BZA2011-0012 4646 Seminary Road Appeal Board of Zoning Appeals October 13, 2011 Hearing

Staff Report Responding to Appeal

- City's Staff Report
 - Exhibit 1: SUP Staff Report from June 7, 2011
 Planning Commission Hearing
 - Exhibit 2: Powerpoint presentation from April 26,
 2011 Athletic Field Lighting Community Meeting

Docket Item #1 BZA Case # 2011-0012

Board of Zoning Appeals October 13, 2011

Address:

4646 Seminary Road

Zone:

R-8 and R-20/Residential single family

Appellants:

Donnell Fullerton and Seminary Hill Association, Inc.

Issue:

Appeal challenging the Director's determinations regarding the applicability of sections 7-2100 (increased height and density for school facilities) and 11-416 (zoning modifications) of the zoning ordinance, and section 13-1-3 of the city code (night illumination of commercial and residential properties), all as relates to Alexandria City Public School's SUP application for lighted fields at Hammond

Middle School

Summary of Case on Appeal

This case stems from a conflict between the Alexandria Public Schools (ACPS) and the Seminary Hill neighborhood, including specific neighbors of Hammond Middle School. ACPS has requested approval of a special use permit for lighting an expanded soccer playing field at Hammond. The neighbors believe the lights and increased activity at the field will negatively impact their homes. The neighbors, appellants here, raise a series of zoning issues with the hope that the process for the case will have to be changed and begun anew.

Specifically, the appellants question two ways in which the Director applied the zoning ordinance which allowed this SUP case to proceed: she allowed ACPS to request an increase in height under section 7-2100, a provision of the ordinance designed specifically for use with school facilities; she also allowed ACPS to request a modification of the front yard setback under section 11-416 so the proposed light poles could be placed around the existing field located close to North Pickett Street. Appellants also cite a city code provision regarding lighting, section 13-1-3, and claim that the Director allowed the case to proceed even though it is not being met.

The appellants repeatedly state that the variance procedure is more appropriate, indeed legally required, for the requests involved in ACPS's application. However, not every variation from zoning requires BZA approval of a formal variance, with its specific and limited standards. The zoning ordinance is a voluminous, complex document with literally hundreds of provisions that allow discrete variations from zoning if an SUP is approved by Planning Commission and City Council. The ordinance relies heavily on the SUP process so that discretionary actions by City Council may supplement traditional zoning rules. The rules involved in this case are two examples of the many opportunities to modify otherwise applicable zoning without the necessity of proving a hardship. The determinations made by the Director in this case are precisely the type she is charged with deciding, very typical of the decisions involved in most land use cases that proceed to the Planning Commission and City Council, and part of the City's uniform application of its zoning ordinance.

History of the Case

In late 2010 ACPS filed an application for an SUP to install lights as part of the upgrade of the athletic field located on the Hammond Middle School grounds. The SUP requirement for lighted fields arose from the Hammond redesign and renovation in 2000. Although lighted fields were not part of the earlier construction, the site plan approval of the Hammond renovation included an express condition requiring that any future lighted athletic field would require SUP approval. (DSP #2000-0044, Condition 16).

The Hammond SUP application was considered by the Planning Commission on June 7, 2011. (Exhibit 1, SUP #2010-0079 staff report.) Prior to the Commission hearing, ACPS held two community meetings and public reviews with the Parks and Recreation Commission and with the Youth Sports Advisory Board. Attached as Exhibit 2 is a power point presentation given at one of the community meetings prior to the Planning Commission consideration of the SUP case. It provides graphics showing the existing field, the proposed field as improved, and the location of the light structures proposed.

After a public hearing, the Commission recommended approval of the SUP to the City Council Shortly after the Planning Commission's decision, the applicant filed this appeal with the Board of Zoning Appeals (BZA) claiming that the SUP was not processed correctly and therefore should not have been considered by the Planning Commission. Pursuant to section 11-1204 of the zoning ordinance, this appeal stays any proceedings of the matter. Therefore, the special use permit has not yet been docketed for consideration by City Council.

After the case was docketed for Commission and Council consideration, the Director was asked to explain the use of the challenged zoning ordinance provisions; she responded to the request by letter dated June 16, 2011.

The Director's determinations on the processing of the SUP application were reasonable and correct and should be upheld

This appeal raises the following questions for the Board of Zoning Appeals to decide:

- 1. May a request for 60' light poles on an athletic field at a public school be processed as a height increase under section 7-2100 of the zoning ordinance?
- 2. May a request for locating light poles on an athletic field but within a front yard setback be processed as a zoning modification under section 11-416 (A) of the zoning ordinance?
- 3. May the BZA, within its zoning determination jurisdiction, consider an appeal regarding the application of city code section 13-1-3 regarding nuisance illumination? If it is, does that code section apply in the circumstances of this case? If the code section does apply, will it been adequately met in this case?

A significant portion of the appellant's appeal focuses on whether the SUP application meets the standards to be approved by the Planning Commission and the City Council. Such matters as whether lights are a good idea or not, whether Arlington County allows lighted fields proximate to residential neighborhoods, whether traffic will increase, and whether property values will decline all relate to whether the SUP for the lights, the SUP for increased height, or the zoning modification should be approved by City Council. The only question before the Board of Zoning Appeals is whether the Director properly processed these applications. The question of whether the application meets the necessary standards or should be approved is not before the BZA.

Each of the Director's decisions in this case was correct and reasonable as explained in detail below.

1. The addition of light poles for an athletic field at a school is within the scope of an expanded school for purposes of section 7-2100 of the zoning ordinance.

The Hammond School is zoned R-20 and R-8. The maximum height allowed for most development in those zones is 35 feet. However, the light poles proposed for the athletic field at Hammond are 60 feet tall. Although the appellants claim that the Director determined that ACPS did not have to comply with the zoning height of 35 feet, she made no such determination. Instead, she determined that section 7-2100 applied to this case and that the applicant could request an increase in height by SUP to allow the 60 foot light poles. Only if that SUP is approved by City Council will ACPS be able to build light poles higher than the zone allows.

Section 7-2100 allows, with SUP approval, an expansion of the density and/or height for school facilities beyond what the particular zone requires. In allowing the case to proceed with a request for a height increase, the Director determined that the request fairly fell within the scope of that ordinance provision. The language of the zoning provision reads:

Sec. 7-2100 Increased density and height for public elementary and secondary schools. 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. "

The ordinance provision specifically permits an increase in height up to a maximum of 60 feet to accommodate the needs of a school and the ACPS request for the light poles on the field at Hammond is the kind of normal school construction that falls within the language of section 7-2100. The Director's decision to allow the school to request the SUP for the height increase was not only correct but necessary. The ordinance section clearly applies to schools such as Hammond; to determine otherwise would have been against the plain meaning of the code section.

The appellants argue that the ordinance section does not apply in this case for two reasons. First they argue that light poles are not what was anticipated by the ordinance language. Instead, they assert that the language must be applied only to the main school building, not to the entire school campus or to accessory buildings or structures on the property. However, a "school" is necessarily more than just the one building where the classrooms are located. A school can consist of multiple buildings and structures that together constitute the entirety. The language of the ordinance does not specify that its terms apply only to a main building or only to a building with classrooms; the provision refers generally to a "school," without being particular.

Generally, zoning rules, such as those for height, do not apply only to the main building on a property; they also apply to other features on the site, such as secondary, accessory structures. For example, on a single family lot, unless different heights for different structures are specifically called out for particular treatment, the zone's general height restrictions apply to the garage, to sheds, and to any other permitted accessory structures as well as to the main house. If different rules are intended to apply to different structures, such as the main building or to a certain type of building, and not to all buildings, then that specificity must be included in the ordinance language.

In the case of section 7-2100, there is no distinction drawn among the types of school buildings and structures to which the section applies. Therefore the section is not properly interpreted as the appellants would limit it. The language of 7-2100 was drafted to apply to all public school situations which required FAR or height increases in the normal course of any multitude of types of construction, reconstruction or expansion activities. There was no discussion of the types of expansions being limited to main buildings, or to exclude outbuildings, or light poles in the adoption of this section of the zoning ordinance. Were it otherwise, the result would be that no school zoned residential could include light poles, regardless of its location. There was no intent to so limit the rule nor is there a logical reason for having such a limitation. The zoning text change made no effort to distinguish among those structures within a school campus that were and were not eligible for increased height or FAR.

While section 7-2100 is broadly stated as to its application, safeguards were included in two forms. First, the provision includes a limit on any increase (60 feet for height; .60 for FAR). Second, the rule permits expanded height or FAR for schools but only if an SUP is approved. With SUP review and approval comes a detailed look at the results of the requested increase on a case by case basis by the Planning Commission and the City Council. That review is what should occur here and Director was correct and reasonable to let it be so considered.

The appellants' second argument is that the light poles on the field are not part of the "school" for purposes of section 7-2100 because, according to appellants, the field will not be used for a school purpose. The fields are located on school property, the project is being paid for by the schools and the primary purpose of the field is to provide an enhanced facility for use by the school and school children.

Appellants contend that because the field may be used by non-Hammond programs, it cannot be considered a school. Actually, ACPS has indicated that the lights are a necessary part of the Hammond school campus so that the utility of the field can be expanded to be used by other

students within the ACPS system, such as the T.C. Williams athletic teams, who will be able to practice later in the evening than they currently do.

Additionally, Virginia State Code 22.1-131 allows Virginia schools to permit use of their school property by others, such as is true in this case, by the City through the Department of Recreation, Parks and Cultural Activities (RPCA). ACPS believes it is important to provide space for youth athletic groups, thus providing additional opportunities for Alexandria public school children to be involved in athletic programs. As proposed, the SUP includes language limiting the use of the field to programs sponsored by the ACPS or the RPCA. While such an arrangement may include users in addition to ACPS students, it is consistent with the citywide, longstanding, cooperative sharing of athletic facilities by ACPS and the City. In a fully developed city without excess land, such an arrangement is essential and beneficial, but it does not make the fields at Hammond any less a part of the school.

ACPS should not be put at a disadvantage for being a part of the community and allowing their fields to be used by other City programs, many of which will also benefit Alexandria's public school children, as expressly anticipated by State Code. Ultimately, the fact that the field can accommodate additional city programs, does not change the fact that Hammond athletic field remains a school site to which section 7-2100 correctly and reasonably applies.

2. A modification to a front yard setback requirement can be approved as part of an SUP request pursuant to section 11-416(A) of the zoning ordinance.

The Director was also correct and reasonable when she determined that ACPS could pursue a modification of the front yard setback requirement under section 11-416 of the zoning ordinance. Again, appellants assert that she determined that ACPS did not have to comply with the applicable front yard setback rule in the zone, but she did not make such a determination. Instead she determined that ACPS did have to comply with the setback, but could request a modification to the zoning requirement under section 11-416. The Planning Commission and City Council would then determine whether the modification should be approved in this case.

The Hammond property is a large, irregularly shaped parcel of land that has three frontages. Its primary front yard is along Seminary Road and the main entrance to the school is there. The athletic field to be lighted in this case runs lengthwise along North Pickett Street. Although the proposal is to expand and improve the field and track, as relates to its front setback, its location along North Pickett will remain essentially the same. The R-20 zone, where the field is located, requires a 70 foot setback for uses other than single family homes. The field has historically been within 60 feet of the east side property line and the running track around it extends to within 15 feet of the property line. The new field and track will be improved and regularized; the new field will be 47 feet and the new track 30 feet from the east property line. Two of the proposed lights will be located just beyond the field and track at points approximately 23 and 25 feet from the east property line. ¹

¹ As built in 1956 Hammond included a full sized track, athletic field, bleachers and amplified sound system in the same location as the existing field and track. The facility remained until 2000 when the school was redesigned.

Section 11-416 of the zoning ordinance provides a process for allowing modifications of zone requirements, and is used in the context of a site plan or SUP approval. The modifications allowed are limited; they include frontage, yard, open space, zone transition setback or other minimum requirements of the ordinance. Requirements stated as maximums, such as FAR and height, may not be the subject of the modification process. The appellant argues that ACPS should be required to obtain a variance from the BZA rather than a modification from the Planning Commission and City Council to achieve the setback modification it is requesting. On the contrary, there are many instances in the zoning ordinance allowing variations from zoning in one context or another, such as increased height, FAR, or density, reduced or different open space, reduced parking, remote parking, shared parking, temporary trailers, reduced transition zone setbacks, increased height and threshold height for infill houses, reduced lot size for unusual circumstances or exceptional design in certain zones, and others, all without the necessity of a formal variance. Several of these items were the province of the BZA prior to 1992. The comprehensive revision of the zoning ordinance in 1992 included a purposeful number of changes allowing zoning modifications and variations to be approved by City Council, with Planning Commission review, because it is important to be able to judge the zoning variation in the context of the larger planning issues of a case.

The purpose of section 11-416 is the same. It permits consideration of specific modifications to the zoning as part of a larger plan, allowing the City to consider an application as a whole, rather than to have different boards reviewing different parts of the application. It is difficult for the BZA to consider discrete parts of an application as a variance when the Planning Commission and/or City Council has already considered or will consider the remainder of the plan as well and separately. Duplicate processes can lead to inconsistent results. In fact, section 11-416(C) prohibits an applicant from seeking relief under that provision and also from the BZA; the section is designed to protect the City, the applicant and the process from resulting in conflicting decisions. The application in this case was an SUP for lighted fields and an SUP for increased heights. Both SUPs would be reviewed and decided by the Planning Commission and City Council. Therefore, it is expedient, harmonious and constitutes good land use and zoning practice to have all of the issues considered at the same time and in the same process, which is why it is included in the zoning ordinance.

Although the language of section 11-416 is found in the chapter of the zoning ordinance related to site plans, historically a specific form and level of development approval, there are many types of SUP applications that include, if not a "site plan" as defined in section 11-400, a plan for land development that depicts the orientation, arrangement and design of uses and features on a lot in the same way that a site plan does. In fact, the Director has allowed 11-416 zoning modifications consistently in SUP cases since the provision was adopted. The following cases are examples of the longstanding practice and application of the zoning ordinance whereby zoning modifications under section 11-416 were approved by City Council as part of its consideration of an SUP:

 Demaine Funeral Home (SUP #94-0305), approved by Council 10/15/94 (SUP for carport with increased FAR and modification to zone transition setback requirement.)

- Charles and Gloria Gee (SUP 95-0155), approved by Council 12/16/95 (Parking reduction SUP with modifications for more than 50% paving of rear yard and open space reduction in conjunction with renovation of building.)
- David Jablonski, 520-522 East Windsor Ave (SUP #96-0093), approved by Council 6/15/96 (SUP for parking reduction with front and side yard setback required modifications in conjunction with the renovation of building)
- Charles Curtis, 218-228 North Payne Street (SUP #99-0143), approved by Council 1/22/2000 (SUP to allow lot area less than 1980 square feet for three new lots, with a parking reduction and modifications of open space, lot width)
- William Cromley, 424 North Alfred Street (SUP #2000-0105), approved by Council 9/16/2000 (SUP for parking reduction for single family house to provide compact spaces and to modify parking aisle width and 50% paving requirement in rear yard.)
- Robert Nichols, 412 East Windsor (SUP #2000-0137), approved by Council 1/13/2001 (Parking reduction SUP with modification of front yard setback in conjunction with construction of single family house.)
- Eric and Joan Peterson, 518 East Howell Avenue (SUP #2001-0066), approved by Council 5/18/2002 (Parking reduction with modification of side yard setback for construction of new house)
- Douglas Drabkowski, 516A East Howell Avenue (SUP #2009-0059), approved by Council 2/20/2010 (Parking reduction SUP with yard modifications for construction of new house)²

It is important in considering section 11-416 to note that the site plan review process is essentially a lesser included approval to the SUP for a land related matter. An SUP is a legislative approval mechanism used when a certain land use may have more of an impact than other uses and should require a higher level, broader and more discretionary level of review. It involves two public hearings, one each before the Planning Commission and City Council. A site plan, on the other hand, requires only Planning Commission review and is legally not a legislative process with the extent of discretion and judgment required by the SUP review. The SUP process gives the City Council an opportunity to look at a particular use as a whole, consider all potential impacts and weigh the appropriateness of the particular use for the City.

It is also pertinent to this discussion to note that the legal criteria for the granting of an SUP are similar to the criteria required for a modification under section 11-416. Under section 11-504, City Council may approve an SUP if it finds that the proposal:

(1) Will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use;

² Copies of the above cases are available for review in the Department of Planning and Zoning.

- (2) Will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
- (3) Will substantially conform to the master plan of the city."

Likewise, section 11-416 of the zoning ordinance also has specific standards that must be met for a modification to be approved. Specifically, the modification must be:

...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.

In other words, the modification, as part of the special use permit, must be mitigated by other components of the proposal, and each as well as the whole must not be detrimental to neighbors, to property or to the public welfare. The variance criteria are, of course, completely distinct, requiring a showing that a specific hardship or unreasonable restriction burdens the subject property. While it does require review of harm to neighboring properties, it does not require a review of broader planning considerations as a whole. City Council does and should have the whole project under review when it considers zoning modifications in the context of a land design case, with the ability to add conditions to the approval to mitigate potentially impactful parts of the development proposal. Thus it is appropriate as both a legal and a practical matter that a modification be processed and considered as part of an SUP application.

In this case, the Special Use Permit for lighted fields at Hammond is a land related matter. It relates to the location of light poles on the land and, therefore, both the Planning Commission and City Council should have the opportunity to review and approve the related modification of the front yard setback at the same time. The SUP application necessarily included a site layout plan that shows the location of the lights and the surrounding buildings, etc. (See attachments to Staff Report at Exhibit 1.) The SUP as recommended by staff and the Planning Commission includes limitations on hours for the field, parking, lighting and other factors in order to limit any impact from the lighted athletic fields at Hammond. The Director's determination was consistent with a history of similar cases processed in a similar way. That consistent application of the ordinance deserves deference. For each of these reasons, and all of them, the Director was correct and reasonable to process the modification pursuant to section 11-416 of the zoning ordinance.

3. Section 13-1-3 of the city code is not a zoning restriction on the property and is therefore not within the jurisdiction of the Director or the BZA. Section 13-1-3 is a code requirement that the applicant must meet in order to construct and maintain the proposed field lights. The Director has made no determination as to whether the section has been met and is not required to at the SUP stage of the process.

The Director of Planning and Zoning is tasked with enforcement and administration of the zoning ordinance. Her duties, listed in section 11-102 of the zoning ordinance, limit her role to the ambit of the zoning ordinance. Although the zoning ordinance charges the Director with

coordinating the development review procedure, which necessarily includes other departments and non-zoning requirements, her jurisdiction does not include the remaining provisions of the Alexandria city code, including section 13-1-3. The responsibility for enforcement of this section lies with the City's Office on Environmental Quality. In the director's letter to the appellant dated June 16, 2011, she clearly states that she does not have the authority to enforce and interpret the cited section of the city code. Further, section 11-1201, which provides for "appeals of any order, requirement, decision or determination made by the director" to the BZA, limits such appeals to those made by the Director in "the administration or enforcement of this [zoning] ordinance." The BZA should therefore not consider this argument because it is outside its and the Director's jurisdiction.

Even though it is outside her jurisdiction, in an effort to be responsive and address a concern raised by the neighborhood in the Hammond case, the Director did discuss section 13-1-3 of the city code in her letter, clarifying that it applies to side and rear yards, not to front yards. Section 13-1-3 reads as follows:

Sec. 13-1-3 - Commercial properties and residential properties—night illumination.

- (a) 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 to 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 foot candles measured at any point seven feet beyond the property line of the adjacent property used for residential purposes.
- (b) All lights used by an owner or operator of a commercial property or an owner or occupant of residential property shall be shielded or directed so as to confine the area of diffusion to the property which it is intended to illuminate. (Code 1963, Sec. 23-6)

This code section is designed to adjudicate nuisance lighting between neighboring properties, and focuses on the side or rear yards of the residential units indicating intent to apply to uses that back up to the rear or are adjacent to the side of another use. Although the proposed Hammond lights are across the street from the *front* of nearby homes, it will nevertheless apply because it is a law of the City. The applicant will be required to meet its strictures not only to obtain a permit to install the lights but over the life of the facility.

The appellants argue that because the applicant has not verified that the proposed field lights will meet the city's lighting standards as part of the SUP case, the application should not have been processed. The appellants also argue that a variance is required to exceed the city's lighting standards. First, there is no requirement in the zoning ordinance or the city code that requires a showing that the applicant meets the city code standard prior to the time an SUP is granted.

Moreover, appellants' assertion that a variance is required is not correct. Section 13-1-3 is not a zoning requirement for which a variance is available. In addition, no determination has been made with regard to the applicant's compliance with the code standard.

It is true that staff has not required detailed lighting studies to show compliance with code section 13-1-3 as part of the SUP application. That fact is consistent with the City's practice in this and other cases and as to this and other technical standards. The development process consists of a series of phased submissions leading to the ultimate right to build and the SUP stage, whereby a use or plan is approved, is only the first part of the process. Lighting is one of many technical details of a plan that remain to be verified at the final engineering stage of the development process which occurs at the final site plan or, as in this case, at the time of the grading plan submission. If the applicant cannot show compliance at that point, the plan will not be approved and permits for construction will not be granted. Here, detailed photometric studies with regard to side and rear yards were not required as part of the SUP application; that data will have to be submitted as part of the final engineering in the grading plan process. The grading plan will not be released and permits will not be granted until and unless all city requirements and conditions have been met.

In this case, staff was not required to but did ask the applicant, as part of the SUP review process and in order to determine the impacts on neighbors, to submit preliminary light studies. The results were included in the material discussed with the community and presented to the Planning Commission. Because the lights are not yet approved or constructed, the only way to determine what the light levels will be is by use of a computer generated program or model. Those studies show that the light levels at the front property lines of the homes on North Pickett Street will range from .18 to .44 fc. The City's standard for lighting along new public sidewalks in front of single family homes is .6 fc, which is significantly higher than the lighting that will be projected from the new field lights. While those results do not answer the question about light values in the side and rear yards of homes on North Pickett Street, nothing about them suggests that city lighting standards will not be met when future testing for the grading plan is performed. The houses across from Hammond are in the R-20 zone which requires a 40 foot front yard. The closest point on those residential lots to which code section 13-1-3 applies is within the side yard which is located at a point just beyond the front yard and therefore further than 40 feet from the front property line. ³

In addition to meeting the specific code requirement as to light levels in side and rear yards, staff's SUP recommendation includes a broader, more stringent, lighting requirement not part of the city code which goes even further:

10. If the staff determines that the newly installed lights have impacted surrounding properties adversely then the applicant will provide additional improvements to the satisfaction of the Directors of Planning and Zoning, Transportation and Environmental Services and Recreation, Parks & Cultural Activities to amend the adverse condition. (T&ES)

³ As a matter of fact, further light analysis conducted after the Planning Commission meeting shows maximum light levels in the side yard of homes across from Hammond will not exceed the .25 city code requirement.

Therefore, if the lights are approved, the applicant will have to comply with the .25 maximum light levels in the rear and side yards of the specific houses across the street for the life of the lights. The lights will also have to meet the requirement of Condition #10, which is applicable more broadly to the neighborhood. Both requirements will apply as long as the lights are in place.

Thus, the Director submits that the BZA should not consider this argument; it has no jurisdiction to do so. Even if the BZA considers the application of the cited code provision, there has been no determination about compliance with city light standards as part of the SUP process and no requirement that compliance be shown at this early point in the process. Certainly, it was not incorrect or unreasonable to process the application consistently with other applications, requiring that compliance be shown as part of the later, grading plan process. For all of these reasons, the appeal on this point should be rejected by the BZA.

4. Standard of Review

The Alexandria zoning ordinance gives the authority to the Director of Planning and Zoning to administer the zoning ordinance. Section 11-101. Among other duties, the Director of Planning and Zoning is tasked with "Interpret[ing] the provisions of this ordinance to ensure that its intent is carried out;" Section 11-102(F).

The Virginia Supreme Court has clearly indicated that "A consistent administrative construction of an ordinance by officials charged with its enforcement is entitled to great weight." The Lamar Company, LLC v. Board of Zoning Appeals, City of Lynchburg, 270 Va. 540, 547, 620 S.E.2d 753, 757 (2005) quoting Masterson v. Board of Zoning Appeals, 233 Va. 37, 44, 353 S.E. 2d 727, 733 (1987). Deference to the interpretation of the person charged with administering the zoning ordinance whose role and expertise it is to provide the relationship between the zoning ordinance text and the local governments plan for zoning is essential in order to have a uniform application of the ordinance. See Lamar at p. 547. See Also Trustees of Christ and St. Luke's Episcopal Church v. Board of Zoning Appeals of the City of Norfolk, 273 Va. 375, 382, 641 S.E. 2d 104, 107 (2007). The Board of Zoning appeals should only reverse the Director's decision if "the board determines that the decision is contrary to the plain meaning of the ordinance and the legislative intent expressed therein". Higgs v. Kirkbride, 258 Va. 567, 575, 522 S.E.2d 861, 865 (1999).

Additionally, under settled principles of administrative law, the interpretation given a legislative enactment by public officials charged with its administration and enforcement is entitled to be given significant weight by the courts. See Payton v. Williams, 145 S.E.2d 147 (1965). In Virginia, it is settled law that a presumption of correctness attaches to the actions of state and local officials. See Hladys v. Commonwealth, 366 S.E.2d 98 (1988). Such actions are presumed to be valid and will not be disturbed by a court absent clear proof that the action is unreasonable, arbitrary, and bears no reasonable relation to the public health, safety, morals or general welfare. See County of Lancaster v. Cowardin, 391 S.E.2d 267, 269 (Va. 1990); Board of Supervisors of Fairfax County v. Robertson, 266 Va. 525 (2003)(discussing the presumption of reasonableness attached to the Board's legislative acts).

Taking these two principles together, therefore, means the Board of Zoning Appeals should apply deference to the decision of the Director of Planning and Zoning in order to continue the necessary consistency in the application of the zoning ordinance, unless the Board determines that the Director's decision was contrary to the plain meaning of the ordinance and was made without reasonable basis.

5. Conclusion

The Director's decision allowed ACPS' SUP application for lighted fields to also include requests for increased height and reduced setback for the light poles. Criteria and standards govern whether those requests are meritorious and it is the Planning Commission and City Council who determine whether to approve the requests based on those standards. The applicants' remedy, if they do not agree with the Planning Commission or the City Council's decision, is to appeal that decision to the Circuit Court. For the reasons discussed here, the Director processed ACPS' application correctly and reasonably and consistent with her longstanding procedures. Therefore, the BZA should uphold the Director's decision and allow the application to continue to City Council.

Attachments:

Exhibit 1: Staff report SUP #2010-0079, with Planning Commission action. Exhibit 2: Power Point presentation at community meeting, April 26, 2011.

