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VIA IZIS

D.C. Board of Zoning Adjustment
441 4th Street, N.W.
Suite 200S
Washington, D.C. 20001

Re: **BZA Application No. 21510 -- Rock Creek Club ("Applicant")**
2325 Porter Street NW (Square 2224, Lots 4, 823, and 826) ("Property")

Opposition to Motion to Postpone Hearing from Joseph Sellers and Laurie Davis

Dear Chair Pourciau and Members of the Board:

On June 30, 2026, the Applicant submitted an application for special exception approval of a community center, pool, and tennis courts pursuant to Subtitle U § 203.1(d) and Subtitle X Chapter 9 ("**Application**"). The Board is scheduled to hold a public hearing to consider the Application on November 4, 2026. On behalf of the Applicant, we hereby oppose the motion to postpone the public hearing that was submitted on October 7 by counsel for Joseph Sellers and Laurie Davis for the following reasons:

(1) The Application was self-certified by the Applicant, through counsel, and so a Zoning Administrator certification that the use is a private community center is unnecessary for the Board to proceed to hear the Application.

(2) The record contains sufficient evidence to establish a plausible basis for the Board to conclude that the Applicant's use is a private community center.

(3) Postponement of the hearing prejudices the Applicant's right to be heard on a timely basis.

Details in support of each point follow below.

I. The Applicant has Self-Certified its Request for Special Exception Approval

The Applicant has relied on the self-certification requirements of the Zoning Regulations to bring forward the Application for review and decision at a schematic stage. The Zoning Regulations permit an applicant, through its architect or counsel, to self-certify a request for zoning approval. Subtitle Y § 300.6(b). The alternative requires a memorandum from the Zoning

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Administrator certifying the required zoning relief, based on a filed application for a building permit. The self-certification process is therefore an essential component of the zoning process because it allows applicants to seek approval of a use before preparing detailed permit plans, and it avoids requiring all requests for relief to burden the Zoning Administrator's staff.

Allowing a project opponent to delay a hearing based on their own request for a Zoning Administrator determination undermines the important role the self-certification process plays in advancing requests for special exception approval on an efficient basis. Furthermore, the Board has repeatedly concluded that it will proceed forward based on the relief sought in a self-certified application even when an opponent argues that different relief is required or the self-certification is somehow insufficient. See, e.g. BZA Application No. 16974 at 14. In such cases, the Board may deliberate on the requested relief upon finding a "plausible basis" that the self-certified relief sought by the applicant is appropriate. See BZA Application No. 18263-B at 10-12; BZA Application No. 19689-A at 816. That "plausible basis" is present here, as discussed in detail in **Section II**.

Proceeding forward with the Application is particularly appropriate as the special exception seeks to establish a proposed use. The Board's evaluation of a use established by special exception is "forward-looking" based on an applicant's proposed use of the property, and it is judged against the criteria applicable to the special exception at issue. Henderson v. D.C. Board of Zoning Adjustment, 352 A.3d 772, 778 (D.C. 2026). In this case, that means the Board considers the proposed elements of the Applicant's private community center use against the specific special criteria applicable under Subtitle U Section 203.1(d), such as whether the use is "organized exclusively for promotion of the social welfare of" or is "reasonably necessary or convenient to" the neighborhood it serves. The Board makes determinations on these criteria and, if the Applicant meets its burden, approves the use. Friends of the Field v. D.C. Board of Zoning Adjustment, 321 A.3d 673, 686 (D.C. 2024). For these reasons, the Board (rather than the Zoning Administrator) is in the best position to evaluate and ascertain the suitability of the proposed private community center at the Property within the context of the specific special exception criteria.

