Mark Jinks

From: Nancy Coats
Sent: Wednesday, February 02, 2011 3:29 PM
To: William Euille; Kerry Donley; Frank Fannon; Alicia Hughes; Rob Krupicka; Del Pepper; delpepper@aol.com; PaulCSmedberg@aol.com
Cc: Mark Jinks; Faroll Hamer
Subject: Lighting at Athletic Fields

re-sending -- the attachment to the attachment (Superintendent Perry's 2003 letter) was not included the first time

lighting at athletic fields.pd...

City of Alexandria, Virginia

MEMORANDUM

DATE: FEBRUARY 1, 2011

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER

SUBJECT: LIGHTING AT ATHLETIC FIELDS

With the recent temporary use of lights at a Friday night T.C. Williams High School football game and with new lighting technology that has substantially reduced light spillover from athletic fields, there is increased interest in having permanent lights installed at T.C.'s Parker-Gray Stadium. Knowing that there has been increased interest, the Mayor requested that City staff research the issue of the current restriction on lights at T.C. As you can read in the response, the decision on lights at the City's high schools is a Special Use Permit (SUP) process decision. Although the site histories vary, the restriction on athletic field lights, as the memo indicates, also applies to Bishop Ireton, Episcopal High School and St. Agnes/St. Stephens, and potentially to other school athletic field lights such as the middle schools. In fact, the Schools' have applied for a SUP for installation of lights at Francis Hammond Middle School as part of the artificial turf project at that facility. A March hearing by the Planning Commission and Council is likely on that issue.

The T.C. lights issue is complicated by a longstanding no T.C. athletic field lights situation that predates the 2004 T.C. Development Special Use Permit (DSUP). As such, any proposal to add athletic field lights to T.C. at its Parker-Gray Stadium should come to the SUP process after substantial discussion with the neighbors.

Attachment

cc: Dr. Morton Sherman, Superintendent, ACPS
Mark Jinks, Deputy City Manager
Faroll Hamer, Director, Planning & Zoning

City of Alexandria, Virginia

MEMORANDUM

DATE: FEBRUARY 1, 2011

TO: JAMES K. HARTMANN, CITY MANAGER

FROM: FAROLL HAMER, DIRECTOR OF PLANNING & ZONING FH

SUBJECT: HIGH SCHOOL ATHLETIC FIELD LIGHTING

The Mayor had asked that staff research the issue of permanent athletic field lighting at high schools in Alexandria and describe the steps necessary to allow lighted fields in the future. Our research was primarily limited to prior zoning approvals, and did not generally entail research on non-regulatory actions, understandings or history that may bear on that issue.

Research Summary

The City has four high schools with the potential for lighted fields and nighttime athletic events: T.C. Williams, Bishop Ireton, Episcopal, and St. Stephens/St. Agnes Upper School. Each operates under a special use permit. None currently has permanent field lighting. Such lighting is not permitted at any of the schools. The Development Special Use Permit (DSUP) approvals for T.C. Williams and St. Stephen's/St. Agnes each includes an explicit prohibition against lighted fields. In the cases of Bishop Ireton and Episcopal, while neither school has a clear prohibition against permanent field lighting in their DSUP/SUP approvals, no athletic field lighting was included in the City approvals for these sites; adding that feature now would constitute an intensification of the approved use and, therefore, would not be permitted unless there was a new DSUP or an SUP amendment.

School-Specific Research

The most recent approval at *T.C. Williams High School* is DSUP#2002-0044, approved by City Council in 2004 for the new high school building and parking garage. It includes three specific lighting conditions (Conditions #84-#86.) Condition #85 explicitly prohibits permanent lighting at the stadium or any other athletic fields at the school. Under Condition #84 and #85, a specific site lighting plan, with an opportunity for review by the neighbors, was required for the site, and it did not include lighting any athletic fields. While there were not lights at the T.C. Williams main athletic field from 1965 to the opening of the new T.C. Williams in 2007, this was not the result of a City land use regulatory decision. Any understanding or agreement that may have existed would have logically been one between the Schools and the neighborhood. In fact, the only written document on this subject that the City was able to locate in City files was a letter written in 2003 (attached) by then Superintendent Perry to the Seminary Hill Civic Association. In that letter, stadium issues such as stadium hours, sound and horns are discussed, but stadium lights are explicitly stated to be covered by the pending T. C. Williams DSUP approval.

While some in the community believe that there is a written agreement which prohibits lights, the School staff has indicated that there is no written agreement on lights. What is in writing are the DSUP conditions, as well as Superintendent Perry's 2003 letter. Planning & Zoning staff have also reviewed documents and agreements between the City and the federal government that date to the time period around the development of the original T.C. Williams High School and have found nothing in those agreements that addresses stadium lights. These City/federal agreements were also in force for a 25-yeard period which has now expired.

An expansion of *Bishop Ireton High School* was approved by City Council in 1995 under SUP#95-0093. This SUP does not specifically prohibit the athletic fields from having permanently lights; however, Condition #13 stipulates that no lighting shall be allowed to shine onto adjacent residential properties and Condition #35 required the submission and approval of a site lighting plan, which did not include lighted fields.

The most recent approval at *Episcopal High School* is DSUP#2007-0033, approved by City Council in 2008 to expand the existing gymnasium. Although this approval, which includes the entire school within its scope, includes conditions about the exterior lighting of the gymnasium, there are no conditions pertaining to the lighting of the athletic fields. Staff has allowed temporary field lighting at Episcopal twice in recent years (2008 and 2010) for two events per year, with notice to adjacent neighborhoods.

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Recommended Process

In order to allow field lighting at any of the high schools for nighttime athletics, an amendment to the respective SUP approval is required. While it is technically possible to supersede the specific SUP conditions, by allowing lighted fields legislatively through a Zoning Ordinance amendment, we recommend that each school desiring the change initiate its own request through the DSUP/SUP process. Lights and nighttime activities raise concerns about potential impacts on the adjacent residential neighborhoods, including lighting impact, increased noise impacts later in the evening from players, spectators, sports equipment and loud speakers, and increased traffic or parking impacts due to an increase in the frequency of field use. The DSUP/SUP process allows for maximum public input, and the opportunity to address concerns and apply site appropriate conditions to the specific school.

Attachment

cc: Mark Jinks, Deputy City Manager
Barbara Ross, Deputy Director, Planning and Zoning
James Spengler, Director, Recreation, Parks and Cultural Activities

Learning to Live • Loving to Learn

ACPS

Alexandria City Public Schools

December 19, 2003

Seminary Hill Civic Association
Task Force
Alexandria, VA

Re: T.C. Williams High School

Ladies and Gentlemen:

This letter is in response to the memorandum dated November 23, 2003, provided by John Salmon on behalf of the Task Force, and the meeting at City Hall on November 17, 2003, held to discuss the new T.C. Williams High School construction project. Attending the meeting were members of the planning staff, representatives of the Alexandria City Public Schools ("ACPS") and members of the Task Force, consisting of neighbors from the Bishop Lane and the Woods Avenue areas.

At the meeting, it was agreed to divide the issues presented by the neighborhood representatives into two categories: (1) issues appropriate to be addressed in the special use permit and site plan process; and (2) operational principles appropriate for an understanding between ACPS and the adjacent neighborhoods. At the meeting, it was agreed that the planning staff would include the City Department of Parks, Recreation and Cultural Activities ("DPRCA") in the process.

We agree that issues specified as site plan conditions in the November 23 memorandum, including stadium lighting, the advisory committee, buffer zone planting generally, outdoor lighting, sound, and the Woods Avenue entrance, are to be addressed as site plan conditions. As you are aware, these conditions will be drafted by the City planning staff and provided to both the ACPS and to the public in a staff report.

Operational issues are a matter between the ACPS, including the administration of T.C. Williams High School, the City and the neighborhood. It is our hope that the dialogue begun in the planning and construction process will serve as a basis for an on-going relationship between the high school and the neighborhood. Many of the issues that we are now discussing will of necessity be considered on a continuing basis in the context of an advisory committee to be established. At this time, however, we would like to respond to the comments made in the November 23 letter regarding various operational issues. Our response is as follows:

2000 N. Beauregard Street
Alexandria, Virginia 22311

Telephone: (703) 824-6600
Facsimile: (703) 824-6699
TDD: (703) 824-6666
www.acps.k12.va.us

Superintendent of Schools
Rebecca L. Perry

School Board
Chairman
Mark C. Wilkoff
Vice Chairman
Gwendolyn H. Lewis
Members
Sally Ann Bynard
Mary M. Danforth
Mark R. Eaton
Kenneth L. Fuqua
Melissa W. Luby
Arthur E. Schmale
Charles H. Wilson

1. Stadium sound system design. ACPS will employ sound engineers and/or acoustic consultants to evaluate the current stadium system and make the necessary adjustments to improve the sound system and minimize the impact of the sound on the adjacent neighborhood. The acoustic consultants' evaluation and the proposed adjustments will be discussed with the advisory committee prior to installation. The system will have controls to limit the volume to reasonable levels. Such controls will have a locking device to prevent unauthorized use.

2. Stadium sound system operation. The stadium sound system will be used only for sanctioned school, school related and DPRCA events. Use of the stadium sound system will not occur prior to 9:00 a.m.; except for Saturdays when the public school track meets are held; and except for the Hershey Track Meet held by the DPRCA. Although ACPS does not anticipate using the stadium on Sundays or holidays, ACPS and DPRCA may wish to use the stadium on Sundays on an occasional basis as a backup site when other fields are not available, but not on a regular schedule.

3. School public address system. The new school building public address system for external use will be designed, installed and used in such a manner that daily announcements, etc., will not be broadcast outside the school building except for emergencies or emergency preparedness.

4. Access to athletic facilities. Use of the stadium, its track and the practice fields shall be limited to school academic and athletic events and those events sponsored by the DPRCA. Outside groups will only be permitted to use these facilities on an occasional basis under special circumstances, and prior to allowing any outside group to use these facilities, ACPS will notify the advisory committee and discuss the arrangements if requested by the committee.

5. Stadium operational hours. Regular use of the stadium for school and DPRCA events will be restricted to the hours of 7:30 a.m. until sunset, Monday through Saturday, and 10:00 a.m. to sunset on Sundays and holidays and will be used on Sundays and holidays only on an occasional basis.

6. Practice fields operational hours. Use of the practice fields for school and DPRCA events will be limited to the hours of 7:30 a.m. until sunset, Monday through Saturday, and 9:00 a.m. until sunset Sunday and holidays. Use of the proposed King Street practice field for any event on Sunday will be restricted to the hours of 1:00 p.m. to sunset.

7. School deliveries. Regular deliveries and pick-ups from commercial trucks, school food service and trash removal vehicles shall generally occur between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m., weekends and holidays. Food deliveries may occur between the hours of 6:00 a.m. and 7:00 a.m. on a limited basis.

8. Bus idling. All buses (or other commercial, diesel-powered vehicles) shall be required to turn off their engines if they are idling for more than 5 minutes before moving or leaving school property.

9. Parking. The school parking garage shall be available during after school hours and Saturdays and Sundays (with bus lanes also available on Sundays only) to accommodate parking for activities at the neighboring church; however, such parking shall not be reserved for the exclusive use of the church nor will ACPS assume any responsibility for monitoring and security. ACPS will also anticipate release of liability for damage to property or personal injury occurring in the parking garage or in the bus lane.

It is our hope that the discussions regarding T.C. Williams High School operations and the statements made in this letter constitute the basis of a continuing relationship between representatives of the neighboring community and school officials. We believe the establishment of an advisory committee of ACPS staff, DPRCA staff and neighbors will be an important aspect of the relationship. There will be changes in circumstances over time which may require new arrangements, and a continuing dialogue within the advisory committee will be an important part of maintaining good relations between the school and the neighborhood. We look forward to continuing to work with you.

Yours truly,

Rebecca L. Perry

Rebecca L. Perry
Superintendent

cc: Barbara Ross
J. Howard Middleton

Mark Jinks

From: Mark Jinks
Sent: Wednesday, February 02, 2011 10:59 AM
To: James Spengler; Ron Kagawa; Laura Durham
Subject: Fw: Lighting at Athletic Fields

FYI - we decided not to get into the differences between Rec and Schools athletic field land use approvals in this memo.

----- Forwarded by Mark Jinks/Alex on 02/02/2011 10:57 AM -----

From: Nancy Coats/Alex
To: william.euille@alexandriava.gov, kerry.donley@alexandriava.gov, frank.fannon@alexandriava.gov, alicia.hughes@alexandriava.gov, Rob.Krupicka@alexandriava.gov, del.pepper@alexandriava.gov, delpepper@aol.com, PaulCSmedberg@aol.com
Cc: morton.sherman@acps.k12.va.us, Mark Jinks/Alex@Alex, Faroll Hamer/Alex@ALEX
Date: 02/02/2011 10:52 AM
Subject: Lighting at Athletic Fields

lighting at athletic fields.pd...

City of Alexandria, Virginia

MEMORANDUM

DATE: FEBRUARY 1, 2011

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER

SUBJECT: LIGHTING AT ATHLETIC FIELDS

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Faroll Hamer, Director, Planning & Zoning

City of Alexandria, Virginia

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Barbara Ross, Deputy Director, Planning and Zoning
James Spengler, Director, Recreation, Parks and Cultural Activities

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Sent: Wednesday, February 02, 2011 10:53 AM
To: William Euille; Kerry Donley; Frank Fannon; Alicia Hughes; Rob Krupicka; Del Pepper; delpepper@aol.com; PaulCSmedberg@aol.com
Cc: morton.sherman@acps.k12.va.us; Mark Jinks; Faroll Hamer
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cc: Mark Jinks, Deputy City Manager
Barbara Ross, Deputy Director, Planning and Zoning
James Spengler, Director, Recreation, Parks and Cultural Activities

Mark Jinks

From: Mark Jinks
Sent: Wednesday, February 02, 2011 8:55 AM
To: mkrause@acps.k12.va.us
Subject: Fw: Hammond School - Proposed lighting of the track/athletic field

address corrected
----- Forwarded by Mark Jinks/Alex on 02/02/2011 08:54 AM -----

From: Mark Jinks/Alex
To: mark.krause@acps.k12.va.us, James Spengler/Alex@Alex, Ron Kagawa/Alex@Alex
Date: 02/02/2011 08:51 AM
Subject: Fw: Hammond School - Proposed lighting of the track/athletic field

FYI
----- Forwarded by Mark Jinks/Alex on 02/02/2011 08:50 AM -----

From: "Nancy Jennings" <nrjennings@comcast.net>
To: <Patricia.Escher@alexandriava.gov>
Cc: "Frank and Sandi Putzu" <sputzu@verizon.net>, "Putzu, Frank A CIV SEA 00" <frank.putzu@navy.mil>, "'carolyn griglione'" <carolyn.griglione@gmail.com>, "Katy Cannady" <Katy_Cannady20@comcast.net>, "Andrew Macdonald" <ahmacdonald@me.com>, "Bill Gillespie" <bgillespie70@hotmail.com>, "Dave Cavanaugh" <dacava1@yahoo.com>, "Donna Fossum" <donna.fossum@verizon.net>, "Harriet McCune" <harriett.mccune@verizon.net>, "John Komoroske" <john.komoroske@finra.org>, "Poul Hertel" <poulh@erols.com>, <kevin.vanhise@kimley-horn.com>, "Alicia Hughes" <Alicia.Hughes@alexandriava.gov>, "Del \(work\) Pepper" <Del.Pepper@alexandriava.gov>, "Del \(personal\) Pepper" <delpepper@aol.com>, "Frank Fannon" <Frank.Fannon@alexandriava.gov>, "Kerry Donley" <Kerry.Donley@alexandriava.gov>, "Paul Smedberg" <paulcsmedberg@aol.com>, "Rob Krupicka" <council@krupicka.com>, "William Euille" <william.euille@alexandriava.gov>, "Jim Hartmann" <Jim.Hartmann@alexandriava.gov>, "Mark Jinks" <Mark.Jinks@alexandriava.gov>
Date: 02/02/2011 05:34 AM
Subject: RE: Hammond School - Proposed lighting of the track/athletic field

Pat,

Thank you for the notice about the public meeting on 8 Feb about improvements and lights on the athletic field at Hammond School. Seminary Hill Association, Inc., is aware of the public meeting and will have this item on its agenda at its regular monthly meeting the Thursday after this meeting. Below are some questions that I hope this public meeting will answer. I also hope that we will hear from the Chief of Police, Superintendent of Schools, and the head of Parks and Recreation during the public meeting.

Nan

1. How many youth in Alexandria cannot get access to athletic fields?

2. How does City staff prioritize requests to the use of City fields?

3. Has the City done a cost benefit analysis of these sorts of projects; i.e. $1.5 million will serve x number of youth and adults?

4. How much do rental fees cover the cost of the new fields and lights?

5. How much will the adjacent residential property values decline because of crowds gathering for 14 hours a day 7 days a week?

6. How does the City plan to control the public nuisances created?

- **Noise levels.** Despite the declaration in the item going to the Planning Commission that the proposed hours—8 a.m. - 10 p.m. seven days a week—have "no change in the noise level. Normal noise associated with athletic use." Having people using the playing fields from dusk until 10 pm is not "normal noise" for the folks who live across the street, especially given the sound systems, play-by-play announcers, and music they endure on weekends.

- **Parking.**

- **Supervision.** Will the ACPS hire new staff to maintain order on the fields once all school people leave for the day and on the weekend? Or will Parks & Recreation have staff on hand to resolve reservation disputes and parking restrictions, as they do in Fort Ward Park?

- **Police enforcement.** How will the police cover the additional patrol responsibilities; for example, when a group brings public address systems that violate noise ordinances or food vendors?

From: Patricia.Escher@alexandriava.gov [mailto:Patricia.Escher@alexandriava.gov]
Sent: Tuesday, February 01, 2011 2:31 PM
To: Nrjennings@comcast.net
Subject: Hammond School - Proposed lighting of the track/athletic field

Nancy
As you know there is a community meeting next week on Feb 8th to discuss the potential of lights at the Hammond School. I just wanted to touch base and see what your group thinks, any questions or concerns?
Pat

Patricia Escher, AICP, ASLA
Principal Planner, Development Division
Department of Planning & Zoning, Room 2100
City of Alexandria, VA 22313
Phone: 703.746.3812
Fax: 703.838.6393
Patricia.Escher@Alexandriava.gov
www.Alexandriava.gov

Mark Jinks

From: Mark Jinks
Sent: Wednesday, February 02, 2011 8:51 AM
To: mark.krause@acps.k12.va.us; James Spengler; Ron Kagawa
Subject: Fw: Hammond School - Proposed lighting of the track/athletic field

FYI
----- Forwarded by Mark Jinks/Alex on 02/02/2011 08:50 AM -----

From: "Nancy Jennings" <nrjennings@comcast.net>
To: <Patricia.Escher@alexandriava.gov>
Cc: "Frank and Sandi Putzu" <sputzu@verizon.net>, "Putzu, Frank A CIV SEA 00" <frank.putzu@navy.mil>, "'carolyn griglione'" <carolyn.griglione@gmail.com>, "Katy Cannady" <Katy_Cannady20@comcast.net>, "Andrew Macdonald" <ahmacdonald@me.com>, "Bill Gillespie" <bgillespie70@hotmail.com>, "Dave Cavanaugh" <dacava1@yahoo.com>, "Donna Fossum" <donna.fossum@verizon.net>, "Harriet McCune" <harriett.mccune@verizon.net>, "John Komoroske" <john.komoroske@finra.org>, "Poul Hertel" <poulh@erols.com>, <kevin.vanhise@kimley-horn.com>, "Alicia Hughes" <Alicia.Hughes@alexandriava.gov>, "Del \(work\) Pepper" <Del.Pepper@alexandriava.gov>, "Del \(personal\) Pepper" <delpepper@aol.com>, "Frank Fannon" <Frank.Fannon@alexandriava.gov>, "Kerry Donley" <Kerry.Donley@alexandriava.gov>, "Paul Smedberg" <paulcsmedberg@aol.com>, "Rob Krupicka" <council@krupicka.com>, "William Euille" <william.euille@alexandriava.gov>, "Jim Hartmann" <Jim.Hartmann@alexandriava.gov>, "Mark Jinks" <Mark.Jinks@alexandriava.gov>
Date: 02/02/2011 05:34 AM
Subject: RE: Hammond School - Proposed lighting of the track/athletic field

Pat,

Thank you for the notice about the public meeting on 8 Feb about improvements and lights on the athletic field at Hammond School. Seminary Hill Association, Inc., is aware of the public meeting and will have this item on its agenda at its regular monthly meeting the Thursday after this meeting. Below are some questions that I hope this public meeting will answer. I also hope that we will hear from the Chief of Police, Superintendent of Schools, and the head of Parks and Recreation during the public meeting.