Exhibit 1

SUP Staff Report from June 7, 2011 Planning Commission Hearing

Application	General Data	
Request:	Planning	June 7, 2011
Consideration of a request to add lighting	Commission	
to an existing athletic field/track and	Hearing:	
minimum a modification to the minimum	City Council	June 25, 2011
front yard setback.	Hearing:	
Address:	Zone District:	R-20/R8 – Single Family
4646 Seminary Road		Residential
Applicant:	Small Area Plan:	Seminary Hill / Strawberry
Alexandria City Public Schools		Hill

Staff Recommendation: APPROVAL subject to compliance with all applicable codes and ordinances and the recommended permit conditions found within this report.

Staff Reviewers: Dana Wedeles, Park Planner dana.wedeles@alexandriava.gov

Patricia Escher, Principal Planner patricia.escher@alexandriava.gov

CITY COUNCIL ACTION, JUNE 25, 2011: City Council deferred this item.

<u>PLANNING COMMISSION ACTION, JUNE 7, 2011:</u> On a motion by Commissioner Jennings, and seconded by Commissioner Lyman, the Planning Commission voted to recommend approval of SUP #2010-0079 with the addition of three conditions. The motion carried on a vote of 4 to 2 with Commissioners Jennings, Lyman, Dunn and Komoroske in support, Commissioners Wagner and Fossum not in support and Commissioner Robinson was not in attendance.

Reason: The majority of Planning Commission agreed with the staff analysis and associated recommendations and conditions. The Planning Commission added three conditions to their recommendation.

Conditions added by the Planning Commission:

- 14. The applicant shall provide 4 more trash receptacles on site within close proximity to the recreational amenities. Litter on the site and on public rights-of-way along N. Pickett St. shall be picked up at least once a day. (PC)
- 15. The Director of Planning and Zoning shall review the Special Use Permit one year after approval, and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions which were not corrected immediately, constitute repeat violations or which create a direct and immediate adverse zoning impact on the surrounding community; (b) the director has received a request from any person to docket the permit for review as the result of a

complaint that rises to the level of a violation of the permit conditions, or (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed. (PC)

16. The neighborhood's parking demands shall be reviewed by staff within one year of operation/completion of the athletic amenities and the associated field lights.

Adjustments to the SUP 2010-0079 conditions shall be made if deemed necessary.(PC)

Speakers:

Anthony Zamora, 111 N. Ripley St., Apt 303 – Supports the proposal because he plays sports and believes it is a good influence for young people.

Bill Rivers, 15 W. Mount Ida Ave., Youth Sports – Supports the proposal because he believes that the City doesn't have enough recreational amenities.

Clark Mercer, 3318 Valle Dr., Parks & Recreation Commission – Supports the proposal as he coached at Hammond, but due to the fact he had to keep a very early schedule at work in order to get to Hammond at 4:30pm, he eventually quit coaching.

Fred Wixson, 417 E. Windsor Ave., Alexandria Rugby – Supports the proposal as he is a sports advocate and lives in a neighborhood with lighted fields and doesn't believe the lights negatively effects his area.

Nancy R Jennings, 2115 Marlboro Dr., Seminary Hill Assoc., Inc. - Does not support the proposal because it will have an adverse impact on the neighborhood due to glare, noise, traffic and trash.

Judy R. Guse-Noritake, 605 Prince St., Parks & Recreation Commission – Supports the proposal as she believes the City should provide more recreational opportunities for it's youth.

Steve Beggs, 2508 Terrett Ave. - Supports the proposal as he attended Alexandria schools growing up and hoped that the athletic facilities would be better than they are today.

Donnell R. Fullerton, 1407 N. Pickett St. - Does not support the proposal due to negative effects of the lights will have on his enjoyment of this property and loss in his property value.

John W. Timmons, Alexandria Soccer Association, 2408 Davis Ave., ASA – Supports the proposal and stated that the Bishop O'Connell situation is different as the facility is not a public school and will serve a more limited group than the Hammond fields.

Frank Putzu, 1423 Juliana Pl. - Does not support the proposal due to the impacts of the field lights and believes that the City has not done enough to mitigate the impacts. He believes that the application does not comply with the City's ordinance criteria as it related to the modification's requested to setbacks.

Jim & Suzanne Richardson, 4551 La Salle Ave. - Do not support the proposal due to noise that will occur every night and additional traffic due to the games.

Megan Smith, 1415 N. Pickett St. - Does not support the proposal due the additional noise that will occur late at night as she has a small child who goes to bed early.

Gerry Benson, 4535 La Salle Ave. - Does not support the proposal and thinks the City should improve the fields, but wait on the lights to see the impacts of the improved fields have on the neighborhood.

Jon Sargeant, Hammond PTA, - Supports the proposal and believes that sport activities lead to a sense of community and pride. The new technology lighting has minimal impacts with little light spillage onto adjacent properties.

Jim Gibbson, Knox St., - Supports the proposal because he believes sports are good for children and we should give back to the community by having these improvements for our children.

Joe Gerad, 1401 Knox Pl. - Does not support the proposal believes that it has not been looked a comprehensively with all the other activities in the area such as BRAC and other school activities.

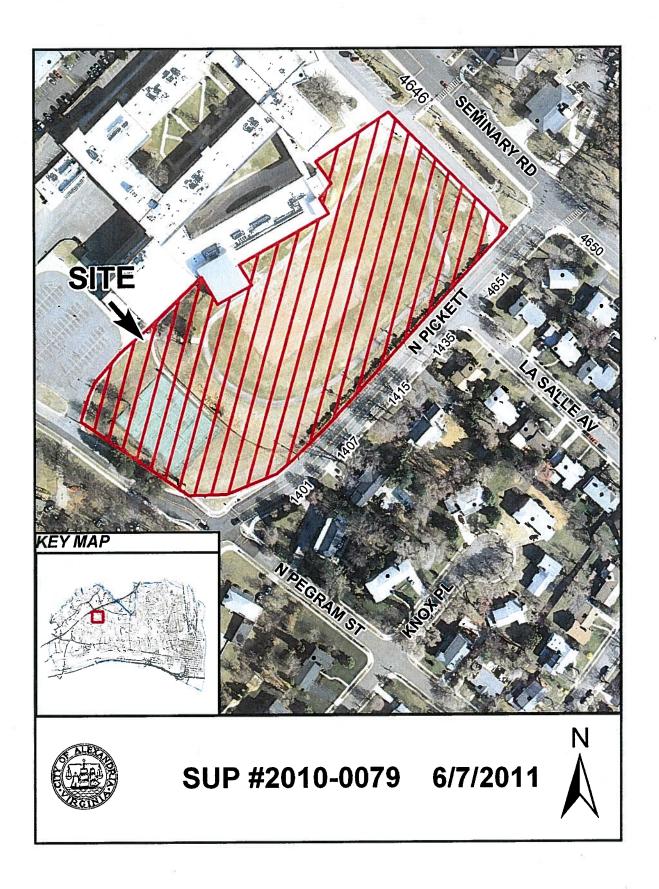
Jeff Murphy, 5106 Sutton Pl. - Supports the proposal as he is a father and coach. He believes that this is about improving the quality of life for the City's children.

Garry Carr, 216 Aspen St. - Supports the proposal to maximize the investment of improving the fields by adding the lights and lengthening the duration of field usage.

Mimi Carter, 106 E. Cliff St., Lacrosse Commission – Supports the proposal because of the growing demand for athletic fields in the City for both soccer and lacrosse.

Joanne Lepanto, 4009 N. Garland St. - Does not support the lights and stated that when the City expanded Hammond, they stated that they would not have lights at this facility.

Dak Harwood, Cameron Station Civic Assoc. – Supports the lights and has not received any complaints from residents adjacent to Ben Brenman Park since their lights were installed.



I. SUMMARY

The applicant, Alexandria City Public Schools (ACPS), requests a Special Use Permit (SUP) to construct four, 60 foot tall field lights at Francis Hammond Middle School's existing athletic field/track. The request includes a modification to the R-20 front yard setback of 70 feet from property line to allow two of the four proposed light poles.

II. BACKGROUND

The 25 acre subject property is located at the corner of Seminary Road and N. Pickett Street, within the R-20/R-8 residential zone districts. The property is an irregularly shaped lot with frontages along Seminary Road, N. Pickett Street and N. Pegram Street.

The site amenities consist of:

- A middle school building along the Seminary Road frontage;
- An athletic field, exercise course, and irregular configured track along the N. Pickett Street and Seminary Road frontages;
- Tennis courts and a large surface parking lot in the rear of the property along the N. Pegram Street frontage;
- A roller skating rink in the western portion of the property; and
- Additional recreational fields northwest of the roller rink in an area known as Hammond's lower field.

The site is surrounded by residential and institutional uses. The Seminary Apartments are located to the northwest of the site; single family homes are located on the southern and western perimeters and multi-family residences are on the northeastern side of Seminary Road as is the City's Fire Station #6 and the Burke Library. Due to the irregular and elongated shape of the property, the school site also abuts the Parkside and the Alexandria Overlook multi-family communities to the northwest.

Site History

The Hammond school was opened in 1956 as a second high school within the City and dedicated in honor of Francis C. Hammond, a World War II medaled veteran. The school was built in addition to the existing George Washington High School on Mount Vernon Avenue to accommodate the growing demands of the City's student population. The school was used as a high school until 1971, housing both the 9th & 10th grades. Eventually both the Hammond and George Washington high schools' student populations were combined and relocated to the T. C. Williams' site on King Street and Hammond school was converted into middle school facility.

During the original construction of the high school, the campus contained, in the same location as the existing field to be lighted, a full sized track, athletic field, bleachers and an amplified sound system all of which were in active use until the year 2000. At that time, the ACPS requested and received an approval of a development site plan (DSP #2000-0044) for a 55,000 sq. ft. addition to the existing school facility to accommodate an expected increase

Hammond Middle School Athletic Lighting

in the general school population. The redesign of the school facility required the removal of the bleachers and reconfigured the track into the irregular shape that exists today. The athletic field remained and has since been used continuously by ACPS and for City programs. It was also during the 2000 review process that the Planning Commission amended a development condition requiring ACPS to go through a Special Use Permit review when considering the installation of athletic field lighting.



Hammond Middle School Athletic Amenities Configuration as Existed up to 2000

III. PROPOSAL

The proposed lighting will consist of four poles, not to exceed 60 feet in height. All four of the poles will feature additional rotated light fixtures to direct light onto the running track surrounding the field. Advanced field lighting technology will be used to significantly limit light spill-over beyond the playing fields. The field will be surrounded by a 6' fence with limited access/use for City-sponsored programs. The field and athletic lights are not to be programmed past 10:00pm Monday through Saturday and 6:00pm on Sundays. Track lighting will be controlled by a user-push button until 10:00pm. Exercise equipment will also be replaced.

Parking

Based on industry standards, 38 parking spaces are typically needed for each soccer game, which is when the field will be at its heaviest use. The school currently includes 226 parking

spaces that will not be used for school when games are being played, as shown in the application package. The gated entrance to the field will be next to the parking lot, encouraging participants and spectators to park on and access the field directly from the parking lot and not along the adjacent residential streets.

Compliance with Master Plan

The Hammond School site is located within the 1992 Seminary Hill/Strawberry Hill Small Area Plan. The Plan acknowledges the existing land use by designating the land area as an institutional use.

IV. ZONING

The Hammond School site is located within both the R-20 and R-8 Zone Districts. While these zone districts are primarily residential, public schools are a permitted use within these districts as are their ancillary uses of athletic fields, tracks, tennis courts, etc.

Special Use Permit

The request for athletic field lighting requires the applicant to obtain a Special Use Permit, of which the permit has two components.

The first portion of the Special Use Permit is the direct result of a condition of a previously approved development site plan (DSP #2000-0044, Cond. 16). The Planning Commission amended the condition to require a Special Use Permit and therefore a public review of any proposed lighting of the athletic fields. ACPS has held (in addition to the required public hearings), two community meetings and a public review with the Parks and Recreation Commission and with the Youth Sports Advisory Board. The second portion of the use permit is to allow a public school facility to construct a structure (athletic field lights) up to 60 feet within the City (Sec.7-2100). Staff is recommending approval of the Special Use Permit.

Front Yard Modification

The site has a unique lot configuration abutting three City streets. Pursuant to the City's Zoning Ordinance, a portion of a lot that abuts a street is considered a front yard. The Ordinance further defines lots with several street frontages as lots with more than one front yard.

In an effort to ensure adequate separation for uses/structures within the residential zone districts, the Ordinance requires buildings/structures to be setback from property lines as defined by their "yard" requirement. In a case when a land use is not a residential use; the non-residential setbacks are usually greater or more restrictive than the residential setback.

The existing athletic amenities lie within both the R-20 and the R-8 zone districts and within both Seminary Road and Pickett Street front yards. The portion of the track/field next to 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 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 N. 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. Therefore, staff is recommending approval of this modification to the front yard requirement.

V. STAFF ANALYSIS

Increased Demand for Recreational Amenities

Staff supports the request of Alexandria City Public Schools (ACPS) to add field lighting at Hammond Middle School. The City is in critical need of rectangular fields with safe playing conditions and flexible play hours. RP&CA, alone, has a need for over 6,700 additional annual play hours to meet its current demand for rectangular field intensive use sports, such as soccer and lacrosse. Coaches for youth and adult sports programs are volunteers and are typically only available after-work hours when field lights are most needed. Lighting the field will increase the amount of time each day that the field can be used, particularly during early sunsets in the early spring and late fall when sports seasons are most heavily underway. Moreover, participation in youth recreational programs increased 22% between FY09 and FY10. There is not additional land available for provision of facilities to meet this demand. The demand for programs is anticipated to rise as the City's population continues to grow. ACPS anticipates a 23% increase in student enrollment between FY15 and FY20. The City's recent Capital Improvement Program approval of three new K-8 schools validates this trend. It is projected that this student increase is will also be reflected in recreation participation.

City's Athletic Fields Master Plan & Fields Priority Strategy

The athletic field lights are consistent with the City of Alexandria Athletic Fields Master Plan conducted in 2006 (adopted by Council with the passage of the 2008 Capital Improvements Program) which found that "field conditions in Alexandria are below acceptable industry standards due to a field shortage, lack of field capacity, and poor field conditions." A recommendation from that study included conversion of natural turf fields to synthetic turf with lights to increase playable hours. Following that plan, a Fields Priority Strategy in 2009 (presented to Council in January, 2010 and documented in a letter from the City Manager in March, 2011) found that 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. Each of these studies were presented in multiple venues for public comments and adopted by City Council. Subsequently, City Council has provided funding for the conversion of athletic fields from natural grass to synthetic turf with lights as part of the City's ten-year Capital Improvement Program.

¹ The number of hours in need was determined by finding the difference between the average number of hours RP&CA annually programs the fields and the national standard of annual hours used to keep fields well maintained and safe. A Fields Priority Strategy was conducted in 2009 using this exact method. Since 2009, synthetic turf and lighting have been installed at Ben Brenman Park, decreasing the number of hours in need by 2,750 hours.



A review of similar strategies by nearby jurisdictions found that 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 athletic field lighting installation.

Lighting

Spill-over from the new lights is significantly reduced through the use of advanced lighting technology. As the following chart shows, for public safety purposes, the City standard for street lamps in new residential neighborhoods in Alexandria is .6 fc. The highest existing foot candle reading along the residential side of N. Pickett Street (approximately 126 feet) is .26 fc. With the proposed athletic field lights are activated, the light level would increase to .44 fc, an increase of .18 fc but still .16 fc below the City standard of .6 fc.

Full Moonlight	Highest Existing Foot Candle along east sidewalk of N. Pickett Street	Highest Proposed Foot Candle along east sidewalk of N. Pickett Street (combined athletic lights and street lamps)	Alexandria Standard for lighting along sidewalks in single family residential areas
02	.26	.44	.6

This technology is successfully in use at other City-owned parks, including the fields at Minnie Howard (2006) and Fort Ward Park (2009). Most recently, advanced lighting was successfully used at Ben Brenman Park for both the rectangular and diamond fields. In addition, a "kill switch" that allows coaches and staff to immediately turn the lights off themselves if a practice or game ends earlier than scheduled is being provided at Hammond. Staff views the lights as a positive addition to the school that will improve the quality of evening play and better meet the recreational needs of Alexandria citizens.

Pursuant to discussions with the community, staff reviewed another local jurisdiction's criteria to evaluate the current proposal and found that in 2003 Fairfax County, Virginia conducted a lighting study and subsequent 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 150', regardless of location. Fairfax County Park Authority specifications require a maximum of .3 fc at 150' from the light source. In comparison, the proposed lights for Hammond would have a maximum of .09 fc on the North Pickett Street side or less than 1/3 of the Fairfax County Off-Field Spill Light Limitation requirements.

Community Concerns

In response to community concern about noise and litter resulting from field use, staff recommends that the field only be used by RP&CA or ACPS sponsored programs, including P.E. programs, T.C. Williams, Power-Up recreation programs, City of Alexandria youth and adults sports leagues, and summer camps/clinics. Each of these programs requires an on-site staff or coach to supervise the team, monitor sound levels, and ensure that the site is left in

clean condition. No private rentals would be permitted. If a team does not respond to the required conditions, their permit will be revoked and they would no longer be allowed to use the field. As with synthetic fields at Minnie Howard, Fort Ward and Ben Brenman there are posted regulations for use of the synthetic fields and a 6' tall gated fence is proposed to secure the field and would prevent unauthorized use.

Concerns about parking and traffic in Hammond's adjacent residential neighborhood have been expressed by the community. With over 200+ on-site parking spaces, the school can easily accommodate vehicles for both participants and spectators. Industry standard suggests the need for 38 parking spaces for a rectangular field; on average, in Alexandria, youth games generate 20-25 vehicles and, generally, do not coincide with rush hour. The 6' gated entrance to the field will be next to the parking lot, encouraging participants and spectators to park on site and not along the adjacent residential streets.

Additionally, during the community outreach process, the community expressed concern about the amount of increased traffic that is generated by the ancillary use of religious organizations using the school's facilities during the week and on weekends. The greatest traffic impact occurs on Sunday. While this issue is not directly related to this SUP, ACPS has agreed to require that Sunday worship groups contract services with the Alexandria City Police Department for an off duty officer to direct traffic at the intersection of Seminary Road and Pickett Streets.

The field at Hammond has on occasion been used as a helicopter landing zone for emergency situations. The Alexandria Fire Department has been notified of the project and the Emergency Medical Services Operations Manager stated that the Fire Department's use of the site should not affect a decision to install the field; the City may decide to relocate to an alternative landing zone in the area without operational impact.

Staff also notes that ACPS has reached out to the community regarding this proposal. Public meetings were held on both February 7, 2011 and April 26, 2011. The plan was also presented at the Parks and Recreation Commission on January 20, 2011. The Seminary Hill Association, Youth Sports Advisory Board, and Hammond PTA have all been notified.

In conclusion, staff believes the additional field lighting will be a benefit to the community and recommends approval, subject to the recommended conditions and findings contained in Section VI of this report.

Artist's Rendering of Hammond Lights



VI. RECOMMENDED CONDITIONS

Staff recommends approval SUP 2010-0079 as submitted and discussed within this report, with compliance with all applicable codes and ordinances and the following recommended conditions.

- 1. The front yard minimum setback from Pickett Street shall be reduced to 23 feet for the northern most pole and 25 feet for the southern pole as indicated within the submitted materials. (P&Z)
- 2. Access to the field will be restricted by installation of a 6 foot fence with a gated entry point at the southwest and northwest portion of the field adjacent to parking lots. (P&Z)
- 3. Spill-over light from the light poles shall be controlled through the use of advanced lighting technology to the satisfaction of the Directors of Planning & Zoning, Recreation, Parks & Cultural Activities and Transportation and Environmental Services. (P&Z)
- 4. Field and track lighting shall be turned off no later than 10:00pm Monday through Saturday and 6:00pm on Sunday. (P&Z)
- 5. A grading plan showing all improvements and alterations to the site must be approved by the Department of Transportation & Environmental Services and Planning and Zoning prior to installation of site improvements for the athletic field, track, and exercise course. (P&Z, T&ES)
- 6. All loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)
- 7. The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line. (T&ES)
- 8. The proposed lights shall be shielded and directed in a manner as to not create a nuisance to the residential properties along the south side of North Pickett Street, the east side of Seminary Road or the west side of North Pegram Street. (T&ES)
- 9. The applicant shall provide additional shade and evergreen trees (15 total) along Pickett Street. Trees shall be used to infill between existing trees and vegetation. Size and species shall be consistent with City of Alexandria Landscape Guidelines. (P&Z, RP&CA)
- 10. If the staff determines that the newly installed lights have impacted surrounding properties adversely then the Applicant will provide additional improvements to the satisfaction of the Directors of Planning & Zoning, Transportation and Environmental Services and Recreation, Parks & Cultural Activities to amend the adverse condition. (T&ES)
- 11. The proposed installation will require a Building Permit for foundation/footings/erection, etc. and electrical permit for wiring. (Code Administration)

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- 12. Application for the above building permit will require five sets of plans with emphasis on soil conditions and foundation details, anchorage, wind load design, etc. These plans will need to be sealed by a PE licensed in the Commonwealth. (Code Administration)
- 13. Installation/erection is subject to special inspections. (Code Administration)
- 14. <u>CONDITION ADDED BY PLANNING COMMISSION:</u> The applicant shall provide 4 more trash receptacles on site within close proximity to the recreational amenities. <u>Litter on the site and on public rights-of-way along N. Pickett St. shall be picked up at least once a day.</u> (PC)
- 15. CONDITION ADDED BY PLANNING COMMISSION: The Director of Planning and Zoning shall review the Special Use Permit one year after approval, and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions which were not corrected immediately, constitute repeat violations or which create a direct and immediate adverse zoning impact on the surrounding community; (b) the director has received a request from any person to docket the permit for review as the result of a complaint that rises to the level of a violation of the permit conditions, or (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed. (PC)
- 16. CONDITION ADDED BY PLANNING COMMISSION: The neighborhood's parking demands shall be reviewed by staff within one year of operation/completion of the athletic amenities and the associated field lights. Adjustments to the SUP 2010-0079 conditions shall be made if deemed necessary. (PC)

STAFF:

James Spengler, Director, Recreation, Parks & Cultural Activities Barbara Ross, Deputy Director, Planning & Zoning Gwen Wright, Division Chief, Development, Planning & Zoning Dana Wedeles, Park Planner, Recreation, Parks & Cultural Activities Patricia Escher, Principal Planner, Planning & Zoning Development

Staff Note: In accordance with section 11-506(c) of the zoning ordinance, construction or operation shall be commenced and diligently and substantially pursued within 18 months of the date of granting of a special use permit by City Council or the special use permit shall become void.

IV. CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services

F-1 Parcel is flagged as being in a Marine Clay Area.

Police Department

F-1 ACPS has agreed to require that the groups using the school facility during the weekends will contract with Alexandria Police Department to have an off duty officer direct traffic at the intersection of Seminary Road and N. Picket Street during their Sunday services.



APPLICATION

SPECIAL USE PERMIT

030	01 01 02	ät		
TAX MAP REFERENCE: 030	.01-01-03		ZONE: R8 & R20	
APPLICANT:		(
Name: <u>Alexandria Publ</u>	ic Schools	(ACPS)		
Address: 2000 N. Beaur	egard St. A	Alexandria, VA	**	
PROPOSED USE: has two a ment Site Plan (DSP 2000-0044)wh	aspects to it. The fich requires public school facility to c	first aspect of the SUP is review of any proposed light construct a structure up to	to an athletic facility. The SUP appursuant to a condition of a previous partial of athletic fields at Hammor 60 60' within the City (Sec. 7-2100) crict per section 3-106(A)	iously
	by applies for a Spec	cial Use Permit in accordance	nce with the provisions of Article XI,	
			er, hereby grants permission to the ph the building premises, land etc.,	
	notice on the propert	ty for which this application i	er, hereby grants permission to the is requested, pursuant to Article IV, inia.	
surveys, drawings, etc., required knowledge and belief. The applic n support of this application and this application will be binding on	to be furnished by the cant is hereby notified any specific oral reputhe applicant unless to clans and intentions,	ne applicant are true, correct d that any written materials, presentations made to the E those materials or represent subject to substantial revis	ovided and specifically including all ect and accurate to the best of their , drawings or illustrations submitted Director of Planning and Zoning on tations are clearly stated to be non- sion, pursuant to Article XI, Section	
Kevin Van Hise		(May)	5.12.11	
Print Name of Applicant or Agent		Signature	Date	
• • • • • • • • • • • • • • • • • • • •	k Road	703.674.130 Telephone #	06 703.674.1350 Fax#	
13221 Woodland Par Mailing/Street Address			ise@kimley-horn.com	
	20171	kevin.vanhi	IDCGRIMICY HOLH.COM	
Mailing/Street Address	20171 Zip Code		Email address	•

SUP	#	2	0	1	0	_	0	0	7	9	

PROPERTY OWNER'S AUTHORIZATION
As the property owner of 4646 SEMINARY TEGAD, I hereby
grant the applicant authorization to apply for the ATHLETIC FIELD LIGHTS use as (use)
described in this application.
Name: MATEK KRAUSE Phone 703 46/ 4168 Please Print Address: 2000 N. Bravkgard ST Email: MKrauseQacfs, KIZ.VA. U
Address: 2000 N. StavRaARD ST Email: MKravse@acfs.KIZ.VA. U
Signature: Mall Jesus Date: 5/5/11
1. Floor Plan and Plot Plan. As a part of this application, the applicant is required to submit a floor plan and plot or site plan with the parking layout of the proposed use. The SUP application checklist lists the requirements of the floor and site plans. The Planning Director may waive requirements for plan submission upon receipt of a written request which adequately justifies a waiver. Required floor plan and plot/site plan attached.
[] Requesting a waiver. See attached written request.
The applicant is the (check one): [] Owner [] Contract Purchaser [] Lessee or
[] Other: of the subject property.
State the name, address and percent of ownership of any person or entity owning an interest in the applicant or owner, unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent.
N/A

SUP	#_	2	0	1	0	_	0	0	7	9			
											_		

If property owner or applicant is being represented by an authorized agent such as an attorney, realtor, or other person for which there is some form of compensation, does this agent or the business in which the agent is employed have a business license to operate in the City of Alexandria, Virginia?

Yes. Provide proof of current City business license
Please find City Business License Attached

[] No. The agent shall obtain a business license prior to filing application, if required by the City Code.

