

Office of Zoning & Administrative Hearings

Attn: Sara Behanna

100 Maryland Avenue, Room 200

Rockville, Maryland 20850

12/30/2024

OZAH Hearing Examiner:

Please accept this letter and attachments, and admit them into the record for supporting documents of the upcoming case on February 11, 2025 regarding Special Exception S-2385 for the Olney Boys & Girls Club LLC (Commonly known as OBGC).

According to previous arguments and statements made by OBGC during their Board of Appeals hearings, the purpose of this hearing is to codify fundraising activities in perpetuity at the property located at 4501 Olney Laytonsville Road, Olney, MD. This property is zoned AR and is encumbered by special exception as a conditional use, and a Transfer Development Rights (TDR) Easement which was established in September 2000. The conditional use currently allows for sporting events and related activities on the property.

For nine months out of the year, OBGC provides sports and athletic opportunities for youth in our community, generally within the confines of the conditional use approval granted by BOA/OZAH. From October to December every year, OBGC operates special events that include the Field of Screams (FOS) and the Winter City Lights (WCL). The Field of Screams has been an annual event for over 15 years and the Winter City Lights has just finished its third year, since it was established in 2022.

Event operations:

When operating the Field of Screams and Winter City Lights, OBGC regularly violates their conditional use provisions by operating after 10 PM, allowing more than 450 patrons at any given time, and parking on the sports fields throughout the property. It is estimated that nearly 2000 patrons visit the OBGC for the FOS and WCL each night they are in operation. All of these actions are in violation of special exception and have been noted as a violation of the Montgomery County Zoning Ordinance, as documented by the Department of Permitting Services (DPS).

In addition to documented violations of the zoning and development regulations within Montgomery county, OBGC has violated other county and state laws relating to their annual

**Exhibit 54
S-2385**

events. As a part of the FOS and WCL, OBGC has constructed over 20 structures within the wooded area at the northern part of the property. These structures were constructed and continually used in violation of chapter 8 of the Montgomery County code, in complete disregard for safe construction practices and ensuring the safety of their patrons. Due to the nature and use of these structures, their continued use violates provisions of the Montgomery County and state fire prevention codes.

Since April 2021, OBGC has been prohibited to operate the FOS due to an abatement order issued by the district court of Maryland of Montgomery County. Additionally, requests under the Maryland public information act have revealed that the Department of permitting services has issued additional violations and Uniform civil citations for OBGC's continued violation of county law.

The FOS and WCL events primarily take place at the northern end of the property, which is encumbered by a Category One Forest Conservation easement. The construction of the aforementioned 20+ structures in the woods was done so without the approval of MNCPPC. According to public record, OBGC has negotiated and carved out sections of the forest conservation easement for the *existing structures*.

OBGC currently has a building permit application with the department of permitting services, that was filed in February 2023. The stated scope of work for this project is to demolish the existing buildings and construct 27 new structures within the Category One Forest Conservation easement. The construction of 27 new structures within a Category One Forest Conservation easement, and a stream buffer should be a extremely concerning, given the regulatory attempts to safeguard environmental conservation on this property. As of the writing of this letter, Montgomery County DPS has denied this permit application.

OBGC " Fundraising":

OBGC will argue that the special exception should be modified to allow large scale fundraising activities in perpetuity. As previously, stated three months out of the year, the entire property is repurposed and dedicated to large scale special events which attract thousands of customers.

While OBGC is the property owner and the holder of the special exception, the FOS and WCL are special events that are entirely operated by a for-profit company named SHP CORP LLC. SHP CORP is operated by Daniel Dionisio, a founding member of the OBGC non-profit, which negotiated the special exception and TDR easement in 1999 AND 2000. Mr. Dionisio has previous testified to the Board of Appeals for regarding modifications to the special exception. His lack of transparency about the restrictions on the property and prohibited activities should be noted due to his company's continued violation of state and county laws, since he is personally aware of the restrictions for the property.

Furthermore, OBGC is often represented by Daniel Dionisio and Kevin McLaren when dealing with county government, talking to the neighbors, and testifying at hearings such as this. Mr. Dionisio & McLaren are in fact partners of SHP CORP LLC, who ensure the best outcome for their for-profit business. To that end, I would be curious how many SHP CORP partners will try to testify at February's hearing?

OBGC Misrepresenting "Fundraising"

OBGC will claim that fundraising events like FOS and WCL help the organization fund itself, however this statement also seems false and disingenuous. According to page 9/ Part VIII of the attached 2023 tax return for OBGC, their revenues are listed as:

Membership Dues	\$128,055
Fundraising Events	\$12,937
Government Grants	\$653,198
All other gifts	\$653,198
Sports Program Fees	\$1,375,241
Tournaments	\$765,317
Sports Camps	\$485,218
Gross Rents	\$202,000

Since the FOS and WCL attract thousands of customers each night at \$40 tickets per person, why does OBGC only report their annual Fundraising Revenue as \$12,937? The anticipated revenue for these large scale events would be assumed to be significantly higher than what is being reported on OBGC's IRS tax return. **One would wonder if OBGC is being truthful about the nature of their fundraising activities with the IRS or BOA/ OZAH, because both cannot be true.**

It is also worth noting that OBGC and SHP CORP LLC have never obtained permits from the DPS for Special Event permits (Temporary Commercial Uses, as per section 3.5.15 of the Zoning Ordinance) or Benefit Performance permits. The Benefit Performance permit assures that an event is run by bonafide non-profit and the proceeds of the event benefit that organization. Based upon OBGC's tax documents, it's clear that the proceeds from large scale "fundraising"

events like the Field of Screams and Winter City Lights do not directly benefit OBGC, therefore these activities remain a violation of the property's conditional use.

Conclusion:

I respectfully request OBGC's request for change to their Special Exception be denied. These large scale events have been permitted to go for years due to inaction by Montgomery County Government and OBGC's willful disregard for the law. These actions, or the lack thereof, should not be codified by OZAH to forever change the landscape of the Montgomery County Agricultural Reserve.

The purpose of the Zoning Ordinance is to protect property values and allowable uses. OBGC's Field of Screams or Winter City Lights do not support agriculture or the surrounding community, or their sports programming. Instead, they bring thousands of patrons to unsafe events that violate our land use, environmental conservation laws, and building safety standards. Codifying an approval of such "fundraising" events would leave a lasting negative impact on the Montgomery County Agricultural reserve, which generally prohibits commercial uses within an Agricultural Zone.

OZAH should not codify these activities since OBGC's willful disregard for state and county law goes beyond OZAH and its authority. OZAH should refer the matter to the appropriate regulatory agencies within Montgomery County Government.

Sincerely,

K. Baker

Laytonsville, MD

Attachments:

IRS Form 990, 2023 Return of Organization Exempt From Income Tax for OBGC

Transfer of Development Rights Easement, executed in September 2000

April 2021 Abatement Order issued to OBGC by the District Court of MD