

STAFF EVALUATION

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Case No.: Zoning Ordinance Amendment, ZOA24-0153
Planning Commission Date: April 18, 2024 **City Council Date:** May 22, 2024

General Information

<i>Description of Proposal</i>	The amendment proposes to amend section 3-2 of the zoning ordinance entitled, "Table of Uses Permitted" and section 3-3 entitled "Additional Standards on Uses" to permit "Private School" in the Light Manufacturing (M-2) and Heavy Manufacturing (M-3) Zoning Districts, subject to an approved Use Permit, and to add "Physical Recreational Facility" as a permitted use within the following districts: Neighborhood Commercial (C-1), Limited Commercial (C-2), General Commercial (C-3), Limited Manufacturing (M-1), Light Manufacturing (M-2), Langley Flight Approach Mixed Business and Manufacturing (LFA-2) Langley Flight Approach Limited Business I (LFA-4), Langley Flight Approach Limited Business II (LFA-6), Buckroe Bayfront Optional Mixed Use (BB-3), Buckroe Bayfront Required Mixed Use (BB-4), Buckroe Bayfront Special (BB-5), Hampton Roads Center South (HRC-1), Hampton Roads Center North (HRC-2), Langley Business Park (LBP), Downtown Business (DT-1), Downtown Waterfront (DT-2), Phoebus Urban Core (PH-1), Phoebus Town (PH-2), Phoebus Commercial Transition (PH-3), Fort Monroe Inner Fort (FM-1), Fort Monroe Historic Village (FM-2), Fort Monroe North Gate (FM-3), and Fort Monroe Wherry Quarter (FM-4) Zoning Districts, with additional standards related to the use regarding outdoor recreation areas.
<i>Relevant Existing Zoning Ordinance Sections</i>	<u>Sec. 2-2. – Definitions.</u> <i>Private school.</i> Any establishment operated for the educational and professional instruction of individuals that is not a public school as defined in this chapter, not including colleges or universities Sec. 3-2. – Table of Uses Permitted. ^ "Retail sales, general": uses of the same general character as antique shop, appliance store, art shop, bakery (retail), boating supply store, book store, clothing store, confectionery, convenience store, dairy products store, delicatessen, department store, drapery store, drug store, dry cleaning (collection or pick-up station), florist, furniture and floor coverings store, grocery store (including produce, meat, or seafood markets), hardware store, interior decorating store, Internet cafe, jewelry store, newsstand, office supply/stationery store, pet shop, photography studio, shoe store and repair, or variety store.
<i>Current Regulations</i>	In 2017, a set of zoning ordinance amendments (ZOA17-00006 and ZOA17-00007) were approved to better define "public school" and "private school", and to permit each use in multiple zoning districts. Currently, uses similar to a "physical recreational facility" are categorized as either <i>retail sales, general</i> , or as a <i>private school</i> in the event that general instruction or advancement is provided. For

example, any dance studio that is providing general dance lessons or dance tier advancement would be a private school and would therefore require an approved Use Permit from City Council.

Analysis

This proposed amendment seeks to amend section 3-2 of the zoning ordinance entitled, "Table of Uses Permitted" and section 3-3 entitled "Additional Standards on Uses" to permit "Private School" in the Light Manufacturing (M-2) and Heavy Manufacturing (M-3) Zoning Districts, subject to an approved Use Permit, and to add "Physical Recreational Facility" as a permitted use within the following districts: Neighborhood Commercial (C-1), Limited Commercial (C-2), General Commercial (C-3), Limited Manufacturing (M-1), Light Manufacturing (M-2), Langley Flight Approach Mixed Business and Manufacturing (LFA-2) Langley Flight Approach Limited Business I (LFA-4), Langley Flight Approach Limited Business II (LFA-6), Buckroe Bayfront Optional Mixed Use (BB-3), Buckroe Bayfront Required Mixed Use (BB-4), Buckroe Bayfront Special (BB-5), Hampton Roads Center South (HRC-1), Hampton Roads Center North (HRC-2), Langley Business Park (LBP), Downtown Business (DT-1), Downtown Waterfront (DT-2), Phoebus Urban Core (PH-1), Phoebus Town (PH-2), Phoebus Commercial Transition (PH-3), Fort Monroe Inner Fort (FM-1), Fort Monroe Historic Village (FM-2), Fort Monroe North Gate (FM-3), and Fort Monroe Wherry Quarter (FM-4) Zoning Districts. The amendment also aims to permit any outdoor recreation area in conjunction with a physical recreational facility use in multiple districts, and aims to regulate districts in which outdoor recreation areas in conjunction with physical recreational facilities are permitted, hours in which the outdoor recreation area may be used, screening and setback requirements, and lighting requirements,