Nan

1. How many youth in Alexandria cannot get access to athletic fields?

2. How does City staff prioritize requests to the use of City fields?

3. Has the City done a cost benefit analysis of these sorts of projects; i.e. $1.5 million will serve x number of youth and adults?

4. How much do rental fees cover the cost of the new fields and lights?

5. How much will the adjacent residential property values decline because of crowds gathering for 14 hours a day 7 days a week?

6. How does the City plan to control the public nuisances created?

- **Noise levels.** Despite the declaration in the item going to the Planning Commission that the proposed hours—8 a.m. - 10 p.m. seven days a week—have "no change in the noise level. Normal noise associated with athletic use." Having people using the playing fields from dusk until 10 pm is

not "normal noise" for the folks who live across the street, especially given the sound systems, play-by-play announcers, and music they endure on weekends.

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Fax: 703.838.6393
Patricia.Escher@Alexandriava.gov
www.Alexandriava.gov

Mark Jinks

From: Mark Jinks
Sent: Monday, December 06, 2010 1:19 PM
To: Barbara Ross
Subject: Re: Fw: Hammond/TC Fields

Thanks for the update. I heard about a school board member's interest from Spengler

From: Barbara Ross/Alex
To: Mark Jinks/Alex@Alex
Cc: Faroll Hamer/Alex, Gwen Wright/Alex@ALEX
Date: 12/06/2010 01:14 PM
Subject: Fw: Hammond/TC Fields

Gwen and I met last week with Mark Krause from ACPS and Jim Spengler and Laura Durham from Parks.

As to Hammond, the schools appear to have backed off their strong, "the city made me do it" approach, stating that two Bd members have recommended Hammond lights and turf in order to accommodate the TC soccer team practices. Parks will schedule the fields when the schools are not using them. Parks is clear about its own study of the need for 7 fields with turf and lighting and how Hammond figures in that overall, long term plan that Council has reviewed and endorsed. There appears to be parking and fencing, adequate to protect the neighbors from stray players, coaches or spectators. Gwen, or a development planner, will be at the Youth Sports Commission meeting this week.

On the TC practice fields, things are a bit murkier. While waiting for Parks to come to the meeting, I asked Mark about it. He said the two fields are fully operational and are now used by TC. He said that after being used during construction of TC for teacher parking and construction staging, they were graded, seeded and landscaped by ACPS. Mark told me that there has been some back and forth and allegations regarding lack of maintenance and ACPS responded by gratuitously replacing some of the initial landscaping. At our meeting, after the Hammond discussion, I raised this question about the status of the fields and both Laura and Jim were not aware of any question. They thought the fields were under ACPS control. In any event, Laura agreed to research this question. They were unaware that there was any question about the practice fields, and Mark was too, except that Mark said he heard a school board member ask generally about whether they could be used more. Where did your question to me originate?

Is there more information you need?

----- Forwarded by Barbara Ross/Alex on 12/06/2010 01:12 PM -----

From: Barbara Ross/Alex
To: Gwen Wright/Alex@ALEX, Patricia Escher/Alex@ALEX
Cc: Faroll Hamer/Alex
Date: 11/23/2010 04:22 PM
Subject: Hammond/TC Fields

Mark Jinks called after meeting with Jim Spengler today.

As to Hammond, he suggests getting a meeting together with just staff, to include Roger, Ron K, and Laura from Parks and Mark K from the schools, and working out together how to articulate the answer to the question, "Where did the idea for lights come from?" We are not to say that lights are required by the City or a City policy on returfed fields. City does support the idea and recommends that there be lights when a field is changed to artificial turf. This meeting should take place prior to Dec 8th when a Youth Sports Commission meeting is being held to discuss the proposal. The idea at that meeting is to map out a strategy for dealing with the community. One of the members of the Commission lives across the street from the field.

There is a question that needs an answer about the two practice fields that used to be located along the southern boundary of Chincapin. They were removed when the new TC was built. Two questions: (1) Does the DSUP address them at all??? Does it anticipate that they would be replaced? Does the new school site intrude on what had been the Chinncapin site? Jim Spengler states that they were supposed to be rebuilt as part of the TC approval, but it may have been a side arrangement with the schools. I vaguely recall that the property line between the park and the school site was moved to accommodate the new school and that there were all sorts of side deals going on with Parks. (2) If the City wanted them to be rebuilt there, could they be (is there room..just practice fields) and what would the process be for it.

Gwen, if you think we need to set this meeting up prior to Patti's return, I will be glad to help. Bridgett can do it . I am also glad to be involved in any of this if it would help.

Mark Jinks

From: Barbara Ross
Sent: Monday, December 06, 2010 1:15 PM
To: Mark Jinks
Cc: Faroll Hamer; Gwen Wright
Subject: Fw: Hammond/TC Fields

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Cc: Faroll Hamer/Alex
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Mark Jinks

From: Barbara Ross
Sent: Friday, November 19, 2010 1:09 PM
To: Mark Jinks
Cc: Faroll Hamer; Barbara Ross
Subject: Re: Fw: TC Williams/other high school lighted fields

The Perry agreement is AFTER the DSUP...came about as a result of it. But I will be happy to supply it.

From: Mark Jinks/Alex
To: Faroll Hamer/Alex, "Barbara Ross" <barbara.ross@alexandriava.gov>
Date: 11/19/2010 01:06 PM
Subject: Re: Fw: TC Williams/other high school lighted fields

I had asked that the history of lighting at TC prior to the current DSUP (such as the Supt Becky Perry agreement she signed with the neighborhood) be included in the memo and that is not covered

From: Faroll Hamer/Alex
To: Jim Hartmann/Alex@Alex
Cc: Mark Jinks/Alex@Alex, Barbara Ross/Alex@ALEX
Date: 11/19/2010 12:55 PM
Subject: Fw: TC Williams/other high school lighted fields

Jim and Mark, here is Barbara's memo on lighting the fields at TC Williams and other high schools in Alexandria. It turns out we are processing an SUP for new lights at Hammond Middle School -- the lights are part of the package with the new artificial turf. I don't think that will materially change our recommendation in the memo, that each site be looked at on a case by case basis as part of an SUP so the particulars of the neighborhood and site can be addressed.

By the way, there is also an item on the school board-city council meeting on Monday for field lighting.

Faroll

Faroll Hamer
Director, Planning and Zoning
City of Alexandria
301 King Street
Alexandria, VA 22314
703-746-4666
Faroll.Hamer@alexandriava.gov

----- Forwarded by Faroll Hamer/Alex on 11/19/2010 12:45 PM -----

From: Barbara Ross/Alex
To: Faroll Hamer/Alex
Date: 11/17/2010 03:53 PM
Subject: TC Williams/other high school lighted fields

Here is a memo summarizing our research. We can discuss at 5pm.

[attachment "HS Athletic Fields 11-16-2010.doc" deleted by Mark Jinks/Alex]

Mark Jinks

From: Mark Jinks
Sent: Friday, November 19, 2010 12:08 PM
To: Jim Hartmann; Debra Collins
Subject: Fw: Lighted fields

More....I will get Spengler's take
----- Original Message -----
From: Barbara Ross
Sent: 11/19/2010 12:04 PM EST
To: Mark Jinks; Faroll Hamer
Subject: Lighted fields

I spoke with Mark Krause at Facilities and learned that the lights at Hammond idea because RP&CA has an abolute policy that in every instance where a field is being replaced with artificial turf, lights must be added for nighttime activities. The Schools are paying for the field work and the lights at Hammond but want it to be very clear that lights are not required for a middle school program. If Parks were not insisting, they would not be doing it. Assuming lights are installed there, then the TC boys and girls soccer teams may hold matches there, but this is not at all definite yet.

He has been asked by Mort S to price the cost of adding lights at TC but no decision has been made on their side about whether to add that item to their proposed budget. That decision will be made by Dec 9. The cost is in the $300,000 to $400,000 range.

At GW, there is a CIP item for replacing the field with artificial turf in FY16 but the CIP states that no lighting is planned. Not sure how this will change given the RPCAs position.

Mark K states that the schools understand that an SUP or SUP amendment will be required to install lights any where.

Mark Jinks

From: Mark Jinks
Sent: Friday, November 19, 2010 12:06 PM
To: Jim Hartmann; Debra Collins
Subject: Fw: Field Lighting at Hammond Middle School

FYI

----- Original Message -----
From: Barbara Ross
Sent: 11/19/2010 11:24 AM EST
To: Mark Jinks; Faroll Hamer
Subject: Fw: Field Lighting at Hammond Middle School

fyi...lights request at Hammond. I am going to get with Facilities (Mark Krause) and start a larger discussion so we know if this is a one school request or there is a series coming.
----- Forwarded by Barbara Ross/Alex on 11/19/2010 11:20 AM -----

From: Nathan Randall/Alex
To: Barbara Ross/Alex@ALEX, Gwen Wright/Alex@ALEX
Cc: Patricia Escher/Alex@ALEX
Date: 11/19/2010 10:12 AM
Subject: Field Lighting at Hammond Middle School

Barbara and Gwen-

Representatives from Kimley Horn called me yesterday to say that Hammond Middle School is interested in adding field lighting. This is the first I've heard of it and I don't know any specifics about the proposal, though I understand they've also talked with Pat recently. The person who called me specifically asked whether this request should be applied for as a DSUP or as an SUP with a grading plan like the lights at Ben Brenman Park. Do you have a sense of which process such a request should follow? Do you need more information?

The timing is very interesting given that I've just worked with Barbara on a memo regarding field lighting and given TC William's recent trial run of temporary field lights for a football game.

Nathan

Dorothy Juchnewicz

From: Komoroske, John <John.Komoroske@finra.org>
Sent: Friday, July 01, 2011 3:01 PM
To: Dorothy Juchnewicz
Subject: In response to the Jennings 6/29/11 FOIA Request

From: Faroll Hamer [mailto:Faroll.Hamer@alexandriava.gov]
Sent: Sunday, May 22, 2011 9:04 PM
To: Judy Noritake; Komoroske, John
Cc: James Spengler
Subject: RE: Hammond Lights

Judy – I wrote an email to Jim Spengler last week, posing the question, what would happen if we did not hear it in June, but rather in September? I was not proposing to postpone it, I was asking a question to which I did not know the answer. The reason for the question was simple docket management. The waterfront plan will likely be on the Council (not the Planning Commission) docket for the end of June, and between the waterfront plan and Harris Teeter bringing out lots of people on the east end, and Hammond field bringing out lots of people on the west end, June 25 is going to be a very long and ugly day, with a lot of difficult decisions for Council. Too bad. Thank you for responding. That's all I was waiting for. I'm not opposed to putting it on the docket.
Faroll

From: Judy Noritake [mailto:jnoritake@nka-arch.com]
Sent: Sunday, May 22, 2011 8:32 PM
To: Faroll Hamer; Komoroske, John
Cc: James Spengler
Subject: Hammond Lights

Faroll and John:

I have had some emails over the weekend from the sports community where news is circulating about an effort for your department to potentially back away from the timing on the SUP hearing for the lights a Hammond – punting it from June 7th until fall. I don't know the reason why this is circulating, but if the hearing and the SUP do not occur June 7th we will not have the lights at Hammond and it will make it exponentially more difficult to get lights on any field associated with ACPS. The need to put in lights at some of those locations is critical.

The artificial turf field at Hammond has been bid already, with the lights and the underground conduit bid as a separate item. The field will be built in July and August – that is for certain. If the SUP for the lights has not been granted then the electrical supply and the lights will not go in – now and likely not ever. Spending a million bucks to put in an artificial turf field without lights is fiscally irresponsible. Pretty much a waste. Hammond is the line in the sand for a part of our community who is stuck on our City remaining the suburban when that time is long gone. It will hobble efforts not just here but in other locations where the installations of lights is critical to meeting the current and future recreational needs. I don't know how much more strongly I can underline the necessity to carry on with this hearing and the vote as scheduled. This is about looking to the future and not the past. The June 7th hearing and vote is already a product of delay and a last minute accommodation. There is no more time for this SUP.

I have spoken directly with Donna Fossom about the lights and I believe she will support them. I also believe we will have support at City Council to pass it. John, if you don't mind I would like to have a short phone call with you about your Commission on this topic – if you get a chance.

Please let me know ASAP so I can let the sports guys no emailing me know what the situation is. It's already appeared on the draft agenda. If it gets pulled I believe there will be a storm from the sports people.

I have not spoken with Jim Spengler as he is out of town for a family event.

Judy

Judy Guse-Noritake, AIA, LEED AP
Principal

NORITAKE
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jnoritake@nka-arch.com

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Judy Stack

From:	Robin DeShields
Sent:	Friday, May 27, 2011 3:08 PM
To:	William Euille; City Council; Donna Fossum; Eric Wagner; H. Stewart Dunn, Jr.; J. Lawrence Robinson; Jesse Jennings; John Komoroske; Mary Lyman; Mary Lyman
Cc:	margaret.byess@ACPS.K12.va.us; James Spengler; Ron Kagawa; Robin DeShields
Subject:	Memo Number 2- Hammond Lower Field - Response to Email of May 18 from Nancy Jennings
Attachments:	francishammondfield2jennings.pdf

Hello:

Attached is another response from Mr. James Spengler, Director, RPCA to an email of May 18- from Nancy Jennings, President of the Seminary Hill Association regarding the Athletic Field at Francis C. Hammond Middle School.

Thank you

Robin L. DeShields
Department of Recreation, Parks
And Cultural Activities
703-746-5501

City of Alexandria, Virginia

MEMORANDUM

DATE: MAY 27, 2011

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL
CHAIRMAN KOMOROSKE AND MEMBERS OF THE PLANNING COMMISSION

FROM: JAMES B. SPENGLER, DIRECTOR
RECREATION, PARKS & CULTURAL ACTIVITIES

SUBJECT: FRANCIS HAMMOND LOWER FIELD
RESPONSES TO EMAIL FROM NANCY JENNINGS OF MAY 18, 2011

On May 18, 2011, an e-mail statement from Nancy Jennings, President of the Seminary Hill Association, was sent to all City Council and Planning Commission members addressing four particular concerns relating to the proposed Athletic Field Lights at Hammond Middle School (SUP #2010-0079). The purpose of this memorandum is to respond to those concerns.

1. Ms. Jennings Statement:
"Hammond has been designated as an emergency response staging area, and there has been no indication that INOVA Alexandria Hospital or regional emergency planners concur with the loss of a facility that is already used for urgent purposes."

Response:

a. As confirmed in an e-mail sent from both Brian Hricik, EMS Operations Manager, and Adam Thiel, Alexandria Fire Chief, to Pat Escher, Principal Planner of the Department of Planning & Zoning, on January 24, 2011, EMS and the Fire Department's use of the site does not affect a decision to install the field or lights; the City may decide to relocate to an alternative landing zone in the area without operational impact.

2. Ms. Jennings Statement:
"The SUP application appears to violate City Code in at least three significant ways—exceeding height restrictions of 40 feet, exceeding setback restrictions of 25 feet, and exceeding illumination restrictions, thus requiring a variance at minimum."

Response:

a. The second portion of the Special Use Permit (SUP) application is a request to allow a public school facility to construct a structure (athletic field lights) up to 60 feet within the City (Sec.7-2100). The Staff Report is recommending approval of the Special Use Permit.

b. *The SUP request includes a modification to the R-20 front yard setback of 70 feet from property line to allow installation of two of the four proposed light poles. The portion of the track/field next to North Pickett Street is within the R-20 zone that has a 70' front yard setback requirement due to the non-residential institutional use. Although the City's setback requirements do not apply to athletic amenities at ground level, they do apply to structures including, in this case, two of the four proposed light poles that will be located approximately 23 and 25 feet from property line. The impact of the light poles will be mitigated by provision of additional deciduous trees and evergreen trees along North Pickett Street, the use of cut off shields and advanced technologies that will direct the light onto the field/track and will have minimal impact the adjacent properties. The Staff Report is recommending approval of this modification to the front yard requirement.*

c. *Under Section 622.6 of BOCA Code, the City of Alexandria minimum average lighting design standard for illumination of sidewalks in a residential neighborhood is 0.6 foot candles. Currently, the highest foot candle reading on the residential side of North Pickett Street is 0.26 foot candles. When activated, the proposed athletic field lights, in combination with existing street lamps, would not exceed 0.44 foot candles on the residential side of North Pickett Street.*

3. Ms. Jennings Statement:
"There has been no technical or economic impact analysis performed (Note: Arlington has decided against lighting athletic fields adjacent to residential properties and Fairfax has adopted regulations which effectively bar it.)"

Response:

a. *A technical review of the proposed lights has been submitted by the project consultant, Kimley-Horn and Associates, Inc.*

b. *In 2003 Fairfax County, Virginia conducted a lighting study of its existing and proposed facilities and subsequently developed Athletic Field Lighting Performance Outline Specifications and County Ordinance 14-904. Through this ordinance the Fairfax County Park Authority does not have a setback between lights and a residential property, but rather, measures the off-site light spill at a distance of 150 feet from the light source, regardless of location. Fairfax County Park Authority specifications require a maximum of .3 foot candles at 150' from the light source. In comparison, the proposed lights for Hammond would have a maximum of .09 foot candles at 150 feet (from the light source) on the North Pickett Street side. This light amount is less than 1/3 of the Fairfax County Off-Field Spill Light Limitation requirements.*

c. *The Arlington, Virginia 2005 Open Space Master Plan recommended a minimum conversion of one natural grass athletic field to synthetic per year and that all synthetic grass conversions should have existing lighting or a plan for future athletic field lighting installation. In 2004 the Wakefield High School athletic field was renovated with lights approximately 120' from the closest residence. Subsequently, in 2005 the Washington-Lee High School Stadium was completed with athletic field lights approximately 100 feet from the closest residence.*

4. Ms. Jennings Statement:
"The City has repeatedly recommended against installing stadium lighting at Hammond and with the opening of the Witter Fields next March, the City met its recommendations of four lighted turf fields as explained at the February public meeting."