NARRATIVE DESCRIPTION

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SUP #20	10-0	0079
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USE CHARACTERISTICS

0.00	· · · · · · · · · · · · · · · · · · ·	theck one):
		hout a special use permit
		·
Please	describe the capacity of the proposed use	9:
A.	How many patrons, clients, pupils and oth Specify time period (i.e., day, hour, or shi No change from existing u	· ·
	extended with approval of	lights (see attached existing users list)
B.	How many employees, staff and other pe Specify time period (i.e., day, hour, or shi No Change	· ·
Please	describe the proposed hours and days of	operation of the proposed use:
Day:	1	Hours:
Monda	ay - Saturday	8:00am - 10:00pm
Sund	ay	8:00am - 6:00pm
prop	osed are for both the trac	ck safety lighting and the field lighting.
Please	describe any potential noise emanating fro	om the proposed use.
A.	Describe the noise levels anticipated from	n all mechanical equipment and patrons.
	Normal noise associated v	with athletic field use.
	No amplified sound permi	tted.
B.	How will the noise be controlled?	
	When programmed, RPCA st	caff/coaches will always be
	on site and will monito	r sound.
	Mond Sund prop Please A.	Specify time period (i.e., day, hour, or sh No change from existing to extended with approval of extended with approval of specify time period (i.e., day, hour, or sh No Change Please describe the proposed hours and days of Day: Monday - Saturday Sunday proposed are for both the trace Please describe any potential noise emanating from Normal noise associated of Normal noise associated of Normal noise be controlled? When programmed, RPCA states and the sunday of Normal noise be controlled?

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SUP#	201	0-0079	

Pleas	se provide information regarding trash and litter generated by the use.
A.	What type of trash and garbage will be generated by the use? (i.e. office paper, food wrappers) Waste associated with athletic field use. (cups, bottles, et
В.	How much trash and garbage will be generated by the use? (i.e. # of bags or pounds per day or week) N/A
C.	How often will trash be collected? No Change
D.	How will you prevent littering on the property, streets and nearby properties?
	Trash cans will be provided in the field area.
	iny hazardous materials, as defined by the state or federal government, be handled, stored, or gene

x X 26.e

	SUP #2010-0	079						
•	Will any organic compounds, for example paint, ink, lacquer thinner, or cleaning or degreasing solvent, handled, stored, or generated on the property?							
	[] Yes.							
	If yes, provide the name, monthly quantity, and specific disposal method below:							
			_					
	FI-81							
2.	What methods are proposed to ensure the safety of nearby residents, employees	and patrons?						
	User-controlled safety lighting is proposed to light	ght the t	rack					
	for neighbors to use.							
LC	OHOL SALES							
3.								
	A. Will the proposed use include the sale of beer, wine, or mixed drinks?							
	[] Yes [/] No							

8 18 Z6.F

If yes, describe existing (if applicable) and proposed alcohol sales below, including if the ABC license will

include on-premises and/or off-premises sales.

SUP#	2010-	0079	

PARKING AND ACCESS REQUIREMENTS

14.	A.	How many p	How many parking spaces of each type are provided for the proposed use:			
		216	_ Standard spaces			
			_ Compact spaces			
		6	_ Handicapped accessible spaces.			
			Other.			
			Planning and Zoning Staff Only			
	Rec	juired number of sp	aces for use per Zoning Ordinance Section 8-200A			
	Doe	es the application m	eet the-requirement? [] Yes [] No			
	B.	Whore is re-				
	ъ.	on-site	uired parking located? (check one)			
		[] off-site				
		If the require	d parking will be legated off site where will it be to set up			
		ii iile require	d parking will be located off-site, where will it be located?			
site pa or indu	ırking ν <mark>ıstrial</mark> ι	vithin 500 feet of	Section 8-200 (C) of the Zoning Ordinance, commercial and industrial uses may provide off- the proposed use, provided that the off-site parking is located on land zoned for commercial uses must provide parking on-site, except that off-street parking may be provided within 300 use permit.			
	C.	If a reduction Ordinance, c	in the required parking is requested, pursuant to Section 8-100 (A) (4) or (5) of the Zoning omplete the PARKING REDUCTION SUPPLEMENTAL APPLICATION.			
		[] Parking	reduction requested; see attached supplemental form			
5.	Pleas	se provide inform	nation regarding loading and unloading facilities for the use:			
	A.	How many lo	ading spaces are available for the use? $\underline{\hspace{1.5cm}}^{\mathrm{N/A}}$			
			Planning and Zoning Staff Only			
	R	equired number of l	oading spaces for use per Zoning, Ordinance Section 8-200			
	THE STATE OF		neet the requirement?			

e 18 26.9

	В.	Where are off-street loading facilities located? N/A			
	C.	During what hours of the day do you expect loading/unloading operations to occur? N/A			
	D.	How frequently are loading/unloading operations expected to occur, per day or per week, as appropriate? $\rm N/A$			
16.	Is stree	et access to the subject property adequate or are any street improvements, such as a new turning lane, sary to minimize impacts on traffic flow?			
	Exis	sting access is adequate.			
SITE	ЕСНАІ	RACTERISTICS			
17.	Will the	e proposed uses be located in an existing building? [] Yes [] No			
		proposed uses be located in an existing building? [] Yes [] No propose to construct an addition to the building? [] Yes [] No rge will the addition be? N/A square feet.			
18.		vill the total area occupied by the proposed use be? No Change $/$ N/A			
		sq. ft. (existing) + sq. ft. (addition if any) =sq. ft. (total)			
19.	[]a sta []a ho []a wa []a sha []an o	oposed use is located in: (check one) and alone building use located in a residential zone arehouse opping center. Please provide name of the center: ffice building. Please provide name of the building: r. Please describe: Athletic Field			

SUP#<u>2010-0079</u>

End of Application

10 26 No. h

Narrative Request for a Special Use Permit to Install Athletic Field Lighting at Hammond Middle School (SUP # 2010-0079)

• : ----

Alexandria City Public Schools (ACPS) is requesting approval to add lighting to an existing athletic field at Francis C. Hammond Middle School (4646 Seminary Road). The property is located in the R-8 and R-20 zoning districts.

The Special Use Permit (SUP) Application to add lighting has two aspects to it. The first aspect of the SUP is pursuant to a condition set forth in a previously approved Development Site Plan (DSP#2000-0044, Cond. 16). The Planning Commission amended a condition to require a public review process for the addition of any proposed lighting to the athletic fields at Francis C. Hammond Middle School. The second aspect of the SUP is to allow a public school facility to construct a structure up to 60 feet in height within the City (Sec. 7-2100).

In addition, ACPS is requesting a modification to the minimum front yard setback within the R-20 zoning district per section 3-106(A). Two of the light poles located in the R-20 zoning district are within a 70' front yard setback.

The existing rectangular athletic field is a well-used, and much needed athletic/recreational resource in the City. In order to better meet the recreational needs of Alexandria's citizens and the students of Hammond Middle School, and to provide evening use of the site, ACPS is proposing to add lighting to the athletic field. The proposed lighting for the athletic field will consist of field lights mounted on four poles, with a maximum height of 60 feet.

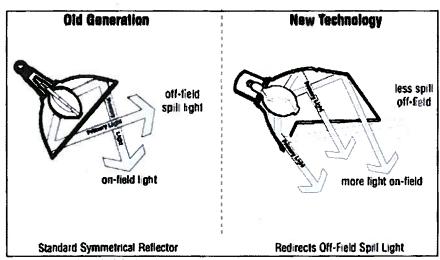
In addition to lighting the field, ACPS proposes to add safety lighting for the track as a courtesy to citizens so that they have the ability to use the track in the evening. Safety lighting for the track will be provided with fixtures that will be mounted on the same four 60' poles at a lower height and lower lighting intensity.

Locations for the light poles are indicated on the proposed site plan (attached). The proposed lighting system will use technologically advanced fixtures that significantly limit light spill-over beyond the playing field area and track. An example of a similar product is attached for information/demonstration only (please see below in this narrative).

Additional improvements to the Hammond Middle School athletic field and track are planned, including the replacement of the existing natural turf field with a synthetic turf infill system. In addition, the existing track will be reconfigured around the synthetic turf field. These improvements will better accommodate athletic activities at Hammond Middle School. These field and track improvements have been submitted to the City under a separate grading plan application.

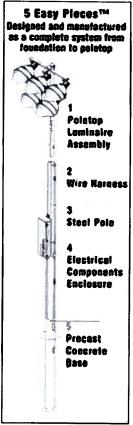


Existing Athletic Field at Hammond Middle School



Advance Field Lighting Technology

Da Zlo-j



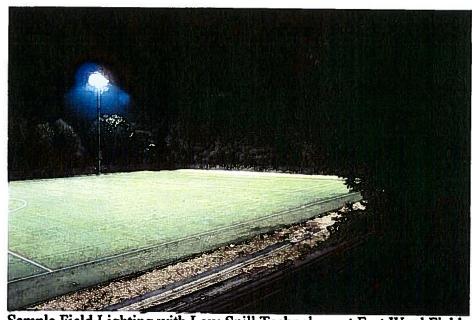
Standard Pole Mounted Lighting



Proposed Safety Lighting Concept for the Track – Lower mounted fixtures on the same pole as the athletic field lighting. A similar concept was used at Ben Brenman Park to light an adjacent playground.



Sample Field Lighting with Low-Spill Technology at Minnie Howard Field



Sample Field Lighting with Low-Spill Technology at Fort Ward Field

24 26.1



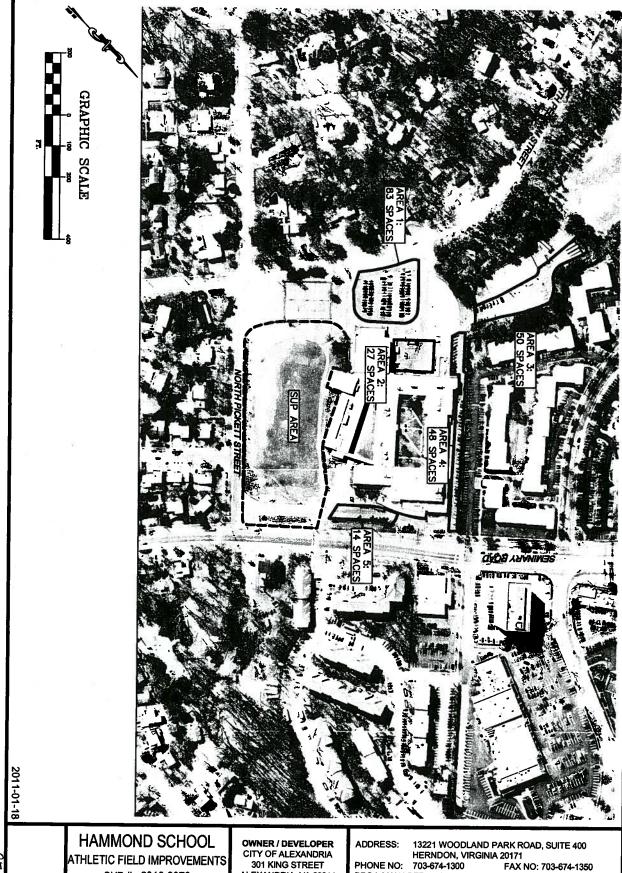


Sample Field Lighting with Low-Spill Technology at Ben Brenman Park

26. m

Alexandria Department of Recreation, Parks and Cultural Activities			Time of Use	8:00 a.m 5:00 p.m.	8:00 am - 4:00 pm	8:00 a.m 5:00 p.m.	3:00 - 6:30 p.m.	8:00 a.m 5:00 p.m.	8:00 am - 4:00 pm
	Athletic Field & Tennis Court Users	July 2010 - June 2011	Days of Use	Saturday/Sunday	Monday - Friday	Saturday/Sunday	Monday - Friday	Saturday/Sunday	Monday - Friday
			Dates of Use	February 28 - June	March - June	June - August	September - October	September - November	September - December
		FY 2011	User Group	Adult Sports Soccer (Rentals) (several teams)	Physical Fitness Classes	Adult Sports Soccer (Rentals)	TC Williams Soccer Teams	Adult Sports Soccer (Rentals) (several leagues)	Physical Fitness Classes
			Season	Spring	Spring	Summer	Fall	Fall	Fall
			Field	Francis Hammond MS Upper					

K: \NVA_LALP\110266000 Hammond School\CADD\SHEET\SUP\1-Parking Exhibit.dwg, Loyout: Layout: Jan 17, 2011 bob.barusefski
XREFS: x110266000_tbik—CD11—17
THIS DOCUMENT, TOGETHER WITH THE CONCEPTS AND DESIGNS PRESENTED HEREIN, AS AN INSTRUMENT OF SERVICE, IS INTENDED ONLY FOR THE SPECIFIC PURPOSE AND CLIENT FOR WHICH IT WAS PREPARED. REUS
OF AND IMPROPER RELIANCE ON THIS DOCUMENT WITHOUT WRITTEN AUTHORIZATION AND ADAPTATION BY KINLEY-HORN AND ASSOCIATES, INC.
SHALL BE WITHOUT LABILITY TO KINLEY-HORN AND ASSOCIATES, INC.



SUP # 2010-0079 ALEXANDRIA CITY PUBLIC SCHOOLS CITY OF ALEXANDRIA, VIRGINIA

EXISTING PARKING ANALYSIS

301 KING STREET ALEXANDRIA, VA 22314

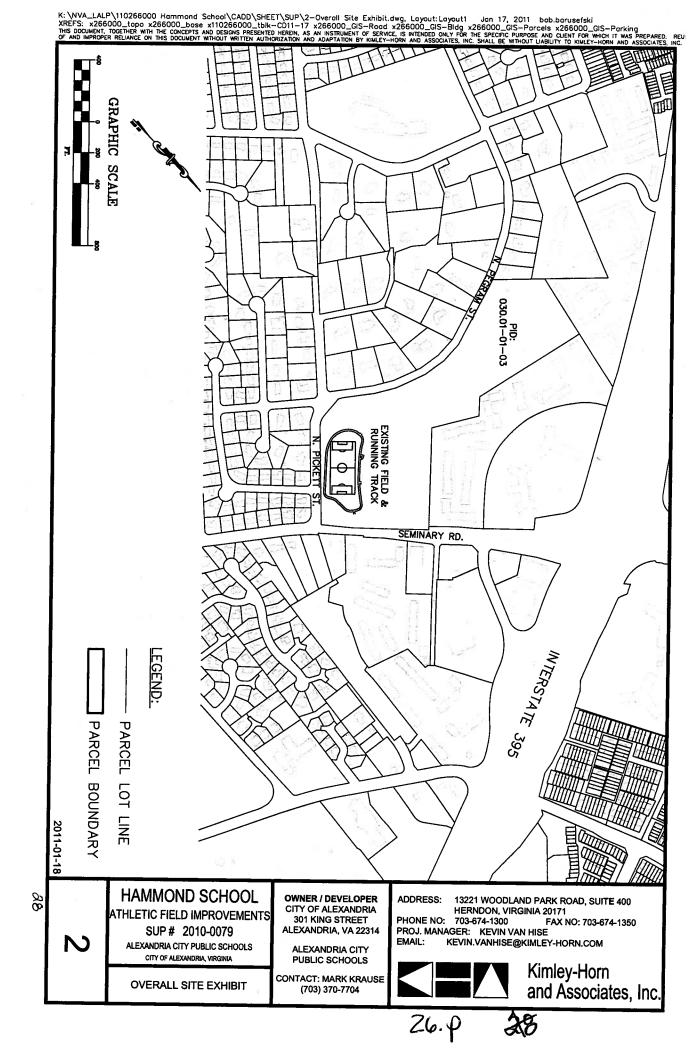
ALEXANDRIA CITY PUBLIC SCHOOLS

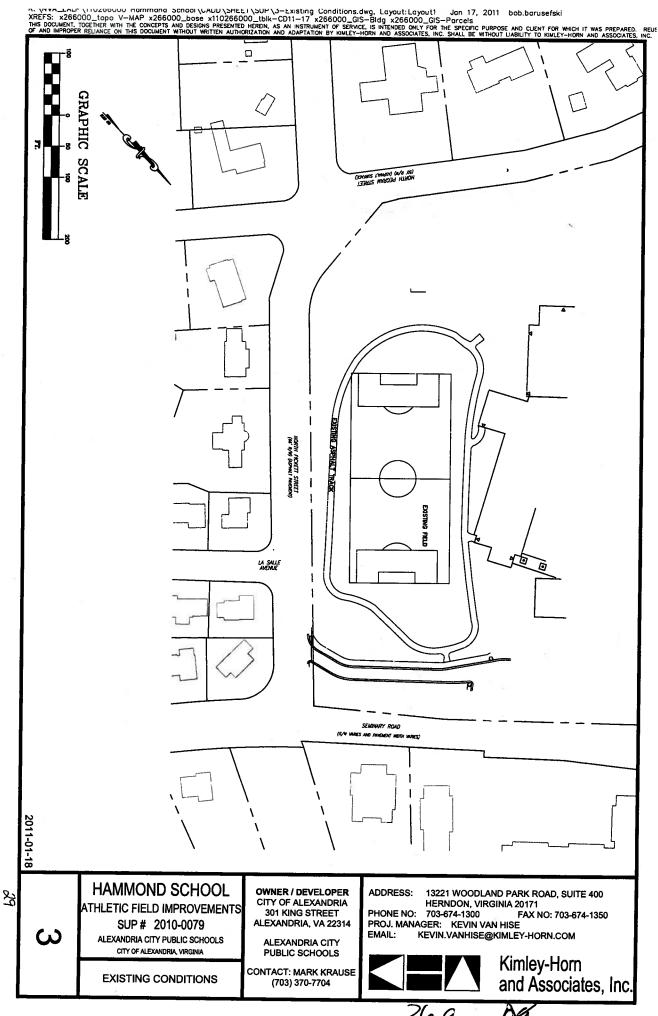
CONTACT: MARK KRAUSE (703) 370-7704

PROJ. MANAGER: KEVIN VAN HISE KEVIN.VANHISE@KIMLEY-HORN.COM



Kimley-Horn and Associates, Inc.





CITY OF ALEXANDRIA, VIRGINIA

SITE PLAN

ALEXANDRIA CITY PUBLIC SCHOOLS

CONTACT: MARK KRAUSE (703) 370-7704



Kimley-Horn and Associates, Inc.

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Exhibit 2

Powerpoint presentation from April 26, 2011 Athletic Field Lighting Community

Francis C. Hammond Middle School Athletic Field Lighting Community April 26, 2011 Meeting #2

Alexandria Department of Recreation, Parks and Cultural Activities Kimley-Horn and Associates, Inc. Alexandria City Public Schools



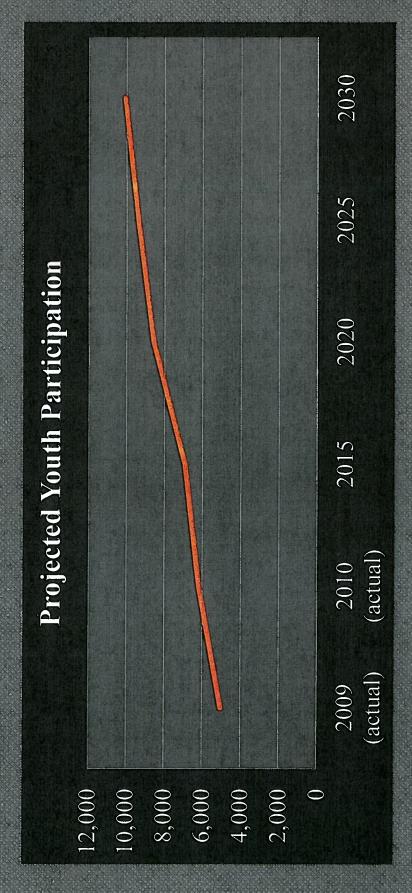
Timeline/Process of the Project

- 2000/2001: Addition to school with condition of the DSP approval that if/when time comes, field lights would require Special Use Permit
- January 7, 2010: Field renovation project and budget approved by the School Board
- May, 2010: Budget approved by City Council as part of school's CIP after a public hearing was held. Project is allowed to move forward as a Special Use Permit, which requires a public process
- November 2010: ACPS applies for Special Use Permit with the City of Alexandria
- December 22, 2010. Save the date notice sent to neighboring Civic Associations 0
- January 20, 2011: Official notice of the Special Use Permit sent out through various methods 0
- February 8, 2011: First Community Informational Meeting
- February 9 to March 11, 2011: Residents send input regarding the project to the City 0
- April 6, 2011: Notice of second Community Informational Meeting sent out through various methods 0
- April 26, 2011: Second Community Informational Meeting
- June 7, 2011: Planning Commission
- June 25, 2011: City Council



Questions Raised at February Community Meeting

- I. Is there a need for field lights?
- What are the annual costs associated with lights?
- 3. Will traffic be impacted?
- Will litter and noise levels be impacted?
- What are the expected light levels?
- Who will be using the field?

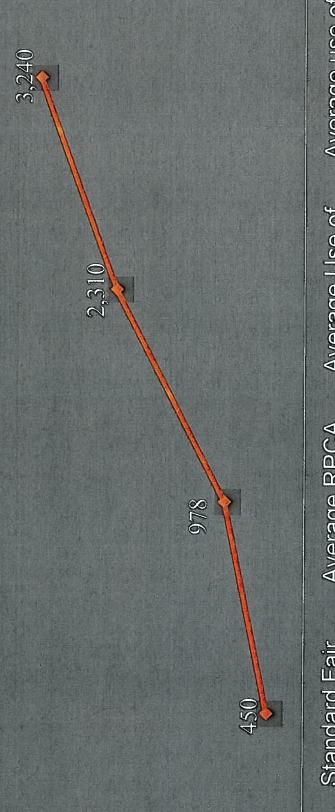


ACPS predicts a 23% increase in student enrollment between FY15 to FY20; RPCA expects participation in youth programming to reflect this enrollment increase Adult sports participation has remained steady recent in years with 4,000-5,000 participants annually

standard condition rectangular field space just to meet the Activities (RPCA) is in dire need of 6,715 more hours of The Department of Recreation, Parks, and Cultural current demand for recreation programs.

The demand will increase as the population grows.

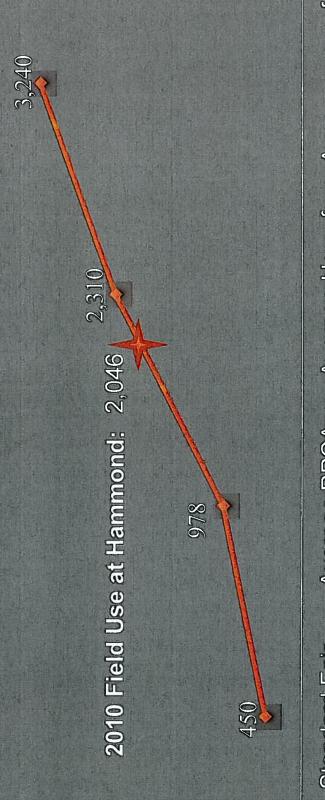
Coaches for leagues are volunteer and generally only available after work hours and on weekends



Standard Fair Average RPCA Average Use of Condition Natural schedule on natural synthetic without Turf lights turf field

Average use of synthetic turf with lights

* Natural turf does not include lights as lighting a natural turf field does not gain more hours. Lighting natural turf would add flexibility, but not hours, as capacity is limited by the turf itself.



Condition Natural schedule on natural synthetic without Turf Average Use of lights Average RPCA Standard Fair

Average use of synthetic turf with

lights

* Natural turf does not include lights as lighting a natural turf field does not gain more hours. Lighting natural turf would add flexibility, but not hours, as capacity is limited by the turf itself.

3,240 hours is the portion of future use at Hammond in the pending SUP

3,240

1,550 of those hours would be used by RPCA, leaving the Department with a remaining 5,165 hours needed to meet its current demand

35

Average use of synthetic turf with lights

* Natural turf does not include lights as lighting a natural turf field does not gain more hours. Lighting natural turf would add flexibility, but not hours, as capacity is limited by the turf itself.

What are the annual costs associated with the lights?

- Annual operation costs of synthetic turf = \$3,787 per field (natural turf = \$9,794)
- Costs of operating lights are ≈\$1,500-\$2,000 annually* and will be 100% paid for through sports league fees

Will traffic be impacted?

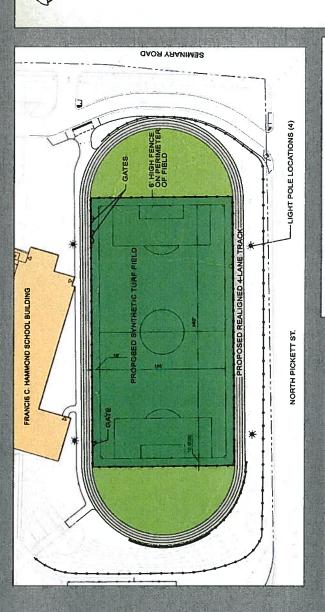
- Sports practices will not generate more traffic than already exists from on-site
- Youth night/weekend games will generate ≈20-25 cars for spectators; Adult sports may generate 10-15 additional cars for spectators
- Gate access will be near the parking lots so that game players and spectators will find it easiest to park in the parking lots, discouraging street parking
- With the upcoming contract renewal in July 2011, the School Board will require church groups at Hammond to provide traffic police on Sundays

Will litter and noise levels be impacted?

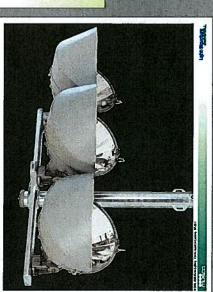
- Athletic Field Lighting will have the following conditions to minimize noise impacts and litter:
- No amplified sound permitted
- No bleachers permitted
- When programmed, RPCA staff/coaches will always be on site and will monitor sound and litter
- No private rentals permitted and a 6' fence and gate will prevent unauthorized use of the field
- For litter complaints contact Alexandria City Public Schools (ACPS)
- If there are noise complaints, contact the Police Department first; For long - term noise violations contact Julius Holmes, City of Alexandria Transportation and Environmental Services at:

Julius. Holmes@alexandriava.gov

Proposed Lighting

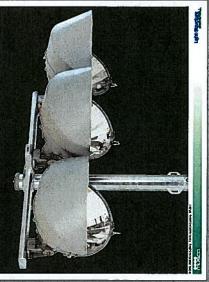


Track Safety Light



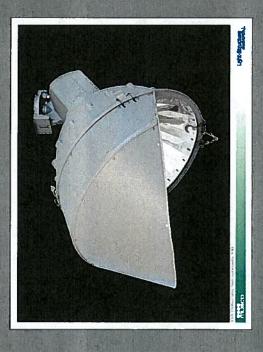
Directional Lighting

FRONT VIEW FIELD SIDE

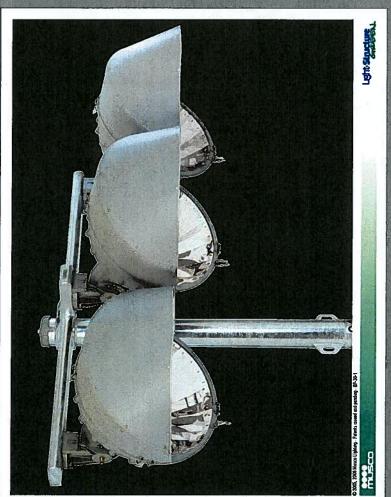




Lighting Technology



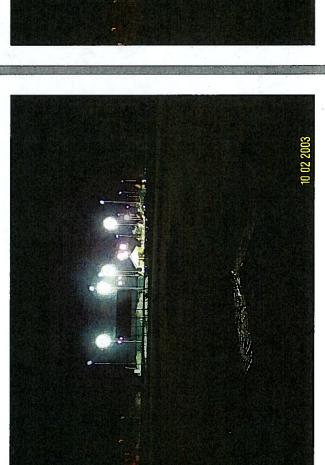


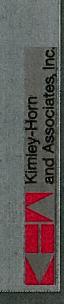




Technological Advances







Precedent Project: Ben Brenman Park

Lights installed November 2010



Kimley-Horn and Associates, Inc.

