteria for the use were expanded:

### **1. Athletic Facilities, Outdoor**

Except where permitted as a matter of right, a conditional use may be granted in the RC, RR, R-ED, R-20, R-12, R-SC, R-SA-8, R-A-15 or R-MH Districts for the following outdoor athletic facilities: athletic fields, community swimming pools, commercial swimming pools, and tennis courts, provided that:

- a. A conditional use shall not be required for facilities which are reserved for use by residents of a community and their guests, and which are located within neighborhoods or communities where all properties are included within recorded covenants and liens which provide for the operation and maintenance of the facilities.
- b. Other athletic or recreational uses accessory to these principal uses are permitted if approved by the Board of Appeals.
- c. Buildings, parking areas, and outdoor activity areas will be at least 50 feet from adjoining residentially-zoned properties other than public road right-of-ways. This buffer area shall not be available for athletic or recreational activities. The Board of Appeals may reduce this setback, if:
  - (1) The adjoining land is committed to an agricultural or environmental preservation easement or a long term institutional or open space use that provides an equivalent or better buffer for vicinal residential development; or
  - (2) 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 buffer for neighboring residential properties.
- d. Adequate landscaping or other acceptable forms of buffering will be provided to screen outdoor uses from residential properties.
- e. Reasonable standards for hours of operation and a detailed lighting plan shall be proposed by the petitioner and established by the Board of Appeals for each use.
- f. Outdoor sound amplification will be permitted only if it will not constitute a nuisance for residential properties in the vicinity. The petition must indicate the purposes of proposed amplification (such as announcing sports events, safety

announcements, or entertainment), hours of use and the maximum noise level at the property lines.

The 2013 Comprehensive Zoning Plan revised the Athletic Facilities, Outdoor Conditional Use category. Such revisions included: adding facilities for disk golf courses, ropes courses, and archery ranges, increasing the structure and use setback to 100 feet, prohibiting any reductions to this setback by the Hearing Authority, and requiring a lighting plan. See below for full text.

#### 6. **Athletic Facilities, Outdoor**

Except where permitted as a matter of right, a Conditional Use may be granted in the RC and RR Districts, on properties that are not ALPP purchased or dedicated easement properties, and in the R-ED, R-20, R-12, R-SC, R-SA-8, R-H-ED, R-A-15, R-APT or R-MH Districts for the following outdoor athletic facilities: athletic fields; swimming pools, community; swimming pools, commercial; tennis courts; disk golf courses; ropes courses; and archery ranges provided that:

- a. A Conditional Use shall not be required for facilities which are reserved for use by residents of a community and their guests, and which are located within neighborhoods or communities where all properties are included within recorded covenants and liens which provide for the operation and maintenance of the facilities.
- b. Other athletic or recreational uses accessory to these principal uses are permitted if approved by the Hearing Authority.
- c. Buildings, parking areas, and outdoor activity areas will be at least 100 feet from adjoining residentially-zoned properties other than public road right-of-ways. This buffer area shall not be available for athletic or recreational activities.
- d. Adequate landscaping or other acceptable forms of buffering will be provided to screen outdoor uses from residential properties.
- e. Reasonable standards for hours of operation and a detailed lighting plan in strict compliance with Section 134.0 shall be proposed by the petitioner and established by the Hearing Authority for each use. Based upon the scale of the facility, the Hearing Authority may also require a traffic study, a septic study, and/or a noise study.
- f. Outdoor sound amplification will be permitted only if the source of the sound is a minimum 200 feet from adjoining residential property lines and it will not constitute a nuisance for residential properties in the vicinity. The petition must indicate the purposes of proposed amplification (such as announcing sports events, safety announcements, or entertainment), hours of use and the maximum anticipated noise level at the property lines.

## II. **DESCRIPTION AND EVALUATION OF PROPOSAL**

The following section contains DPZ's technical evaluation of ZRA-165. The Petitioner's proposed amendment text is attached to this Technical Staff Report as Exhibit A (Petitioner's Proposed Text).

**SECTION 131.0: CONDITIONAL USES****Section 131.0.O.1 – Add new Conditional Use Category entitled Athletic Facilities, Commercial**

Staff recommends approval as proposed

The Petitioner proposes to add a new Conditional Use category for indoor Commercial Athletic Facilities in the RC and RR Districts. The Zoning Regulations define Commercial Athletic Facilities as “A commercial facility principally providing activities, services or training in sports or exercise related matters, including such uses as tennis centers, health centers, gyms, climbing centers, dance studios, weight training centers, martial arts centers, swimming pools and similar uses. Commercial athletic facility uses do not include commercial recreation facility uses as defined.” This definition does not differentiate between indoor and outdoor activities.