The proposed amendment aims to permit private schools in the Light Manufacturing (M-2) and Heavy Manufacturing (M-3) Zoning Districts subject to an approved Use Permit. Currently, private schools are permitted in multiple zoning districts throughout the City of Hampton, including but not limited to the Commercial (C-1, C-2, and C-3), the Downtown (DT-1, DT-2, and DT-2), the Phoebus (PH-1, PH-2, and PH-3) and the Limited Manufacturing (M-1) Districts, subject to an approved Use Permit. Any non-college educational institution providing courses in trade or industrial skills, like welding or metal fabrication, is categorized under private school use. However, the Light Manufacturing (M-2) and Heavy Manufacturing (M-3) Zoning Districts do not permit the private school use. Therefore, staff believes that permitting the use in the M-2 and M-3 Districts, subject to an approved Use Permit, would enable the establishment of more robust and intensive training facilities within the manufacturing zones.

Additionally, throughout this process, staff learned that the current "private school" definition encompasses many more uses that are not traditional academic or institutional uses. For example, a dance studio or martial arts gym that offers instructional courses or advancement certification is considered a private school, thus requiring an approved Use Permit from City Council in order to operate. Therefore, staff is also proposing multiple Zoning Ordinance Amendments to define "physical recreational facility" to include businesses equipped for health or fitness activities, and to permit the use in multiple districts.

In conjunction with a physical recreation facility, outdoor recreation areas in some of the Manufacturing (M-1 and M-2), some of the Langley Flight Approach (LFA-2, LFA-4, and LFA-6), and some of the Hampton Roads Center (HRC-1 and HRC-2) Districts would be prohibited, which aligns with current outdoor dining regulation. Any parcel abutting a property with one-family, two-family, or duplex dwelling or a property residentially zoned

as one- or two-family residential districts, the hours of operation of outdoor recreation areas shall not exceed 5:00 a.m. to 10:00 p.m. For any parcel not abutting a property with one-family, two-family, or duplex dwelling or a property residentially zoned as one- or two-family residential districts, the hours of operation of outdoor recreation areas shall not extend beyond the hours of operation of the physical recreational facility, however, the use or operation of any radio, stereo, tape player, compact disc player, loud speaker or other electronic device or mechanical equipment used for the amplification of sound, or any yelling, shouting, whistling, singing, and other vocal sounds, between 10:00 p.m. and 7:00 a.m. shall be prohibited, which aligns with the City's current noise ordinance provisions.

Additionally, any outdoor recreation areas and any structure or equipment associated with outdoor recreation areas shall be located at least twenty (20) feet from all side and rear property lines abutting a property with one-family, two-family, or duplex dwelling or a property residentially zoned as one- or two-family residential district, and outdoor recreation area located within one-hundred (100) feet of any property line abutting a property with one-family, two-family, or duplex dwelling or a property residentially zoned as one- or two-family residential district, outdoor recreation areas shall have screening per the City of Hampton Landscape Guidelines. These proposed regulations and requirements are consistent with other outdoor uses such as dog runs or the outdoor storage of materials.

In summary, staff recommends adoption of the proposed amendment to amend the Table of Uses permitted to permit "private school" in the Light Manufacturing (M21) and Heavy Manufacturing (M-3) Zoning Districts, and to permit "physical recreational facility" as a permitted use in the following districts: Neighborhood Commercial (C-1), Limited Commercial (C-2), General Commercial (C-3), Limited Manufacturing (M-1), Light Manufacturing (M-2), Langley Flight Approach Mixed Business and Manufacturing (LFA-2) Langley Flight Approach Limited Business I (LFA-4), Langley Flight Approach Limited Business II (LFA-6), Buckroe Bayfront Optional Mixed Use (BB-3), Buckroe Bayfront Required Mixed Use (BB-4), Buckroe Bayfront Special (BB-5), Hampton Roads Center South (HRC-1), Hampton Roads Center North (HRC-2), Langley Business Park (LBP), Downtown Business (DT-1), Downtown Waterfront (DT-2), Phoebus Urban Core (PH-1), Phoebus Town (PH-2), Phoebus Commercial Transition (PH-3), Fort Monroe Inner Fort (FM-1), Fort Monroe Historic Village (FM-2), Fort Monroe North Gate (FM-3), and Fort Monroe Wherry Quarter (FM-4) Zoning Districts. The amendment also permits outdoor recreation areas in conjunction with "physical recreational facilities" in multiple districts with additional regulations and restrictions while continuing to protect the health, safety, and welfare of the public. The proposed uses and regulations are appropriate in the recommended zoning districts based on the current uses permitted within each district and the anticipated impact of each use while continuing to protect the health, safety, and welfare of the public.

Staff recommends approval of ZOA 24-0153