Existing Adjacent Light Levels

Foot-Candle: Unit of measurement

measurement used to calculate light levels; the light cast from 1 candle, 1' away from source



Approximate location of existing street lights



Proposed Adjacent Light Levels

Alexandria standard for lighting along sidewalks In single family residential areas (for safety purposes):

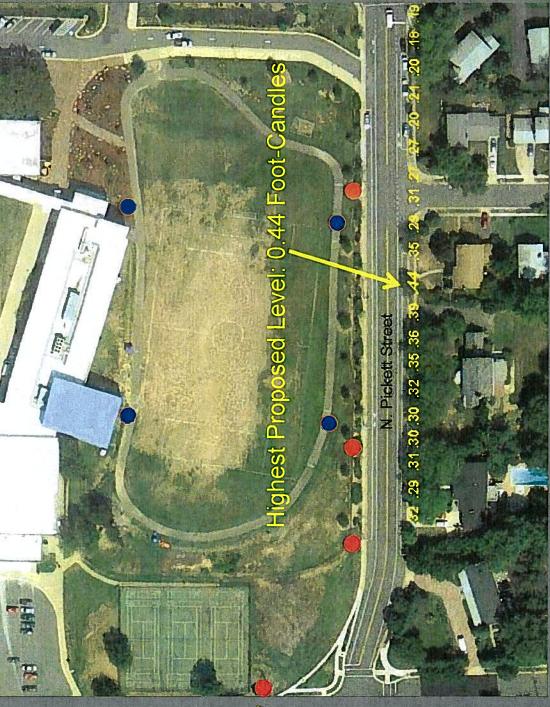
0.6 Foot-Candles

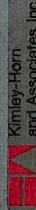
Highest proposed light level along the sidewalk on the south side of North Pickett Street.

0.44 Foot-Candles*
combination of light
levels from existing street
lights and proposed
athletic field lights

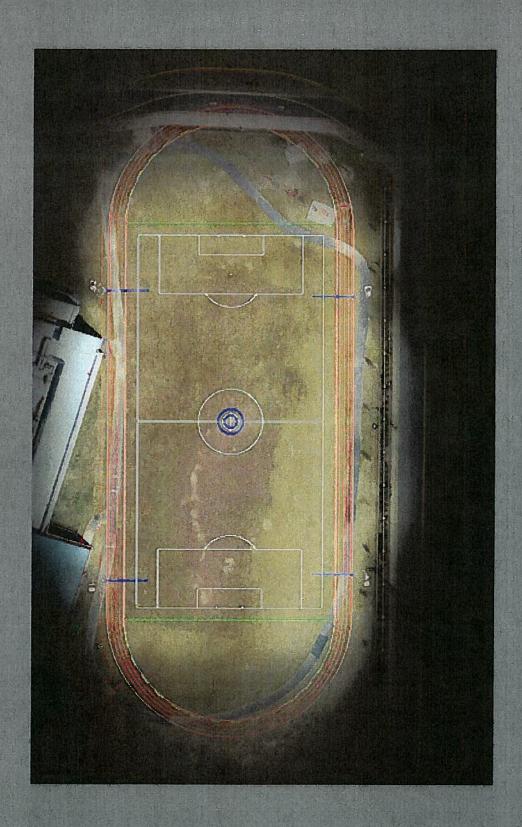
Approximate location of existing street lights

Approximate location of proposed athletic field lights



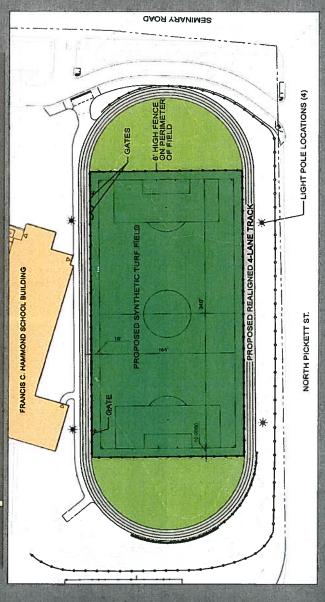


Proposed Light Level Rendering



Kimley-Horn and Associates, Inc.

Proposed Site Plan and Uses



- Running track with lighting. Track lighting to be controlled by push button until 10pm.
 - Synthetic turf athletic field fenced-in with gated entrance by both parking lots.
 - Athletic Field Lighting with the following conditions:
- When field is programmed, lights will be turned off by 10pm Monday through Saturday Lights will be turned off by 6pm on Sunday
- No private rentals
- Only ACPS or RPCA, with on-site staff/coach, permitted on the field, including:

 Hammond P.E.
- .C. Practice
- Hammond Intramural Sports
- RPCA Youth & Adult Sports Leagues
- Summer Camps and Clinics

Pros

- Cons
- When Hammond Field is programmed a RCPA staff member or coach will always be on site, serving as "eyes on field"
- Coaches for leagues are volunteer and generally only available after work hours and on weekends; lights would work with their schedule
- Lights will increase the number of hours for sports programming for all City of Alexandria residents
- Provides increasingly needed sports opportunity on City's West End
- Community will benefit from lighted running/walking track with free and open access

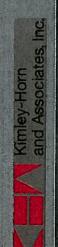
- Slight increase of highest light level on N. Pickett Street when field is programmed
- Potential for 20-25 additional vehicles driving to Hammond to attend games
- Potential for game related noise (though amplified noise will not be permitted)
- Gated 6' fence around field will prevent open play on the field by the community

Next Steps

- June 7, 2011: Planning Commission
- June 25, 2011: City Council
- Send additional comments to Patricia Escher, Principle Planner with the City of Alexandria by COB May 3rd

Patricia. Escher@alexandriava.gov

Questions and Comments



BZA2011-0012 4646 Seminary Road Appeal Board of Zoning Appeals October 13, 2011 Hearing

Appeal Documents

- June 16, 2011 Director's Determination
- Application
 - Supplemental Materials Submitted by Donnell Fullerton
 - Supplemental Materials Submitted by The Seminary Hill Association, Inc. (SHA)



DEPARTMENT OF PLANNING AND ZONING

www.alexandriava.gov

301 King Street Room 2100 Alexandria, Virginia 22314

Phone 703-746-4666 Fax 703-838-6393

June 16, 2011

Ms. Nancy Jennings
Seminary Hill Association, Inc.
2115 Marlboro Drive
Alexandria, VA 22304

Re: SUP #2010-0079, Hammond Field Lights

Dear Ms. Jennings:

Thank you for writing in regard to SUP #2010-0079, which is scheduled for consideration before the Alexandria City Council on June 25.

You have asked for my determination on certain procedural matters pertaining to this application. My responses to those questions are as follows:

- 1. ACPS's application for an SUP to allow structures, in this case light poles, on a public school site to be constructed at 60 feet in height does fall under Section 7-2100 of the Zoning Ordinance (*Increased density and height for public elementary and secondary schools*). This provision provides authority for the City to grant increased height for public schools in a residential zone, not to exceed a height of 60 feet. It is therefore the appropriate procedure for requesting 60 foot tall light poles on a school playing field. My reasons for determining that this application falls under this specific provision of the Zoning Ordinance are as follows:
 - The construction work is being done on a public secondary school property that is located in a residential zone;
 - The work is clearly a school project, which is being paid for through the ACPS' CIP budget;
 - The field and lights will be used by ACPS students and will be available to
 others only when not in use by the ACPS students. As discussed by the school
 personnel at the public meetings, the field will be available for ACPS and City
 Recreation Department sponsored programs, City of Alexandria youth and
 adult sports leagues, and summer camps/clinics. No private rentals would be
 permitted; and
 - The field and lights are clearly part of the public school facility.

2. In terms of the modification to the front yard setback, please reference Section 11-416(A) of the Zoning Ordinance (*Modification of zoning regulations*). Under this provision, 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 because it requires the approval of the Planning Commission and the City Council rather than just the Planning Commission approval required for a site plan. Additionally, this case involves a special use permit that is related to land and thus includes a site plan to show the location of the lights. The purpose of this modification section is to allow the Planning Commission to consider modifications at the same time they are considering other land related matters. It is therefore appropriate to incorporate the setback modification into the current docket item.

You have also raised an issue regarding the illumination restrictions in City Code Section 13-1-3. Although this section of the Code is not enforced by the Department of Planning and Zoning, for your information, these restrictions do not apply in this specific case. The Code states:

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 [emphasis added] of the adjacent property occupied for residential purposes in an amount of illumination which measures more that point twenty-five hundredths footcandles measured at any point seven feet beyond the property line of the adjacent property used for residential purposes.

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, 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.

Finally, we note that there has been significant public outreach on this issue, including two public meetings on February 7 and April 26. At these well-attended public meetings, the issues of the degree of illumination that will be provided and the height of the proposed poles were discussed extensively. The applicant amended its original SUP application on May 12 and much of substance of this amendment was in reaction to input received at the two community meetings in an effort to incorporate community suggestions and assure that all technical requirements were

This SUP was the subject of a public hearing before the City of Alexandria Planning Commission on June 7. After extensive public testimony, the Commission voted to recommend approval of this SUP to the City Council, with additional conditions related to improved trash collection and removal and review of the SUP at the end of one year to identify any problems that may arise.

We thank you for your interest in this project and we hope that we can discuss the above issues together without delaying the June 25 City Council hearing. If you would like to set up a meeting to discuss these issues, please do not hesitate to contact me or Gwen Wright or Barbara Ross of my staff.

Sincerely yours,

Faroll Hamer, Director

Department of Planning and Zoning

You may have the right to appeal this decision within thirty days in accordance with 15.2-2311 of the Code of Virginia. The decision shall be final and unappealable if not appealed within thirty days.

Barbara Ross

From:

Faroli Hamer

Sent:

Monday, June 06, 2011 6:13 PM

To:

Nancy Jennings

Cc:

'Morton Sherman'; 'Alexandria School Board'; Alicia Hughes; Del Pepper; 'Del (personal) Pepper'; Frank Fannon; Kerry Donley; 'Paul Smedberg'; 'Rob Krupicka'; William Euille; James Spengler; Mark Jinks; Patricia Escher; 'Donna Fossum'; 'Eric Wagner'; 'Jesse Jennings'; 'John Komoroske'; 'Larry Robinson'; 'Marilyn Lyman'; 'Stuart Dunn'; Mark

Jinks; Gwen Wright; Barbara Ross; City Council Aides; City Council

Subject:

RE: Planning & Zoning letter to SHA re SUP for Hammond Middle School

Nan -

I can understand that you would like to postpone the hearing scheduled for tomorrow night, but it's really too late for the staff to do that at this point. It has been legally advertised for June 7, and the Commission's docket has been published. There are many people both for and against the lights interested in this issue, so people who are interested will be arranging their schedules to come. You of course are welcome to request a deferral from the Commission and give your reasons.

I will prepare the formal zoning determination you have also requested.

Faroli

From: Nancy Jennings [mailto:nrjennings@comcast.net]

Sent: Monday, June 06, 2011 6:25 AM

To: Faroll Hamer

Cc: 'Morton Sherman'; 'Alexandria School Board'; Alicia Hughes; Del Pepper; 'Del (personal) Pepper'; Frank Fannon; Kerry Donley; 'Paul Smedberg'; 'Rob Krupicka'; William Euille; James Spengler; Mark Jinks; Patricia Escher; 'Donna Fossum'; 'Eric Wagner'; 'Jesse Jennings'; 'John Komoroske'; 'Larry Robinson'; 'Marilyn Lyman'; 'Stuart Dunn'; Mark Jinks; Gwen

Wright; Barbara Ross

Subject: RE: Planning & Zoning letter to SHA re SUP for Hammond Middle School

Faroli.

Thank you for your ruling on height, setback, and illumination restrictions issues under the Zoning Code and Alexandria City Code in response to the request of Seminary Hill Association, Inc. (SHA), dated June 1, 2011. As you know, the applicant seeks to significantly exceed restrictions. For example, the applicant seeks to reduce setback from 70' to 23' and 25'—a huge request to reduce setback by about 70% for relief—which speaks to how small the footprint of the athletic field is. Neither your note nor the staff report explains why that is a good idea.

SHA also requested that you postpone the Planning Commission hearing on this matter to give the public and staff time to review the new SUP request intelligently. While your response and initial thoughts were prompt, they make clear that these are complicated factual and legal issues with significant policy implications. As a result, SHA renews the request for postponement of the hearing until these issues can be thrashed out

1

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properly. Note: Arlington County staff required a few weeks to review how to process and assess relief from height and setback matters when Bishop O'Connell High School sought to add stadium lighting.

Finally, you state that your note below is your initial response and that you would prepare a formal letter on request. Assuming you reach the same conclusions, please prepare a formal letter suitable for review by the Board of Zoning Appeals and, if necessary, the courts of the Commonwealth of Virginia.

Nan

From: Faroll Hamer [mailto:Faroll.Hamer@alexandriava.gov]

Sent: Friday, June 03, 2011 4:26 PM

To: Nancy Jennings

Cc: Morton Sherman; Alexandria School Board; Alicia Hughes; Del Pepper; Del (personal) Pepper; Frank Fannon; Kerry Donley; Paul Smedberg; Rob Krupicka; William Euille; James Spengler; Mark Jinks; Patricia Escher; Donna Fossum; Eric Wagner; Jesse Jennings; John Komoroske; Larry Robinson; Marilyn Lyman; Stuart Dunn; Mark Jinks; Gwen Wright;

Barbara Ross

Subject: RE: Letter from Seminary Hill Association Inc. re SUP for Hammond Middle School

Nancy --

Thank you for your correspondence from Wednesday on the SUP for lighting at Hammond Field. I think you raise a number of important and valid questions and I wanted to give you my initial thoughts on these questions.

You asked about why we are using the SUP process to review this application. ACPS's application for an SUP to allow structures, in this case light poles, on a public school site to be constructed at 60 feet in height falls under Section 7-2100 of the Zoning Ordinance. This provision provides authority for the City to grant increased height for public school structures in a residential zone, not to exceed a height of 60 feet. Therefore, this is the appropriate procedure for requesting 60 foot tall light poles on a school playing field. My reasoning is as follows:

- The construction work is being done on a public secondary school property that is located in a residential zone;
- The work is clearly a school project, which is being paid for through the ACPS's CIP budget; and
- The field and lights will be used by ACPS students and will be available to others only when not in use by the ACPS students. As I understand school personnel have explained at the public meetings on this topic, the field will be available for ACPS and City Recreation Department sponsored programs, City of Alexandria youth and adult sports leagues, and summer camps/clinics...no private rentals would be permitted.

Next, you asked about why the requests for setback modifications are being reviewed as part of the SUP. 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 because it requires the approval of the Planning Commission and the City Council rather than just the Planning Commission approval required for a site plan. It seems, therefore, appropriate to incorporate the setback modification into the current docket item.

Finally, you have also raised an issued regarding the illumination restrictions in City Code Section 13-1-3. These restrictions do not apply in this specific case. The Code states:

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

X

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 [emphasis added] of the adjacent property occupied for residential purposes in an amount of illumination which measures more that point twenty-five hundredths footcandles measured at any point seven feet beyond the property line of the adjacent property used for residential purposes.

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.

Again, these are my initial responses to your questions. If you want a more formal determination letter, please let me know and I will prepare one.

Please know that I understand this is a difficult case and that the community has justifiable concerns that must be addressed. Because of these concerns, there has been significant public outreach on this case, including two public meetings on February 7th and April 26th. At these well-attended public meetings, the issues of the degree of illumination that will be provided and the height of the proposed poles were discussed extensively. The applicant did amend its SUP application on May 12th and much of substance of this amendment was in reaction to input received at the two community meetings in an effort to incorporate community suggestions and assure that all technical requirements were met.

Thank you for your interest in this project and I look forward to seeing you at the June 7th Planning Commission meeting.

Faroli

Faroll Hamer
Director, Department of Planning and Zoning
City of Alexandria
301 King Street
Alexandria, VA 22314
703-746-4666

From: Nancy Jennings [mailto:nrjennings@comcast.net]

Sent: Wednesday, June 01, 2011 5:43 AM

To: Faroll Hamer

Cc: Morton Sherman; Alexandria School Board; Alicia Hughes; Del Pepper; Del (personal) Pepper; Frank Fannon; Kerry Donley; Paul Smedberg; Rob Krupicka; William Euille; James Spengler; Mark Jinks; Patricia Escher; Donna Fossum; Eric

Wagner; Jesse Jennings; John Komoroske; Larry Robinson; Marilyn Lyman; Stuart Dunn **Subject:** Letter from Seminary Hill Association Inc. re SUP for Hammond Middle School

Seminary Hill Association, Inc. 2115 Marlboro Drive Alexandria, VA 22304

June 1, 2011

Director of Planning & Zoning City of Alexandria Alexandria City Hall,

78

301 King Street, Alexandria, VA 22314

Ms. Faroll Hamer:

Seminary Hill Association, Inc., (SHA) received an announcement last week about the June 7 hearing before the Planning Commission on the application for ACPS to install lighting on the field at Francis C. Hammond Middle School (Hammond). SHA had requested that ACPS withdraw this application in a letter dated May 18, 2011, for the reasons stated in that letter. Neither ACPS nor any other City official has responded to any of the concerns raised in the letter or in previous correspondence from the community.

In the announcement of this hearing, ACPS is now asking for a second SUP—a new entry on the application regarding the scope of the hearing—to request the Planning Commission and City Council relieve it of height and setback restrictions. SHA agrees with ACPS that the SUP application violated height and setback restrictions and that this introduces significant legal and policy issues. We also note that the proposed lighting violates illumination restriction on City Code 13-1-3, which appears to cap illumination at 0.25 of a footcandle in a residential area. The applicant admitted at a public meeting that it would shed 0.44 of a footcandle on neighboring properties, thus exceeding restrictions. The latest announcement says nothing about this issue. The addition of the request for relief from Code raises at least the following issues:

- The request for relief from height and setback restrictions are not in the application itself, meaning the public was given about a 10-day notice that it was a purpose of the SUP.
- The City or ACPS needs to get a variance from those restrictions. The new SUP request admits that the setback requirement requires relief from the Zoning Ordinance as an R-20 zone under Section 3-106(A). The lighting towers also exceed the 40 foot height restriction in Section 3-106(C). The applicant may claim that the lighting towers at Hammond constitute a public school being "constructed, expanded or reconstructed" under Section 7-2100, permitting application for a new SUP for towers up to 60 feet height. However, lighting towers (which are unlikely to be used for any school purpose) do not fit under any of those categories in 7-2100, and are more properly viewed under 3-106(C). Thus, the height violations also require a variance. ACPS is no different than any residence in an R-20 zone seeking a variance from the Zoning Code. It is required to demonstrate a hardship, like any other applicant, in the normal course of business before the Board of Zoning Appeals.

At the last minute, ACPS is changing their application materially to add a second request with significant precedential potential, and the public should have the benefit of reviewing and understanding the request. Adding to the need for more time is the fact that there is no indication in any documents before the Planning Commission or from City staff that the City has considered this issue with any depth. SHA residents can attest that getting relief from height, setback, and illumination restrictions is a detailed, complicated analysis that must be understood on its facts and for its implications before moving ahead. As a result, SHA requests:

- 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.

SHA residents look forward to hearing from you.

Sincerely,

/s/

President Nancy R. Jennings Seminary Hill Association, Inc.

CC:

Superintendent of ACPS
Members of the Alexandria School Board
Mayor and City Council
Planning Commission
James Spengler, Parks & Recreation

Appeal



APPLICATION BOARD OF ZONING APPEALS

APPEAL

Identify the order, requirement, decision or determination that is the subject of the appeal. Attach one copy to the application. Special Use Pehmit # 201-0079
What is the date of that order, requirement, decision or determination was made?
*The appeal must be filed within 30 days from the date that the order, requirement, decision or determination was made.
PART A
1. Applicant: [] Owner [] Contract Purchaser [] Agent
Name DONNELL R Fulleston Seminary Hill Association Inc.
Address 1407 N. Pickett St. 2115 MARIBORO DRIVE
Alexandria, VA 22301 Alexandria, VA 22304
Daytime Phone 703.941e.2710
Email Address defatore Act. Com
2. * Property Location 1407 N. Pichett Street, Alexandria, VA 030.04-05-08 3. Assessment Map # Block Lot 579 Section to VARS. to
Zone R-2D PARK
4. Legal Property Owner Name Donnell R. Fulleston
Address 1409 N. Pickett Street
Alexandria, VA 22304
* Property Determination APPEALED Location: 4646 Seminary Road (Francis C. Hammond M.S.) TAX MAP # 030,01-01403

BZA Case	#	

5. If property owner or applicant is being represented by an authorized agent, such as an attorney, realtor or other person for which there is a form of compensation, does this agent or the business in which they are employed have a business license to operate in the City of Alexandria, Virginia?

☐ Yes, Provide proof of current City business license.

☐ No, Said agent shall be required to obtain a business prior to filing application.

THE UNDERSIGNED HEREBY ATTESTS that all of the information herein provided including the site plan, building elevations, prospective drawings of the projects, etc., are true, correct and accurate. The undersigned further understands that, should such information be found incorrect, any action taken by the Board based on such information may be invalidated. The undersigned also hereby grants the City of Alexandria permission to post placard notice as required by Article XI, Division A, Section 11-301(B) of the 1992 Alexandria City Zoning Ordinance, on the property which is the subject of this application. The applicant, if other than the property owner, also attests that he/she has obtained permission from the property owner to make this application.

APPLICANT OR AUTHORIZED AGENT:

Nancy R. Jennings

703-820-6930

Telephon**e**

Signature

June 17,2011

Date

Pursuant to Section 13-3-2 of the City Code, the use of a document containing false information may constitute a Class 1 misdemeanor and may result in a punishment of a year in jail or \$2,500 or both. It may also constitute grounds to revoke the permit applied for with such information.

BZA Case #	

If property owner or applicant is being represented by an authorized agent, such as an attorney, realtor or other person for which there is a form of compensation, does this agent or the business in which they are employed have a business license to operate in the City of Alexandria, Virginia?
A Para in the Oity of Alexandria, Virginia?

Yes, Provide proof of current City business license.

No, Said agent shall be required to obtain a business prior to filing application.

THE UNDERSIGNED HEREBY ATTESTS that all of the information herein provided including the site plan, building elevations, prospective drawings of the projects, etc., are true, correct and accurate. The undersigned further understands that, should such information be found incorrect, any action taken by the Board based on such information may be invalidated. The undersigned also hereby grants the City of Alexandria permission to post placard notice as required by Article XI, Division A, Section 11-301(B) of the 1992 Alexandria City Zoning Ordinance, on the property which is the subject of this application. The applicant, if other than the property owner, also attests that he/she has obtained permission from the property owner to make this application.

APPLICANT OR AUTHORIZED AGENT:

DONNELL R. FULLERTON

Print Name

703 846-2710

Telephone

Signature

June 20 2011

Date

Pursuant to Section 13-3-2 of the City Code, the use of a document containing false information may constitute a Class 1 misdemeanor and may result in a punishment of a year in jail or \$2,500 or both. It may also constitute grounds to revoke the permit applied for with such information.

OWNERSHIP AND DISCLOSURE STATEMENT Use additional sheets if necessary

1. Applicant. State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

07 N. Pickett	. 01
04 N. PILKETT	100%
	<u> </u>

2. Property. State the name, address and percent of ownership of any person or entity owning an interest in the property located at <u>i407 N Pickett</u> <u>5t</u> (address), unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Address	Percent of Ownership
1 1407 N. Pickett	100%
	Address 1407 N. Pickett

3. Business or Financial Relationships. Each person or entity listed above (1 and 2), with an ownership interest in the applicant or in the subject property is required to disclose **any** business or financial relationship, as defined by Section 11-350 of the Zoning Ordinance, existing at the time of this application, or within the12-month period prior to the submission of this application with any member of the Alexandria City Council, Planning Commission, Board of Zoning Appeals or either Boards of Architectural Review.

Name of person or entity	Relationship as defined by Section 11-350 of the Zoning Ordinance	Member of the Approving Body (i.e. City Council, Planning Commission, etc.)
1. NONE	11	
2.		
3.		

NOTE: Business or financial relationships of the type described in Sec. 11-350 that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings.

	ant or the applicant's authorized agent n provided above is true and correct.	, I hereby attest to the best of my ability that
6/17/11 Date	DONNELL R FULLETTON Printed Name	Signature Signature

Alexandria City Council

William Euille
Kerry Donley
Frank Fannon IV
Alicia Hughes
Redella "Del" Pepper
Paul Smedberg
Rob Krupicka

Board of Zoning Appeals

Mark Allen
Geoffrey Goodale
John Keegan
Stephen Koenig
David Lantzy
Jennifer Lewis
Eric Zander

Board of Architectural Review Parker-Gray District

William Conkey
Theresa del Ninno
Robert Duffy
Christina Kelley
Douglas Meick
Philip Moffat
Deborah Rankin

Planning Commission

John Komoroske
H. Stewart Dunn
Jesse Jennings
Mary Lyman
J. Lawrence Robinson
Eric Wagner
Donna Fossum

Board of Architectural Review Old and Historic District

Chip Carlin
Oscar Fitzgerald
Thomas Hulfish
Arthur Keleher
Wayne Neale
Peter Smeallie
John Von Senden

Updated 5/12/2011

Definition of business and financial relationship.

Section 11-305 of the Zoning Ordinance defines a business or financial relationship as any of the following:

- (1) a direct one;
- by way of an ownership entity in which the member or a member of his immediate household is a partner, employee, agent or attorney;
- (3) through a partner of the member or a member of his immediate household;
- through a corporation in which any of them is an officer, director, employee, agent or attorney or holds 10 percent or more of the outstanding bonds or shares of stock of a particular class. In the case of a condominium, this threshold shall apply only if the applicant is the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium;
- (5) not as an ordinary customer or depositor relationship with a professional or other service provider, retail establishment, public utility or bank, which relationship shall not be considered a business or financial relationship;
- (6) created by the receipt by the member, or by a person, firm, corporation or committee on behalf of the member, of any gift or donation having a value of more than \$100, singularly or in the aggregate, during the 12-month period prior to the hearing on the application from the applicant.



BZA Case #	

PART B

1.	Why do you believe the order, requirement, decision or determination is incorrect? Explain the basis for the appeal, beginning in the following space and using additional pages, if necessary.
-	See attached.