Response:

a. *As presented at the public meeting on February 7, 2011, a Fields Priority Strategy in 2009 (presented to Council in January, 2010 and documented in a letter from the City Manager in March, 2010) found that four existing natural turf fields would need to be converted to synthetic turf with lights in order to meet the demand of 9,450 additional hours of intensive sports on rectangular fields. Hammond Upper Field had the highest potential for conversion, following Ben Brenman, as determined by its size, location, field condition, access, constructability and fiscal impact.*

b. *Since 2009, synthetic turf and lights have been installed at Ben Brenman Park, decreasing the number of hours in need by 2,750 hours. When completed, the two additional lighted fields at Witter, in combination with approval of lights at Hammond, will meet the 2009 demand for rectangular fields. However, between 2009 and 2010 sport enrollment increased another 22%. Preliminary enrollment figures for 2011 year-to-date show a continued increase of 8%. There are now <u>two</u> additional fields needed to meet 2010 demand.*

Cc: Margaret Byess, Deputy Superintendent, Alexandria City Public Schools

Judy Stack

From:	Rosemary Webb <rwebb@acps.k12.va.us>
Sent:	Monday, June 06, 2011 5:54 PM
To:	john komoroske; Board; Faroll Hamer; Margaret Byess; Mark Krause; William Euille; Kerry Donley; Frank Fannon; Alicia Hughes; council@krupicka.com; Del Pepper; paulsmedberg@aol.com; Bruce Johnson; hsdunn@ipbtax.com; donna.fossum@verizon.net; jssjennings@aol.com; mslyman@verizon.net; jlr@cpma.com; erwagner@comcast.net
Subject:	School Board letter re: Lights at Hammond Middle School
Attachments:	Planning Commission letter - June 6, 2011.PDF

Mr. Komoroske,

Attached is a letter from Chairman Yvonne Folkerts and members of the School Board.

Thank you,

Rosemary Webb
Executive Assistant - Clerk of the Board
Alexandria City Public Schools
2000 N. Beauregard Street
Alexandria, VA 22311

(703) 824-6614
(703) 824-6611 (fax)

Learning to Live • Loving to Learn

ACPS

Alexandria City Public Schools

June 6, 2011

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Alexandria, Virginia 22311

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Superintendent of Schools
Morton Sherman Ed.D

School Board

Chairman
Yvonne A. Folkerts

Vice Chairman
Sheryl Gorsuch

Members
Ronnie Campbell

Mimi Carter

Blanche D. Maness

Helen Morris

Arthur E. Peabody Jr.

Marc Williams

Charles H. Wilson

Mr. John Komoroske, Chairman
And Members of the Planning Commission,
City of Alexandria, City Hall
301 King Street
Alexandria, VA 22314

Dear Chairman Komoroske and Members of the Planning Commission:

On behalf of the Alexandria School Board and Superintendent Morton Sherman, I ask that at your Tuesday, June 7 meeting, you vote in favor of installing lights at the upper field of Francis C. Hammond Middle School.

The School Board unanimously approved its fiscal year 2011 budget, in which funding for upgrading this field is included. These upgrades include installing a turf field and lights. The turf field will be installed this summer.

I attended one of the public meetings about this issue this Spring and appreciate concerns expressed by the school neighbors. It is my hope that if these lights are installed, the City of Alexandria and the Alexandria City Public Schools will work together to demonstrate we are responsible neighbors. This would include making certain that following each after school use, either an employee of ACPS or of the city's Recreation, Parks, and Cultural Activities Department will insure the gates are locked, lights are turned off, and trash is collected, among other responsibilities.

The School Board and Superintendent Sherman have been very public about the constraints our climbing enrollment is placing on our facilities. Therefore, we must look at all avenues for expanded use of the facilities we have. Having an improved field and lights at Hammond Middle School will allow ACPS to schedule after-school practice times for all our soccer teams at TC Williams High School, for example. We do not have enough space to meet the time demands. The improvements to our field will help.

If lights are installed with the turf field at Hammond Middle School, we expect increased requests for use. ACPS and the city's Recreation, Parks and Cultural Activities Department will work together to make certain outside groups are requesting

The Alexandria City School Board does not discriminate on the basis of race, color, national origin, sex, disability, age, religion, sexual orientation, marital status, status as a parent, or pregnancy in its programs and activities. Please direct all inquiries regarding ACPS non-discrimination policies to the Executive Director of Human Resources, 2000 N. Beauregard St., Alexandria, VA 22311, 703-824-6946.

permits for use. Beyond school use, priority will be given to the Recreation, Parks, and Cultural Activities Department. The Recreation, Parks, and Cultural Activities Department will handle additional scheduling for non-ACPS activities.

The Alexandria School Board encourages all of you to vote in favor of installing lights at Hammond Middle School. We are facing capacity challenges across the city and must do what we can to accommodate all our students and their needs. Having lights at one of our fields provides us extended use of the field for our students. We would welcome continued cooperation with the city's Parks and Recreation Commission for use beyond school needs.

Sincerely,

Yvonne Folkerts
Chairman

Cc: School Board Members
Dr. Morton Sherman
Ms. Margaret Byess
Mr. Mark Krause
Mayor Euille
Members of City Council
Mr. Bruce Johnson
Ms. Faroll Hamer

Judy Stack

From: Rose Boyd
Sent: Friday, June 03, 2011 10:55 AM
To: Margaret Byess
Cc: City Council; Linda Owens
Subject: RE: Hammond lower field is unused--parking lot full

Thanks. I'm copying the Council so that they are aware of the response. Linda, please close.

From: Margaret Byess [mailto:margaret.byess@acps.k12.va.us]
Sent: Thursday, June 02, 2011 9:19 PM
To: Rose Boyd
Cc: michelle parks-robinson; Linda Owens; Alicia Hughes; Hudnall, Sandy; Mark Krause
Subject: Re: Hammond lower field is unused--parking lot full

Rose, see our response below for forwarding to City Council and appropriate City staff.

> Access to the lower field is not blocked. Students from Hammond use that field for PE activities when weather permits. There is a parallel roadway to the field that the students use for access. The roller rink is also used for PE activities when the field is too wet. The Recreation Dept has this field on their list of usable fields, and schedules programs there after school hours and on weekends.
>
> The storage containers are used for furniture and construction materials such as ceiling tiles, floor tile and ceramic tile. The boulders, mulch and trees are used for the playground and landscaping projects. When ACPS gave up part of the Transportation Shop for the new Public Safety Center, we lost two major storage facilities. We created this storage area in this location because this is in a remote location and not visible from the street.

We will also respond directly to Ms. Jennings.

Margaret

Margaret Barkley Byess
Deputy Superintendent, Planning and Support Operations
Alexandria City Public Schools

The school is the last expenditure upon which America should be willing to economize. ~Franklin D. Roosevelt

---

From: "Rose Boyd" <Rose.Boyd@alexandriava.gov>
To: "Alicia Hughes" <Alicia.Hughes@alexandriava.gov>
Cc: "margaret byess" <margaret.byess@acps.k12.va.us>, "michelle parks-robinson" <michelle.parks-robinson@acps.k12.va.us>, "Linda Owens" <Linda.Owens@alexandriava.gov>
Sent: Wednesday, May 25, 2011 5:30:45 PM
Subject: RE: Hammond lower field is unused--parking lot full

Sharon, since this is a Schools project, I am asking them to process you query as an informal Council Request and provide me with a copy of this response within five working days of their receipt of this message. Linda, please log and track. Thanks all.

From: Alicia Hughes
Sent: Wednesday, May 25, 2011 4:51 PM
To: Rose Boyd
Subject: FW: Hammond lower field is unused--parking lot full

Rose,

The issue of lighting the upper Hammond playing field is currently before the School Board which is where it belongs and Seminary Hill is dealing with the Board. However, the issue may be on the way to Council at some point so I thought you and the Manager should be aware of these related pictures of the red box car labeled "asbestos." On behalf of Councilwoman Hughes, I'd like to request you to please check and advise us if this is the proper way for asbestos to be handled. Many thanks.

Sharon Annear
Administrative Aide to
Councilwoman Alicia Hughes

From: Nancy Jennings [nrjennings@comcast.net]
Sent: Wednesday, May 25, 2011 6:06 AM
To: Frank Putzu; Frank and Sandi Putzu
Cc: Alicia Hughes; Del Pepper; Del (personal) Pepper; Frank Fannon; Kerry Donley; Paul Smedberg; Rob Krupicka; wmeuille@wdeille.com; Patricia Escher; James Spengler; carolyn.griglione@gmail.com; Donna Fossum; Eric Wagner; Jesse Jennings; John Komorosi; John Komoroske; Larry Robinson; Stuart Dunn
Subject: Hammond lower field is unused--parking lot full

Frank,

Obviously the City does not need more athletic playing fields, people cannot get to the lower field at Hammond Middle School because of the materials and box cars in the parking lot! The red box car is labeled "asbestos."

I took the attached photos on May 22, 2011.

Nan Jennings
Seminary Hill resident

Judy Stack

From: Robin DeShields
Sent: Monday, June 06, 2011 5:47 PM
To: Donna Fossum; Eric Wagner; H. Stewart Dunn, Jr.; J. Lawrence Robinson; Jesse Jennings; John Komoroske; Mary Lyman; Mary Lyman
Cc: Ron Kagawa; Dana Wedeles; Robin DeShields; James Spengler; Kerry Donley; Jack Browand; anthony.zamora92@yahoo.com; Gina Baum; jffmurph@gmail.com; John Sullivan; Judy Noritake; Mollie Timmons (mollierose.timmons@yahoo.com); rforbes@aol.com; rich; rkmoir@comcast.net; Steven (Clark) Mercer; William Cromley
Subject: Memo dated June 6- Responses to Questions on Francis Hammond Programming
Attachments: FRANCISHAMMONDPROGRAMMING-1.pdf

FYI- please see attached response to questions on Francis Hammond Programming.
Thank you

Robin L. DeShields
Department of Recreation, Parks
And Cultural Activities
703-746-5501

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 6, 2011

TO: CHAIRMAN KOMOROSKE AND MEMBERS OF THE PLANNING COMMISSION

FROM: JAMES B. SPENGLER, DIRECTOR
RECREATION, PARKS AND CULTURAL ACTIVITIES (RPCA)

SUBJECT: RESPONSES TO QUESTIONS ON FRANCIS HAMMOND PROGRAMMING

The purpose of this memorandum is to provide responses to recent questions raised regarding athletic field lighting at Hammond Middle School (DSUP 2010-0079). Following the public meeting held on February 8, 2011, staff modified the site plan and conditions at the upper Hammond Athletic Field to accommodate the following concerns:

TRAFFIC:

1. Community members expressed concern that spectators and players would park on neighborhood streets. A modification to the site plan was made to include a 6' fence around the field with only two entrances. The entrances will be near the schools two parking lots to encourage players and spectators to park in the lots rather than on adjacent neighborhood streets.
2. Community members raised the issue that when church groups use the school for services, attendees increase traffic in the neighborhood and park along adjacent streets. As a result of February 8, 2011 public meeting, the school board will require any church groups using the school building to have traffic police directing vehicles to the school parking lot, beginning July 2011.

PROGRAMS:

1. In order to address concerns about groups outside of the City-sponsored programs using the field, a condition has been included in the site plan limiting use of the field to the groups listed below. Each of the groups will be required to have on-site supervision responsible for all team actions, including noise and litter control.

   All supervisors representing any of the permitted teams are adults who have gone through background checks prior to hiring. If any group does not comply with the rules and

regulations of the field conditions their permit may be pulled by the Recreation Department and they will no longer be able to use the site.

All school-based and youth sports programs are available to City of Alexandria residents only. Alexandria Soccer Association, Alexandria Lacrosse Club, and adult sports programs allow a limited number of non-Alexandria residents on their teams who are subject to pay a non-resident fee.

- Hammond Physical Education classes, *supervised by Alexandria City Public School staff*
- T.C. Williams Sports practices, *supervised by Alexandria City Public School staff*
- Hammond Intramural Sports, *supervised by Alexandria City Public School staff*
- Power-up Program (out-of-school time), *supervised by Recreation Department staff*
- Summer Camps, *supervised by the Recreation Department Class Section staff*
- Summer Sports Clinics, *supervised by Recreation Department Sports staff*
- RPCA-sponsored Youth and Adult Sports Leagues, including:
  - Adult Soccer League, *supervised by Recreation Department Sports Division staff*
  - Adult Flag Football League, *supervised by Recreation Department Sports Division staff*
  - Alexandria Soccer Association (ASA), *supervised by ASA staff*
  - Alexandria Titans Football practice, *supervised by Recreation Department Sports Division staff*
  - Alexandria Lacrosse Club, *supervised by Club staff*

2. A 6' fence and with a locked gate will be installed to prevent unauthorized use of the field. Only permitted group supervisors will have a key to the gates.

3. No amplified sound will be permitted on-site.

LIGHTING:

Staff has limited the Athletic Field lighting schedule. When the field is programmed, lights will automatically turn off by 10:00 p.m. Monday through Saturday, and by 6:00 p.m. on Sundays. If a group finishes their program before 10:00 p.m., the on-site supervisor can use a "kill" switch to turn the lights off earlier. If there is not a group using the field the lights will not be turned on. Running track lighting will be controlled by a user-push button until 10:00 p.m. Additional information on lighting usage elsewhere in the City of Alexandria, as well as, Arlington and Fairfax Counties can be found on page 6 and 7 of the staff report (SUP 2010-0079).

During the spring, fall, and winter months, the fields will be in use for school-based programs Monday-Friday until 6:30 p.m. Youth practices and Adult games would occur from

6:30 p.m. to 10:00 p.m. This schedule allows for two teams to use the field in 90-minute intervals each, with a short cushion of time before and after each team to allow for clean-up. If the lighting schedule were reduced to 9:00 p.m. only one team would be able to use the field for a 90-minute interval nightly, decreasing the Hammond program schedule by approximately 14%, or the equivalent of five practice intervals. These five intervals would need to be met elsewhere in the City, continuing to contribute to the increasing field demand and deteriorating field conditions at other sites.

If the athletic field lights were also allowed to stay on through 9:00 p.m. on Sundays, rather than 6:00 p.m., two of the five 90-minute practice intervals could be made up then. However, weekend recreation schedules are typically reserved for games rather than practices.

Cc: Chair Judy Guse-Noritake and Park and Recreation Commission Members

Bruce Johnson

From: Barbara Ross
Sent: Tuesday, June 21, 2011 12:54 PM
To: Mark Jinks; Bruce Johnson
Cc: Faroll Hamer
Subject: RE: Appeal to BZA of Hammond Field case

The appeal filed yesterday requires a stay of all actions taken in furtherance of the issue being appealed. In this case the appeal is based in part on a series of procedural issues, including the proper way to vary the yard and height zoning restrictions, that allowed the SUP case for lights at Hammond to go forward. Therefore, Council's consideration of the SUP case cannot proceed at this time.

The BZA hearing on the appeal is now set for September 8. If the BZA rules in the City's favor on that date, then the Hammond lights SUP case can proceed to City Council, possibly as early as Council's October public hearing. If the BZA rules against the City, then the case can likely be refiled and reformatted, but can be processed and heard. Depending on the reason, there is a possibility that the BZA decision would require us to change the zoning rules to allow the case to proceed, but that too can be done.

Not for others..yet: I spoke with Frank Putzu this morning, who is spearheading the legal part of this, and he suggested a meeting to see if there is a way to resolve this. It's good news, and I invited the meeting, but I wouldn't hold out a lot of hope. Not sure what we can do for them short of removing the idea of lights.

From: Mark Jinks
Sent: Tuesday, June 21, 2011 11:28 AM
To: Barbara Ross
Subject: FW: Appeal to BZA of Hammond Field case

Can you email me and Bruce a few sentences that he can sent to Mort Sherman on the effect of the appeal on the schedule for approval of the Hammond lights? Probably two answers...appeal loses and appeal wins. Thanks

---

From: Michele Evans
Sent: Tuesday, June 21, 2011 11:19 AM
To: Jackie Henderson
Cc: Bruce Johnson; Mark Jinks
Subject: RE: Appeal to BZA of Hammond Field case

Yes, please

From: Jackie Henderson
Sent: Tuesday, June 21, 2011 10:31 AM
To: Michele Evans
Subject: FW: Appeal to BZA of Hammond Field case

Do you want me to send this to council?

From: Barbara Ross
Sent: Tuesday, June 21, 2011 10:23 AM
To: Jackie Henderson
Cc: Faroll Hamer; Joanna Anderson; Gwen Wright; Michele Evans; Patricia Escher; Ron Kagawa; James Spengler;

frank.putzu@navy.mil
Subject: Appeal to BZA of Hammond Field case

This will confirm that an appeal has now been filed in the Hammond case. Under section 11-1204, the case at City Council scheduled for Saturday, 6/25, is stayed. Council may not consider the case on Saturday.

Barbara Ross
Deputy Director
Planning and Zoning
(703)746-3802

Bruce Johnson

From: Jackie Henderson
Sent: Tuesday, June 21, 2011 11:22 AM
To: Alicia Hughes; Beth Temple; William Euille; Del Pepper; Elizabeth Jones; Frank Fannon; Joanne Pyle; Judy Stack; Kerry Donley; kerry donley (work); Kristin Kilgore; Nancy Lavalle; Paul Smedberg; Rob Krupicka; Sharon Annear
Cc: Michele Evans; James Banks; Bruce Johnson; Mark Jinks; Gloria Sitton
Subject: FW: Appeal to BZA of Hammond Field case

Please see the email below from Barbara Ross. Docket item #17, the Hammond School lighting, will be deferred at Saturday's meeting because of the appeal that has been filed. I will note the deferral on the on-line docket and will notify the citizens who have signed up to speak that the case is being deferred.

From: Barbara Ross
Sent: Tuesday, June 21, 2011 10:23 AM
To: Jackie Henderson
Cc: Faroll Hamer; Joanna Anderson; Gwen Wright; Michele Evans; Patricia Escher; Ron Kagawa; James Spengler; frank.putzu@navy.mil
Subject: Appeal to BZA of Hammond Field case

This will confirm that an appeal has now been filed in the Hammond case. Under section 11-1204, the case at City Council scheduled for Saturday, 6/25, is stayed. Council may not consider the case on Saturday.

Barbara Ross
Deputy Director
Planning and Zoning
(703)746-3802

Mark Jinks

From: Jackie Henderson
Sent: Monday, June 20, 2011 3:01 PM
To: Alicia Hughes; Beth Temple; William Euille; Del Pepper; Elizabeth Jones; Frank Fannon; Joanne Pyle; Judy Stack; Kerry Donley; kerry donley (work); Kristin Kilgore; Nancy Lavalle; Paul Smedberg; Rob Krupicka; Sharon Annear
Cc: Michele Evans; Mark Jinks; Bruce Johnson; James Banks
Subject: FW: link to the June 25, 2011 docket

Mayor and Council

There is a possibility that the Seminary Hill Association will be appealing the Planning Director's decision to the Board of Zoning Appeals for the Hammond School Lighting (item #17 on this docket). If that happens, this item will be deferred and we will note that on the on-line docket when that occurs.