However, only outdoor athletic facilities are allowed in the RC and RR Districts as a conditional use. This Conditional Use category includes: athletic fields; swimming pools, community; swimming pools, commercial; tennis courts; disk golf courses; ropes courses; and archery ranges.

DPZ concurs that indoor athletic facilities should be permitted in the RC and RR Districts. Since outdoor athletic activities are already allowed, indoor activities should not have significantly more impact than those performed outdoors and more often will result in fewer noise and visual impacts. Additionally, this use will provide year round access to athletic opportunities for county residents. Therefore, DPZ recommends Commercial Athletic Facilities in the RC and RR Districts be permitted as a Conditional Use.

**Section 131.0.O.1.a – Add criterion exempting community-based athletic facilities.**

Staff recommends approval of this criterion as proposed.

The proposed criterion clarifies that athletic facilities that are reserved for use by residents in a community and their guests are not required to get Conditional Use approval. It is identical to the first criterion in the Athletic Facilities, Outdoor use category in Section 131.0.N.

DPZ recommends approval of this criterion to maintain consistency with outdoor athletic facilities and to exclude private athletic facilities within residential communities from obtaining Conditional Use approval.

**Section 131.0.O.1.b – Add criterion for setback requirement.**

Staff recommends approval of this criterion with revisions.

The Petitioner proposes a 75 foot building setback from adjoining residential properties. DPZ supports the additional building separation in order to limit the impact on adjoining residential properties.

Also, DPZ suggests using terminology consistent with the Zoning Regulations to describe residential properties. DPZ’s recommends revisions and evaluation can be found in Section V-DPZ RECOMMENDED REVISIONS.

**Section 131.0.O.1.c – Add criterion for establishing the hours of operation.**

Staff recommends approval of this criterion as proposed

The petitioner proposes to allow the Hearing Examiner to establish hours of operations. This is very similar to a criterion in the Athletic Facilities, Outdoor use category. DPZ recommends allowing flexibility in establishing hours of operations given the variety of recreation activities allowed under this use category and their varying scheduling demands.

**Section 131.0.O.1.d – Add criterion for prohibiting outdoor activities.**

Staff recommends approval of this criterion with a revision.

The petitioner proposes a criterion to prohibit outdoor activities. DPZ supports this prohibition of outdoor activities associated with this use, since this is addressed under the Athletic Facilities, Outdoor Conditional Use in Sec. 131.0.N.6. However, DPZ recommends revisions to maintain consistency with the Zoning Regulations and to clarify that outdoor uses are permitted under a separate Conditional Use category. The description and evaluation can be found in Section V-DPZ RECOMMENDED REVISIONS.

**Section 131.0.O.1.e – Add criterion for prohibiting the Conditional Use on ALPP purchased or dedicated easement properties.**

Staff recommends approval of this criterion as proposed.

The text for this proposed criterion is very similar to the text that is used in other existing Conditional Use categories that are not permitted on ALPP purchased or dedicated easement properties. DPZ recommends approval in order to maintain consistency.

**III. GENERAL PLAN**

The Petitioner asserts that ZRA-165 is 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, there are two policies that address an overall need for more recreation options in the future.

**Policy 8.12**

“Expand the County park system and recreational facilities.”

**Policy 8.13**

“Enhance community recreational opportunities.”

The Petitioner states that amending the Zoning Regulations to allow the potential for non-public recreational facilities would be in harmony with the General Plan policies. In addition, the Petitioner

notes that having non-public facilities will provide additional recreational opportunities at no cost to the County government. 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 the rural areas.

#### IV. AGENCY COMMENTS

Comments from the Bureau of Environmental Health are attached. The Department of Inspections, Licenses and Permits, the Department of Recreation and Parks, and the Department of Fire and Rescue Services had no comments on ZRA-165.

#### V. DPZ RECOMMENDED REVISIONS

##### **Section 131.0.O.1.b – Add criterion for setback requirement.**

In the 2013 Comprehensive Zoning Plan, the following definition was established to describe properties improved with a single family residence:

Residential Lot or Parcel: A lot or parcel improved with a single-family residence as the principal use.

It is recommended that this criterion be revised to incorporate this defined term.

DPZ also finds that the Petitioner's proposal does not include a setback requirement for parking. As noted above, the Athletic Facilities, Outdoor Conditional Use requires a setback for any parking areas. DPZ recommends that this criterion be revised accordingly.