II. The Record Establishes a Plausible Basis for Concluding that the Proposed Use is a Private Community Center

The Application provides sufficient information to support the Applicant's request for approval as a private community center based on the plain language of the definition as set forth in the Zoning Regulations. The Zoning Regulations define a "private community center" as:

> *A building, park, playground, swimming pool, or athletic field operated by a local community organization or association.*

Subtitle B § 100.2 (definition of "community center, private"); see also Subtitle U § 203.1(d) (using the same phrase to describe the use first permitted by special exception in the R-1 zones).

The above definition does not expressly state what activities may take place in a building on the grounds of a private community center, but the definition of "public recreation and community center" provides further guidance on the range of activities that are expected in a community center and describes a range of health and wellness, cultural, and arts and crafts activities, and educational classes and services. Subtitle B § 100.2 (definition of "public recreation and community center"). This definition also provides additional guidance on the types of spaces that may be included within the building, including multi-purpose rooms, gymnasiums, meeting space, and catering kitchens with limited food storage and preparation areas. Id. The definitions of public and private community centers in the Zoning Regulations align with the definition of a "community center" in Webster's Unabridged Dictionary, which describes a community center as a "focal point of educational and recreational activities."[1]

The Zoning Regulations distinguish a "private" community center from a public one by virtue of its operation by a private community association rather than a public agency. Against this backdrop, the Board has previously approved a neighborhood pool and tennis club that was run by a local homeowners' association (BZA Application Nos. 14619, 14619-B, and 18718), and a "member-run" maker space for arts and education classes, clinics, and events operated by a nonprofit organization (BZA Application No. 21192). Counsel for the applicant in the latter case asserted the maker space met the definition of private community center because it was "space located in a building operated by a nonprofit organization for community use"[2]—a succinct description that also applies to the Applicant's proposed use in this Application.

Here, the Applicant's previously submitted materials already include sufficient detail to establish a plausible basis for concluding that the proposed use is a private community center. In the interest of providing "complete and consistent" description of the proposed use, the Applicant hereby provides the following comprehensive description of the activities that will take place at the proposed private community center, which aligns with the details shown on the plans submitted on October 5 and included in the record as Exhibits 21A (Updated Site Plan) and 21B (Updated Building Plans):

- The use is limited to recreational, educational, and social gathering activities consistent with the ordinary use of a community and recreation center, pool, and racquet courts.
- The pool includes a four-lane lap pool (requiring a modest enlargement of the existing pool) as well as the addition of a kids pool, hot tub & cold plunge.
- The racquet courts include two tennis courts (requiring the addition of a second court adjacent to the existing court) as well as two padel courts.

[1] *Merriam-Webster's Unabridged Dictionary*, Merriam-Webster, https://unabridged.merriam-webster.com/unabridged/community%20center. Accessed 12 Oct. 2026.
[2] BZA Application No 21192, Statement of the Applicant, Ex. 8 at 3. At the hearing, the organization was described as a "member-run" maker cooperative with a "limited number" of members. BZA Tr. Nov. 12 2024 at 188-190.

- The community center converts the existing residential building and environs to include the following spaces and activities:
    - Fitness facilities, including cardio, weights, locker room, and studio space.
    - Café/bar, serving coffee and beverages as well as prepared foods only.
    - Lounges, card room, and gathering spaces for socializing and informal play.
    - Dining room space for social gathering.
    - A catering / warming kitchen only with no commercial kitchen or equipment.
    - Outdoor spaces for social gathering and informal play.
- In addition to the above activities, a limited number of events consistent with the ordinary use of a neighborhood community center will be permitted as follows:
    - Special Events, which are anticipated to be primary gathering events such as holidays (e.g. Memorial Day, July 4, and Labor Day). They will be limited to no more than 6 per year.
    - Family Dinners, which are anticipated to be buffet-style dinners for families to gather together. The anticipated frequency is 1-2 times per week on Friday, Saturday, and/or Sunday. The maximum number of attendees will be limited to no more than 100 attendees.
    - Social Events such as birthday parties, baby showers, and so on to be held at the Property. Only one Social Event will be permitted at any given time, and they will not be permitted to overlap with Family Dinners or Special Events. The maximum number of attendees will be limited to no more than 49 attendees, with no more than 20 guests.
- The following activities will be prohibited:
    - No general sales to the public.
    - No Social Events larger than 49 attendees (i.e. no weddings).
    - No more than one Event at any time.
    - No commercial kitchen or facilities used to prepare and serve meals to large numbers of people on a regular basis.
    - No individual food deliveries (Doordash/UberEats) to the property.