From: Jackie Henderson
Sent: Monday, June 20, 2011 2:54 PM
To: alicia hughes; beth temple; bill euille; del pepper; elizabeth jones; frank fannon; joanne pyle; judy stack; Kerry Donley; kerry donley (work); kristin kilgore; nancy lavalle; paul smedberg; rob krupicka; sharon annear
Cc: Michele Evans; Bruce Johnson; Mark Jinks; James Banks
Subject: link to the June 25, 2011 docket

Below is the link to the June 25 public hearing docket. All items, with the exception of item #10, are included. Item #10 will be sent to you later in the week.

http://dockets.alexandriava.gov/dsr/fy11dock.nsf/536ee1fcf306fd108525704b0064fc94/5484714ea361894d852578b2004b33ef?OpenDocument

Jackie M. Henderson
City Clerk and Clerk of Council
703 746-3975

Mark Jinks

From: Jackie Henderson
Sent: Monday, June 20, 2011 2:14 PM
To: Michele Evans
Cc: Bruce Johnson; Mark Jinks; Faroll Hamer; Joanna Anderson
Subject: RE: June 25 docket agenda

Okay. I just let the docket out to be delivered, but I'll note it on the on-line copy and will let Council know when I email them the link.

From: Michele Evans
Sent: Monday, June 20, 2011 2:12 PM
To: Jackie Henderson
Cc: Bruce Johnson; Mark Jinks; Faroll Hamer; Joanna Anderson
Subject: Fwd: June 25 docket agenda

Due to Bza appeal Hammond will not be heard on Saturday. Do you want to note that on docket agenda?

Sent from my iPhone

Begin forwarded message:

> **From:** Faroll Hamer <Faroll.Hamer@alexandriava.gov>
> **Date:** June 20, 2011 1:32:27 PM EDT
> **To:** Mark Jinks <Mark.Jinks@alexandriava.gov>, Michele Evans <Michele.Evans@alexandriava.gov>, "mkraus@acps.k12.v.us" <mkraus@acps.k12.v.us>, James Spengler <James.Spengler@alexandriava.gov>, Ron Kagawa <Ron.Kagawa@alexandriava.gov>
> **Cc:** Gwen Wright <Gwen.Wright@alexandriava.gov>
> **Subject: FW: zoning determination for SHA regarding Hammond Field Lights**
>
> fyi

From: Nancy Jennings [mailto:nrjennings@comcast.net]
Sent: Monday, June 20, 2011 5:57 AM
To: Faroll Hamer
Cc: Barbara Ross; Joanna Anderson; Gwen Wright
Subject: RE: zoning determination for SHA regarding Hammond Field Lights

Faroll,

Thank you for your June 16, 2011 determination concerning the SUP application for lighting Hammond and requesting setback and height relief, Seminary Hill Association, Inc. (SHA) has authorized an appeal of the determination to the Board of Zoning Appeals (BZA). SHA will file its appeal shortly, and well before the June 25 City Council meeting. We appreciate your offer to meet to discuss the issues raised in our request and in your determination. As you noted to us in your June 3 initial determination, the issues raised are valid and important, and SHA concurs that they are serious. SHA has concluded that it warrants further scrutiny by the BZA. We would be happy to meet with you after the appeal is filed.

Because the appeal will stay the SUP proceedings, we wanted to let you know so that no interested persons (including the applicant) will expend unnecessary resources preparing for it.

Nan

From: Faroll Hamer [mailto:Faroll.Hamer@alexandriava.gov]
Sent: Thursday, June 16, 2011 1:14 PM
To: Nancy Jennings
Cc: Barbara Ross; Joanna Anderson; Gwen Wright
Subject: zoning determination for SHA regarding Hammond Field Lights

Nancy –

I am attaching the zoning determination letter you requested regarding the SUP for the Hammond Field lights. I will also send a copy via regular mail. Let me, Barbara Ross or Gwen Wright know if you have any questions.

Faroll

Faroll Hamer

Director

Department of Planning and Zoning

City of Alexandria

301 King Street

Alexandria, VA 22314

703-746-4666

Faroll.Hamer@alexandriava.gov

Mark Jinks

From: Faroll Hamer
Sent: Monday, June 20, 2011 1:32 PM
To: Mark Jinks; Michele Evans; mkraus@acps.k12.v.us; James Spengler; Ron Kagawa
Cc: Gwen Wright
Subject: FW: zoning determination for SHA regarding Hammond Field Lights
Attachments: 2011-06-16 Planning Commisson determination re SUP for lights.pdf

fyi

From: Nancy Jennings [mailto:nrjennings@comcast.net]
Sent: Monday, June 20, 2011 5:57 AM
To: Faroll Hamer
Cc: Barbara Ross; Joanna Anderson; Gwen Wright
Subject: RE: zoning determination for SHA regarding Hammond Field Lights

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Sent: Thursday, June 16, 2011 1:14 PM
To: Nancy Jennings
Cc: Barbara Ross; Joanna Anderson; Gwen Wright
Subject: zoning determination for SHA regarding Hammond Field Lights

Nancy –

I am attaching the zoning determination letter you requested regarding the SUP for the Hammond Field lights. I will also send a copy via regular mail. Let me, Barbara Ross or Gwen Wright know if you have any questions.

Faroll

Faroll Hamer
Director
Department of Planning and Zoning
City of Alexandria
301 King Street

Alexandria, VA 22314
703-746-4666
Faroll.Hamer@alexandriava.gov

Dorothy Juchnewicz

From: Komoroske, John <John.Komoroske@finra.org>
Sent: Friday, July 01, 2011 3:08 PM
To: Dorothy Juchnewicz
Subject: In response to the Jennings 6/29/11 FOIA Request

From: Komoroske, John
Sent: Monday, June 13, 2011 11:59 AM
To: wmeuille@wdeuille.com; William D. Euille (william.euille@alexandriava.gov)
Subject: Meet next week on Planning C. action

Bill

I will be in town next Mon (6/21), Tue (6/22), and Wed (6/23) during our usual breakfast hour if you want me to brief you on the Planning Commission's last hearing. Two items, the Hammond lights, a the Old Town North Harris Teeter, were particularly controversial, and we took until 2:50am (whew!) to complete the meeting.

I assume we would do our usual 8:00a at Mancini's. Any of those dates work for you?

John

Confidentiality Notice: This email, including attachments, may include non-public, proprietary, confidential or legally privileged information. If you are not an intended recipient or an authorized agent of an intended recipient, you are hereby notified that any dissemination, distribution or copying of the information contained in or transmitted with this e-mail is unauthorized and strictly prohibited. If you have received this email in error, please notify the sender by replying to this message and permanently delete this e-mail, its attachments, and any copies of it immediately. You should not retain, copy or use this e-mail or any attachment for any purpose, nor disclose all or any part of the contents to any other person. Thank you

Ryan Touhill

From: Ryan Touhill
Sent: Thursday, May 26, 2011 9:14 AM
To: Debra Collins
Subject: RE: Draft Summary of City/Schools Meeting for Bruce

Good call. I'll add that and give a copy to Bruce this morning.

From: Debra Collins
Sent: Wednesday, May 25, 2011 5:19 PM
To: Ryan Touhill
Subject: Re: Draft Summary of City/Schools Meeting for Bruce

Looks good, but you may want to say something about satellite classrooms needed by the Fall.

On May 25, 2011, at 4:45 PM, "Ryan Touhill" <Ryan.Touhill@alexandriava.gov> wrote:

> Hi Debra,
>
> I gave Bruce a quick oral summary this morning of Monday's City/Schools Subcommittee meeting and he asked that I put together a brief written summary for him (prior to drafting the meeting minutes). I thought you might like to review what I wrote in case you wanted to add/correct anything. The topics were requested by Bruce so it's not meant to be a detailed summary of everything that was discussed.
>
> Ryan Touhill
>
> Budget Analyst
>
> Office of Management & Budget
>
> City of Alexandria, VA
>
> 703-746-3745
>
> <Recap of 5-23-11 Subcommittee Meeting.docx>

Ryan Touhill

From: Ryan Touhill
Sent: Wednesday, May 25, 2011 4:45 PM
To: Debra Collins
Subject: Draft Summary of City/Schools Meeting for Bruce
Attachments: Recap of 5-23-11 Subcommittee Meeting.docx

Hi Debra,

I gave Bruce a quick oral summary this morning of Monday's City/Schools Subcommittee meeting and he asked that I put together a brief written summary for him (prior to drafting the meeting minutes). I thought you might like to review what I wrote in case you wanted to add/correct anything. The topics were requested by Bruce so it's not meant to be a detailed summary of everything that was discussed.

Ryan Touhill
Budget Analyst
Office of Management & Budget
City of Alexandria, VA
703-746-3745

Summary of Major Discussion Points
From City Council/School Board Subcommittee Meeting
On May 23, 2011

I. School Calendar / Early Start Waiver Update

The School's withdrew their waiver request to begin the school year before Labor Day. The student and teacher school year will still be extended by two days, plus an additional 21 hours for teachers. Even though classes will not begin before Labor Day, the Schools will still need the $2 million included in the ACPS budget for next as a result of the additional time noted above.

II. Proposed Community Meeting for Jefferson-Houston

ACPS will hold a meeting with the J.H. community on June 1 to discuss the project planning and communication structure, major milestones in the process, and to share examples of K-8 school buildings from other communities. In an email last week Margaret sent two documents to Debra and Faroll providing 1) an overview of the project's construction timeline, and 2) an overview of the new school construction project committee and communication structure. (Both documents are attached)

With regard to #2, the Schools are establishing the committees listed below to help oversee the project and facilitate communication with the community. In their draft documents the Schools identify several City staff members as participants on these committees. I am not sure if City staff are aware of their participation or from whom the City authorized their participation. Since these committees report to the Superintendent and School Board we it may be useful to follow up with Margaret about City staff participation.

a. Steering Committee – oversees the entire project in the areas of programming, design, contracting, construction, occupancy and project close-out (Includes: Ron Kagawa, Dana Wedeles and a P&Z principal planner TBD)
b. K-8 Educational Program Committee – discusses educational/curriculum issues (No City staff identified)
c. J.H. Key Communicators Group – members work to facilitate communication with the J.H. community about the project and provide community feedback to the project steering committee (Includes: Tony Castrilli or Representative)
d. City/School Coordinating Group – facilitates various coordination issues between City agencies and the Schools to ensure project meets established deadlines (Includes: Faroll Hamer, Rich Baier, Jim Spengler, Jeremy McPike and Code Enforcement Rep TBD)

III. Lights at Hammond Field

The Schools are currently applying for a Special Use Permit (SUP) to install lights on the upper field at Hammond Middle School. The application will be reviewed by the Planning Commission on June 7 and if approved will be docketed for the June 25 City

Council meeting. The lights project is included in the FY 2012-2021 CIP, however, the project did come as a bit of a surprise to the Mayor and Mr. Krupicka.

The School Board raised this issue for discussion as a way to shore-up City Council support for the application. According to the Schools, opposition to the application is coming from residents living behind T.C. Williams while some neighbors closer to Hammond are actually supportive of the lights.

Ryan Touhill

From: Ryan Touhill
Sent: Wednesday, June 15, 2011 2:22 PM
To: Nancy Coats
Subject: RE: Agenda Items for June 27 Council/Schools subcommittee meeting
Attachments: May2011draft.doc

Nancy,

Attached are the minutes from the May meeting.

Ryan

From: Nancy Coats
Sent: Monday, June 13, 2011 11:36 AM
To: William Euille; Rob Krupicka
Cc: Bruce Johnson; Ryan Touhill; Debra Collins; Mark Jinks; Michele Evans; Beth Temple; Elizabeth Jones
Subject: Agenda Items for June 27 Council/Schools subcommittee meeting

any agenda items for the June 27 Council/Schools subcommittee meeting? -- thanks

DRAFT

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 15, 2011

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL
THE HONORABLE CHAIR AND MEMBERS OF THE SCHOOL BOARD
DR. MORTON SHERMAN, SUPERINTENDENT
BUDGET AND FISCAL AFFAIRS ADVISORY COMMITTEE MEMBERS
BUDGET ADVISORY COMMITTEE MEMBERS

FROM: BRUCE JOHNSON, ACTING CITY MANAGER

SUBJECT: CITY COUNCIL/SCHOOL BOARD SUBCOMMITTEE MEETING SUMMARY FROM THE MAY 23, 2011 MEETING

Attached is a copy of the agenda from the May 23, 2011 meeting.

Attending this City Council/School Board Subcommittee meeting were:

William D. Euille, Mayor, City of Alexandria
Rob Krupicka, Council Member, Alexandria City Council
Yvonne Folkerts, Chair, Alexandria City School Board
Sheryl Gorsuch, Alexandria City School Board
Blanch D. Maness, Alexandria City School Board
Helen Morris, Alexandria City School Board
Debra Collins, Assistant City Manager
Dr. Mort Sherman, Superintendent
Morgan Routt, City, Acting Budget Director
Abi Lerner, T&ES
Steve Kaii-Ziegler, P&Z
Michael Gilmore, DCHS
Deborah Warren, DCHS
Ron Frazier, DCHS
Gwen Carol Holmes
Margee Walsh, ACPS
Mark Krause, ACPS
Gregory Hutchings
William Chesley, RPCA
Rich Baier, T&ES
David Temple, ACPS
Gwen Wright, P&Z
Judy Guse-Noritake, P&R Commission
Ron Kagawa, RPCA

I. **Approval of April Meeting Summary:** The minutes for the April meeting were approved.

II. **Standing Reports:**

A. **Shared Services:** No update provided.

B. **Capital Projects and Operations:** No update provided.

C. **Youth and Education Services:** Staff informed the Subcommittee that the final report, recommendations, and resolution to realign the children, family and youth commissions will be considered by City Council and the School Board at each body's respective meetings in June.

D. **Budget:** No update provided.

III. **Requested Discussion Items**

A. **School Calendars/Waiver Update:** Chair Folkerts reported that the School's withdrew their waiver request to begin the school year before Labor Day. The student and teacher school year will still be extended by two days, plus an additional 21 hours for teachers. Even though classes will not begin before Labor Day, the Schools will still need the $2 million included in the ACPS budget for FY 2012 as a result of the additional time noted above.

B. **Status/Timeline of Modular Units at Patrick Henry:** The modular units that will be installed at Patrick Henry Elementary Schools are currently being constructed off-site by the vendor. Delivery of the units is expected shortly after the last day of the current school year. As a result of installation of the units, the outdoor playing field at Patrick Henry will need to be taken offline for a period of one week in order for storm sewer connections to be made. Disruption to the field is expected to be minimal (about the size of a back-hoe shovel).

C. **Proposed Community Meeting for Jefferson-Houston:** Ms. Folkerts announced that ACPS will hold a meeting with the Jefferson-Houston community on June 1, 2011 to discuss the new school project. Items expected to be discussed include: the project planning and communication structure, a timeline of major construction milestones, and examples of K-8 school buildings from other communities.

D. **Building Near Four-Mile Run - Availability:** Dr. Sherman discussed ACPS's need to establish satellite classrooms over the next year in the City, particularly within the Arlandria area. By creating such sites the Schools hope to reduce the dropout rate among students who are identified as English Language Learners (ELL). Dr. Sherman thanked City Planning & Zoning staff for the work they conducted last Fall to help ACPS identify potential new school and satellite

classroom sites. Dr. Sherman specifically mentioned the Safeway/Datatel site as a possible option to explore. Dr. Sherman also expressed renewed interest in holding additional meetings with City staff about this issue.

E. **Lights at Hammond Field:** The Schools are currently applying for a Special Use Permit (SUP) to install lights on the upper field at Hammond Middle School. The application will be reviewed by the Planning Commission on June 7 and will be docketed for the June 25 City Council meeting. The project is included in the School's Final FY 2012-2021 CIP.

F. **Other:**

Student Leadership Advisors Council Request: Dr. Sherman reported on a student leadership committee that has been researching and developing a request for reduced DASH bus fares for students. Mr. Rich Baier explained that the City reviewed the issue in FY 2007 and FY 2008 but took no action primarily as a result of budget constraints. There was general agreement by Subcommittee members that the students should bring this request forward during the FY 2013 budget process. Many felt student participation in the City's budget process would serve as a positive form of civic engagement. As a starting point it was suggested that the students first attend a Transportation Commission meeting.

BRAC Transportation Issues: Mayor Euille expressed reservations about a letter sent from the Schools to the City's Congressional Delegation and the Department of Defense regarding the new BRAC facility. The Mayor conveyed concern that the separate letter gave the appearance that the City and Schools are not communicating with each other about issues related to the BRAC facility. The Mayor mentioned the importance for all parties involved to speak with a unified voice as one City, and explained that it would have been more productive for City and School to have discussed jointly any School-based concerns prior to the letter being sent.

Mr. Rich Baier of the City's Department of Transportation & Environmental Services described the City's surprise about the ACPS letter and voiced City staff's desire for information regarding ACPS bus routes. Mr. Baier informed the Subcommittee that the City is focusing on traffic mitigation projects at six key intersections within the vicinity of the BRAC site.

Dr. Sherman explained that the School Board and ACPS staff felt there was not consistent communication regarding the potential impacts to ACPS transportation operations and stated that the initial traffic study did not identify traffic impacts. Dr. Sherman suggested that City and ACPS staff meet to discuss this issue.

Alexandria Academy: Mayor Euille asked for information about Alexandria Academy, a private school operating within the City. Ms. Debra Collins reported that the school currently has five students enrolled and is experiencing significant

financial difficulties. Mr. Krupicka, City and School staff all felt there is a need to monitor this situation to ensure children enrolled at this school are receiving educational services that meet City and state standards. There was no suggestion of providing this institution with public funds.

The next meeting of the City Council/School Board Subcommittee is scheduled for Monday, June, 27 2011 at City Hall.

Alexandria City Council
City of Alexandria
City Hall
301 King Street
Alexandria, Virginia

June 20, 2011

APPEAL FROM SUP #201-0079- "Site Plan"
Approval by Planning Commission

COMES NOW, Donnell R. Fullerton, the property owner and resident of the City of Alexandria at 1407 N. Pickett Street, Alexandria, Virginia, situate within 1,000 feet of 4646 Seminary Road (Francis C. Hammond M.S.) Tax Map # 030.01-01-03 and appeals what ever decision which was actually voted on and taken by the Planning Commission of City of Alexandria at its meeting on June 7, 2011, be it approval of a "tantamount site plan", "site plan", "modification of site plan", or exemption granted Alexandria City Public Schools ("ACPS") from compliance with the requirements of the Code of Virginia and the City of Alexandria, including, but not limited to the City's Zoning Code and requirement to apply for and obtain a variance for reduction in front yard setback requirements.

On June 3, 2011, the Planning Director responded with an initial determination that the towers could be built up to 60 feet under an SUP under a section of the Code addressing the construction, expansion, or reconstruction of a public school, and therefore no variance is required; and that the Planning Director may treat a SUP as "tantamount" to a Site Plan, and therefore may request the Planning Commission to grant relief from restrictions without a variance. The Planning Director declared illumination restrictions in City Code to be inapplicable with no explanation or reasoning at all. The Planning Director did not respond to the request for a postponement, despite the staff and public having very little time to consider the extraordinary new SUP request. On June 16, 2011, the Planning Director issued a formal determination, adopting the same reasoning and language used in the June 3 initial determination.

The Planning Director's determination is arbitrary and capricious

The Planning Commission relied upon this determination in violation of law at its June 7th hearing and purported to grant approval of SUP #201-0079 authorizing ACPS to proceed and erect artificial lighting without complying with site plan application or other requirements, including, but not limited to exempting applicant from the filing of any plan dimensioning its field, a track, light positions, landscaping, etc. or otherwise complying with the standard requirements for a site plan. The SUP wrongfully advertised that the lighting would be for an existing athletic field, however, the plan described by ACPS at the hearing is for a new yet to be installed regulation size soccer field and track. No formal notice of this material omission from the application was previously provided neighboring property owners.