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.

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

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" 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.

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. 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.

Board of Zoning Appeals City of Alexandria City Hall 301 King Street Alexandria, Virginia

RE: SUP #201-0079

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. As explained in detail below, 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.²

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, Appellants appeal each and every one of the above actions and request that the BZA accept our appeal, reverse the determination of the Planning Director and remand the matter for a further determination on the record and that this appeal stay all proceedings in furtherance of this matter.

¹ Pursuant to Section 11-1204 of the Zoning Code and Virginia Code 15-2-2311, proceedings in furtherance of SUP Application 201-0079 are stayed.

² 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.

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 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" or that "the degree of illumination that will be provided and the height of the proposed poles were discussed extensively".

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.

³ 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.

⁴ 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.

⁵ 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

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 field and track.⁶ 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

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.

⁶ 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.

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 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.

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.

As described below, the Planning Director's determination is arbitrary and capricious, unreasonable, and fails to provide any legal foundation other than unsupported speculation.

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. 7 A grading

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⁷ 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.

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 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.⁸

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.

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. Appellants 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.

⁸ 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.

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. Appellants SHA and Fullerton respectfully request that Planning Director decision addressing height, setback and illumination be reversed with direction to conduct analyses and process required by law and regulation. Additionally, Appellants seek the action taken by the Planning Commission be set aside and that this appeal stay all further proceedings in furtherance of this matter.

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Richard (Rick) Ward 4806 Peacock Avenue Alexandria, VA 22304 (H) 703-823-1495 rickwward@hotmail.com

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Ann Henshaw 3808 Fort Worth Avenue Alexandria, VA 22304 (H) 703-370-9336 Rmh-amh@comcast.net

Episcopal High School
Boota De Butts
1200 North Quaker Lane
Alexandria, VA 22302
(O) 703-933-4092
whd@episcopalhighschool.org

Virginia Theological Seminary Heather Zdancewicz 3737 Seminary Road Alexandria, VA 22304 (O) 703-370-6600 hzdancewicz@vts.edu At-Large
Joseph (Joe) Fischer
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Joanne Lepanto
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Action Docket

City of Alexandría Planning Commission

Regular Public Hearing Tuesday, June 7, 2011

7:30 PM, COUNCIL CHAMBERS 301 KING STREET, CITY HALL ALEXANDRIA, VIRGINIA

The Alexandria Planning Commission docket is subject to change. Planning and Zoning staff can provide information on changes that occur prior to the meeting.

Staff reports on each item are available in the Department of Planning and Zoning.

The Planning Commission reserves the right to vary the order of the meeting, if so announced.

Department of Planning and Zoning 301 King Street, City Hall, Room 2100 Alexandria, Virginia 22314 phone: (703) 746-4666

* * * *

1. Call to Order.

The Planning Commission hearing came to order at 7:30 P.M..

CONSENT CALENDAR:

AN ITEM ON THE CONSENT CALENDAR WILL BE HEARD ONLY IF SOMEONE REQUESTS IT BE REMOVED FROM THE CONSENT DOCKET. ITEMS NOT REMOVED WILL BE APPROVED OR RECOMMENDED FOR APPROVAL AS A GROUP AT THE BEGINNING OF THE MEETING.

- 2. This item was moved to the regular agenda.
- 3. This item was moved to the regular agenda.

4. SPECIAL USE PERMIT #2011-0019

3127 and 3128 COLVIN STREET

ALEXANDRIA CAR CLINIC AUTOMOBILE SALES

Public hearing and consideration of a SUP amendment to operate an automobile dealership at an existing automobile repair business; zoned I/Industrial. Applicant: Ahmed Mirza

- 5. This item was moved to the regular agenda.
- 6. This item was moved to the regular agenda.

CONSENT CALENDAR ACTION:

By unanimous consent, the Planning Commission recommended approval of item #4.

ITEMS MOVED FROM THE CONSENT CALENDAR:

2. **SPECIAL USE PERMIT #2011-0016**

605 LITTLE STREET

SINGLE FAMILY DWELLING

Public hearing and consideration of a request to construct a single family dwelling on a substandard lot; zoned R-2-5/Single and Two Family. Applicant: Brian Thomas

ACTION: DEFERRED 4-1

3. **SPECIAL USE PERMIT #2011-0018**

500 JOHN CARLYLE STREET (Parcel Address: 520 John Carlyle Street)

ITALIAN GOURMET DELI AND MARKET

Public hearing and consideration of a request to allow off premises beer and wine sales at an existing restaurant; zoned CDD#1/Coordinate Development District.

Applicant: Pukhraj Kapoor

ACTION: RECOMMENDED APPROVAL w/amendments 5-0

5. **SUBDIVISION #2011-0002**

707 WEST GLEBE ROAD SUBDIVISION

Public hearing and consideration of a request for a subdivision; zoned RA/Multi-Family. Applicant: Susie Wertjes represented by Catharine Puskar, attorney

ACTION: APPROVED w/amendments 5-0

6. CITY CHARTER SECTION 9.06 CASE #2011-0001

INTERSECTION OF KING AND BEAUREGARD STREETS

Consideration of a proposal to acquire public right-of-way for improvements and easements pursuant to Section 9.06 of the City Charter at the intersection of King and Beauregard Streets. Staff: Department of Transportation and Environmental Services

ACTION: APPROVED 5-0

UNFINISHED BUSINESS AND ITEMS PREVIOUSLY DEFERRED:

THIS ITEM WAS HEARD AFTER ITEM #9

7. **SPECIAL USE PERMIT #2011-0014-**

3601 and 3951 JEFFERSON DAVIS HIGHWAY

POTOMAC YARD TERMINAL STATION

Public hearing and consideration of a request to allow the permanent operation of an electrical terminal station; zoned CDD#10/Coordinated Development District. Applicant: Virginia Electric and Power Company (d/b/a Dominion Virginia Power) represented by Elizabeth Harper (Deferred from the May docket)

ACTION: DEFERRED 6-0

NEW BUSINESS:

8A&B<u>MASTER PLAN AMENDMENT #2011-0003</u> <u>MASTER PLAN AMENDMENT #2011-0004</u>

760 & 800 JOHN CARLYLE STREET; 1700 & 1800 EISENHOWER AVENUE; 340, 350, & 400 HOOFS RUN DRIVE

Public hearing and consideration of a request for a master plan amendment of the Eisenhower East Small Area Plan to transfer floor area between blocks within the South Carlyle neighborhood and associated conditions including calculation of the Allowable Gross Floor Area; zoned CDD#11/Coordinated Development District -11.

Applicants: City of Alexandria Sanitation Authority, Carlyle Centre, LP, Carlyle Plaza, LLC, and Virginia Concrete Company represented by Kenneth Wire

ACTION: MPA 2011-0003 ADOPTED RESOLUTION 5-0

53

6/17/11

MPA2011-0004 ADOPTED RESOLUTION 5-0

9A&B. TEXT AMENDMENT #2011-0007

A-FRAME SIGN PROGRAM

A) Initiation of a text amendment; B) Public hearing and consideration of a text amendment to the City's Zoning Ordinance to include regulations allowing A-frame signs on King Street. Staff: Department of Planning and Zoning

ACTION: INITIATED 5-0

RECOMMENDED APPROVAL 5-0

10. SPECIAL USE PERMIT #2010-0079

4646 SEMINARY ROAD

ALEXANDRIA CITY 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 & 20/Single Family &. Applicant: Alexandria City Public Schools represented by Kevin Van Hise.

ACTION: RECOMMENDED APPROVAL w/ amendments 4-2

11A. CITY CHARTER SECTION 9.06 CASE #2011-0002

401 EAST BRADDOCK ROAD (405 E. Braddock Rd. and 515 Mt Vernon Ave) YATES CORNER

Consideration of a request for approval of the sale of property at 401 East Braddock Road pursuant to Section 9.06 of the City Charter; zoned CSL/Commercial Service Low. Staff: Department of General Services

ACTION: APPROVED 6-0

11B. <u>DEVELOPMENT SITE PLAN #2010-0023</u>

401, 405 EAST BRADDOCK ROAD AND 515 MOUNT VERNON AVENUE YATES CORNER

Public hearing and consideration of a request for a development site plan, with a modification, to construct two commercial buildings; zoned CSL/Commercial Service Low. Applicant: Yates Holdings, LLC represented by Duncan Blair, attorney

ACTION: APPROVED 6-0

11C. ENCROACHMENT #2011-0002

511, 515 MOUNT VERNON AVENUE, 401, 405, 407 and 411 EAST BRADDOCK ROAD - YATES CORNER

<u>Public hearing and consideration of a request for approval of an encroachment</u> into the public right-of-way for an ornamental wall, planters and planting beds; zoned

CSL/Commercial Service Low. Applicant: Yates Holdings, LLC represented by Duncan Blair, attorney

ACTION: RECOMMENDED APPROVAL 6-0

11D. <u>SPECIAL USE PERMIT #2011-0032</u>

407 EAST BRADDOCK ROAD (Parcel Addresses: 515 Mt Vernon Avenue, 401, 405 E. Braddock Road)

YATES CORNER - DRY CLEANING BUSINESS

Public hearing and consideration of a request to operate a dry cleaning business; zoned CSL/Commercial Service Low. Applicant: Yates Holdings, LLC represented by Duncan Blair, attorney

ACTION: RECOMMENDED APPROVAL 6-0

11E. SPECIAL USE PERMIT #2011-0034

511 & 515 MOUNT VERNON AVENUE (Parcel Addresses: 515 Mt. Vernon Avenue, 401, 405 E. Braddock Road)

YATES CORNER- LIGHT AUTO REPAIR

Public hearing and consideration of a request to operate a light auto repair business; zoned CSL/Commercial Service Low. Applicant: Yates Holdings, LLC represented by Duncan Blair, attorney.

ACTION: RECOMMENDED APPROVAL 6-0

11F. SPECIAL USE PERMIT #2011-0033

411 EAST BRADDOCK ROAD (Parcel Addresses: 515 Mt. Vernon Avenue, 401, 405, E. Braddock Road)

YATES CORNER - 7-ELEVEN

Public hearing and consideration of a request for the continued operation of a convenience store; zoned CSL/Commercial Service Low. Applicant: 7-Eleven, Inc represented by Michael Vanderpool, attorney

ACTION: RECOMMENDED APPROVAL w/amendments 6-0

12A-F. MASTER PLAN AMENDMENT #2011-0002

REZONING #2011-0001

CDD CONCEPT PLAN #2011-0001

TEXT AMENDMENT #2011-0009

DEVELOPMENT SPECIAL USE PERMIT #2010-0027

SPECIAL USE PERMIT TMP #2011-0011

717, 719, 723 & 735 NORTH SAINT ASAPH STREET;

716 NORTH PITT STREET

HARRIS TEETER/RESIDENTIAL

Public hearing and consideration of a request for: A) an amendment to the Old Town North Small Area Plan Chapter of the City Master Plan to change the land use designation from commercial to mixed use; B) an amendment to the City's zoning map to change the zoning from CD to CDD; C) approval of a CDD concept plan; D) initiation of a text amendment; a text amendment to the City's Zoning Ordinance to amend the CDD table; E) a development special use permit, with site plan and modifications, for a mixed use retail/residential development, including a request for a parking reduction and retail (grocery) store larger than 20,000 square feet; F) a transportation management plan; zoned CD/Commercial Downtown. Applicant: Alexandria Old Town North, LLC represented by Kenneth Wire, attorney

ACTION: MPA ADOPTED RESOLUTION w/amendments 6-0 REZ RECOMMENDED APPROVAL 6-0 CDD RECOMMENDED APPROVAL 4-1-1 TA INITIATED 6-0 TA RECOMMENDED APPROVAL w/amendments 6-0 DSUP RECOMMENDED APPROVAL w/amendments 5-1 SUP(TMP) RECOMMENDED APPROVAL 4-1-1

13. Consideration of approval of the Planning Commission minutes of the regular public hearing of May 3, 2011.

ACTION: APPROVED WITHOUT OBJECTION

14. Other Business.

There was no other business discussed.

15. Adjournment.

The Planning Commission meeting adjourned at 2:51 A.M.

INFORMATION ITEMS

Administrative approvals: The following special use permits have been administratively approved by the Department of Planning and Zoning:

SUP#2011-0020

Location: 600 Franklin Street Applicant: Chakra, LLC

Request: Change of ownership of a restaurant.

SUP#2011-0021

Location: 330 North Washington Street

Applicant: Wells Fargo

Request: Change of ownership of a bank with a drive-thru

SUP#2011-0023

Location: 1931 Ballenger Avenue Applicant: Party of Six Foods, LLC

Request: Change of ownership of a restaurant

SUP#2011-0027

Location: 602 King Street Applicant: Abdulhaluk Ensari

Request: Change of ownership of a restaurant

SUP#2011-0028

Location: 808 King Street

Applicant: Mike Cordero & Nick Cordero Request: Change of ownership of a restaurant

SUP#2011-0029

Location: 703 King Street Applicant: Setareh, LLC

Request: Change of ownership of a restaurant and a minor amendment

to change hours of operation.

Attendance:

Messrs. Komoroske, Dunn, Jennings, Ms. Lyman and Ms. Fossum were present. Mr. Wagner was present after item #9. Mr. Robinson was absent.

Board of Zoning Appeals

RE: SUP #201-0079

ATTACHMENT #1

Seminary Hill Association, Inc. 2115 Marlboro Drive Alexandria, VA 22304

May 18, 2011

Alexandria City Public Schools 2000 N. Beauregard Street Alexandria, Virginia 22311

Superintendent Morton Sherman and School Board Chair Yvonne Folkerts:

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 effects of stadium lighting on surrounding neighborhoods or how it plans to comply with City Code. The City held public meetings to discuss the issues on February 8, 2011, and April 26, 2011. Neither the applicants nor staff disclosed significant new information during these meetings or stated plans to modify the SUP application slightly. For the reasons below, Seminary Hill Association, Inc. (SHA) strongly recommends and requests that ACPS withdraw this application before the Planning Commission hearing scheduled for June 7, 2011.

- 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;
- 2. 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 a minimum;
- 3. 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); and
- 4. 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.

In addition, SHA is disturbed that this proposal violates long-standing agreements between it, ACPS, the School Board, and the City, and that there was no input from the community before filing and no regard to the potentially devastating impacts the area faces when the BRAC-133 at Mark Center opens later this year. In lieu of developing and responding to the issues identified in this letter and in public meetings, City personnel were marshaled to defeat the "push back from the community," according to recent City documents describing naked political efforts.

SHA supports a strong athletic program, especially for our youth. Two lighted fields—Minnie Howard and Fort Ward Park—are within SHA boundaries but away from residential properties. SHA is disturbed by the City's handling of this issue and the lack of economic impact analysis. SHA lacks confidence in City staff in Planning & Zoning and Parks & Recreation who are advocating for their own interests rather than those of the taxpayers of Alexandria.

Sincerely,

President Nancy R. Jennings

Seminary Hill Association, Inc.

CC:

Members of the Alexandria School Board Mayor and City Council Planning Commission Faroll Hamer, Planning & Zoning James Spengler, Parks & Recreation

Board of Zoning Appeals

RE: SUP #201-0079

ATTACHMENT # 2

Seminary Hill Association, Inc. 2115 Marlboro Drive Alexandria, VA 22304

June 1, 2011

Director of Planning & Zoning City of Alexandria Alexandria City Hall, 301 King Street, Alexandria, VA 22314

Ms. Faroll Hamer:

Seminary Hill Association, Inc., (SHA) received an announcement last week about the June 7 hearing before the Planning Commission on the application for ACPS to install lighting on the field at Francis C. Hammond Middle School (Hammond). SHA had requested that ACPS withdraw this application in a letter dated May 18, 2011, for the reasons stated in that letter. Neither ACPS nor any other City official has responded to any of the concerns raised in the letter or in previous correspondence from the community.

In the announcement of this hearing, ACPS is now asking for a second SUP—a new entry on the application regarding the scope of the hearing—to request the Planning Commission and City Council relieve it of height and setback restrictions. SHA agrees with ACPS that the SUP application violated height and setback restrictions and that this introduces significant legal and policy issues. We also note that the proposed lighting violates illumination restriction on City Code 13-1-3, which appears to cap illumination at 0.25 of a footcandle in a residential area. The applicant admitted at a public meeting that it would shed 0.44 of a footcandle on neighboring properties, thus exceeding restrictions. The latest announcement says nothing about this issue. The addition of the request for relief from Code raises at least the following issues:

- The request for relief from height and setback restrictions are not in the application itself, meaning the public was given about a 10-day notice that it was a purpose of the SUP.
- The City or ACPS needs to get a variance from those restrictions. The new SUP request admits that the setback requirement requires relief from the Zoning Ordinance as an R-20 zone under Section 3-106(A). The lighting towers also exceed the 40 foot height restriction in Section 3-106(C). The applicant may claim that the lighting towers at Hammond constitute a public school being "constructed, expanded or reconstructed" under Section 7-2100, permitting application for a new SUP for towers up to 60 feet height. However, lighting towers (which are unlikely to be used for any school purpose) do not fit under any of those categories in 7-2100, and are more properly viewed under 3-106(C). Thus, the height violations also require a variance. ACPS is no different than any residence in an R-20 zone seeking a variance from the Zoning Code. It is required to demonstrate a hardship, like any other applicant, in the normal course of business before the Board of Zoning Appeals.

At the last minute, ACPS is changing their application materially to add a second request with significant precedential potential, and the public should have the benefit of reviewing and understanding the request. Adding to the need for more time is the fact that there is no indication in any documents before the Planning Commission or from City staff that the City has considered this issue with any depth. SHA residents can attest that getting relief from height, setback, and illumination restrictions is a detailed, complicated analysis that must be understood on its facts and for its implications before moving ahead. As a result, SHA requests:

- 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.

SHA residents look forward to hearing from you.

Sincerely,

President Nancy R. Jennings Seminary Hill Association, Inc.

Maney R Jennings

CC:

Superintendent of ACPS
Members of the Alexandria School Board
Mayor and City Council
Planning Commission
James Spengler, Parks & Recreation

Board of Zoning Appeals

RE: SUP #201-0079

ATTACHMENT #3

From: Faroll Hamer [mailto:Faroll.Hamer@alexandriava.gov]

Sent: Friday, June 03, 2011 4:26 PM

To: Nancy Jennings

Cc: Morton Sherman; Alexandria School Board; Alicia Hughes; Del Pepper; Del (personal) Pepper; Frank Fannon; Kerry Donley; Paul Smedberg; Rob Krupicka; William Euille; James Spengler; Mark Jinks; Patricia Escher; Donna Fossum; Eric Wagner; Jesse Jennings; John Komoroske; Larry Robinson; Marilyn Lyman; Stuart Dunn; Mark Jinks; Gwen Wright: Barbara Ross

Subject: RE: Letter from Seminary Hill Association Inc. re SUP for Hammond Middle School

Nancy --

Thank you for your correspondence from Wednesday on the SUP for lighting at Hammond Field. I think you raise a number of important and valid questions and I wanted to give you my initial thoughts on these questions.

You asked about why we are using the SUP process to review this application. ACPS's application for an SUP to allow structures, in this case light poles, on a public school site to be constructed at 60 feet in height falls under Section 7-2100 of the Zoning Ordinance. This provision provides authority for the City to grant increased height for public school structures in a residential zone, not to exceed a height of 60 feet. Therefore, this is the appropriate procedure for requesting 60 foot tall light poles on a school playing field. My reasoning is as follows:

- The construction work is being done on a public secondary school property that is located in a residential zone;
- . The work is clearly a school project, which is being paid for through the ACPS's CIP budget; and
- The field and lights will be used by ACPS students and will be available to others only when not in use by the ACPS students. As I understand school personnel have explained at the public meetings on this topic, the field will be available for ACPS and City Recreation Department sponsored programs, City of Alexandria youth and adult sports leagues, and summer camps/clinics...no private rentals would be permitted.

Next, you asked about why the requests for setback modifications are being reviewed as part of the SUP. 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 because it requires the approval of the Planning Commission and the City Council rather than just the Planning Commission approval

required for a site plan. It seems, therefore, appropriate to incorporate the setback modification into the current docket item.

Finally, you have also raised an issued regarding the illumination restrictions in City Code Section 13-1-3. These restrictions do not apply in this specific case. The Code states:

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 [emphasis added] of the adjacent property occupied for residential purposes in an amount of illumination which measures more that point twenty-five hundredths footcandles measured at any point seven feet beyond the property line of the adjacent property used for residential purposes.

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.

Again, these are my initial responses to your questions. If you want a more formal determination letter, please let me know and I will prepare one.

Please know that I understand this is a difficult case and that the community has justifiable concerns that must be addressed. Because of these concerns, there has been significant public outreach on this case, including two public meetings on February 7th and April 26th. At these well-attended public meetings, the issues of the degree of illumination that will be provided and the height of the proposed poles were discussed extensively. The applicant did amend its SUP application on May 12th and much of substance of this amendment was in reaction to input received at the two community meetings in an effort to incorporate community suggestions and assure that all technical requirements were met.

Thank you for your interest in this project and I look forward to seeing you at the June 7th Planning Commission meeting.

Faroll

Faroll Hamer
Director, Department of Planning and Zoning
City of Alexandria
301 King Street
Alexandria, VA 22314
703-746-4666

Board of Zoning Appeals

RE: SUP #201-0079

ATTACHMENT #4



DEPARTMENT OF PLANNING AND ZONING

301 King Street Room 2100 Alexandria, Virginia 22314

Phone 703-746-4666 Fax 703-838-6393

www.alexandriava.gov

June 16, 2011

Ms. Nancy Jennings Seminary Hill Association, Inc. 2115 Marlboro Drive Alexandria, VA 22304

Re: SUP #2010-0079, Hammond Field Lights

Dear Ms. Jennings:

Thank you for writing in regard to SUP #2010-0079, which is scheduled for consideration before the Alexandria City Council on June 25.

You have asked for my determination on certain procedural matters pertaining to this application. My responses to those questions are as follows:

- 1. ACPS's application for an SUP to allow structures, in this case light poles, on a public school site to be constructed at 60 feet in height does fall under Section 7-2100 of the Zoning Ordinance (*Increased density and height for public elementary and secondary schools*). This provision provides authority for the City to grant increased height for public schools in a residential zone, not to exceed a height of 60 feet. It is therefore the appropriate procedure for requesting 60 foot tall light poles on a school playing field. My reasons for determining that this application falls under this specific provision of the Zoning Ordinance are as follows:
 - The construction work is being done on a public secondary school property that is located in a residential zone;
 - The work is clearly a school project, which is being paid for through the ACPS' CIP budget;
 - The field and lights will be used by ACPS students and will be available to
 others only when not in use by the ACPS students. As discussed by the school
 personnel at the public meetings, the field will be available for ACPS and City
 Recreation Department sponsored programs, City of Alexandria youth and
 adult sports leagues, and summer camps/clinics. No private rentals would be
 permitted; and
 - The field and lights are clearly part of the public school facility.

2. In terms of the modification to the front yard setback, please reference Section 11-416(A) of the Zoning Ordinance (*Modification of zoning regulations*). Under this provision, 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 because it requires the approval of the Planning Commission *and* the City Council rather than just the Planning Commission approval required for a site plan. Additionally, this case involves a special use permit that is related to land and thus includes a site plan to show the location of the lights. The purpose of this modification section is to allow the Planning Commission to consider modifications at the same time they are considering other land related matters. It is therefore appropriate to incorporate the setback modification into the current docket item.

You have also raised an issue regarding the illumination restrictions in City Code Section 13-1-3. Although this section of the Code is not enforced by the Department of Planning and Zoning, for your information, these restrictions do not apply in this specific case. The Code states:

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 [emphasis added] of the adjacent property occupied for residential purposes in an amount of illumination which measures more that point twenty-five hundredths footcandles measured at any point seven feet beyond the property line of the adjacent property used for residential purposes.

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, 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.

Finally, we note that there has been significant public outreach on this issue, including two public meetings on February 7 and April 26. At these well-attended public meetings, the issues of the degree of illumination that will be provided and the height of the proposed poles were discussed extensively. The applicant amended its original SUP application on May 12 and much of substance of this amendment was in reaction to input received at the two community meetings in an effort to incorporate community suggestions and assure that all technical requirements were met.

This SUP was the subject of a public hearing before the City of Alexandria Planning Commission on June 7. After extensive public testimony, the Commission voted to recommend approval of this SUP to the City Council, with additional conditions related to improved trash collection and removal and review of the SUP at the end of one year to identify any problems that may arise.

We thank you for your interest in this project and we hope that we can discuss the above issues together without delaying the June 25 City Council hearing. If you would like to set up a meeting to discuss these issues, please do not hesitate to contact me or Gwen Wright or Barbara Ross of my staff.

Sincerely yours,

Faroll Hamer, Director

Department of Planning and Zoning

You may have the right to appeal this decision within thirty days in accordance with 15.2-2311 of the Code of Virginia. The decision shall be final and unappealable if not appealed within thirty days.

Board of Zoning Appeals

Re: SUP# 201-0079

ATTACHMENT #5

DONNELL R. FULLERTON 1407 N. Pickett Street Alexandria, VA 22304

June 7, 2011

ERRATA NOTICE

Planning Commission City of Alexandria Alexandria City Hall 301 King Street Alexandria, Virginia 22314

Re: Supplemental Documentation

Docket Item # 10

Special Use Permit #2010-0079

4646 Seminary Road- Francis Hammond Middle School.

Donnell R. Fullerton's opposition to Special Use Permit #2010-0079 was filed with the Planning Commission on June 6, 2011. Please note that the description for Picture 1& 2 included in the submission should read:

Typical Sunday traffic after **church** at N. Pickett and Seminary Road, as opposed to Typical Sunday traffic after **soccer** at N. Pickett and Seminary Road.

Donnell R. Fullerton

) and (1/ Fullitate

DONNELL R. FULLERTON 1407 N. Pickett Street Alexandria, VA 22304

June 3, 2011

Planning Commission City of Alexandria Alexandria City Hall 301 King Street Alexandria, Virginia 22314

Re: Docket Item # 10 Special Use Permit #2010-0079 4646 Seminary Road- Francis Hammond Middle School.

I received an announcement last week about a Request for Consideration to add lighting to an existing athletic field/track and minimum a modification to the minimum front yard setback by the Alexandria City Public School ("ACPS"). I live directly across the street from the existing field and will be directly and adversely impacted by this requested Special Use Permit #2010-0079.

The application is significantly deficient in its description of the proposed project, activities to be conducted relative to the construction and use thereof and the adverse impacts resulting there from.

Absent a full description of the project including, but not limited to, light pollution, noise impacts, traffic and parking impacts and the adverse impact on the value of neighboring properties this application fails to establish any basis for the grant of two special use permits or the variances which are required but not requested by this applicant.