##### **Section 131.0.O.1.d – Add criterion for prohibiting outdoor activities.**

It is recommended that the defined word "use" be utilized in this criterion rather than the word "activities":

Use:

- a. Any purpose for which a structure or a tract of land may be designed, arranged, intended, maintained or occupied; or
- b. Any activity, occupation, business or operation carried on, or intended to be carried on, in a structure, or on a tract of land; except that, wells, septic systems and storm water management systems are not considered uses for purposes of these Zoning Regulations.
- c. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.
- d. See Section 128.0.A for uses which are exempt from setback compliance.

The criterion should also include exceptions to this outdoor use prohibition for the parking uses and outdoor lighting. Additionally, DPZ recommends clarifying that this criterion does not preclude the approval of outdoor uses through the Athletic Facilities, Outdoor conditional use category.

**Recommended Addition – Add a Section 131.0.O.1.f. to establish a minimum lot size.**

F. THE MINIMUM LOT SIZE SHALL BE 3 ACRES.

Other Conditional Use categories allowed in the RC and RR Districts have a 3 acre minimum lot size, one example is private schools. Private schools often have indoor athletic/recreation facilities, and the land use intensity of an indoor commercial athletic facility would likely be similar to or even less than a school use because there would be no outdoor recreation uses.

**VI. RECOMMENDATION**

**APPROVAL WITH REVISIONS**

For the reasons noted above, the Department of Planning and Zoning recommends that ZRA-165 be **APPROVED** with the revisions in Exhibit B, DPZ's Recommended Text.

Approved by:

 7/7/16  
Valdis Lazdins, Director 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**

(CAPITALS indicate text to be added.)

Section 131.0.0

### **1. ATHLETIC FACILITIES, COMMERCIAL**

A CONDITIONAL USE MAY BE GRANTED IN THE RC AND RR DISTRICTS FOR A COMMERCIAL ATHLETIC FACILITY PROVIDED THAT:

- A. A CONDITIONAL USE SHALL NOT BE REQUIRED FOR FACILITIES WHICH ARE RESERVED FOR USE BY RESIDENTS OF A COMMUNITY AND THEIR GUESTS, AND WHICH ARE LOCATED WITHIN NEIGHBORHOODS OR COMMUNITIES WHERE ALL PROPERTIES ARE INCLUDED WITHIN RECORDED COVENANTS AND LIENS WHICH PROVIDE FOR THE OPERATION AND MAINTENANCE OF THE FACILITIES.
- B. IF ANY ADJOINING PROPERTIES ARE USED FOR A RESIDENCE, BUILDINGS WILL BE AT LEAST 75 FEET FROM SUCH PROPERTIES.
- C. REASONABLE STANDARDS FOR HOURS OF OPERATION SHALL BE PROPOSED BY THE PETITIONER AND APPROVED BY THE HEARING AUTHORITY.
- D. THERE SHALL BE NO OUTDOOR ACTIVITIES.
- E. THE LAND AREA USED FOR THE CONDITIONAL USE SHALL NOT BE SUBJECT TO AN ALPP PURCHASED OR OTHER DEDICATED EASEMENT.



## Exhibit B (DPZ's Recommended Text)

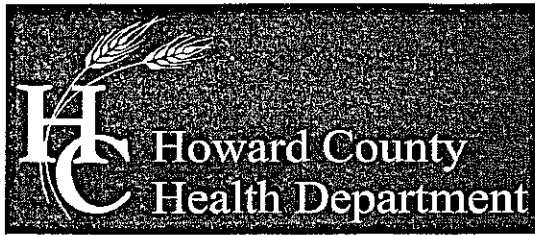
(Text in [[DOUBLE BRACKETS]] is deleted, UNDERLINED TEXT is added.)

Section 131.0.O

### 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. 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 ~~[[ACTIVITIES]]~~ 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.



**Bureau of Environmental Health**

8930 Stanford Boulevard, Columbia, MD 21045

Main: 410-313-2640 | Fax: 410-313-2648

TDD 410-313-2323 | Toll Free 1-866-313-6300

[www.hchealth.org](http://www.hchealth.org)

Facebook: [www.facebook.com/hocohealth](https://www.facebook.com/hocohealth)

Twitter: [HowardCoHealthDep](https://twitter.com/HowardCoHealthDep)

**Maura J. Rossman, M.D., Health Officer**

---

**MEMORANDUM**

TO: Bob LaLush  
Division of Zoning Administration and Public Service

FROM: Jeff Williams *JW*  
Program Supervisor, Well & Septic Program  
Bureau of Environmental Health

RE: ZRA-165

DATE: March 29, 2016

---

The Health Department has reviewed the above referenced petition and has the following comments.

- Any indoor recreation facility utilizing private wells and/or onsite sewage disposal must meet all Health Department and Maryland Department of the Environment requirements for design, installation, and use of those components.