Incorporated by reference herein is the Appeal filed with the BZA on June 20, 2011. To wit, pursuant to Section 11-1200 of the Zoning Code and Virginia Code Sections 15.2-2286 and 15.2-2311, Seminary Hill Association, Inc. (SHA), 2115 Marlboro Drive Alexandria, VA 22304, and Don Fullerton, 1407 Pickett Street, Alexandria, Virginia, 22304, appeal to the Board of Zoning Appeals (BZA) from a June 16, 2011, determination of the Planning Director in connection with the Alexandria City Public Schools (ACPS) application for a Special Use Permit (SUP) #201-0079. The Planning Director wrongfully and unreasonably determined that (1) ACPS is not bound by 40 foot height restriction specifically applicable to a public school under Section 3-106(C), (2) a SUP is tantamount to a site plan, and therefore would apply parts of a standard applicable only to site plans in evading setback requirements, and (3) ACPS is not bound to comply with illumination limitations required by Section 13-1-3 of the City Code.[1]

The Planning Director's wrongful determination was relied upon by the Planning Commission in its consideration of SUP#201-0079 and its wrongful and illegal granting of an SUP/Site Plan to ACPS for the benefit of the Department of Recreation, Parks & Cultural Activities (RPCA), the true applicant.

Additionally, at the meeting of the Planning Commission on June 7, 2011, Commissioner Dunn in casting the deciding vote, publicly announced that while a finding of no adverse impact was required by Section 7-2100 stated that every application involves some adverse impact and ignored this legal requirement.

Accordingly, Appellant Donnell R. Fullerton appeals each and every one of the above actions and requests that the City Council accept my appeal, reverse the determination of the Planning Director and remand the matter for a further determination on the record.

SUMMARY

The appeal is lengthy due to the depth, breadth, and volume of reversible errors and the arbitrary and capricious nature in the Planning Director's determination. There are three main reasons why the Planning Director's decision should be reversed, summarized below:

1. The Planning Director incorrectly and unreasonably determined that ACPS is under no obligation to comply with height restrictions as an R-20 Property. The Planning Director incorrectly and unreasonably determined that 4 lighting tower structures are equivalent to the construction, expansion or reconstruction of a public school;
2. The Planning Director incorrectly and unreasonably determined that ACPS is under no obligation to comply with zoning restrictions addressing setback. The Planning Director

[1] In addition, even if the Planning Director's incorrect, unreasonable, arbitrary and capricious determination is upheld, the Planning Director failed to apprise the Planning Commission of the applicable affirmative determination it was required to make, and the determination should be reversed for further proceedings before the Planning Commission using the legally required standard. Therefore, appellants are also appealing the June 7 Planning Commission approval as invalid because it was based on an erroneous and reversible Planning Director determination.

found that setback provisions do not apply here because a SUP "is tantamount to a site plan," although the Planning Director did not require submitting a site plan or modified site plan, and none has been filed, nor require compliance with the second part of the same sentence cited in her determination;

3. The Planning Director unreasonably determined that ACPS is under no obligation to comply with its zoning restrictions addressing illumination on side and rear yards. City Code places a maximum limitation on light pollution on side and rear yards, yet the Planning Director determined that illumination on public sidewalks is adequate without addressing side and rear yards as required by law. Furthermore, Hammond's Development Site Plan #2000-0044 expressly requires ACPS to comply with all City Code illumination standards, and no effort has been made to comply with the DSP #2000-0044.

PROCEDURAL BACKGROUND

On November 17, 2010, Alexandria City Public Schools (ACPS) filed an application for a Special Use Permit (SUP) to erect four (4) 70 foot lighting poles at the upper field at Francis C. Hammond Middle School (Hammond). The SUP application contains a short narrative in support of the application but does not address many basic questions normally applicable to SUP applications, nor does it address technical analysis of the affect of stadium lighting on surrounding neighborhoods or how it plans to comply with City Code. The city held public meetings to discuss the issue on February 8, 2011, and April 26, 2011. Neither the applicants nor staff disclosed significant new information during these meetings. On May 12, 2011, ACPS filed an updated SUP application to add requests for relief from height and setback restrictions, and lowering the height to 60 feet. No other new information was in the updated SUP application, and little notice provided. No details were provided permitting verification that the poles as mounted and outfitted would in fact not exceed 60 feet in total height. It appears the total height will exceed 60 feet once installed, however, the exact height can not be determined from the application.

On May 18, 2011, Seminary Hill Association, Inc. (SHA) requested that ACPS withdraw the application before the Planning Commission hearing scheduled for June 7, 2011. Attachment 1. Mr. James Spengler, Director of Recreation, Parks and Cultural Activities (RPCA) responded to the May 18 letter on behalf of ACPS via a memorandum to City Council. The response did not explain any basis for believing the requirement for a variance for height, setback and illumination does not apply to the government.

On June 1, 2011, SHA sought a decision from the Planning Director regarding the proper processes and standards for violating Zoning Ordinance and City Code, and requested a postponement of the June 7 hearing to allow adequate time to review the new SUP requests. Attachment 2. On June 3, 2011, the Planning Director sent SHA an initial determination stating that, if viewed a certain way, the applicant can violate the code through a SUP. Attachment 3. The Planning Director did not respond to a request to postpone. On June 6, 2011, the Planning Director acknowledged the "valid and important" issues raised, but stated that it was too late to get a postponement. No other reason was cited. The Planning Commission went forward on

June 7 using the unreasonable, arbitrary and capricious standards the Planning Director cited in her June 3 response.

On June 16, 2011, the Planning Director issued a formal determination, adopting the same reasoning and language in her June 3, 2011, initial determination. Attachment 4. Appellants are challenging the conclusions and deeply flawed rationale in the June 16 determination, including but not limited, to the Planning Director's added assertions that "[t]he field and lights are clearly part of the public school facility" [2] or that "the degree of illumination that will be provided and the height of the proposed poles were discussed extensively"[3].

On June 7, 2011, the Alexandria Planning Commission (Commission) conducted a regular public hearing. ACPS's application was called at Docket Item 10. **SPECIAL USE PERMIT #2010-0079** 4646 SEMINARY ROAD, ALEXANDRIA PUBLIC SCHOOLS-FRANCIS HAMMOND Public hearing and consideration of a request to allow lighting on an existing athletic field and a modification to the minimum front yard setback; zoned R-8 & R-20/Single Family & Applicant: Alexandria City Public Schools represented by Kevin Van Hise. Staff's Docket # 10 Report with the Special Use Permit dated 5/12/11.[4]

Attending and participating was the Commission, members of the public, staff of ACPS, the Director of the Department of Recreation, Parks & Cultural Activities (RPCA), Planning Staff and the Planning Director. Kevin Van Hise and Mark Kraus of ACPS explained the proposal to replace the existing athletic field and irregular walking/jogging path with a regulation

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[2] ACPS at the February 7 and April 26 public meetings repeatedly stated that regardless of the light application the field and track would go forward and that ACPS had all requisite approvals to proceed regardless of public opposition. Additionally, it is RPCA which seeks lighting and proposes to use these lights as part of its operations and to permit it to decrease usage of other fields in its inventory.

[3] The public raised substantial questions as to the illumination and height of the poles but applicant was short on answers, in fact, there is no engineered drawings showing the actual height of the poles, the physical location of the poles from ACPS's property line, any calculations of illumination, any description of manufacturer model number of specifications of lighting proposed to be installed. No information as to the cost of installation or operation was provided despite repeated requests for same by the public.

[4] ACPS is requesting a Special Use Permit to add lights to an athletic facility. The SUP application cited Development Site Plan (DSP 2000-0044), which requires public review of and SUP for any proposed lighting of athletic fields at Hammond. The second aspect of the SUP is to allow a public school facility to construct a structure up to 60' with the City (Sec. 7-2100). ACPS also requests a modification to the minimum front yard setback within the R-20 zoning district per section 3-106(A). No relief is requested for illumination restrictions.

field and track.[5] An artist rendering of a soccer field with a track illuminated was presented and various slides of lighting that was installed at the Ben Brennan Park. Mr. Kraus indicated that a fence would be erected around the soccer field, and access during school hours will be restricted to ACPS. After 6 pm and on weekends, access will be restricted to the RPCA, with locks controlled by its staff and coaches of teams within its leagues.

Mr. Hise stated that the spill light on the public sidewalk adjacent to Varsity Park was projected at .44 footcandles, below the .6 footcandles current standard for lighting along sidewalks in single family residential areas. That number is also well above the .25 footcandles maximum required by Section 13-1-3 of the City Code.

Attending and participating were members of the public, including residents of Varsity Park -- the neighborhood adjacent to the Hammond field -- who opposed the plan, citing light pollution, noise, traffic, parking and other negative impacts associated with the proposal, as well as variance requirements. A number of speakers, most of whom either coach or play soccer, voiced support for the addition of a synthetic field with artificial lights and the extended hours of usage permitted by lighting.

Appellant Fullerton is a resident of Varsity Park, and appeared and testified at the hearing. SHA is the civic association representing Varsity Park. SHA President Nancy Jennings spoke at the hearing on behalf of SHA.

Appellant Fullerton resides at 1407 N. Pickett Street in a home which is across the street from Hammond's field. ACPS seeks to place a light pole approximately 25 feet from its property line in front of this residence. The setback requirement that applies to ACPS as a non-residential institutional use in an R-20 zone is 70 feet from the property line. Appellant Fullerton submitted opposition material prior to the hearing, including a detailed written opposition citing to the adverse impacts on Varsity Park and his property from this application. Attachment 5. Appellant Fullerton supplemented this material with photographs capturing traffic and parking conditions at Hammond and included *The Impact on Real Estate Values on a Proposal to Increase the Stadium Capacity and Install Lights at Bishop O'Connell High School*, which is a study prepared in Arlington County assessing impacts on real estate value from stadium lighting in a residential neighborhood similar to Varsity Park. Appellant Fullerton testified that he had confirmed the methodology and validity of the study which supports the adverse economic impact ranging from eleven percent (11%) to nine (9%) in that study, including reviewing the report and its methodology with E.J. Hooker, Director of U.S. Appraisal Operations for Deloitte, the largest

[5] Appellant Fullerton following the hearing personally visited the Planning Department and requested an opportunity to review the "site plan" which was voted on by the Planning Commission. Planning Staff advised that there was no plan other than a grading plan not in its office but under review by T & ES which did not require any other review beyond T & ES. Appellant Fullerton questioned ACPS's presentation before the Planning Commission stating that a full size regulations soccer field and regulation track would be installed as this was contrary to representations by ACPS and its consultants at the public meetings where non-standard field and track was indicated.

appraisal and real estate company in the United States with offices in 140 countries and over 170,000 employees worldwide. Appellant Fullerton stated that his opposition to the proposal included the fact that a variance was required, but was not being applied for and that the application was deficient on its face and adversely impacted adjoining properties and should be denied.

Another Varsity Park resident and former BZA Member, Frank Putzu, 1423 Juliana Place, Alexandria, Virginia, testified at the public hearing challenging the timing of the application and the need for such a fast track and ill considered process. He noted that a request for postponement had been made but denied and that given the dearth of information submitted or presented to the public by the ACPS that proceeding was objectionable. Putzu noted that there were questions as to the true applicant, what in fact was being requested, and what standard of review and code sections were to be applied. Putzu noted that appellant SHA had requested a determination from the Director of Planning and that it was in receipt of her initial determination which raised serious questions and problems. Putzu noted his disagreement with the initial determination but observed that even if Section 11-416(A) applied, as the Planning Director determined, it required an affirmative determination that "no detrimental impact on neighboring property" must be reached, which cannot and has not been met in this situation.

The Public Hearing session was closed and the Commission deliberated.

Commissioner Wagner questioned who the real applicant was, but indicated he did not need to pursue this or other questions as he felt he could not make a finding that no detrimental impact on neighbors would result. Commissioner Wagner also expressed great concern about the procedural defects. Commissioner Fossum concurred in these views.

Significantly, Commissioner Dunn stated that while Section 11-416(A) applied, in his opinion every application has some detrimental impact and this application could not be approved if he were to apply the required standard. Because applicant failed to meet the required legal standard, Commissioner Dunn simply refused to apply it. Mr. Dunn moved for approval. The Motion carried four to two, with Chairman Komoroske breaking the tie. Chairman Komoroske, Commissioner Lynam and Commissioner Jennings failed to make any statement or affirmative determination that there was no detrimental impact upon neighboring properties, as required by the Planning Director's decision. Their decision was based upon the flawed and reversible initial determination of the Planning Director.

The Planning Commission clearly relied on the Planning Director's initial determination and construct for approval. The provisions cited by her in her determination were relied upon by staff in its presentation and recommendation for approval, and voted upon by the Planning Commission. Thus, even if the Planning Director's clearly wrong and unreasonable decision is not reversed, the Planning Commission failed to make the required affirmative determinations required by the Section 11-416(A) of the Zoning Code. The Planning Director was in attendance and did not correct or alter in any manner her previous determination, or provide any further guidance to the Planning Commission.

As pointed out in detail below, the Planning Director's determination is arbitrary and capricious, lacks a reasonable basis, and in any event is contrary to the plain language of the City Code and Zoning Regulations. It is also contrary to the decisions of other jurisdictions in Virginia which have considered it; we are aware of no other jurisdictions which have permitted such flagrant violations of code in similar situations of a public school seeking stadium lighting in a residential zone.

Additionally, the Commission, including but not limited to Commissioner Dunn, ignored the standards for the grant of a 70% modification to the front yard setback reducing it from 70 feet to 23' and 25', applying a comparative harm analysis in substitution for the clear finding required by Code Section 11-416(A) that there is "no detrimental impact on neighboring properties" (or the variances not even applied for) and the findings required, which ACPS, RPCA, and the city have failed to address at all.

FACTUAL BACKGROUND

SHA and the community surrounding Hammond have had an interest in Hammond since its founding. SHA and the community worked closely with the School Board during the renovation planning in 2000 and during its expansion in 2006. Development Site Plan #2000-0044 represented the culmination of months of negotiations between ACPS, planning staff and SHA, as well as concerned neighbors. The Planning Commission imposed the following restriction upon Hammond (among many others agreed upon by the parties) in connection with its renovation:

> 16. **CONDITION AMENDED BY THE PLANNING COMMISSION:** Show existing and proposed street lights and site lights. Indicate the type of fixture, and show mounting height, and strength of fixture in Lumens or Watts. Provide manufacturer's specifications for the fixtures. Provide lighting calculations to verify that lighting meets City Standards. **The play field shall not be lighted unless, as required by the POS zone, a special use permit is granted for such lighting.** (T&ES)

Development Site Plan #2000-004 (emphasis in original). On or about May 12, 2011, ACPS filed a new SUP request. In addition to seeking a SUP for stadium lighting, the new SUP request sought relief from height and setback restrictions under the Zoning Code. No mention is made of illumination restrictions in City Code, nor is there any reference or request to modify DSP #2000-0044.

Because of the new requests for relief, on June 1, 2011, SHA requested the Planning Director review the following issues and provide a determination:

1. A ruling from the Planning Director on the correct process to get relief from the height and setback restrictions, including whether a variance is required, with SHA reserving the right to appeal to the Board of Zoning Appeals (BZA), if necessary;

2. A ruling from the Planning Director on whether illumination restrictions apply to the application, and if not why the application is relieved of the illumination requirements of City Code, with SHA reserving the right to appeal to the BZA, if necessary; and

3. At a minimum, postponement of the hearing at least until the fall of 2011 to allow for an intelligent assessment of the new requests in the SUP application.

STANDING

Appellant SHA is a non-partisan, non-profit civic organization that promotes the general welfare of the City of Alexandria, particularly those who live in Seminary Hill. In accordance with its by-laws, the Board of SHA voted at its May 12, 2011, meeting to request ACPS to withdraw its application for SUP at Hammond. Appellant Fullerton is a member of SHA and has been coordinating with SHA with respect to the ACPS proposed light project. On May 18, President Nancy Jennings submitted a written request to ACPS. ACPS passed the request to RPCA, who prepared a memorandum to City Council purportedly responding to the May 18 letter. RPCA asserted that it was not bound by the zoning ordinance and City Code applicable to height, setback and illumination. ACPS forwarded RPCA's memorandum to SHA on or about May 28, 2011, with no cover letter. On June 1, 2011, SHA requested a determination from the Planning Director on the issues raised in this appeal. On June 3, the Planning Director issued an initial determination to SHA finding the SHA raised "valid and important issues," and stating her position that no variances were required for the reasons stated in this appeal, and asking whether SHA would like a more formal determination. On June 6, 2011, SHA requested a formal determination. On June 7, the Planning Commission held a hearing on the SUP application using the standards contained in the Planning Director's June 3 determination. The Planning Director issued the formal determination June 16, 9 days after the Planning Commission hearing and 15 days after SHA's request.

On June 9, 2011, the Board of Directors of SHA met discussed this matter with members including Appellant Fullerton and then voted to authorize an appeal to the BZA on the issues raised in this appeal. The Planning Director's wrong and unreasonable determination has caused harm to SHA and will continue to harm SHA and other similarly situated civic associations, homeowners and residents of the City of Alexandria and Seminary Hill. SHA has an interest in the stability and predictability of the zoning and city code, including Seminary Hill, which the Planning Director's determination has threatened and undermined. SHA has a substantial grievance and has been denied both personal and property rights different from that suffered by the public generally and has standing in this matter.

Appellant Fullerton resides at 1407 N. Pickett Street, Alexandria, Virginia in Varsity Park Subdivision of the City of Alexandria. 1407 N. Pickett Street is directly across the street from Hammond. 1407 N. Pickett Street is currently impacted by artificial lights mounted on the

side of the Addition to Hammond constructed approximately three years ago. The lights were added approximately six months ago for "security" by ACPS.

Appellant Fullerton owns the residence at 1407 N. Pickett Street and is a member in good standing of SHA. Appellant Fullerton is a long term resident of the City and taxpayer. 1407 N. Pickett Street is zoned R-20 and is an improved residence with swimming pool and lawn amenities. The property is assessed by the City at $965,000.00.

Appellant Fullerton is currently negatively impacted by litter, noise, parking and traffic caused by extra-curricular activities allowed by ACPS at Hammond. ACPS's proposed project will create additional negative impacts to Appellant Fullerton's property as a result of additional litter, noise, parking demands and traffic, as well as, impair negatively the property as a result of light pollution, impairment of the character of Varsity Park, negatively and unreasonably affect public safety by the elimination of an emergency helicopter landing site with no confirmed alternative (this property is within three blocks of Alexandria Hospital and its emergency trauma center), impair the response time of Fire and Rescue based at the intersection of Seminary and N. Pickett Street and is incompatible with the Master Plan and the R-20 zoning and suburban residential character of the district.

Appellant Fullerton has submitted written opposition to the project, photographic evidence of current impairments and a study of the negative impact to residential home values associated with stadium lighting. The methodology and soundness of the study has been reviewed and confirmed by four appraisers, including, E.J. Huntley, U.S. Managing Director of Deloitte, a worldwide appraisal and real estate consulting firm with offices in over 140 countries. Each appraiser agreed that there would be negative impact but that the magnitude would require study. Insufficient time existed for such a study given the short notice period and the decision of ACPS and the Planning Director to deny the request for a postponement made by SHA on behalf of Appellant Fullerton and others.

Appellant Fullerton raised the economic negative impact with the ACPS in public hearings prior to its modification of its SUP application which has been ignored. ACPS has retained Kimley-Horn and Associates, Inc. and has access to the full resources of the City but declines to respond or provide any evidence as to the negative economic impact of its proposal. Appellant Fullerton objected in a timely manner to the deficiencies of the application and has called for a negative inference to be assessed deeming that 1407 N. Pickett Street's value will be negatively impacted by at least eleven percent (11%) in value.