I live at 4722 North Pickett Street immediately across the street from the existing athletic field and within approximately 125 feet of one of the proposed sixty (60) feet tall lighting structures. Below I identify a number of issues of concern relative to this application and proposal.

1. Light Pollution

Light pollution is a serious problem in Northern Virginia. The subject athletic field is immediately in front of my home. The existing skyline is in clear view of my home from the master bedroom, living room, sun room and front yard. Stars are clearly visible and the view unobstructed.

¹ My property is shown on page 2 of Staff's report identified as "1407". The application fails to contain sufficient detail to establish exactly where applicant proposes to situate its light towers but seeks to locate at least two approximately 23 and 25 feet from its property line.

Applicant proposes to introduce a series of light towers with multiple levels of lights and will fill the sky with light three hundred sixty five days a year until at least 10 p.m. every night other than Sunday which will feature illumination up until 6 pm. No dimensions are included in the application but applicant proposes to shower light over a large rectangular area roughly the size of a football field to service a yet to be installed replacement soccer field. Applicant intends to add to the towers at a lower level additional directed lights to illuminate beyond the field onto a yet to be installed oblong four lane wide running track.

The application provides no details as to total candle power of lighting to be installed, no information as to average constant illumination on the field or the track, no meaningful technical data regarding foot-candles of design, types of fixtures or manufacturing specifications.

This proposal seeks to retrofit an athletic field yet to be installed in an existing suburban neighborhood. Installation and operation of artificial lights in the manner described in the application presents significant quality of life issues. There is inadequate space between the athletic field and existing residences. Given the expansion of Hammond Middle School approximately four years ago then existing regulation track was removed as there wasn't sufficient space to keep it and erect the school addition. Now a smaller non-regulation size track and non-regulation size soccer field are the intended recipients of the lights.

Light trespass is when light crosses property lines. As noted in the White Paper on Athletic Field Lighting issued by Fairfax County Park Authority – "When light crosses property lines it can detract from the property value and quality of life of those whose property it is improperly directed. It can be a particularly objectionable problem when obtrusive recreational or commercial lighting is immediately adjacent to residential neighborhoods..."

My property is currently the subject of light trespass and is impacted by "security" flood lights mounted on the walls of the new addition proximate to the existing athletic field which shine into the front of my house.³ This existing spill light is not addressed in the application at all.

The application utterly ignores and fails to address the new "spill light" which will be created by the installation of these light towers. No mention is made of the spill effect of the lower lights which applicant plans to direct outside the athletic field and illuminate the track which is to surround the field. A meager reference is made to spill on sidewalks but it is insufficient to inform.

² White Pager Athletic Field Lighting and Control of Obtrusive Light Pollution - Fairfax County Park Authority July 2010 at page 6.

³ After months of repeated complaints, recently modifications in the form of shades have been made to lessen this intrusion.

The application fails to address at all glare. Glare is excessive brightness occurring in the normal field of vision. Glare differs from spill light as would occur when I look out my windows or walk into my front yard and while not directly facing the source see illumination of the field and other objects receiving light from it. As addressed in the White Paper, "Glare can be a significant problem that seriously impairs both safety and quality of life. Glaze can be a serious safety hazard (for example for drivers and pedestrians) in that it demands attention since one's eyes are naturally attracted to bright light, and at night this destroys the eye's dark adaptation (i.e., the eye's sensitivity to lower light levels). ⁴

Glare is exasperated by the degree of the light being cast. For this reason Fairfax County prescribes either a 70' or 80' light pole to minimize glare and its impact. This applicant fails to identify the height of the poles it intends to install but specifies that they "will not exceed 60' in height. It is clear that the pole height applicant proposes will not meet recommended standards to attempt to minimize the impact of glare.

This application will result in spill light and glare and impact detrimentally Varsity Park and my property. There is no basis for granting any special use permit or making any finding of hardship or grounds for a variance as this lighting proposal is entirely an elective being sought by this applicant.

The applicant claims separately to have obtained all necessary approvals and funding to install both a new athletic field and track and has repeatedly admonished concerned citizens that regardless of its lighting application these facilities will be installed.⁵

There is no intention for students at Hammond Middle School to use the lighted field as part of educational or physical education curricula sponsored by ACPS. The fields will not even be under the control of ACPS after 6 pm in the evening.

The instant application for a Special Use Permit is by the repeated statements of the applicant independent and not subject to their existing commitment to install an upgraded

⁴ White Paper at page 7.

⁵ Applicant claims to have received authorization and budget approval at a special meeting months prior to alerting this community of its plan to install lighting at Hammond Middle School. Two public hearings have been held at Hammond Middle School to which the public has been invited. At the last public meeting the School Board Chair, Yvonne Folkerts, attended. I spoke at the meeting and related to Ms. Folkerts, the meetings with ACPS and my community immediately prior to the expansion of Hammond Middle School and the statements made by Board Member Roger D'Giolo at that time on behalf of ACPS that there would be no stands and no lighting of this field. I requested that Ms. Folkerts withdraw the pending proposal. I never received a response, however, I am advised that at the most recent City/Schools meeting at which the Mayor, Councilman Krupicka, Ms. Folkerts and Sheryl Gorsuch and staff members for both the City and ACPSSS an agenda item dealing with lights at Hammond was discussed.

athletic field and track on their property. As such Hammond's educational mission is unaffected in any manner by a rejection of the pending Special Use Permit request.

2. Noise

Applicant proposes to deliver possession of its athletic field to the Alexandria Department of Recreation, Parks and Cultural Activities ("RCPA"). Applicant proposes operations from 8 am until 10 pm Monday through Saturday and 8 am until 6 pm on Sunday. It describes its proposed use as "Athletic Field". The current schedule attached at page 26 indicates that Adult Sports Soccer (Rentals) (several leagues) will use the field September through November.

Noise from players will present itself when ever games are played. It exists now. Noise from officials, whistles, will intrude upon and punctuate my property and the community evenings all year long. The noise of parking cars, horns as players and spectators lock and unlock their vehicles will be present ending officially at 10 pm but in reality until players and spectators leave either dressing on the field or in or next to their cars some time later.

I plainly hear in my house and rear yard the ongoing noise from players as do a number of my neighbors. It is annoying and detracts from my enjoyment of my house and pool and interferes with my use of my property. It is a nuisance to permit such noise to continue after dark when it currently ends until after 10 p.m. in the evening. There are small children in the neighborhood whose sleep is interrupted. My grandchildren go to bed at 7:30 pm. Shouts and yells, car alarms being disengaged, doors and trunks being opened and closed are intrusive and obnoxious. This all is a natural result of this application and can not be minimized and it has a significant adverse impact on me and my neighbors.

3. Parking

Varsity Park has a serious and ongoing parking problem. The application does nothing to address this problem only will add to it. The applicant assumes because there is a parking lot at the rear of Hammond Middle School that it's projected 20-25 additional vehicles "can be easily accommodated". It ignores the "Industry Standard suggestion of 38 parking spaces for a rectangular field. It ignores the overlap between games ending and the need for the next team to have already parked and be suiting up for play. It ignores the reality which is that often there are competing functions at the school which take up the parking lot and that human nature being what it is that convenience will dictate parking on the street as close as one can get to the corner of Seminary and North Pickett.

I have lived at 1407 N. Pickett Street for over twenty years and observe it on a daily basis. Users of the track and of the field routinely park in front of my house and up the street. Users routinely ignore the No Parking signs, routinely make U turns on North Pickett Street and create hazards as they park their vehicles. All this will only be exasperated when the hours of usage extend into the night.

ACRP will do nothing to address the parking impact. ACPS will patrol its lot and possibly write a ticket if someone is blocking a lane or an exit. They have no jurisdiction and no interest in what goes on outside of their lot. I and my neighbors are left to Traffic Enforcement which is ill staffed especially in the evenings or weekends to deal with parking issues.

As a result of BRAC our current parking problems will only be worsened. In fact the Mayor as part of his request for impact payments from the federal government has acknowledged this and is requested \$300,000 + to hire and equip additional traffic enforcement resources for this area.

Grant of this application will draw a significant number of additional vehicles will result in parking and traffic congestion and will materially detract from the quality of life in Varsity Park.

4. Traffic

Hammond Middle School generates significant traffic during the day especially when school buses drop off and pick up students. This is augmented by parents lining up to drop off and pick up their children. BRAC is projected to add at least four thousand vehicles a day to the already congested area surrounding Hammond Middle School. BRAC will not restrict its limited parking spaces to car pools and thousands of employees will descend on Varsity Park (circling Hammond Middle School into Varsity Park) seeking parking and short cuts to avoid grid lock on I-395.

The addition of an evening draw of traffic to play and observe evening soccer leagues will compound an already existing problem. Applicant has no solution to this other than ignore its contribution to the problem.

5. Health and Safety

The Fire Station, at the corner of North Pickett and Seminary is extremely busy and will only get busier. Fire Trucks routinely are called out on emergencies as is their paramedic unit. Often they drive down North Pickett on emergency runs under full siren. They are the designated "Jaws of Life" unit and respond to accidents on I-395 and throughout the city where motor vehicles are involved and entrapment exists. Their mission will be compromised by the addition of traffic to Hammond in the evenings.

The Mayor has gone on record to the federal government seeking impact assistance noting that the critical response time (less than 4-6 minutes) is already illusive in this area and will not be able to be maintained once BRAC opens. A request for an additional paramedic unit has been made and is pending.

The addition of a steady stream of soccer players to Hammond Middle School every evening of the week and congestion and traffic, glare and light pollution resulting from this application will further degrade the health and safety of our community.

6. Aesthetic Issues

Varsity Park is suburban community zoned R-20 in large part. It features lawns and well maintained neighborhoods in scale stepping down from the high rise apartments bordering I-395. We have beautiful trees, birds and an open and quiet community. Our skyline is beautiful not marred by commercial structures and is in proportion. Erection of sixty foot towers will mar our vistas and is out of character and will negatively impact and detract from the quality of life in this community.

Applicant has chosen to site its lights in what is know as the upper field. Curiously, Applicant has other areas on its property which if used would significantly mitigate on the aesthetic impact on the skyline these towers present, address significant glare abatement issues due to the existing large vegetation and tree borders separating the lower fields from the road and neighbors. This applicant could, if it so chose, mitigate substantially some of the previously identified negative impacts by locating any lighted athletic field on the North end of its property, i.e. in "death valley" and reconfiguring the existing fields located there.

7. Negative Impact of the Value of Homes

Approval of this application will materially and adversely impact the value of homes in Varsity Park. Despite this issue having been raised by me and others at these public meetings and direct reference being provided to the recent application to install artificial lights at Bishop Dennis J. O'Connell High School, the study conducted as to diminution in property values and the decision by Arlington County to reject the proposal, neither the applicant nor staff in its report address this vital concern.

The applicant has retained and spent considerable sums on a consultant to package its application and market its proposal for the addition of lights at Hammond Middle School. The applicant was made aware of the serious concern held by me and others that this lighting project would seriously reduce property values in our neighborhood. Applicant has chosen to ignore the issue.

I have discussed this situation with four highly credentialed and experienced appraisal companies in recent days and shared with them the application, staff's report and the Arlington study conducted as to impact on values in Arlington and its conclusions. All concurred with the soundness of the Arlington study's approach and its conclusion that there will be a negative impact on the value of homes as a result of installation of athletic lighting.

The issue each appraiser expressed is how to best quantify the magnitude of impact as a result of this application. All concurred that given my home's location directly across the street from a light tower and the field that a diminution in value would exceed the Arlington County study average impact and likely result in a twenty to thirty percent diminution in the value of my property. Each indicated that a detailed analysis could be done and that it would take eight to twelve weeks. I am awaiting a proposal at this time.

Applicant has presented nothing to address the serious and significant adverse economic impact on neighbors which will result if this application were approved. The Planning Commission must draw a negative inference from this conscious omission by applicant and conclude that as a matter of fact surrounding homes will be materially impacted as a result of this proposal reducing home values from 9 to 30%.

8. Other observations and concerns

No Cost Information - we as taxpayers are to pay for this

There is no cost information provided in the application. These proposed light towers and improvements and the extensive expenditures by ACPS on its agent Kimley-Horn and Associates, Inc. will all be funded at tax payer expense. Estimates by Mr. Hise at the public meetings suggest the lights will cost upwards of \$700,000.00. Issues have been raised not only with the installation costs but the operating costs- again nothing in the application or staff's review. This information should be required of the applicant. Any analysis of this application should include a review of this information and the analysis in staff's report as to fields and strategy omits this entirely. How can the Planning Commission consider this application without this basis cost information being a part of the record?

Here are some estimated costs -

- * \$1,200,000 The cost to convert Hammond Middle School to an artificial turfed athletic field with non-regulation oval track;
- * \$ 700,000 The addition of lights; and
- * \$3-5,000,000 Reduction in Varsity Park home values

9. No Hardship on Applicant for relief from setbacks

The application seeks relief from the 70' front setback to install one of this light towers within 25' feet of the property line. The proposal lacks detail sufficient to identify how close to my property or others the nearest pole will be. No support for a variance is presented.

No hardship exists. ACPS has sufficient land to locate its light poles within side yard setbacks. Applicant chooses to situate its new athletic field in an area of its Property where it must seek variances from the 70' set back requirements. ACPS has a large parcel. It includes a large parcel immediately served by the rear parking lot naturally shielded by mature trees currently and for years operated for soccer and other athletic activities.

ACPS suggests that there is a VA Power transmission line which would complicate installation of a new synthetic field in that area of its property. ACPS ignores the huge negative economic impact it will cause driving down home values by ignoring this alternative and pushing forward with its current plan.

Any positioning of light towers can be easily accommodated on the vast expanse of property owned by ACPS, the fact that it chooses to position a tower within 23 or 25 feet from its property line does not create a hardship.

Summary

The application filed in this matter is deficient on its face and should be denied. If leave to amend or supplement is permitted applicant then adequate notice should be afforded the public.

Sincerely yours,

Donnell R. Fullerton

attachment : Photos with INDEX

o O'Connell &'S Impact Study

DONNELL R. FULLERTON 1407 N. Pickett Street Alexandria, VA 22304

June 6, 2011

Planning Commission City of Alexandria Alexandria City Hall 301 King Street Alexandria, Virginia 22314

Re: Supplemental Documentation

Docket Item # 10

Special Use Permit #2010-0079

4646 Seminary Road- Francis Hammond Middle School.

Please allow the following pictures to supplement my opposition to Special Use Permit #2010-0079:

Picture	Description
1 & 2	Typical Sunday traffic after soccer at N. Pickett and Seminary Road
Т	he following pictures were taken on Thursday at 6:00 pm
3	Parking in front of 1407 N. Pickett
4	N. Pickett parking
5	N. Pickett—Illegal parking (left lane – approximately 26 vehicles)
6	No Parking Sign
7	Traffic prowling for space to park
8	Notice of SUP
9	Illegal parking to corner of N. Pickett and Seminary
10	LaSalle Street parking
11	Traffic
12	Student Drop Off Zone
13	LaSalle Street Parking 18+Cars
14	Typical parking in front of 1407 N. Pickett
15	Car searching for space
16	1407 impacted by parking
17	same
18	Illegal parking entering block of N. Pickett Street on left
19	Hammond rear lot full
20	Hammond upper rear Lot full
21	Cars in search of Space/Drop Off
22	Cars heading up near Death valley

23	N. Pickett Street parking (illegal)
24	1407 N. Pickett Street
25	Front Yard –N. Pickett Street
26	Hammond Rear Lot – Screening Trees to Death Valley Fields
27	Screening Trees – Death Valley Field
28	Upper Parking Lot – Death Valley – Storage for ACPS
	Same
30	Pick Up soccer players – Illegally parked opposite 1407 Drive
30	way (observed with soccer ball)
31	Typical U-Turn adjacent to 1407 driveway
31	Typical o Tain adjacone to Ties and
	The following pictures were taken on Sunday, 12:30 pm
32	Illegal Parking - 1407 N. Pickett Street
33	Parking - 1407 N. Pickett Street
34	Lot Full -Sunday
35	Rear lot with Food Service Truck
36	Teacher Parking
37	Same
38	Stafford and Washington Blvd. Arlington, VA Sunday, 3:00
30	pm
39	Washington and Lee Lights
40	Washington and Lee Lights
41	Washington and Lee Lights
	The following pictures were taken on Sunday at 4:30 pm
42	Parking in front of 1407 N. Pickett
43	Same
44	Parking on N. Pickett
45	Illegal parking – Length of N. Pickett
46	No parking signIgnored
47	Same
48	Parking at intersection of N. Pickett and Seminary—
	Firehouse in rear
49	Illegal parking – N. Pickett
50	Illegal parking – N. Pickett
51	LaSalle Street Parking
52	LaSalle Street Parking
53	N. Pickett Street Parking - Legal
54	N. Pickett Street Parking - Legal
55	N. Pickett - Illegal
56	N. Pickett - Illegal
57	Disputed property – 1407 N. Pickett Street
J1	

Impact on Real Estate Values of a Proposal to Increase the Stadium Capacity and Install Lights at Bishop O'Connell High School

December 21, 2010

SUMMARY

The installation of lights and the expansion of the stadium at Bishop O'Connell High School will bring significant changes to the Williamsburg and Arlington East Falls Church neighborhoods. So residents of those neighborhoods conducted a survey of real estate agents to determine the impact on home values.

The survey shows that an overwhelming majority of real estate agents (80 percent) expect home values will decline for houses immediately adjacent to O'Connell and that a substantial majority of agents (65 percent) believe values will also decline for homes within one block of the private school. As expected, the impact declines farther from the school, although 35 percent of agents predicted that home values would decline within a three-block radius of the school.

The decline in home values would be significant:

- Agents estimated that the first row of homes would decline in value by 11 percent, or about \$72,000 for a typical home.
- Homes in the first block would fall by slightly over 9 percent, or about \$60,000 for an average home.

As one agent wrote on the survey, "You will absolutely see an impact on value." Another wrote that "the residential area is too dense for any such lighting . . . This goes against original planning of the area."

METHODOLOGY

To calculate the impact of lights and a stadium expansion at Bishop O'Connell, residents of the neighborhood distributed surveys to Arlington real estate agencies (see Attachment 2).

The study relied on local agents because they have tremendous familiarity with the real estate market in Arlington, the variations in different neighborhoods and how changes to a school would impact the desirability of a nearby home.

The survey sought to determine 1) if the agent believed the O'Connell proposal would increase, decrease or have little or no impact on home values; 2) the amount of the increase or decrease; and 3) if agents had any comments about the impact. To calculate the impact on homes of varying distances from O'Connell, the survey asked the same question for three sets of homes:

- Homes that are immediately adjacent to O'Connell, in the first row along Little Falls Road, 26th, Trinidad or Underwood Streets (34 homes).
- Homes that are within one block of O'Connell (156 homes)
- Homes that are within three blocks of O'Connell (406 homes).

Eighty-eight surveys were distributed and 46 were returned, a response rate of more than 50 percent. The surveys were anonymous so agents would feel free to be candid with their answers.

Tracking numbers were used on each survey to keep track of return rates, but the numbers were not associated with individual agents. Forty-three of the responses were returned on the survey forms; three were returned in email answers that were equated with questions on the survey.

RESULTS OF THE STUDY

The results were tabulated on a spreadsheet. Agents were given the option of estimating the change in home value using a percentage or actual dollars. Because most agents used percentage, the four responses that used dollars were translated into percentages based on a typical home valued at \$650,000.

The findings:

- None of the agents expect that the O'Connell plan will result in higher home values -- not even for homes three blocks from the private school.
- An overwhelming majority of agents -- 80 percent -- believe the homes that are contiguous with O'Connell will decline in value.
- A substantial majority of agents -- 65 percent -- believe the homes within one block will also suffer a decline in value.
- A smaller but still substantial number of agents -- 35 percent -- believe that homes within three blocks will suffer a decline in value.

The agents were asked to quantify the impact of the increase or decrease:

- Agents estimated that the 34 homes immediately adjacent to O'Connell will decline in value by an averageof 11.07 percent, which would reduce the value of a typical home by \$71,955.
- The agents estimated that the 156 homes within one block of the private school would fall in value by an average of 9.28 percent, which would reduce the value of a typical home by \$60,320.
- The value of all 406 homes within three blocks is expected to decline 11.8 percent, or \$76,700 for a typical home. We were surprised at this finding initially, but believe it reflects the feelings of a smaller group of agents, the 35 percent that believe values will decline for that larger radius. In general, this group believes the lights and stadium will have a greater impact on the entire neighborhood.

COMMENTS OF THE AGENTS

Of all 46 respondents, about one-third provided comments about the O'Connell proposal and its impact on home values.

Some excerpts:

"Parking on neighborhood streets will be awful. Will have negative impact on appeal and access."

"The closer to a high school, the lower the price regardless...lights don't help!"

"Lights and noise from the stadium will definitely negatively impact the values of the homes nearby."

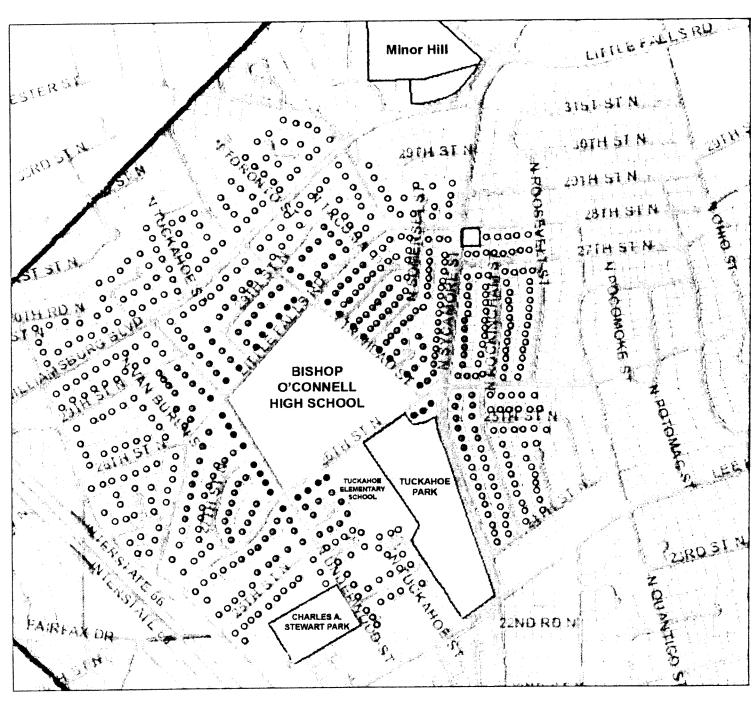
"The residential area is too dense for any such lighting adding much more congestion/traffic and will have a negative impact overall to values. This goes against original planning of the area."

"You will absolutely see an impact on value."

-- Submitted by residents of Williamsburg and Arlington/East Falls Church Civic Associations

Contact: Bill Adair adairbook@gmail.com

PROPOSED O'CONNELL ATHLETIC FIELD EXPANSION: IMPACT ON REAL ESTATE VALUES



34 First Row Houses: 11% decline in property values 156 Houses in One Block Radius: 9.3% decline in property values

406 houses 2-3 Blocks from School

Real Estate Survey Impact of Lighted Fields and Expanded Stadium on Home Values

The residents of the Williamsburg and Arlington East Falls Church Civic Associations are conducting this survey to measure the impact of stadium lights and an expanded football stadium on home values. We would appreciate your answers to these questions. You do not need to give your name.

As you may know, Bishop O'Connell High School (6600 N. Little Falls Road) has traditionally held its football, soccer, baseball and lacrosse games during daylight hours and has used its sports complex only for its own events. O'Connell is now seeking approval from Arlington County to reconstruct its fields, turning them into an NCAA-level athletic facility with 11 light poles (70- to 90-feet-tall), 30 percent more seats and an expanded PA System. The high school plans to allow Marymount University to hold collegiate events throughout the year, with lights as late as 11 p.m. every day.

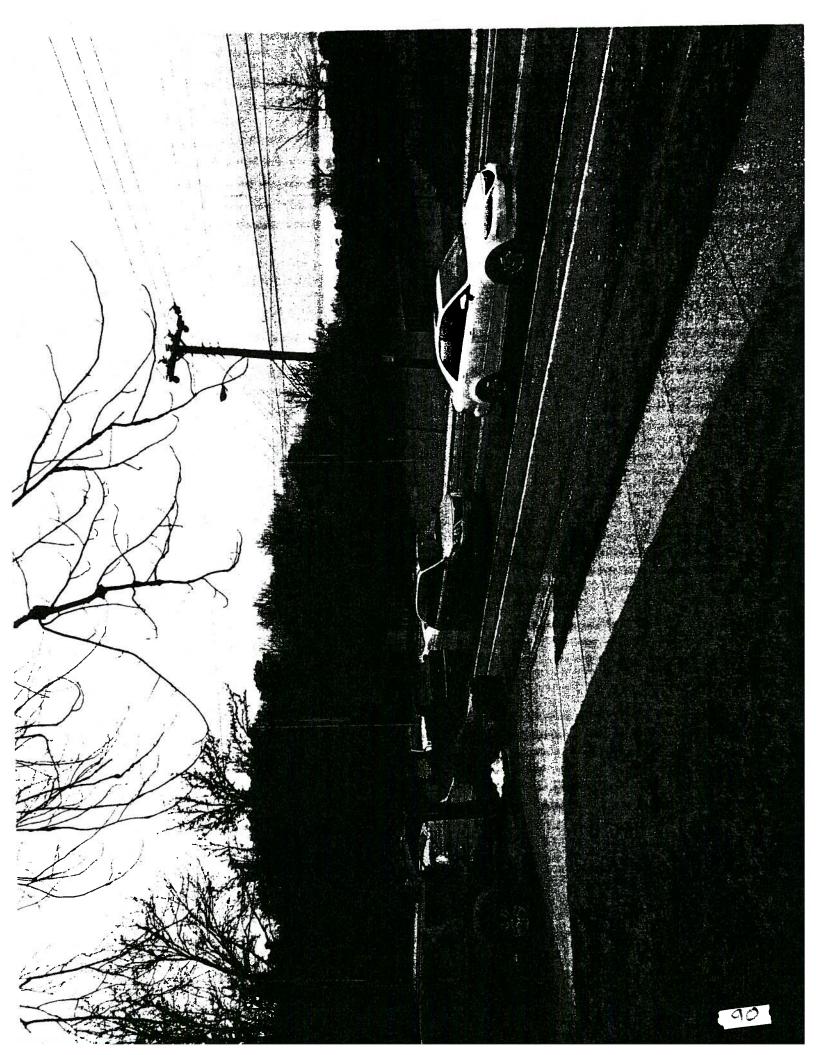
The O'Connell proposal will lead to many more nighttime events at the school, bringing traffic, commotion and causing a parking shortage. The neighborhood is conducting this survey to determine the impact on home values.