Attached to this opposition filing as Exhibit A are updated proposed conditions of approval that incorporate the above restrictions on activities (as well as other refinements that were incorporated based on feedback received at the most recent ANC meeting on October 5).

These spaces and activities align squarely with the types of uses typically found at recreation and community centers. The table below compares the Applicant's proposed activities to the activities permitted in a public recreation and community center in the District of Columbia[3]

[3] The listed categories are drawn from Attachment A of DPR's Permit Handbook. Revised May 2024, available at https://dpr.dc.gov/sites/default/files/dc/sites/dpr/page_content/attachments/DPR%20Permit%20Handbook%20Revised%20May%202024_v2.pdf

and demonstrates that the Applicant's proposed activities are consistent with (or less burdensome than) public recreation and community centers, which are first permitted by-right in the R-1 Zone District.

PERMITTED ACTIVITIES AT RECREATIONAL FACILITIES, PARK SPACES, AND FACILTIES

	Public Recreation and Community Center	**Applicant's Private Community Center**
Pools	Allowed	Included
Tennis Court	Allowed	Included
Outdoor Gathering Space	Allowed	Included
Small Community Rooms (up to 49 people)	Allowed	Included (with Social Events limited to 49 people w/ limit of 20 guests)
Large Community Rooms (50 or more people)	Allowed	**Not allowed**
Special Events (50-99 people)	Allowed	**Limited to** Family Dinners, up to 100 people, 1-2x /week
Special Events (100+ people)	Allowed	**Limited to** Special Events, up to 6 / year
Market	Allowed	**Not allowed**

Based on the foregoing, the Applicant has demonstrated a "plausible basis" that it meets the private community center definition to allow the Application to proceed to a hearing. Further evaluation of other characteristics of the use, such as the characteristics of the neighborhood association and its relationship to the neighborhood that it serves, arise from the special exception criteria and are best evaluated by the Board as a part of the special exception.

III. Postponement Prejudices the Rights of the Applicant

The Applicant, an association formed by a number of District families, filed the Application promptly after the acquisition of the Property as a necessary first step to establish the proposed private community center use. Since that time, the Applicant has undertaken extensive engagement with neighbors, community representatives, and agency representatives to discuss the proposed use. The Applicant has made multiple meaningful revisions to the proposal based on this feedback, as summarized and reflected in the prehearing submission filed last week, and the Applicant continues this ongoing dialogue.

These responsive changes are precisely part of the evolution that occurs during the course of a special exception application. The Applicant seeks a timely hearing before the Board, which will provide a further opportunity for all parties to outline their concerns and for the Board to assess the merits of the Application. Delaying the public hearing adversely affects the Applicant because it deprives the Applicant—and the many families who support the Application—of their opportunity to be heard. Further, it delays the opportunity for the Board to evaluate the Application

and the arguments for and against satisfaction of the special exception criteria, which is what is relevant to determining whether the Applicant meets the requirements for establishing a private community center. Accordingly, the Applicant respectfully requests the Board move forward with the public hearing on November 4.

IV. Conclusion

We respectfully request that the Board deny the motion to postpone and look forward to presenting the Application to the Board at the November 4 public hearing. Please do not hesitate to contact the undersigned with any questions or comments regarding the information provided in this supplemental submission.

Sincerely,

/s/ David Avitabile

David Avitabile

Certificate of Service

The undersigned hereby certifies that copies of the foregoing documents were delivered by electronic mail to the following addresses on October 13, 2026.

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