Appellant Fullerton is aggrieved by the determination made by the Planning Director and further aggrieved by the decision of the Planning Commission. Appellant Fullerton has

submitted evidence demonstrating that he has an immediate, pecuniary and substantial interest in both the decision of the Planning Director and the decision of the Planning Commission.

Members of the Planning Commission in their deliberation following the public hearing acknowledged that they were relying on the June 3 initial decision of the Planning Director, and that under Section 11-416(A) a determination was required that the modifications sought by ACPS "**will not be detrimental to neighboring property or to the public health, safety and welfare.**" (emphasis added).

Two members of the Commission declared that they found that the proposal would be detrimental to neighboring property and voted in the negative. The remaining members wrongfully relied on the decision of the Planning Commission that a variance was not required and that Section 11-416(A) applied and at least one then choose to ignore the requirement indicating all projects negatively impact someone. Because the Motion to Approve with Conditions passed via tie-breaker vote by the Chairman, appellants and others have been unduly prejudiced by the Planning Director's wrong and unreasonable determination.

ACPS cannot meet the legal requirements for obtaining a variance. ACPS currently enjoys reasonable beneficial use of Hammond. ACPS publicly declared prior at public hearings preceding the Planning Director's determination and preceding the hearing before the Planning Commission that it intended to install a new artificial athletic field and track regardless of neighbors' opposition and regardless of whether or not its proposal to install artificial lights went forward.

ACPS has alternative sites at Hammond where it can install the four light towers without the necessity to violate setback requirements. At least one site (Lower Field) is suitable (more suitable given distance from neighbors, existing mature trees and established vegetation screening, proximity to parking, etc.), will accommodate its project without this negative impact but ACPS indicates that due to financial consideration, the cost of dealing with a sewer line, it prefers not to proceed with it at this time.

As a direct result of the incorrect determination issued by the Planning Director Appellant Fullerton has been directly and materially harmed. As a direct result of the application of the incorrect determination by the Planning Commission and the wrongful determination of the standard by at least one commissioner, Appellant Fullerton has been directly and materially harmed.

Appellant Fullerton has a substantial grievance and has been denied both personal and property rights different from that suffered by the public generally and has standing in this matter.

1. **The Planning Director Incorrectly and Unreasonably Determined That ACPS Is Under No Obligation to Comply with Height Restrictions As An R-20 Property**

The SUP application violates City and Zoning Code in at least three ways: (1) exceeding height restrictions, (2) exceeding setback restrictions and (3) exceeding illumination restrictions. The proposed lighting towers are 60 feet in height, two of which appear to be adjacent to the property line along Pickett Street. Hammond is zoned R-8 and R-20. In both instances, the following restriction is in place in the City Code for both zones:

> "Height. The maximum permitted height of a structure is 35 feet except for a church or school use in which case the maximum permitted height is 40 feet."

The Planning Director effectively argues that this provision has no meaning when applied to public schools. In its updated application, ACPS attempts to subvert the variance requirement for height by treating lighting towers as if it were equivalent to a public school being constructed, expanded or reconstructed, under Section 7-2100, and therefore can get a new SUP for a 60 foot structure. Section 7-2100 provides:

> Notwithstanding any contrary provision of this ordinance, a public elementary or secondary school, located in a residential or mixed use zone, may be constructed, expanded or reconstructed to a size which exceeds the density and height otherwise permitted by the regulations in such zone; provided, that a special use permit is approved, and, provided further, that no increase in floor area ratio greater than .60, and **no increase in height greater than 60 feet, shall be approved.** (emphasis added)

The regulation applies to the construction (e.g., Samuel Tucker School), reconstruction (e.g. George Washington Middle School) or expansion (e.g., Francis Hammond Middle School in 2000 and 2006) of public schools. That regulation does not apply to construction of stadium lighting towers that provide little or no benefit to public schools. The Planning Director makes no effort to explain how a lighting tower is equivalent or tantamount to the construction, reconstruction or expansion of a public school. She just declares it to be so.

In addition to the plain language of the Zoning Ordinance, at the April 26 public meeting, Chairwoman of the School Board Yvonne Folkerts admitted that ACPS' interest in supporting the lights was for the benefit of its fellow government entity, RPCA, which is seeking to expand conveniences primarily for adult sports (many of whom do not live in Alexandria). As a result, a variance is needed for height violations. In the Planning Director's decision, she concludes that the lighting towers are for the benefit of ACPS and of "City Recreation Department sponsored programs, City of Alexandria youth and adult sports leagues, and summer camps/clinics." No explanation is provided as to how students at Hammond, most of who are under the age of 14, need or will benefit from lighting a field at 10 p.m. Indeed, the City Manager, in Budget Memorandum Number 41, dated April 7, 2011, stated that synthetic turf with lights had two benefits: (1) natural turf fields degrade relatively rapidly and (2) "some sports (**adult leagues**) are forced to hold practices and games at increasingly undesirable times." (emphasis added).

Moreover, ACPS intends to restrict access to the field by installation of a 6 foot fence with gated entry point. ACPS reserves usage of the field during school hours with the RCPA controlling use and access after school, weekends and summers. RCPA intends to lock the gate and provide access to adult sports soccer (rentals) restricted to teams participating in its sponsored league. RCPA staff and volunteer coaches will have key access while the public will not. Usage without permit by neighbors or the public will be prohibited and non-RPCA permittees will be subject to fine and/or arrest. Such usage is unrelated to and cannot be considered public school usage yet it is the driving force behind installation of artificial lights at this location.

As noted at the Planning Commission hearing, ACPS relinquishes control of the field every day after 6 p.m. to RPCA, to manage as it sees fit. That position makes some sense since ACPS would have no interest in who is playing what sports on school nights and weekends. In this instance, the overwhelming majority of users of the field for the last several years has been adult men playing soccer in the evening and weekends. The Planning Director never explains how lighting towers for RPCA use for its recreational programs is the equivalent of the construction, expansion or reconstruction of a public school.

Thus, according to the City Manager, Chairwoman of the School Board, and RPCA, this stadium lighting is primarily for the benefit of adults, not the students of ACPS. While we do not wish to inconvenience adult sports, it is inappropriate and unreasonable under the Code to pretend that a stand-alone structure for RPCA use benefits children in ACPS, when in fact the beneficiaries are adults.

In addition, the Planning Director's reading effectively nullifies Zoning Code Section 3-106(A). Simply put, there is no purpose to having any regulation addressing height restrictions of a public school in an R-20 Zone if the Planning Director can unilaterally declare any structure for any purpose on school grounds to be construction, expansion or renovation of a public school. As a matter of law, we are required to give duly enacted laws and regulations meaning and purpose. Under the Planning Director's incorrect and unreasonable reading, Section 3-106(A) would be null and void.

Section 3-106(A) and Section 7-2100 can be fairly read together and consistent with each other. Under Section 7-2100, the public schools have the ability to seek an SUP for heights up to 60 feet when engaging in a major construction project, such as at T.C. Williams in the early 2000s, or renovation project, such as George Washington Middle School in the early 2000's. It makes sense that there would be some discretion in the larger context of a major construction project costing tens of millions of dollars, viewed in context with all other public school activities and facilities. It also makes sense that once a public school is built or renovated, it is subject to the normal requirements of the zone it is in, in this instance R-20. Thus, had Hammond sought to add a new wing of classrooms, it may be able to take advantage of Section 7-2100; instead, it is adding lighting towers for what the Planning Director and City Manager admit is for the benefit of "City Recreation Department sponsored programs, City of Alexandria youth and adult sports leagues, and summer camps/clinics." Neither ACPS nor its students have an interest in whether adults can play soccer after school hours at 10:00 p.m.

Thus, the Planning Director incorrectly, unreasonably, arbitrarily and capriciously dismissed ACPS from complying with height restrictions under Section 3-106(A), or seeking a variance, and the decision should be reversed.

2. **The Planning Director Incorrectly and Unreasonably Determined That ACPS Is Under No Obligation To Comply With Its Zoning Restrictions Addressing Setback**

The new SUP application seeks relief from setback requirements, from a minimum of 70 feet from the property line to 25 and 23 feet, respectively. The applicant concedes that is subject to a 70 foot setback requirement because it is a non-residential institutional use in an R-20 Zone. The Planning Director does not challenge that assertion, and her decision presumes the 70 foot setback applies. No rationale is given for relief from the 70 foot setback requirement. The Planning Director decided that ACPS does not need to seek a variance for violating setback restrictions, erroneously citing a section of the Code that permits a SUP when a party applies for a Site Plan. No such relief was ever sought, and indeed the subject was never brought up by the applicant or City staff until SHA asked. The Planning Director writes:

> Under [Section 11-416(A) of the Zoning Ordinance], in approving a site plan, the Planning Commission may modify the minimum frontage, yard, open and usable space, zone transition setback or other minimum requirements. This case involves a Special Use Permit approval, which the City construes to be tantamount to a site plan, or greater, for purposes of allowing a site plan modification . . .

The Planning Director provides no citation or support for this novel and extraordinary assertion that an SUP is "tantamount to a site plan." We have been unable to locate any other jurisdiction in Virginia adopting such a strange and baseless position. Section 11-416(A) provides as follows:

> Modification of zoning regulations.
>
> (1) In approving a site plan under the provisions of this section 11-400, the planning commission may modify the minimum frontage, yard, open and usable space, zone transition setback or other minimum requirements imposed by this ordinance for the zone or zones applicable to the land depicted in the site plan . . .

The plain language of this regulation demonstrates the unreasonableness, arbitrariness and capriciousness of the Planning Director's decision. In the first instance, the Planning Director claims that the regulation applies to modifications of a site plan. It does not. It applies to modifications of certain zoning regulations when a new site plan is being sought. No new site plan is sought here, nor is a modification to DSP #2000-0044 sought.

Applicant has not filed any plan locating the light poles on the site. No dimensions are provided from the sidewalks or streets for these sixty foot poles. No landscape plan showing all natural or landscaped areas, including the general location, names and area of coverage of trees,

shrubs and ground cover to be planted or retained. No plan situating or dimensioning the athletic field or track has been filed or is part of ACPS' application.

The Planning Director's staff, when responding to a request for review of the modified site plan, admitted there was none and indicated that since there was no structure being constructed at Hammond it was staff's practice to only require a grading permit.[6] A grading permit is said to be under review without the requirement for publication or more than staff review.

Clearly, ACPS's SUP is not the equivalent of a site plan nor is it an application for site plan modification. This determination by the Planning Director is incorrect.

Secondly, the regulation plainly requires a finding that the Planning Commission "determine that such modification is necessary or desirable to good site development, that specific and identified features of the site design make up for those impacts otherwise protected by the regulations for which modification is sought and that such modification will not be detrimental to neighboring property or to the public health, safety and welfare." Section 11-416(A). Neither the applicant, Planning Director nor city staff made any effort whatsoever to assess whether a 67% setback relief is necessary or desirable, what the impacts are, and whether it is detrimental to neighboring property, as the regulation requires. No effort at all. Moreover, substantial evidence has been produced by Appellants and others establishing that any such modification will be detrimental to neighboring property. The Planning Director misreads the regulation incorrectly, unreasonably, arbitrarily and capriciously to come to a pre-ordained conclusion.

Thus, the Planning Director incorrectly and unreasonably found that Section 11-416(A) applies, and grants her unilateral authority to break the regulatory limits. Appellants submit that the applicant is required to seek a variance or file an Amendment to DSP #2000-0044, like any other property owner on an R-20 property. In any case, even under the Planning Director's tortured reading of the regulation, the applicant must demonstrate that relief is appropriate and supportable by facts. No effort was made here to do that, and the Planning Director's decision should be reversed.

3. The Planning Director Unreasonably Determined that ACPS Is Under No Obligation To Comply With Its Zoning Restrictions Addressing Illumination On Side And Rear Yards

City Code also provides a maximum illumination upon properties in a residential zone. Specifically, City Code Section 13-1-3 states that "it shall be unlawful" to use outdoor lighting if the illumination and glare from the lights is "thrown upon" property occupied for residential

[6] This position is flatly inconsistent with its interpretation for the height requirements under Section 3-106, which requires structures built in connection with the construction, expansion or renovation of a public school.

purposes in an amount of illumination which measures more than "point twenty-five hundredths footcandles . . ." The regulation goes on to state that all lights shall be "shielded or directed so as to confine the area of diffusion to the property which it is intended to illuminate." This standard applies to both residential and commercial zones.

In addition, ACPS committed in a legally binding manner to comply with all illumination standards in the City Code (which includes Section 13-1-3). Development Site Plan #2000-0044 represented the culmination of months of negotiations between ACPS, planning staff and SHA, as well as concerned neighbors. The Planning Commission imposed the following restriction on ACPS (among many others agreed upon by the parties) in connection with its renovation of Hammond:

> 16. **CONDITION AMENDED BY THE PLANNING COMMISSION:** Show existing and proposed street lights and site lights. Indicate the type of fixture, and show mounting height, and strength of fixture in Lumens or Watts. Provide manufacturer's specifications for the fixtures. **Provide lighting calculations to verify that lighting meets City Standards.** . . .

DSP #2000-0044 (emphasis added). Despite this requirement of the existing DSP, the applicant has made no effort to "provide lighting calculations to verify that lighting meets City Standards." Indeed, appellants and others have specifically requested this information from applicant, and have been rebuffed. The Planning Director's determination refuses to hold the applicant accountable to this requirement.

The SUP application contains no analysis or review of footcandles expected to spill into surrounding neighborhoods and properties. At the April 26 meeting, the contractor stated that illumination across the street from Hammond would be forty-four one hundredths footcandles. The contractors also stated that the maximum illumination is sixty one-hundredths on the public sidewalk. No further information was provided to the Planning Commission. Despite repeated requests over a six month period, no effort was made to assess or determine how much light pollution and glare would invade residential properties.

SHA raised this issue before the Planning Director in its June 1 letter, specifically requesting whether illumination standards at City Code Section 13-1-3 apply, and if not why, and which restrictions do apply. Section 13-1-3 states that:

> It shall be unlawful for the owner or operator of any commercial property or the owner or occupant of any residential property when located adjacent the property used for residential purposes, to use for the outdoor lighting of the commercial property or residential property lights which are so arranged that the illumination and glare therefrom is thrown upon the side yard or rear yard of the adjacent property occupied for residential purposes in an amount of illumination which measures more than point twenty-five hundredths footcandles measured at any point seven feet beyond the property line of the adjacent property used for residential purposes.

SHA asked whether the illumination that stadium lighting would bring to the residential neighborhood (especially adjoining properties) would violate these restrictions. The Planning Director ignored that question, and set up an irrelevant strawman in response.

In response the Planning Director denies the restrictions apply and gave the following non-responsive and evasive answer:

> However, the information presented by the applicant shows lighting at the **front** property lines of houses across Pickett Street (the nearest houses) ranging from .18 to .44 footcandles. Indeed, it is important to remember that the City's standard for lighting along new public sidewalks in the front of single family homes is .6 footcandles, which is significantly higher than the lighting levels being projected in this case.

(emphasis in original). Appellants are pleased that the applicant will comply with the Code as it affects public sidewalks. That, however, is irrelevant, and the Planning Director made no effort to respond to the question. The issue is whether the applicant will penetrate light and glare at side and rear yards, and if that penetration exceeds restrictions. If so, a variance at minimum is required. No one knows the answer to whether the light pollution exceeds requirements, and no effort appears to have been made to answer that question.[7]

At a minimum, the Planning Director's determination should be reversed and remanded with direction to provide lighting calculation verifying compliance with City standards, including Section 13-1-3, as required by DSP #2000-0044.

The Planning Director provides no reasoning at all to support her decision that Section 13-1-3 does not apply. She just declares it to be so. That is the very definition of unreasonable, arbitrary and capricious.

At a minimum, we request that the city substantiate its belief that adding such significant light pollution and glare to neighbors complies with Section 13-1-3, and if not it must seek a variance, modification of DSP #2000-0044, a new site plan, or other relief. No resident would be permitted to shed significant light pollution on neighboring properties, and there is nothing different about this applicant.

The government is not exempt from the law.

---

[7] In this regard, ACPS and RPCA rely wholly upon their consultant and contractor, Kimley Horn & Associates. There has been no independent light pollution study as normally applies, and there has been no scrutiny or accountability of Kimley Horn's conclusions. ACPS and RPCA simply take their word at face value, declare it to be true and refuse to conduct basic oversight of its contractor.

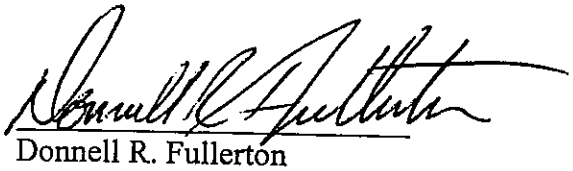
CONCLUSION

On May 18, 2011, SHA sent a letter pointing out significant deficiencies to ACPS and the Planning Director, most of which remain unanswered. On June 1, 2011, SHA requested a formal ruling from the Planning Director on significant zoning issues. Appellant note that there is no effort made to assess whether it is a good idea to violate height, setback and illumination restrictions. For example, while the city insists that the proposal would meet illumination requirements regarding public sidewalks, it never states how much light pollution and glare will penetrate the front, side and year yards of adjacent property, and whether that meets City Code requirements. Nor is any effort made to assess whether permitting a reduction of setback from 70 feet to 23 and 25 feet is good policy and precedent.

The city simply states that they can do what they want using unwarranted and unprecedented procedural devices and tortured reading of code. No other jurisdiction in Virginia has ever adopted this reading (and with good reason), nor should Alexandria. It has no basis in reason, fact or law. Appellant Fullerton respectfully requests that Planning Director decision addressing height, setback and illumination be reversed with direction to conduct analyses and process required by law and regulation. Additionally, Appellant seeks the action taken by the Planning Commission be set aside.

Appellant Fullerton appeals the "site" plan determination(s) made by the Planning Commission and requests that the City Council reverse the action taken at the June 7, 2011 hearing at Docket No. 10 by the Planning Commission.

Respectfully submitted this 20th day of June 2011.



Donnell R. Fullerton

ATTACHMENTS

All attachments referenced are on file with the BZA as part of the appeal filed June 20, 2011.

Alexandria City Council
City of Alexandria
City Hall
301 King Street
Alexandria, Virginia

JUN 2 0 2011

June 20, 2011

APPEAL FROM SUP #201-0079- "Site Plan"
Approval by Planning Commission

COMES NOW, Donnell R. Fullerton, the property owner and resident of the City of Alexandria at 1407 N. Pickett Street, Alexandria, Virginia, situate within 1,000 feet of 4646 Seminary Road (Francis C. Hammond M.S.) Tax Map # 030.01-01-03 and appeals what ever decision which was actually voted on and taken by the Planning Commission of City of Alexandria at its meeting on June 7, 2011, be it approval of a "tantamount site plan", "site plan", "modification of site plan", or exemption granted Alexandria City Public Schools ("ACPS") from compliance with the requirements of the Code of Virginia and the City of Alexandria, including, but not limited to the City's Zoning Code and requirement to apply for and obtain a variance for reduction in front yard setback requirements.