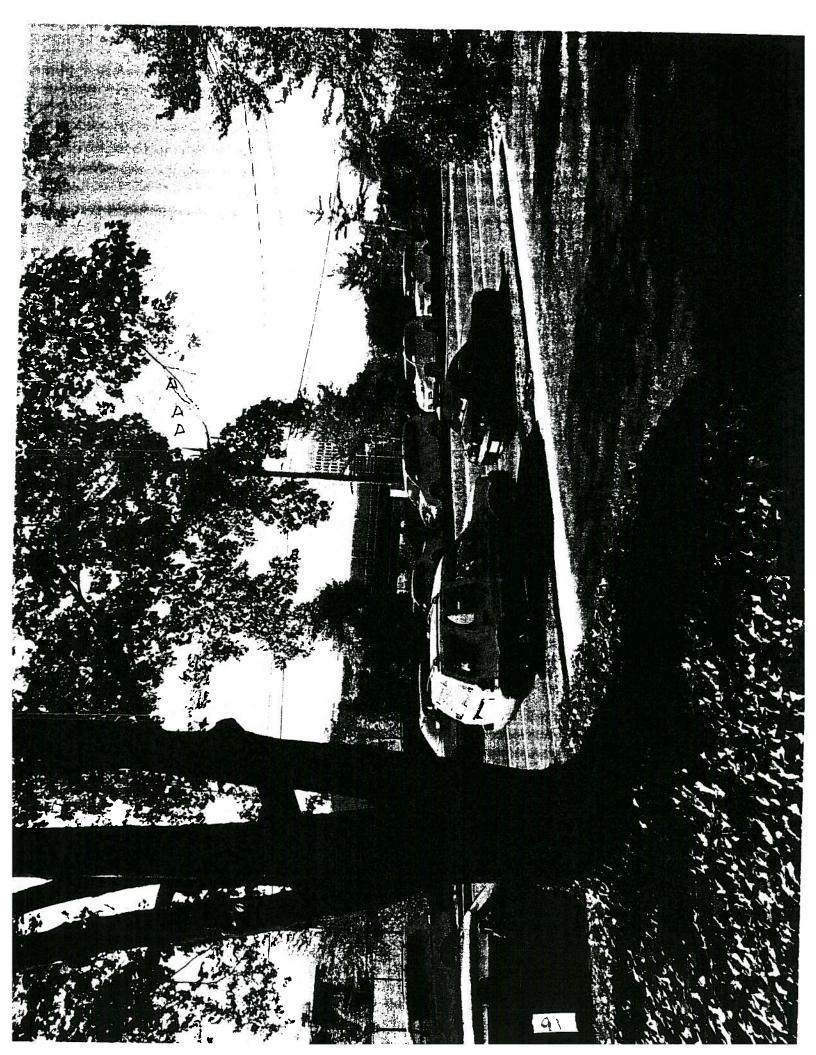
1. What impact do the homes closes project will:	you believe the lights and stadium expansion will have on home values for to O'Connell, those in the first row immediately across the street? The
In	crease home values
D	ecrease home values
Н	ave little or no impact on home values
They will increase/	decrease the value of a typical home by \$ or percent
2. What impact do the homes within a	you believe the lights and stadium expansion will have on home values for 1-block radius? The project will:
Inc	crease home values
	ecrease home values
	ave little or no impact on home values

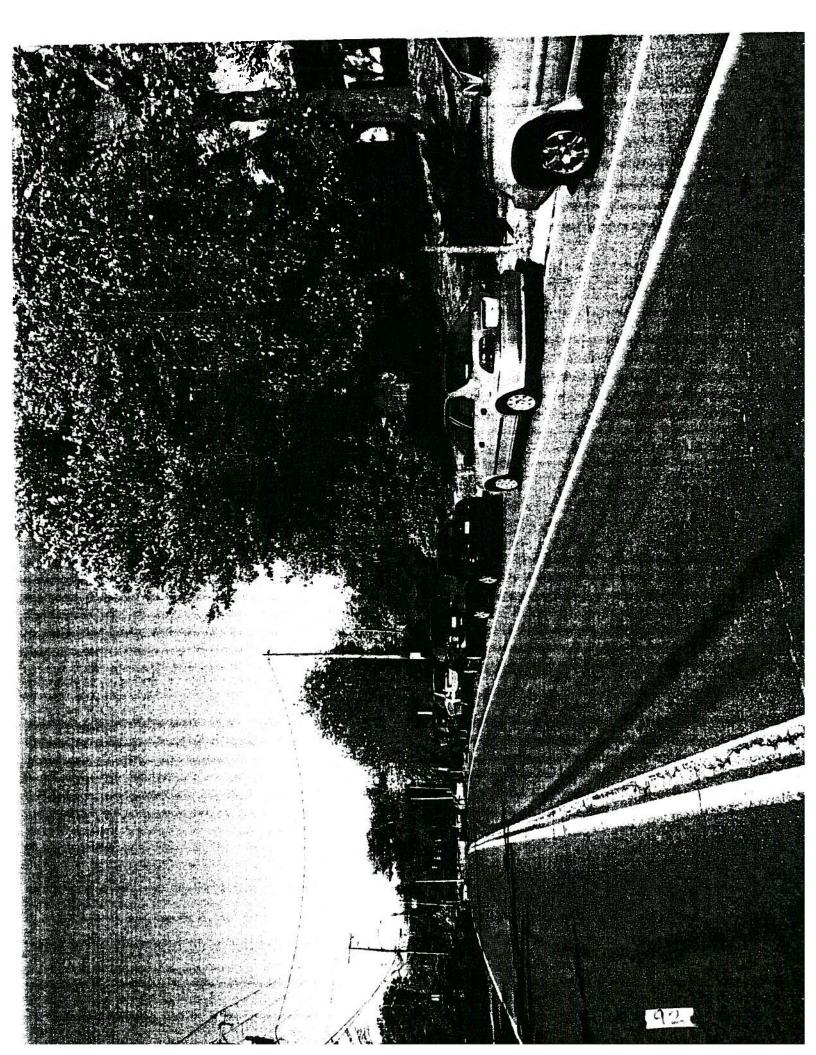
They will increase/decrease the value of a typical home by \$	or	percent
(Over)		
3. What impact do you believe the lights and stadium expansion	n will have on home val	ues for
homes near the school but outside a 1-block radius (that is, ho	mes that are 2 to 3 blo	cks from
O'Connell). The project will:		
Increase home values		
Decrease home values		
Have little or no impact on home values		
They will increase/decrease the value of a typical home by \$	or	nercent
They will increase/decrease the value of a typical home by \$		porcorn
We welcome any comments you may have about the impact of	the lights and stadium	
expansion on home values:	-	
·		
		
		-
		-
Please leave the survey in the envelope provided by Friday, De	ec. 17, or mail it to:	
Bill Adair		
6559 N. 28th Street		
Arlington, VA 22213		
adairbook@gmail.com		

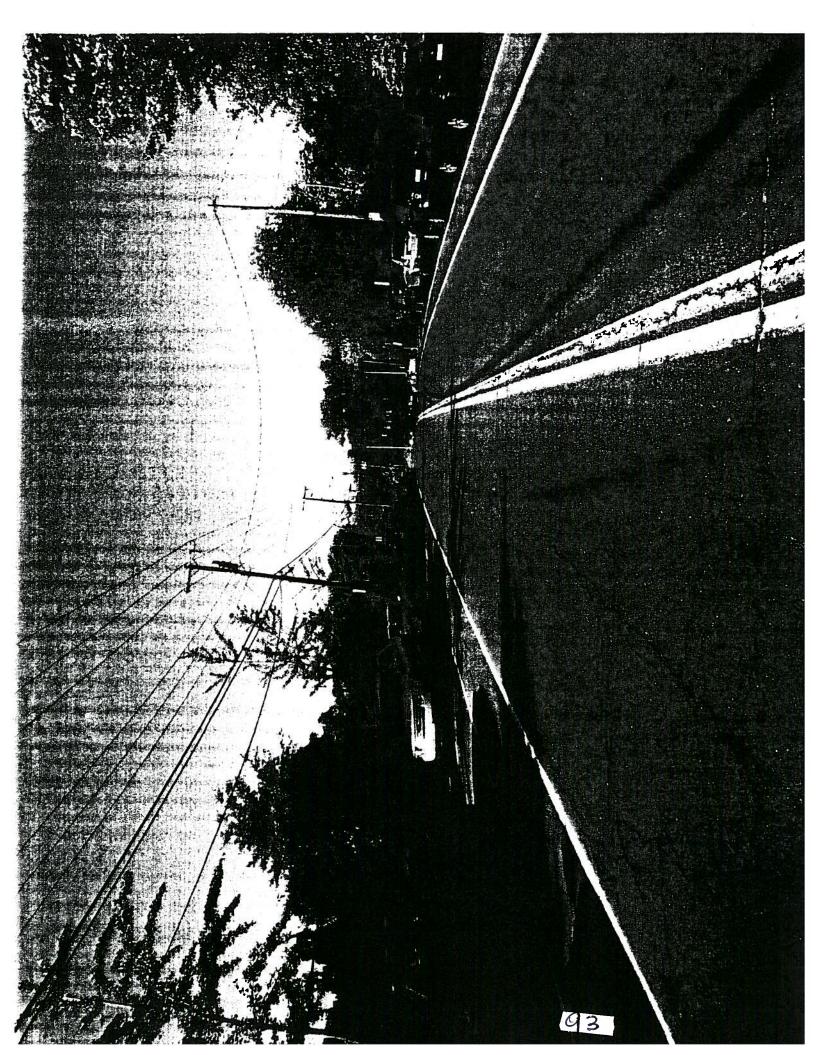
Thanks!