On June 3, 2011, the Planning Director responded with an initial determination that the towers could be built up to 60 feet under an SUP under a section of the Code addressing the construction, expansion, or reconstruction of a public school, and therefore no variance is required; and that the Planning Director may treat a SUP as "tantamount" to a Site Plan, and therefore may request the Planning Commission to grant relief from restrictions without a variance. The Planning Director declared illumination restrictions in City Code to be inapplicable with no explanation or reasoning at all. The Planning Director did not respond to the request for a postponement, despite the staff and public having very little time to consider the extraordinary new SUP request. On June 16, 2011, the Planning Director issued a formal determination, adopting the same reasoning and language used in the June 3 initial determination.

The Planning Director's determination is arbitrary and capricious

The Planning Commission relied upon this determination in violation of law at its June 7th hearing and purported to grant approval of SUP #201-0079 authorizing ACPS to proceed and erect artificial lighting without complying with site plan application or other requirements, including, but not limited to exempting applicant from the filing of any plan dimensioning its field, a track, light positions, landscaping, etc. or otherwise complying with the standard requirements for a site plan. The SUP wrongfully advertised that the lighting would be for an existing athletic field, however, the plan described by ACPS at the hearing is for a new yet to be installed regulation size soccer field and track. No formal notice of this material omission from the application was previously provided neighboring property owners.

Incorporated by reference herein is the Appeal filed with the BZA on June 20, 2011. To wit, pursuant to Section 11-1200 of the Zoning Code and Virginia Code Sections 15.2-2286 and 15.2-2311, Seminary Hill Association, Inc. (SHA), 2115 Marlboro Drive Alexandria, VA 22304, and Don Fullerton, 1407 Pickett Street, Alexandria, Virginia, 22304, appeal to the Board of Zoning Appeals (BZA) from a June 16, 2011, determination of the Planning Director in connection with the Alexandria City Public Schools (ACPS) application for a Special Use Permit (SUP) #201-0079. The Planning Director wrongfully and unreasonably determined that (1) ACPS is not bound by 40 foot height restriction specifically applicable to a public school under Section 3-106(C), (2) a SUP is tantamount to a site plan, and therefore would apply parts of a standard applicable only to site plans in evading setback requirements, and (3) ACPS is not bound to comply with illumination limitations required by Section 13-1-3 of the City Code.[1]

The Planning Director's wrongful determination was relied upon by the Planning Commission in its consideration of SUP#201-0079 and its wrongful and illegal granting of an SUP/Site Plan to ACPS for the benefit of the Department of Recreation, Parks & Cultural Activities (RPCA), the true applicant.

Additionally, at the meeting of the Planning Commission on June 7, 2011, Commissioner Dunn in casting the deciding vote, publicly announced that while a finding of no adverse impact was required by Section 7-2100 stated that every application involves some adverse impact and ignored this legal requirement.

Accordingly, Appellant Donnell R. Fullerton appeals each and every one of the above actions and requests that the City Council accept my appeal, reverse the determination of the Planning Director and remand the matter for a further determination on the record.

SUMMARY

The appeal is lengthy due to the depth, breadth, and volume of reversible errors and the arbitrary and capricious nature in the Planning Director's determination. There are three main reasons why the Planning Director's decision should be reversed, summarized below:

1. The Planning Director incorrectly and unreasonably determined that ACPS is under no obligation to comply with height restrictions as an R-20 Property. The Planning Director incorrectly and unreasonably determined that 4 lighting tower structures are equivalent to the construction, expansion or reconstruction of a public school;
2. The Planning Director incorrectly and unreasonably determined that ACPS is under no obligation to comply with zoning restrictions addressing setback. The Planning Director

[1] In addition, even if the Planning Director's incorrect, unreasonable, arbitrary and capricious determination is upheld, the Planning Director failed to apprise the Planning Commission of the applicable affirmative determination it was required to make, and the determination should be reversed for further proceedings before the Planning Commission using the legally required standard. Therefore, appellants are also appealing the June 7 Planning Commission approval as invalid because it was based on an erroneous and reversible Planning Director determination.

found that setback provisions do not apply here because a SUP "is tantamount to a site plan," although the Planning Director did not require submitting a site plan or modified site plan, and none has been filed, nor require compliance with the second part of the same sentence cited in her determination;

3. The Planning Director unreasonably determined that ACPS is under no obligation to comply with its zoning restrictions addressing illumination on side and rear yards. City Code places a maximum limitation on light pollution on side and rear yards, yet the Planning Director determined that illumination on public sidewalks is adequate without addressing side and rear yards as required by law. Furthermore, Hammond's Development Site Plan #2000-0044 expressly requires ACPS to comply with all City Code illumination standards, and no effort has been made to comply with the DSP #2000-0044.

PROCEDURAL BACKGROUND

On November 17, 2010, Alexandria City Public Schools (ACPS) filed an application for a Special Use Permit (SUP) to erect four (4) 70 foot lighting poles at the upper field at Francis C. Hammond Middle School (Hammond). The SUP application contains a short narrative in support of the application but does not address many basic questions normally applicable to SUP applications, nor does it address technical analysis of the affect of stadium lighting on surrounding neighborhoods or how it plans to comply with City Code. The city held public meetings to discuss the issue on February 8, 2011, and April 26, 2011. Neither the applicants nor staff disclosed significant new information during these meetings. On May 12, 2011, ACPS filed an updated SUP application to add requests for relief from height and setback restrictions, and lowering the height to 60 feet. No other new information was in the updated SUP application, and little notice provided. No details were provided permitting verification that the poles as mounted and outfitted would in fact not exceed 60 feet in total height. It appears the total height will exceed 60 feet once installed, however, the exact height can not be determined from the application.

On May 18, 2011, Seminary Hill Association, Inc. (SHA) requested that ACPS withdraw the application before the Planning Commission hearing scheduled for June 7, 2011. Attachment 1. Mr. James Spengler, Director of Recreation, Parks and Cultural Activities (RPCA) responded to the May 18 letter on behalf of ACPS via a memorandum to City Council. The response did not explain any basis for believing the requirement for a variance for height, setback and illumination does not apply to the government.

On June 1, 2011, SHA sought a decision from the Planning Director regarding the proper processes and standards for violating Zoning Ordinance and City Code, and requested a postponement of the June 7 hearing to allow adequate time to review the new SUP requests. Attachment 2. On June 3, 2011, the Planning Director sent SHA an initial determination stating that, if viewed a certain way, the applicant can violate the code through a SUP. Attachment 3. The Planning Director did not respond to a request to postpone. On June 6, 2011, the Planning Director acknowledged the "valid and important" issues raised, but stated that it was too late to get a postponement. No other reason was cited. The Planning Commission went forward on

June 7 using the unreasonable, arbitrary and capricious standards the Planning Director cited in her June 3 response.

On June 16, 2011, the Planning Director issued a formal determination, adopting the same reasoning and language in her June 3, 2011, initial determination. Attachment 4. Appellants are challenging the conclusions and deeply flawed rationale in the June 16 determination, including but not limited, to the Planning Director's added assertions that "[t]he field and lights are clearly part of the public school facility" [2] or that "the degree of illumination that will be provided and the height of the proposed poles were discussed extensively"[3].

On June 7, 2011, the Alexandria Planning Commission (Commission) conducted a regular public hearing. ACPS's application was called at Docket Item 10. **SPECIAL USE PERMIT #2010-0079** 4646 SEMINARY ROAD, ALEXANDRIA PUBLIC SCHOOLS-FRANCIS HAMMOND Public hearing and consideration of a request to allow lighting on an existing athletic field and a modification to the minimum front yard setback; zoned R-8 & R-20/Single Family & Applicant: Alexandria City Public Schools represented by Kevin Van Hise. Staff's Docket # 10 Report with the Special Use Permit dated 5/12/11.[4]

Attending and participating was the Commission, members of the public, staff of ACPS, the Director of the Department of Recreation, Parks & Cultural Activities (RPCA), Planning Staff and the Planning Director. Kevin Van Hise and Mark Kraus of ACPS explained the proposal to replace the existing athletic field and irregular walking/jogging path with a regulation

[2] ACPS at the February 7 and April 26 public meetings repeatedly stated that regardless of the light application the field and track would go forward and that ACPS had all requisite approvals to proceed regardless of public opposition. Additionally, it is RPCA which seeks lighting and proposes to use these lights as part of its operations and to permit it to decrease usage of other fields in its inventory.

[3] The public raised substantial questions as to the illumination and height of the poles but applicant was short on answers, in fact, there is no engineered drawings showing the actual height of the poles, the physical location of the poles from ACPS's property line, any calculations of illumination, any description of manufacturer model number of specifications of lighting proposed to be installed. No information as to the cost of installation or operation was provided despite repeated requests for same by the public.

[4] ACPS is requesting a Special Use Permit to add lights to an athletic facility. The SUP application cited Development Site Plan (DSP 2000-0044), which requires public review of and SUP for any proposed lighting of athletic fields at Hammond. The second aspect of the SUP is to allow a public school facility to construct a structure up to 60' with the City (Sec. 7-2100). ACPS also requests a modification to the minimum front yard setback within the R-20 zoning district per section 3-106(A). No relief is requested for illumination restrictions.

field and track.[5] An artist rendering of a soccer field with a track illuminated was presented and various slides of lighting that was installed at the Ben Brennan Park. Mr. Kraus indicated that a fence would be erected around the soccer field, and access during school hours will be restricted to ACPS. After 6 pm and on weekends, access will be restricted to the RPCA, with locks controlled by its staff and coaches of teams within its leagues.

Mr. Hise stated that the spill light on the public sidewalk adjacent to Varsity Park was projected at .44 footcandles, below the .6 footcandles current standard for lighting along sidewalks in single family residential areas. That number is also well above the .25 footcandles maximum required by Section 13-1-3 of the City Code.

Attending and participating were members of the public, including residents of Varsity Park -- the neighborhood adjacent to the Hammond field -- who opposed the plan, citing light pollution, noise, traffic, parking and other negative impacts associated with the proposal, as well as variance requirements. A number of speakers, most of whom either coach or play soccer, voiced support for the addition of a synthetic field with artificial lights and the extended hours of usage permitted by lighting.

Appellant Fullerton is a resident of Varsity Park, and appeared and testified at the hearing. SHA is the civic association representing Varsity Park. SHA President Nancy Jennings spoke at the hearing on behalf of SHA.

Appellant Fullerton resides at 1407 N. Pickett Street in a home which is across the street from Hammond's field. ACPS seeks to place a light pole approximately 25 feet from its property line in front of this residence. The setback requirement that applies to ACPS as a non-residential institutional use in an R-20 zone is 70 feet from the property line. Appellant Fullerton submitted opposition material prior to the hearing, including a detailed written opposition citing to the adverse impacts on Varsity Park and his property from this application. Attachment 5. Appellant Fullerton supplemented this material with photographs capturing traffic and parking conditions at Hammond and included *The Impact on Real Estate Values on a Proposal to Increase the Stadium Capacity and Install Lights at Bishop O'Connell High School*, which is a study prepared in Arlington County assessing impacts on real estate value from stadium lighting in a residential neighborhood similar to Varsity Park. Appellant Fullerton testified that he had confirmed the methodology and validity of the study which supports the adverse economic impact ranging from eleven percent (11%) to nine (9%) in that study, including reviewing the report and its methodology with E.J. Hooker, Director of U.S. Appraisal Operations for Deloitte, the largest

[5] Appellant Fullerton following the hearing personally visited the Planning Department and requested an opportunity to review the "site plan" which was voted on by the Planning Commission. Planning Staff advised that there was no plan other than a grading plan not in its office but under review by T & ES which did not require any other review beyond T & ES. Appellant Fullerton questioned ACPS's presentation before the Planning Commission stating that a full size regulations soccer field and regulation track would be installed as this was contrary to representations by ACPS and its consultants at the public meetings where non-standard field and track was indicated.

appraisal and real estate company in the United States with offices in 140 countries and over 170,000 employees worldwide. Appellant Fullerton stated that his opposition to the proposal included the fact that a variance was required, but was not being applied for and that the application was deficient on its face and adversely impacted adjoining properties and should be denied.

Another Varsity Park resident and former BZA Member, Frank Putzu, 1423 Juliana Place, Alexandria, Virginia, testified at the public hearing challenging the timing of the application and the need for such a fast track and ill considered process. He noted that a request for postponement had been made but denied and that given the dearth of information submitted or presented to the public by the ACPS that proceeding was objectionable. Putzu noted that there were questions as to the true applicant, what in fact was being requested, and what standard of review and code sections were to be applied. Putzu noted that appellant SHA had requested a determination from the Director of Planning and that it was in receipt of her initial determination which raised serious questions and problems. Putzu noted his disagreement with the initial determination but observed that even if Section 11-416(A) applied, as the Planning Director determined, it required an affirmative determination that "no detrimental impact on neighboring property" must be reached, which cannot and has not been met in this situation.

The Public Hearing session was closed and the Commission deliberated.

Commissioner Wagner questioned who the real applicant was, but indicated he did not need to pursue this or other questions as he felt he could not make a finding that no detrimental impact on neighbors would result. Commissioner Wagner also expressed great concern about the procedural defects. Commissioner Fossum concurred in these views.

Significantly, Commissioner Dunn stated that while Section 11-416(A) applied, in his opinion every application has some detrimental impact and this application could not be approved if he were to apply the required standard. Because applicant failed to meet the required legal standard, Commissioner Dunn simply refused to apply it. Mr. Dunn moved for approval. The Motion carried four to two, with Chairman Komoroske breaking the tie. Chairman Komoroske, Commissioner Lynam and Commissioner Jennings failed to make any statement or affirmative determination that there was no detrimental impact upon neighboring properties, as required by the Planning Director's decision. Their decision was based upon the flawed and reversible initial determination of the Planning Director.

The Planning Commission clearly relied on the Planning Director's initial determination and construct for approval. The provisions cited by her in her determination were relied upon by staff in its presentation and recommendation for approval, and voted upon by the Planning Commission. Thus, even if the Planning Director's clearly wrong and unreasonable decision is not reversed, the Planning Commission failed to make the required affirmative determinations required by the Section 11-416(A) of the Zoning Code. The Planning Director was in attendance and did not correct or alter in any manner her previous determination, or provide any further guidance to the Planning Commission.

As pointed out in detail below, the Planning Director's determination is arbitrary and capricious, lacks a reasonable basis, and in any event is contrary to the plain language of the City Code and Zoning Regulations. It is also contrary to the decisions of other jurisdictions in Virginia which have considered it; we are aware of no other jurisdictions which have permitted such flagrant violations of code in similar situations of a public school seeking stadium lighting in a residential zone.

Additionally, the Commission, including but not limited to Commissioner Dunn, ignored the standards for the grant of a 70% modification to the front yard setback reducing it from 70 feet to 23' and 25', applying a comparative harm analysis in substitution for the clear finding required by Code Section 11-416(A) that there is "no detrimental impact on neighboring properties" (or the variances not even applied for) and the findings required, which ACPS, RPCA, and the city have failed to address at all.

FACTUAL BACKGROUND

SHA and the community surrounding Hammond have had an interest in Hammond since its founding. SHA and the community worked closely with the School Board during the renovation planning in 2000 and during its expansion in 2006. Development Site Plan #2000-0044 represented the culmination of months of negotiations between ACPS, planning staff and SHA, as well as concerned neighbors. The Planning Commission imposed the following restriction upon Hammond (among many others agreed upon by the parties) in connection with its renovation:

> 16. **CONDITION AMENDED BY THE PLANNING COMMISSION:** Show existing and proposed street lights and site lights. Indicate the type of fixture, and show mounting height, and strength of fixture in Lumens or Watts. Provide manufacturer's specifications for the fixtures. Provide lighting calculations to verify that lighting meets City Standards. **The play field shall not be lighted unless, as required by the POS zone, a special use permit is granted for such lighting.** (T&ES)

Development Site Plan #2000-004 (emphasis in original). On or about May 12, 2011, ACPS filed a new SUP request. In addition to seeking a SUP for stadium lighting, the new SUP request sought relief from height and setback restrictions under the Zoning Code. No mention is made of illumination restrictions in City Code, nor is there any reference or request to modify DSP #2000-0044.

Because of the new requests for relief, on June 1, 2011, SHA requested the Planning Director review the following issues and provide a determination:

1. A ruling from the Planning Director on the correct process to get relief from the height and setback restrictions, including whether a variance is required, with SHA reserving the right to appeal to the Board of Zoning Appeals (BZA), if necessary;

2. A ruling from the Planning Director on whether illumination restrictions apply to the application, and if not why the application is relieved of the illumination requirements of City Code, with SHA reserving the right to appeal to the BZA, if necessary; and

3. At a minimum, postponement of the hearing at least until the fall of 2011 to allow for an intelligent assessment of the new requests in the SUP application.

STANDING

Appellant SHA is a non-partisan, non-profit civic organization that promotes the general welfare of the City of Alexandria, particularly those who live in Seminary Hill. In accordance with its by-laws, the Board of SHA voted at its May 12, 2011, meeting to request ACPS to withdraw its application for SUP at Hammond. Appellant Fullerton is a member of SHA and has been coordinating with SHA with respect to the ACPS proposed light project. On May 18, President Nancy Jennings submitted a written request to ACPS. ACPS passed the request to RPCA, who prepared a memorandum to City Council purportedly responding to the May 18 letter. RPCA asserted that it was not bound by the zoning ordinance and City Code applicable to height, setback and illumination. ACPS forwarded RPCA's memorandum to SHA on or about May 28, 2011, with no cover letter. On June 1, 2011, SHA requested a determination from the Planning Director on the issues raised in this appeal. On June 3, the Planning Director issued an initial determination to SHA finding the SHA raised "valid and important issues," and stating her position that no variances were required for the reasons stated in this appeal, and asking whether SHA would like a more formal determination. On June 6, 2011, SHA requested a formal determination. On June 7, the Planning Commission held a hearing on the SUP application using the standards contained in the Planning Director's June 3 determination. The Planning Director issued the formal determination June 16, 9 days after the Planning Commission hearing and 15 days after SHA's request.

On June 9, 2011, the Board of Directors of SHA met discussed this matter with members including Appellant Fullerton and then voted to authorize an appeal to the BZA on the issues raised in this appeal. The Planning Director's wrong and unreasonable determination has caused harm to SHA and will continue to harm SHA and other similarly situated civic associations, homeowners and residents of the City of Alexandria and Seminary Hill. SHA has an interest in the stability and predictability of the zoning and city code, including Seminary Hill, which the Planning Director's determination has threatened and undermined. SHA has a substantial grievance and has been denied both personal and property rights different from that suffered by the public generally and has standing in this matter.

Appellant Fullerton resides at 1407 N. Pickett Street, Alexandria, Virginia in Varsity Park Subdivision of the City of Alexandria. 1407 N. Pickett Street is directly across the street from Hammond. 1407 N. Pickett Street is currently impacted by artificial lights mounted on the

side of the Addition to Hammond constructed approximately three years ago. The lights were added approximately six months ago for "security" by ACPS.

Appellant Fullerton owns the residence at 1407 N. Pickett Street and is a member in good standing of SHA. Appellant Fullerton is a long term resident of the City and taxpayer. 1407 N. Pickett Street is zoned R-20 and is an improved residence with swimming pool and lawn amenities. The property is assessed by the City at $965,000.00.

Appellant Fullerton is currently negatively impacted by litter, noise, parking and traffic caused by extra-curricular activities allowed by ACPS at Hammond. ACPS's proposed project will create additional negative impacts to Appellant Fullerton's property as a result of additional litter, noise, parking demands and traffic, as well as, impair negatively the property as a result of light pollution, impairment of the character of Varsity Park, negatively and unreasonably affect public safety by the elimination of an emergency helicopter landing site with no confirmed alternative (this property is within three blocks of Alexandria Hospital and its emergency trauma center), impair the response time of Fire and Rescue based at the intersection of Seminary and N. Pickett Street and is incompatible with the Master Plan and the R-20 zoning and suburban residential character of the district.

Appellant Fullerton has submitted written opposition to the project, photographic evidence of current impairments and a study of the negative impact to residential home values associated with stadium lighting. The methodology and soundness of the study has been reviewed and confirmed by four appraisers, including, E.J. Huntley, U.S. Managing Director of Deloitte, a worldwide appraisal and real estate consulting firm with offices in over 140 countries. Each appraiser agreed that there would be negative impact but that the magnitude would require study. Insufficient time existed for such a study given the short notice period and the decision of ACPS and the Planning Director to deny the request for a postponement made by SHA on behalf of Appellant Fullerton and others.

Appellant Fullerton raised the economic negative impact with the ACPS in public hearings prior to its modification of its SUP application which has been ignored. ACPS has retained Kimley-Horn and Associates, Inc. and has access to the full resources of the City but declines to respond or provide any evidence as to the negative economic impact of its proposal. Appellant Fullerton objected in a timely manner to the deficiencies of the application and has called for a negative inference to be assessed deeming that 1407 N. Pickett Street's value will be negatively impacted by at least eleven percent (11%) in value.

Appellant Fullerton is aggrieved by the determination made by the Planning Director and further aggrieved by the decision of the Planning Commission. Appellant Fullerton has

submitted evidence demonstrating that he has an immediate, pecuniary and substantial interest in both the decision of the Planning Director and the decision of the Planning Commission.

Members of the Planning Commission in their deliberation following the public hearing acknowledged that they were relying on the June 3 initial decision of the Planning Director, and that under Section 11-416(A) a determination was required that the modifications sought by ACPS **"will not be detrimental to neighboring property or to the public health, safety and welfare."** (emphasis added).

Two members of the Commission declared that they found that the proposal would be detrimental to neighboring property and voted in the negative. The remaining members wrongfully relied on the decision of the Planning Commission that a variance was not required and that Section 11-416(A) applied and at least one then choose to ignore the requirement indicating all projects negatively impact someone. Because the Motion to Approve with Conditions passed via tie-breaker vote by the Chairman, appellants and others have been unduly prejudiced by the Planning Director's wrong and unreasonable determination.

ACPS cannot meet the legal requirements for obtaining a variance. ACPS currently enjoys reasonable beneficial use of Hammond. ACPS publicly declared prior at public hearings preceding the Planning Director's determination and preceding the hearing before the Planning Commission that it intended to install a new artificial athletic field and track regardless of neighbors' opposition and regardless of whether or not its proposal to install artificial lights went forward.

ACPS has alternative sites at Hammond where it can install the four light towers without the necessity to violate setback requirements. At least one site (Lower Field) is suitable (more suitable given distance from neighbors, existing mature trees and established vegetation screening, proximity to parking, etc.), will accommodate its project without this negative impact but ACPS indicates that due to financial consideration, the cost of dealing with a sewer line, it prefers not to proceed with it at this time.

As a direct result of the incorrect determination issued by the Planning Director Appellant Fullerton has been directly and materially harmed. As a direct result of the application of the incorrect determination by the Planning Commission and the wrongful determination of the standard by at least one commissioner, Appellant Fullerton has been directly and materially harmed.

Appellant Fullerton has a substantial grievance and has been denied both personal and property rights different from that suffered by the public generally and has standing in this matter.

1. **The Planning Director Incorrectly and Unreasonably Determined That ACPS Is Under No Obligation to Comply with Height Restrictions As An R-20 Property**

The SUP application violates City and Zoning Code in at least three ways: (1) exceeding height restrictions, (2) exceeding setback restrictions and (3) exceeding illumination restrictions. The proposed lighting towers are 60 feet in height, two of which appear to be adjacent to the property line along Pickett Street. Hammond is zoned R-8 and R-20. In both instances, the following restriction is in place in the City Code for both zones:

> "Height. The maximum permitted height of a structure is 35 feet except for a church or school use in which case the maximum permitted height is 40 feet."

The Planning Director effectively argues that this provision has no meaning when applied to public schools. In its updated application, ACPS attempts to subvert the variance requirement for height by treating lighting towers as if it were equivalent to a public school being constructed, expanded or reconstructed, under Section 7-2100, and therefore can get a new SUP for a 60 foot structure. Section 7-2100 provides:

> Notwithstanding any contrary provision of this ordinance, a public elementary or secondary school, located in a residential or mixed use zone, may be constructed, expanded or reconstructed to a size which exceeds the density and height otherwise permitted by the regulations in such zone; provided, that a special use permit is approved, and, provided further, that no increase in floor area ratio greater than .60, and **no increase in height greater than 60 feet, shall be approved.** (emphasis added)

The regulation applies to the construction (e.g., Samuel Tucker School), reconstruction (e.g. George Washington Middle School) or expansion (e.g., Francis Hammond Middle School in 2000 and 2006) of public schools. That regulation does not apply to construction of stadium lighting towers that provide little or no benefit to public schools. The Planning Director makes no effort to explain how a lighting tower is equivalent or tantamount to the construction, reconstruction or expansion of a public school. She just declares it to be so.

In addition to the plain language of the Zoning Ordinance, at the April 26 public meeting, Chairwoman of the School Board Yvonne Folkerts admitted that ACPS' interest in supporting the lights was for the benefit of its fellow government entity, RPCA, which is seeking to expand conveniences primarily for adult sports (many of whom do not live in Alexandria). As a result, a variance is needed for height violations. In the Planning Director's decision, she concludes that the lighting towers are for the benefit of ACPS and of "City Recreation Department sponsored programs, City of Alexandria youth and adult sports leagues, and summer camps/clinics." No explanation is provided as to how students at Hammond, most of who are under the age of 14, need or will benefit from lighting a field at 10 p.m. Indeed, the City Manager, in Budget Memorandum Number 41, dated April 7, 2011, stated that synthetic turf with lights had two benefits: (1) natural turf fields degrade relatively rapidly and (2) "some sports (**adult leagues**) are forced to hold practices and games at increasingly undesirable times." (emphasis added).

Moreover, ACPS intends to restrict access to the field by installation of a 6 foot fence with gated entry point. ACPS reserves usage of the field during school hours with the RCPA controlling use and access after school, weekends and summers. RCPA intends to lock the gate and provide access to adult sports soccer (rentals) restricted to teams participating in its sponsored league. RCPA staff and volunteer coaches will have key access while the public will not. Usage without permit by neighbors or the public will be prohibited and non-RPCA permittees will be subject to fine and/or arrest. Such usage is unrelated to and cannot be considered public school usage yet it is the driving force behind installation of artificial lights at this location.

As noted at the Planning Commission hearing, ACPS relinquishes control of the field every day after 6 p.m. to RPCA, to manage as it sees fit. That position makes some sense since ACPS would have no interest in who is playing what sports on school nights and weekends. In this instance, the overwhelming majority of users of the field for the last several years has been adult men playing soccer in the evening and weekends. The Planning Director never explains how lighting towers for RPCA use for its recreational programs is the equivalent of the construction, expansion or reconstruction of a public school.

Thus, according to the City Manager, Chairwoman of the School Board, and RPCA, this stadium lighting is primarily for the benefit of adults, not the students of ACPS. While we do not wish to inconvenience adult sports, it is inappropriate and unreasonable under the Code to pretend that a stand-alone structure for RPCA use benefits children in ACPS, when in fact the beneficiaries are adults.

In addition, the Planning Director's reading effectively nullifies Zoning Code Section 3-106(A). Simply put, there is no purpose to having any regulation addressing height restrictions of a public school in an R-20 Zone if the Planning Director can unilaterally declare any structure for any purpose on school grounds to be construction, expansion or renovation of a public school. As a matter of law, we are required to give duly enacted laws and regulations meaning and purpose. Under the Planning Director's incorrect and unreasonable reading, Section 3-106(A) would be null and void.

Section 3-106(A) and Section 7-2100 can be fairly read together and consistent with each other. Under Section 7-2100, the public schools have the ability to seek an SUP for heights up to 60 feet when engaging in a major construction project, such as at T.C. Williams in the early 2000s, or renovation project, such as George Washington Middle School in the early 2000's. It makes sense that there would be some discretion in the larger context of a major construction project costing tens of millions of dollars, viewed in context with all other public school activities and facilities. It also makes sense that once a public school is built or renovated, it is subject to the normal requirements of the zone it is in, in this instance R-20. Thus, had Hammond sought to add a new wing of classrooms, it may be able to take advantage of Section 7-2100; instead, it is adding lighting towers for what the Planning Director and City Manager admit is for the benefit of "City Recreation Department sponsored programs, City of Alexandria youth and adult sports leagues, and summer camps/clinics." Neither ACPS nor its students have an interest in whether adults can play soccer after school hours at 10:00 p.m.

Thus, the Planning Director incorrectly, unreasonably, arbitrarily and capriciously dismissed ACPS from complying with height restrictions under Section 3-106(A), or seeking a variance, and the decision should be reversed.

2. The Planning Director Incorrectly and Unreasonably Determined That ACPS Is Under No Obligation To Comply With Its Zoning Restrictions Addressing Setback

The new SUP application seeks relief from setback requirements, from a minimum of 70 feet from the property line to 25 and 23 feet, respectively. The applicant concedes that is subject to a 70 foot setback requirement because it is a non-residential institutional use in an R-20 Zone. The Planning Director does not challenge that assertion, and her decision presumes the 70 foot setback applies. No rationale is given for relief from the 70 foot setback requirement. The Planning Director decided that ACPS does not need to seek a variance for violating setback restrictions, erroneously citing a section of the Code that permits a SUP when a party applies for a Site Plan. No such relief was ever sought, and indeed the subject was never brought up by the applicant or City staff until SHA asked. The Planning Director writes:

> Under [Section 11-416(A) of the Zoning Ordinance], in approving a site plan, the Planning Commission may modify the minimum frontage, yard, open and usable space, zone transition setback or other minimum requirements. This case involves a Special Use Permit approval, which the City construes to be tantamount to a site plan, or greater, for purposes of allowing a site plan modification . . .

The Planning Director provides no citation or support for this novel and extraordinary assertion that an SUP is "tantamount to a site plan." We have been unable to locate any other jurisdiction in Virginia adopting such a strange and baseless position. Section 11-416(A) provides as follows:

> Modification of zoning regulations.
>
> (1) In approving a site plan under the provisions of this section 11-400, the planning commission may modify the minimum frontage, yard, open and usable space, zone transition setback or other minimum requirements imposed by this ordinance for the zone or zones applicable to the land depicted in the site plan . . .

The plain language of this regulation demonstrates the unreasonableness, arbitrariness and capriciousness of the Planning Director's decision. In the first instance, the Planning Director claims that the regulation applies to modifications of a site plan. It does not. It applies to modifications of certain zoning regulations when a new site plan is being sought. No new site plan is sought here, nor is a modification to DSP #2000-0044 sought.

Applicant has not filed any plan locating the light poles on the site. No dimensions are provided from the sidewalks or streets for these sixty foot poles. No landscape plan showing all natural or landscaped areas, including the general location, names and area of coverage of trees,

shrubs and ground cover to be planted or retained. No plan situating or dimensioning the athletic field or track has been filed or is part of ACPS' application.

The Planning Director's staff, when responding to a request for review of the modified site plan, admitted there was none and indicated that since there was no structure being constructed at Hammond it was staff's practice to only require a grading permit.6 A grading permit is said to be under review without the requirement for publication or more than staff review.

Clearly, ACPS's SUP is not the equivalent of a site plan nor is it an application for site plan modification. This determination by the Planning Director is incorrect.

Secondly, the regulation plainly requires a finding that the Planning Commission "determine that such modification is necessary or desirable to good site development, that specific and identified features of the site design make up for those impacts otherwise protected by the regulations for which modification is sought and that such modification will not be detrimental to neighboring property or to the public health, safety and welfare." Section 11-416(A). Neither the applicant, Planning Director nor city staff made any effort whatsoever to assess whether a 67% setback relief is necessary or desirable, what the impacts are, and whether it is detrimental to neighboring property, as the regulation requires. No effort at all. Moreover, substantial evidence has been produced by Appellants and others establishing that any such modification will be detrimental to neighboring property. The Planning Director misreads the regulation incorrectly, unreasonably, arbitrarily and capriciously to come to a pre-ordained conclusion.

Thus, the Planning Director incorrectly and unreasonably found that Section 11-416(A) applies, and grants her unilateral authority to break the regulatory limits. Appellants submit that the applicant is required to seek a variance or file an Amendment to DSP #2000-0044, like any other property owner on an R-20 property. In any case, even under the Planning Director's tortured reading of the regulation, the applicant must demonstrate that relief is appropriate and supportable by facts. No effort was made here to do that, and the Planning Director's decision should be reversed.

3. The Planning Director Unreasonably Determined that ACPS Is Under No Obligation To Comply With Its Zoning Restrictions Addressing Illumination On Side And Rear Yards

City Code also provides a maximum illumination upon properties in a residential zone. Specifically, City Code Section 13-1-3 states that "it shall be unlawful" to use outdoor lighting if the illumination and glare from the lights is "thrown upon" property occupied for residential

[5] This position is flatly inconsistent with its interpretation for the height requirements under Section 3-106, which requires structures built in connection with the construction, expansion or renovation of a public school.

purposes in an amount of illumination which measures more than "point twenty-five hundredths footcandles . . ." The regulation goes on to state that all lights shall be "shielded or directed so as to confine the area of diffusion to the property which it is intended to illuminate." This standard applies to both residential and commercial zones.

In addition, ACPS committed in a legally binding manner to comply with all illumination standards in the City Code (which includes Section 13-1-3). Development Site Plan #2000-0044 represented the culmination of months of negotiations between ACPS, planning staff and SHA, as well as concerned neighbors. The Planning Commission imposed the following restriction on ACPS (among many others agreed upon by the parties) in connection with its renovation of Hammond:

> 16. **CONDITION AMENDED BY THE PLANNING COMMISSION:** Show existing and proposed street lights and site lights. Indicate the type of fixture, and show mounting height, and strength of fixture in Lumens or Watts. Provide manufacturer's specifications for the fixtures. **Provide lighting calculations to verify that lighting meets City Standards.** . . .

DSP #2000-0044 (emphasis added). Despite this requirement of the existing DSP, the applicant has made no effort to "provide lighting calculations to verify that lighting meets City Standards." Indeed, appellants and others have specifically requested this information from applicant, and have been rebuffed. The Planning Director's determination refuses to hold the applicant accountable to this requirement.

The SUP application contains no analysis or review of footcandles expected to spill into surrounding neighborhoods and properties. At the April 26 meeting, the contractor stated that illumination across the street from Hammond would be forty-four one hundredths footcandles. The contractors also stated that the maximum illumination is sixty one-hundredths on the public sidewalk. No further information was provided to the Planning Commission. Despite repeated requests over a six month period, no effort was made to assess or determine how much light pollution and glare would invade residential properties.

SHA raised this issue before the Planning Director in its June 1 letter, specifically requesting whether illumination standards at City Code Section 13-1-3 apply, and if not why, and which restrictions do apply. Section 13-1-3 states that:

> It shall be unlawful for the owner or operator of any commercial property or the owner or occupant of any residential property when located adjacent the property used for residential purposes, to use for the outdoor lighting of the commercial property or residential property lights which are so arranged that the illumination and glare therefrom is thrown upon the side yard or rear yard of the adjacent property occupied for residential purposes in an amount of illumination which measures more than point twenty-five hundredths footcandles measured at any point seven feet beyond the property line of the adjacent property used for residential purposes.

SHA asked whether the illumination that stadium lighting would bring to the residential neighborhood (especially adjoining properties) would violate these restrictions. The Planning Director ignored that question, and set up an irrelevant strawman in response.

In response the Planning Director denies the restrictions apply and gave the following non-responsive and evasive answer:

> However, the information presented by the applicant shows lighting at the **front** property lines of houses across Pickett Street (the nearest houses) ranging from .18 to .44 footcandles. Indeed, it is important to remember that the City's standard for lighting along new public sidewalks in the front of single family homes is .6 footcandles, which is significantly higher than the lighting levels being projected in this case.

(emphasis in original). Appellants are pleased that the applicant will comply with the Code as it affects public sidewalks. That, however, is irrelevant, and the Planning Director made no effort to respond to the question. The issue is whether the applicant will penetrate light and glare at side and rear yards, and if that penetration exceeds restrictions. If so, a variance at minimum is required. No one knows the answer to whether the light pollution exceeds requirements, and no effort appears to have been made to answer that question.[7]

At a minimum, the Planning Director's determination should be reversed and remanded with direction to provide lighting calculation verifying compliance with City standards, including Section 13-1-3, as required by DSP #2000-0044.

The Planning Director provides no reasoning at all to support her decision that Section 13-1-3 does not apply. She just declares it to be so. That is the very definition of unreasonable, arbitrary and capricious.

At a minimum, we request that the city substantiate its belief that adding such significant light pollution and glare to neighbors complies with Section 13-1-3, and if not it must seek a variance, modification of DSP #2000-0044, a new site plan, or other relief. No resident would be permitted to shed significant light pollution on neighboring properties, and there is nothing different about this applicant.

The government is not exempt from the law.

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[7] In this regard, ACPS and RPCA rely wholly upon their consultant and contractor, Kimley Horn & Associates. There has been no independent light pollution study as normally applies, and there has been no scrutiny or accountability of Kimley Horn's conclusions. ACPS and RPCA simply take their word at face value, declare it to be true and refuse to conduct basic oversight of its contractor.

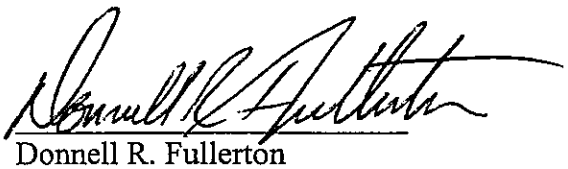
CONCLUSION

On May 18, 2011, SHA sent a letter pointing out significant deficiencies to ACPS and the Planning Director, most of which remain unanswered. On June 1, 2011, SHA requested a formal ruling from the Planning Director on significant zoning issues. Appellant note that there is no effort made to assess whether it is a good idea to violate height, setback and illumination restrictions. For example, while the city insists that the proposal would meet illumination requirements regarding public sidewalks, it never states how much light pollution and glare will penetrate the front, side and year yards of adjacent property, and whether that meets City Code requirements. Nor is any effort made to assess whether permitting a reduction of setback from 70 feet to 23 and 25 feet is good policy and precedent.

The city simply states that they can do what they want using unwarranted and unprecedented procedural devices and tortured reading of code. No other jurisdiction in Virginia has ever adopted this reading (and with good reason), nor should Alexandria. It has no basis in reason, fact or law. Appellant Fullerton respectfully requests that Planning Director decision addressing height, setback and illumination be reversed with direction to conduct analyses and process required by law and regulation. Additionally, Appellant seeks the action taken by the Planning Commission be set aside.

Appellant Fullerton appeals the "site" plan determination(s) made by the Planning Commission and requests that the City Council reverse the action taken at the June 7, 2011 hearing at Docket No. 10 by the Planning Commission.

Respectfully submitted this 20th day of June 2011.



Donnell R. Fullerton

ATTACHMENTS

All attachments referenced are on file with the BZA as part of the appeal filed June 20, 2011.