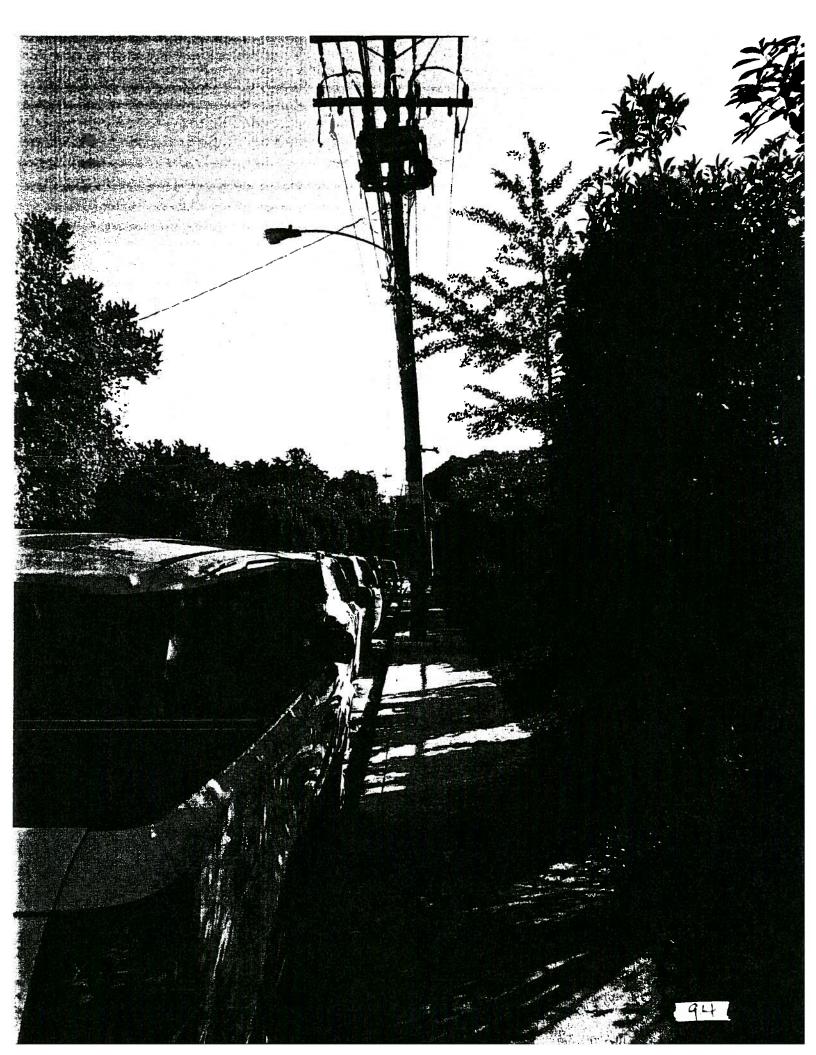


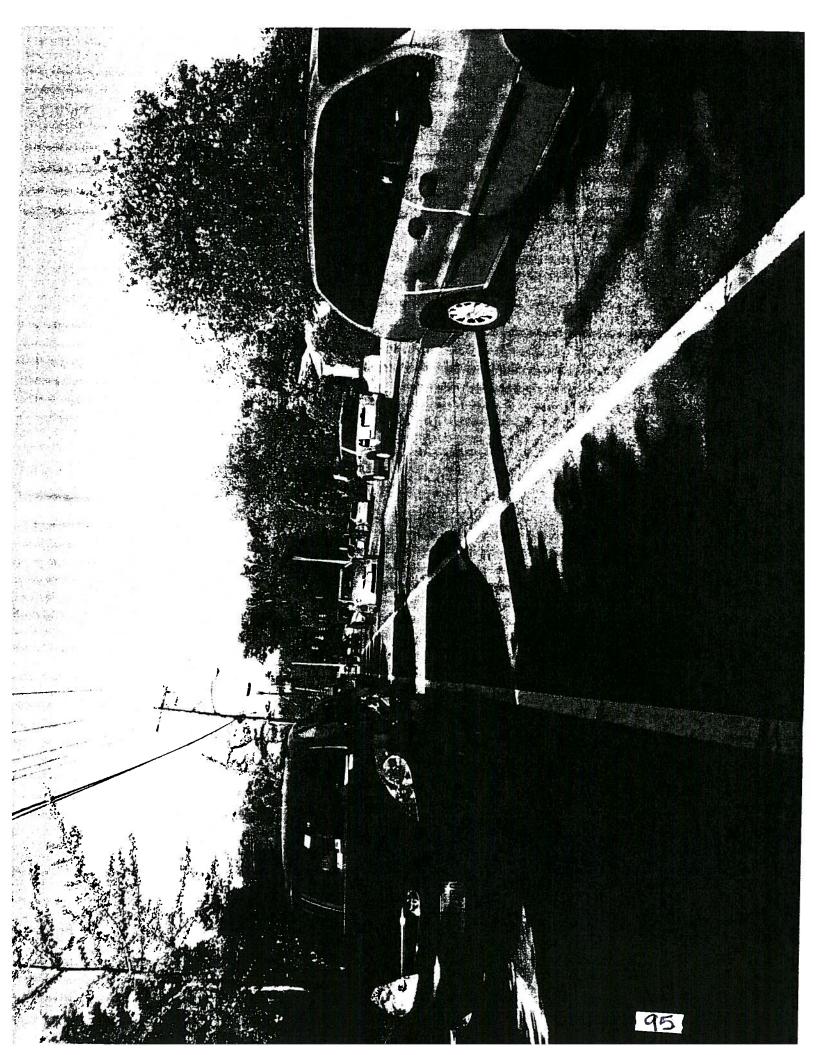


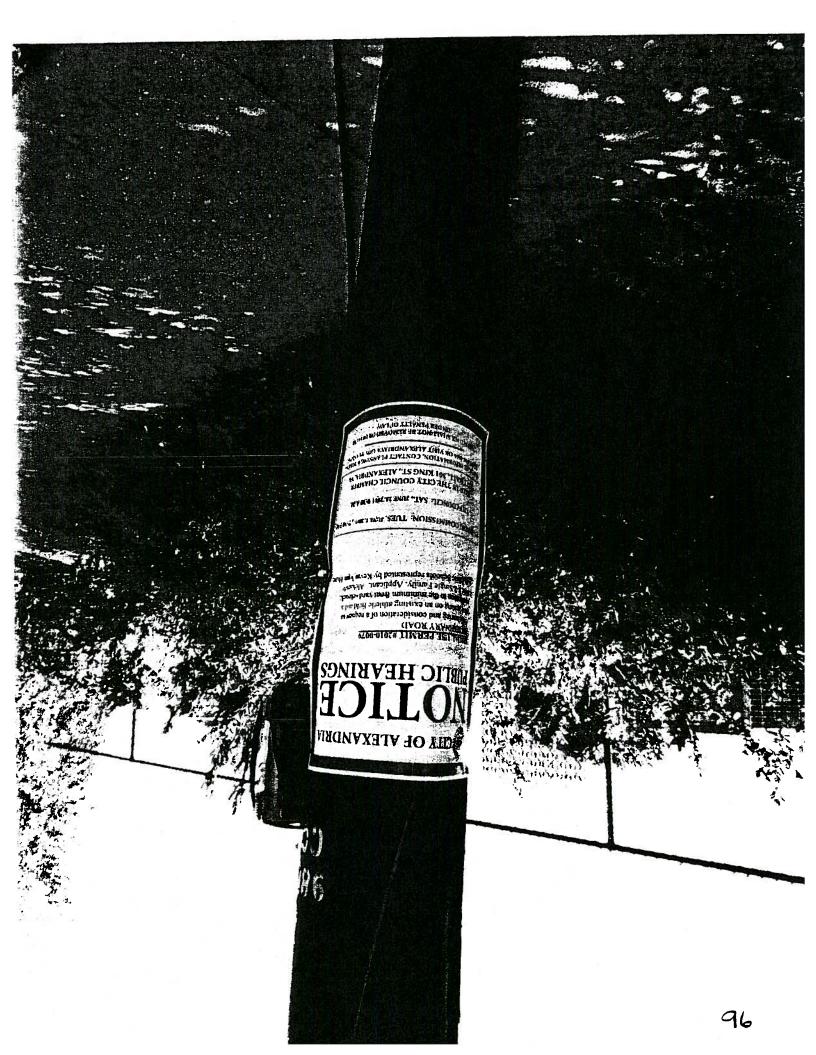


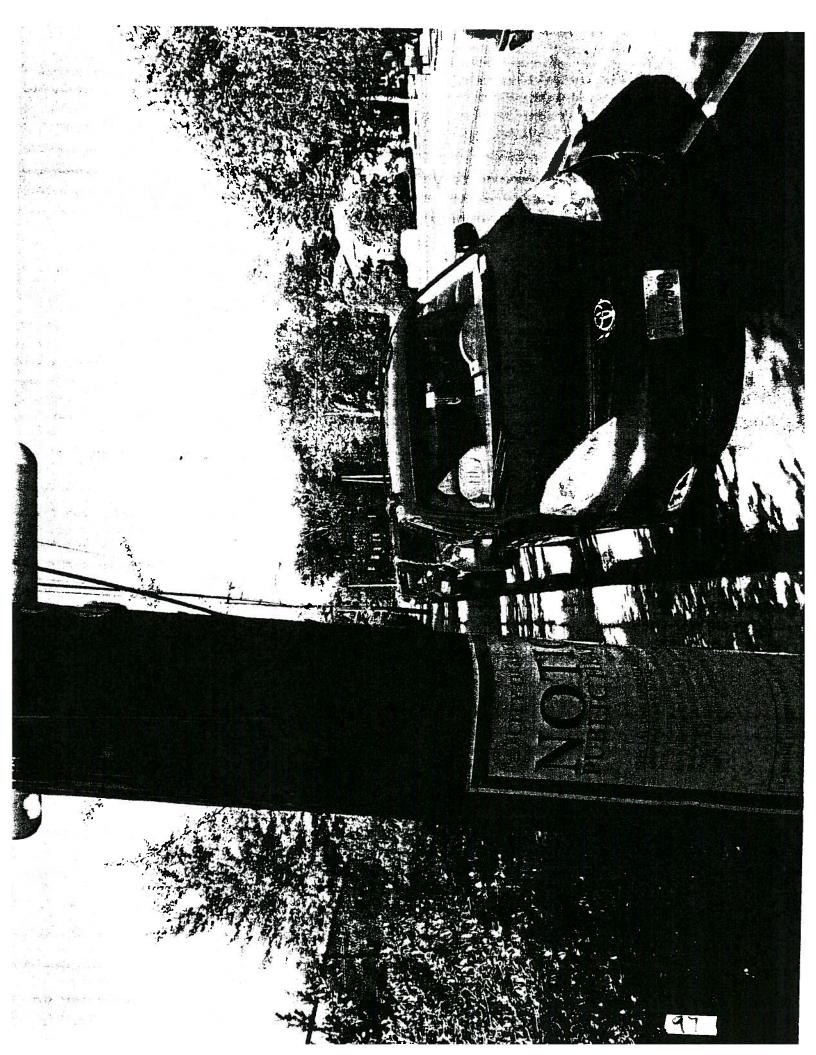


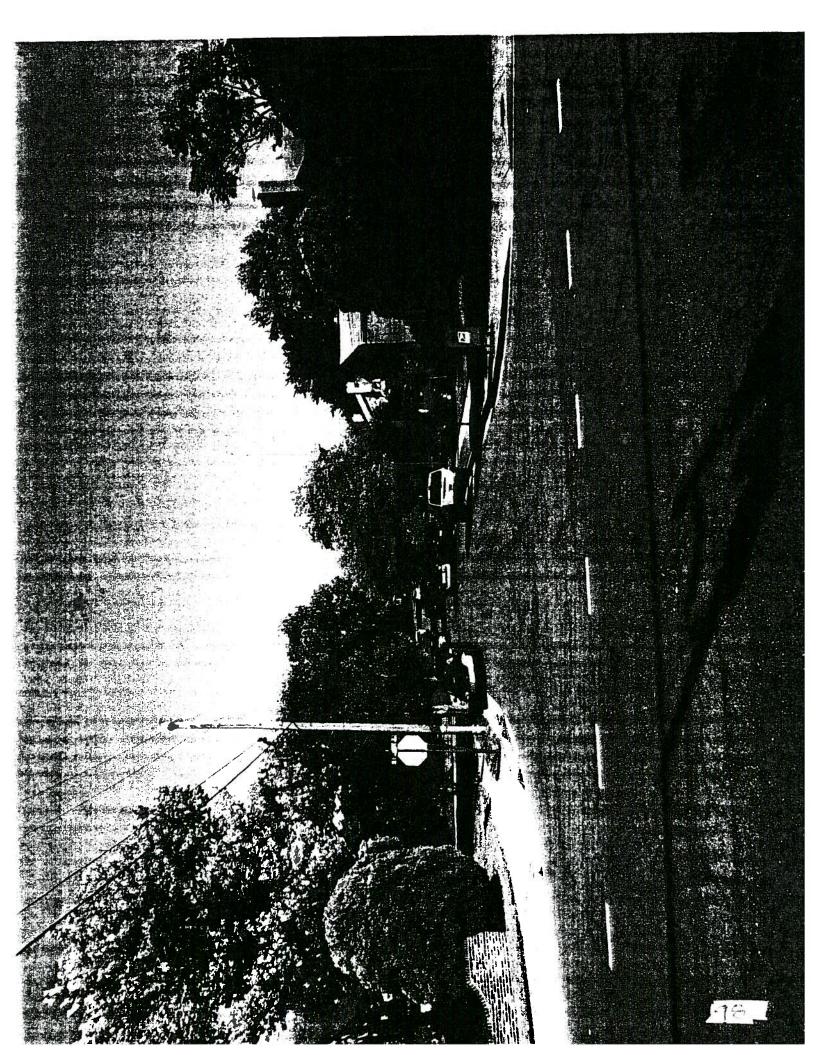


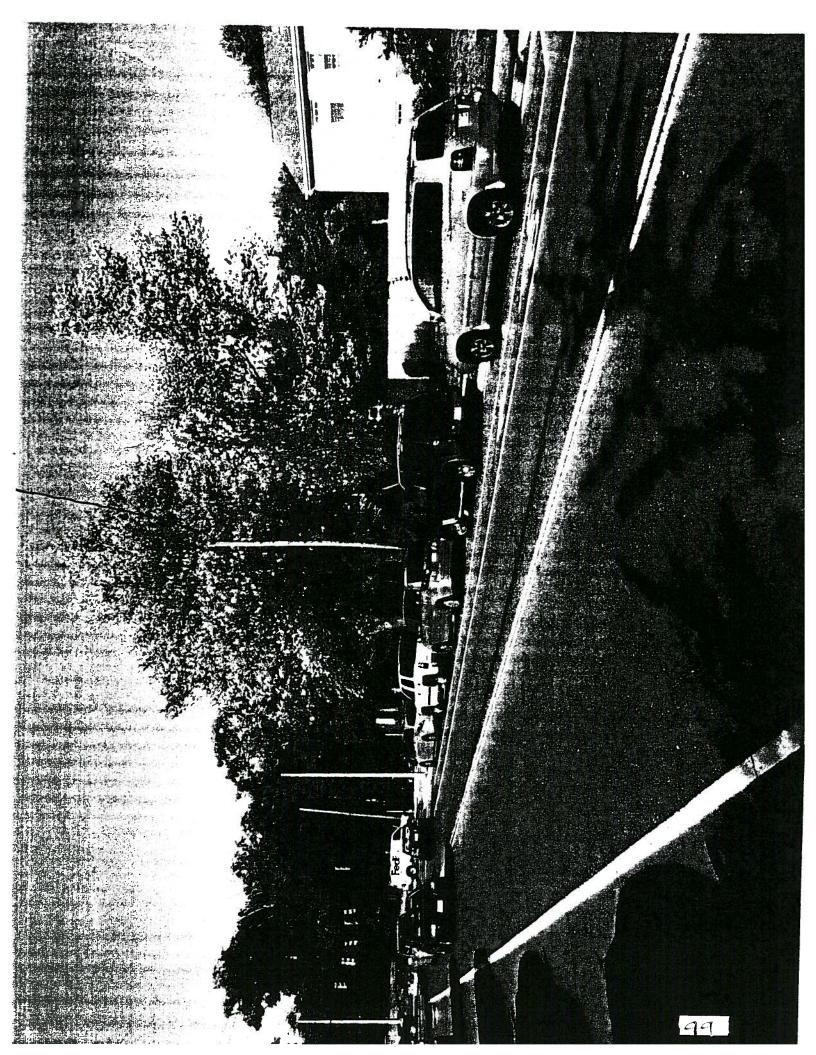




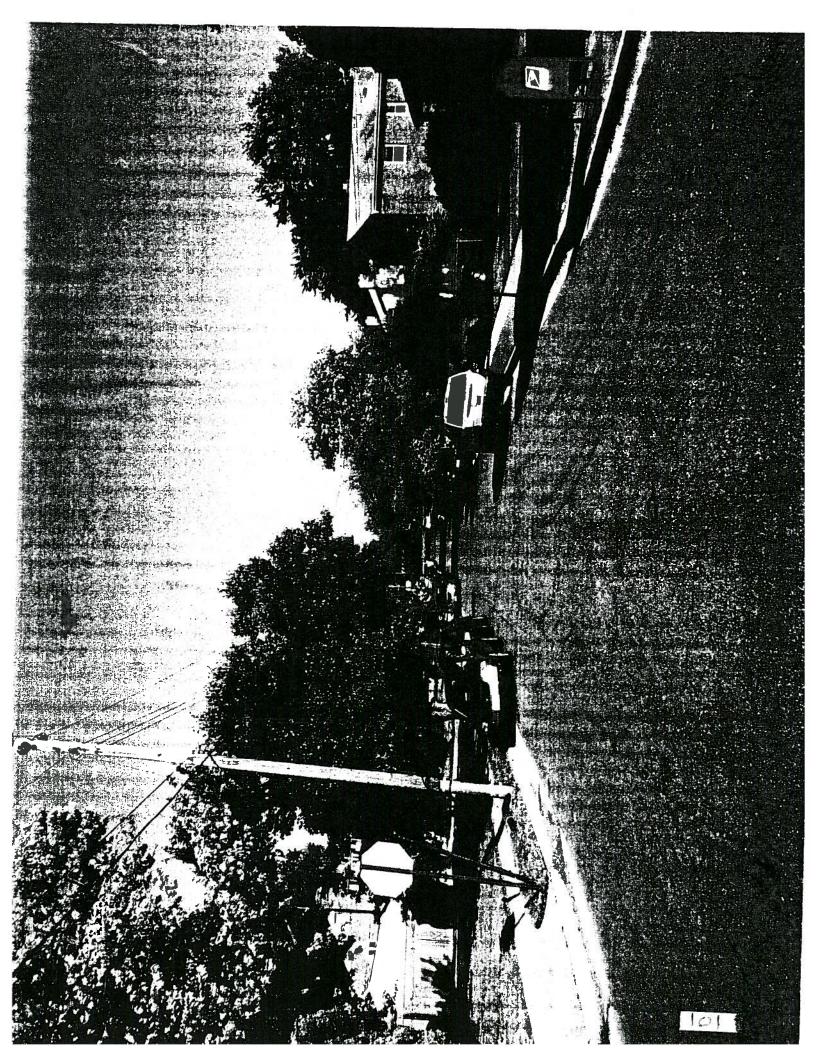




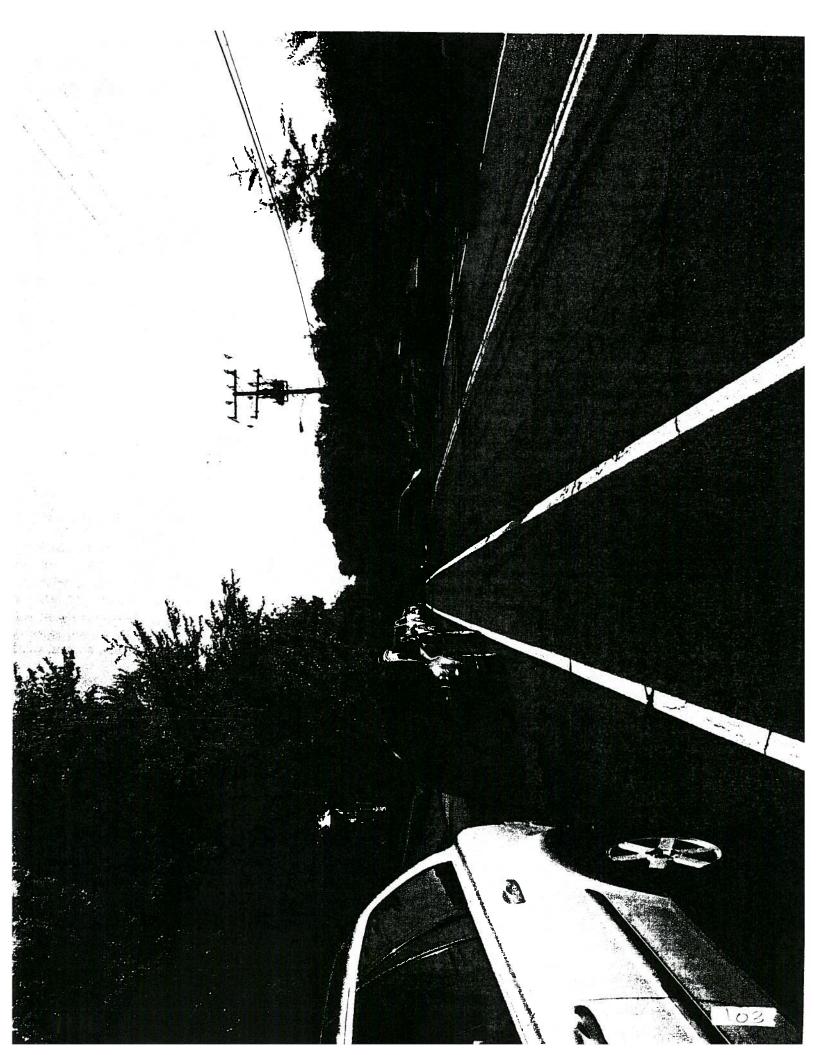




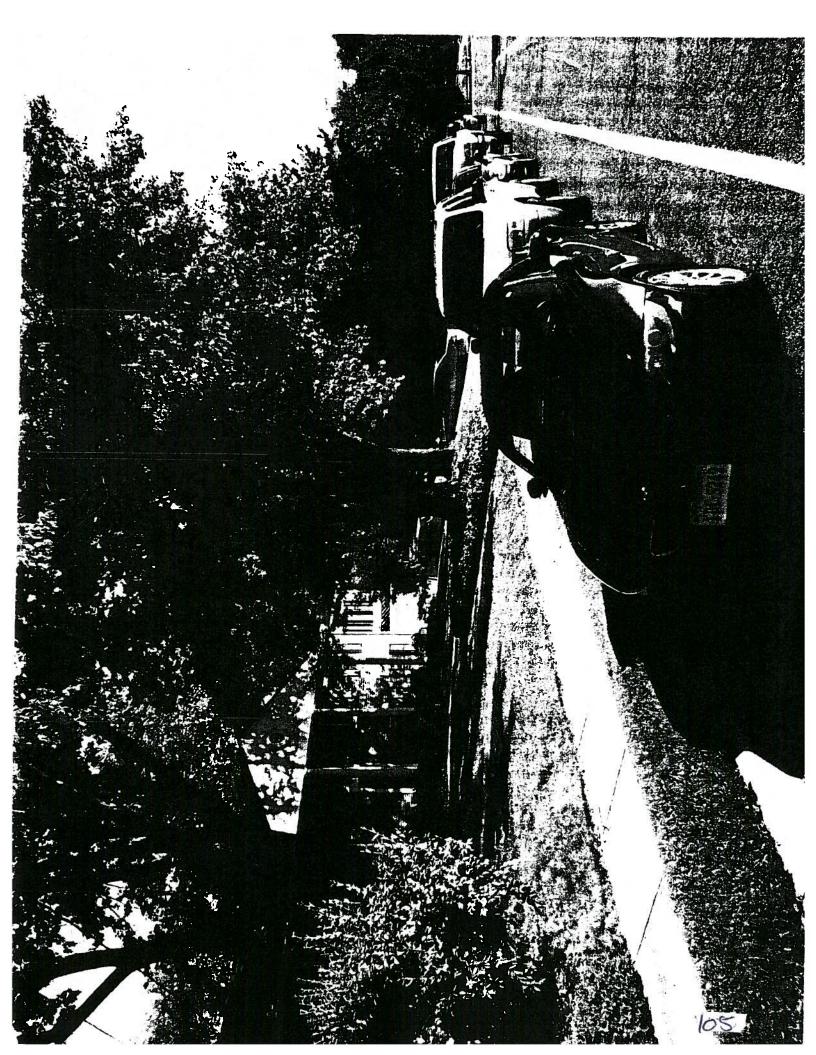


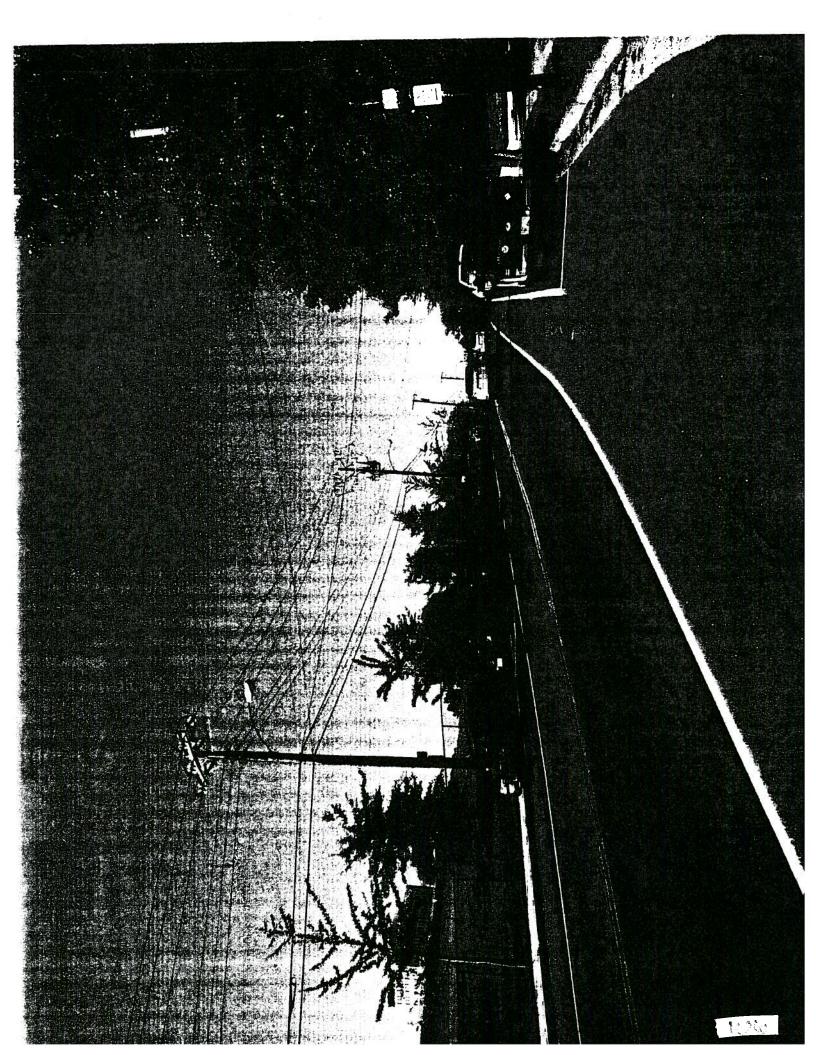


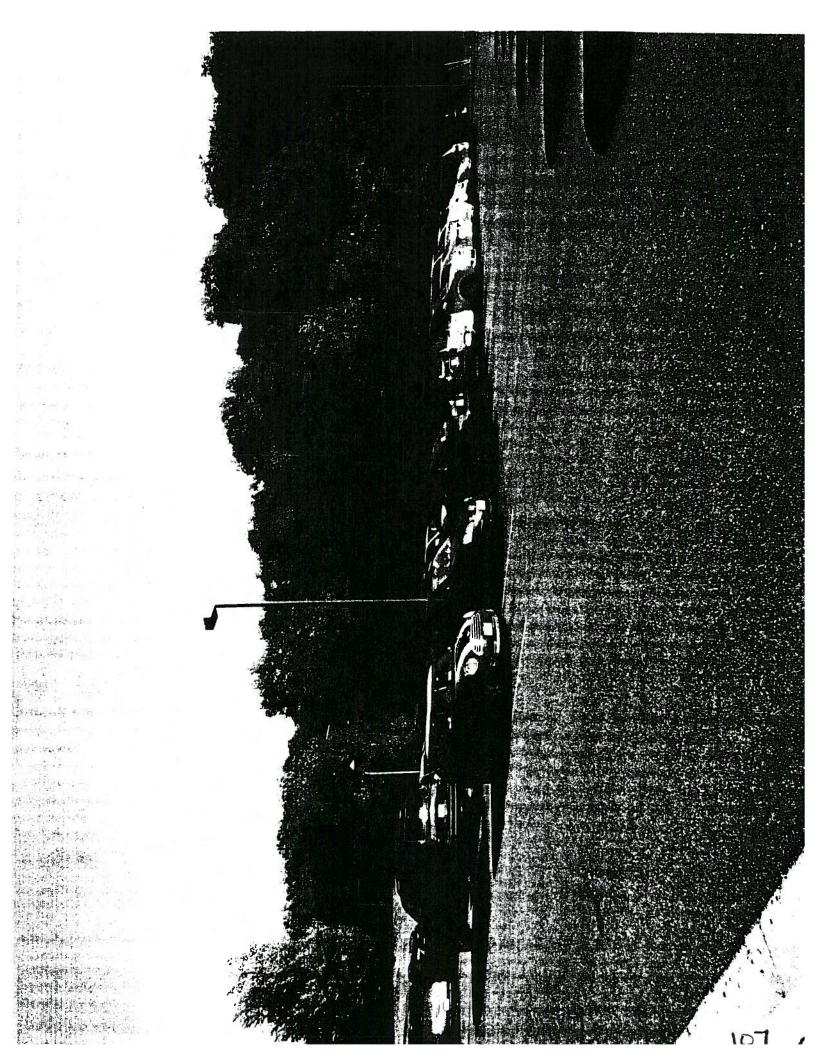


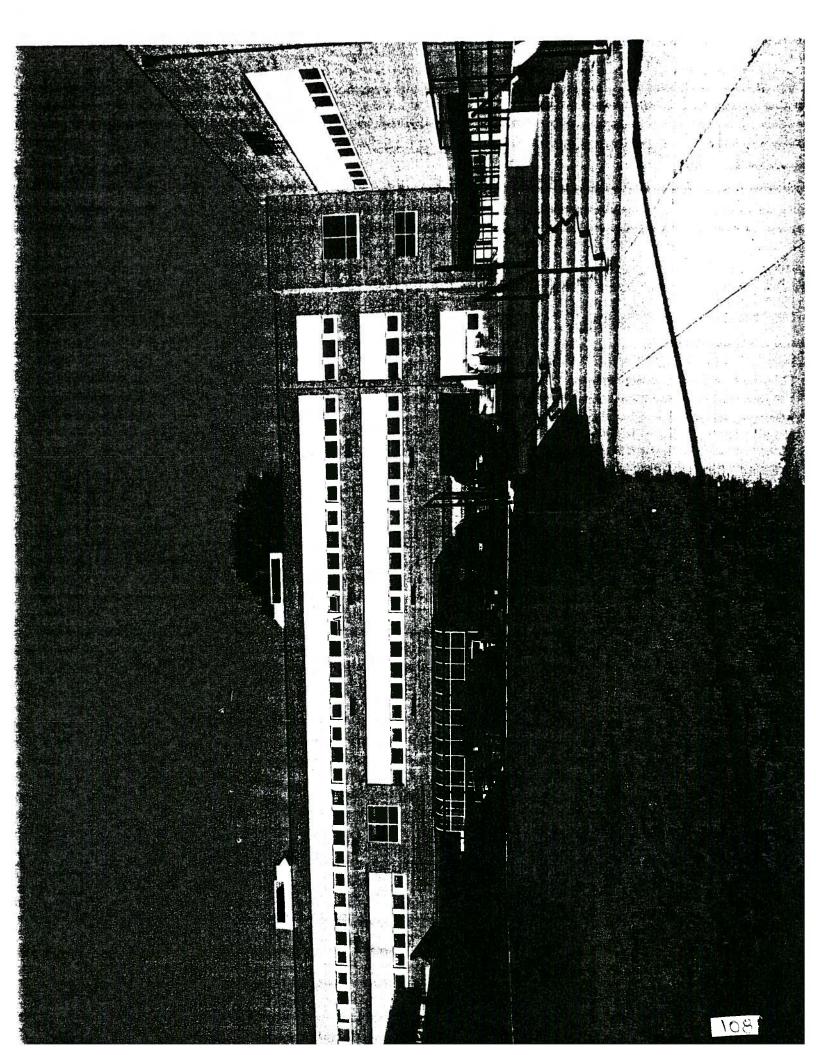


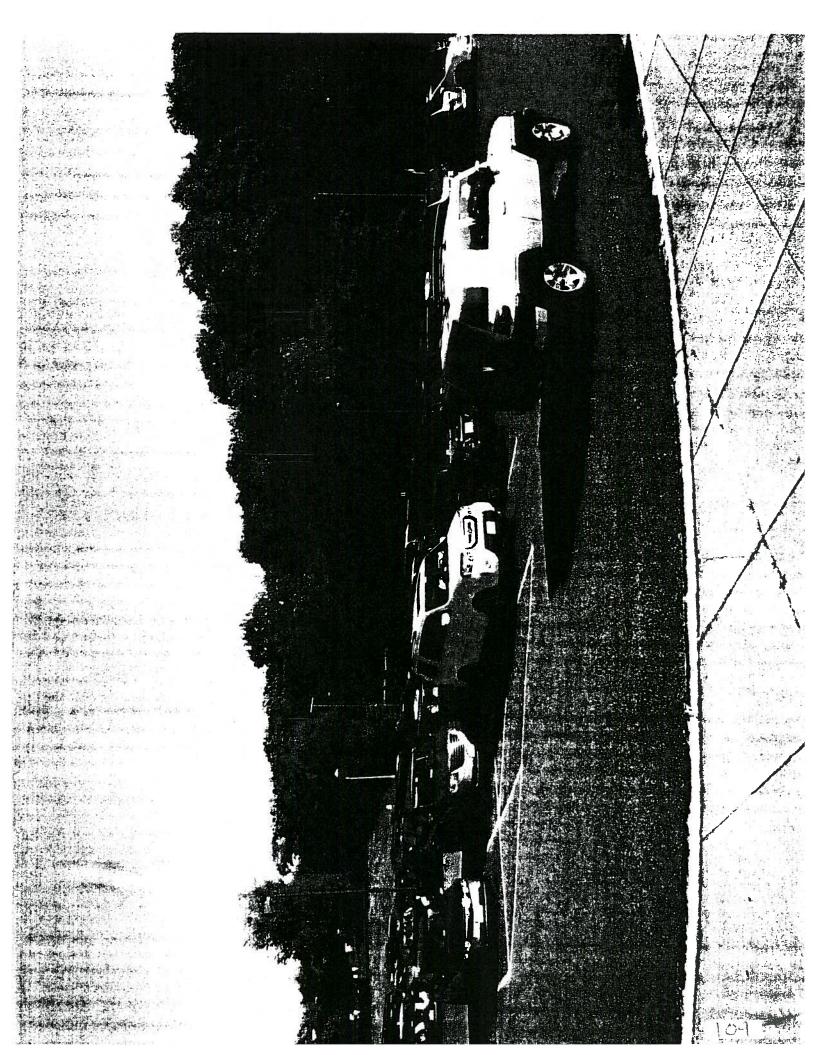


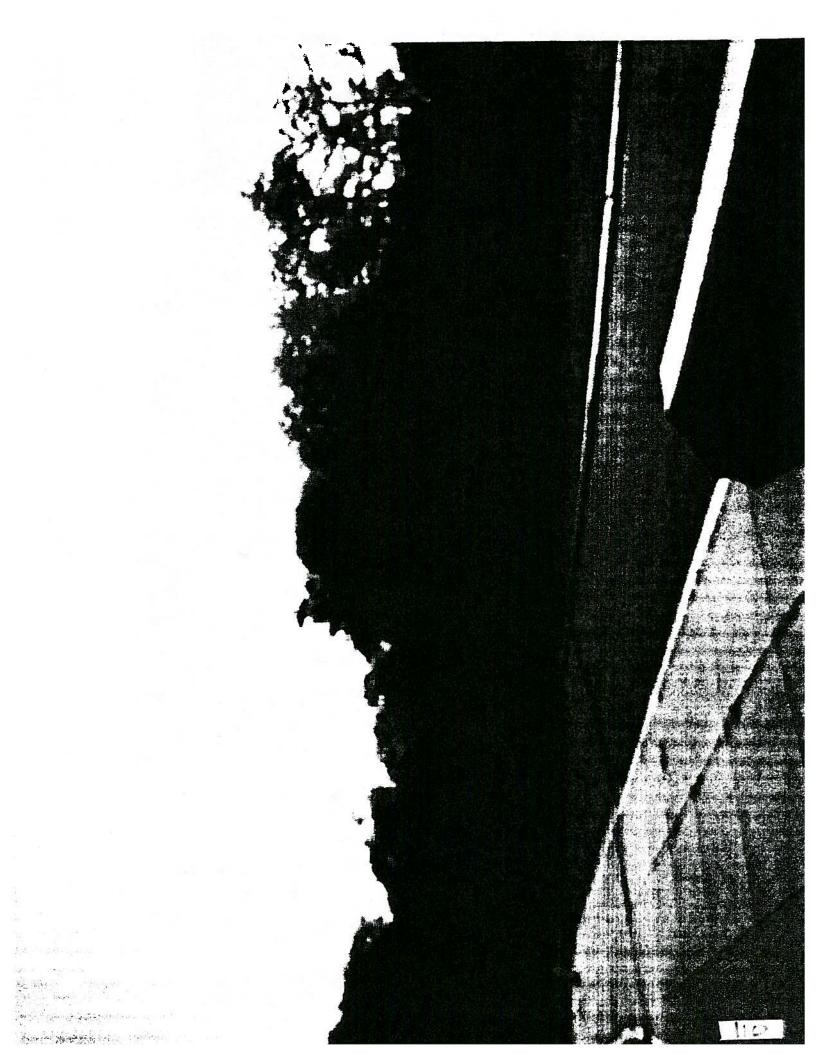


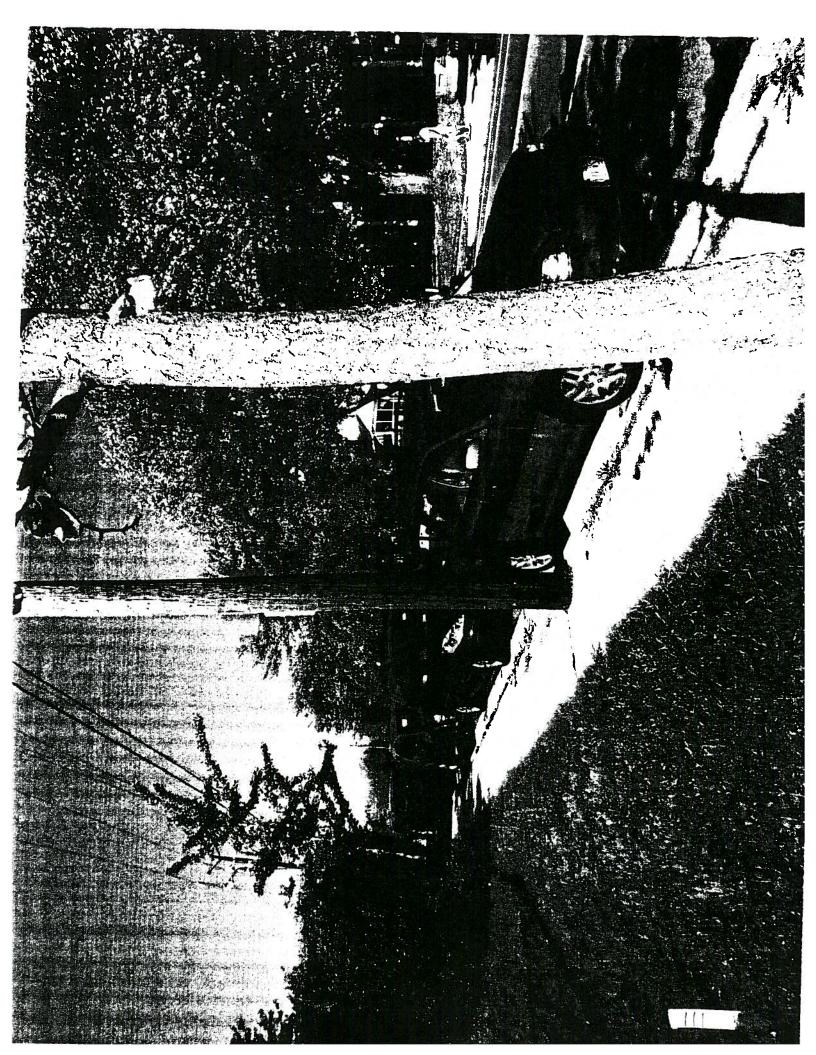


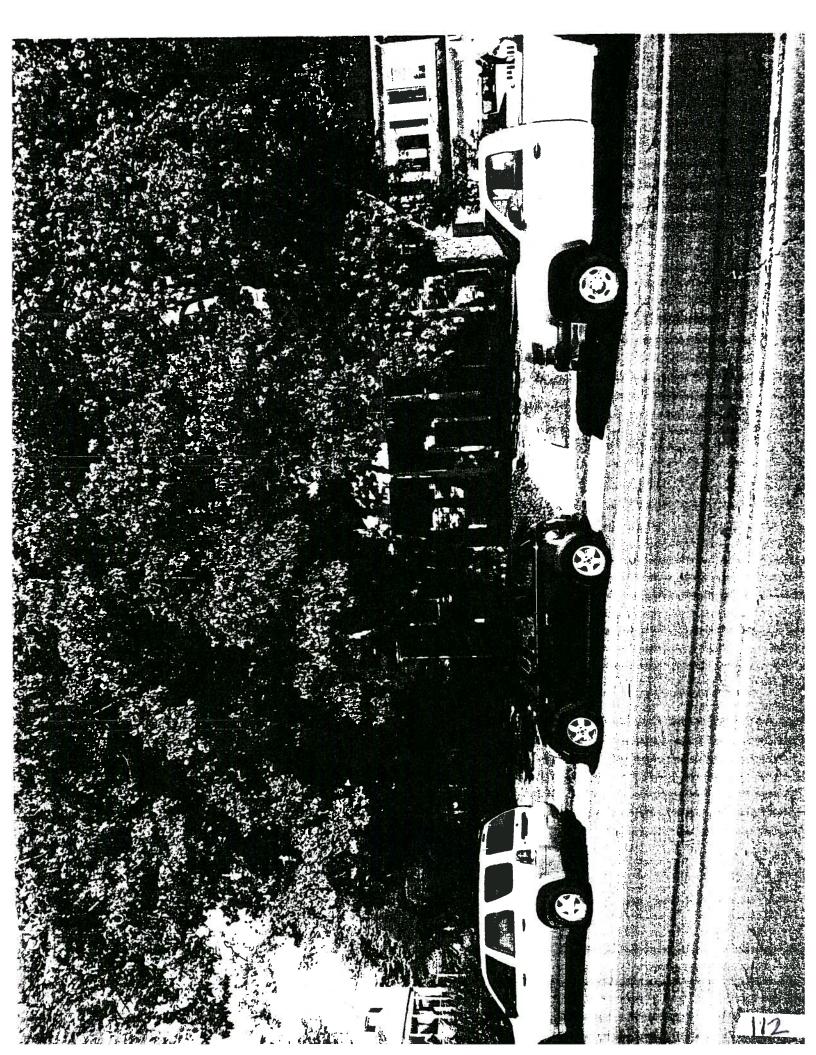


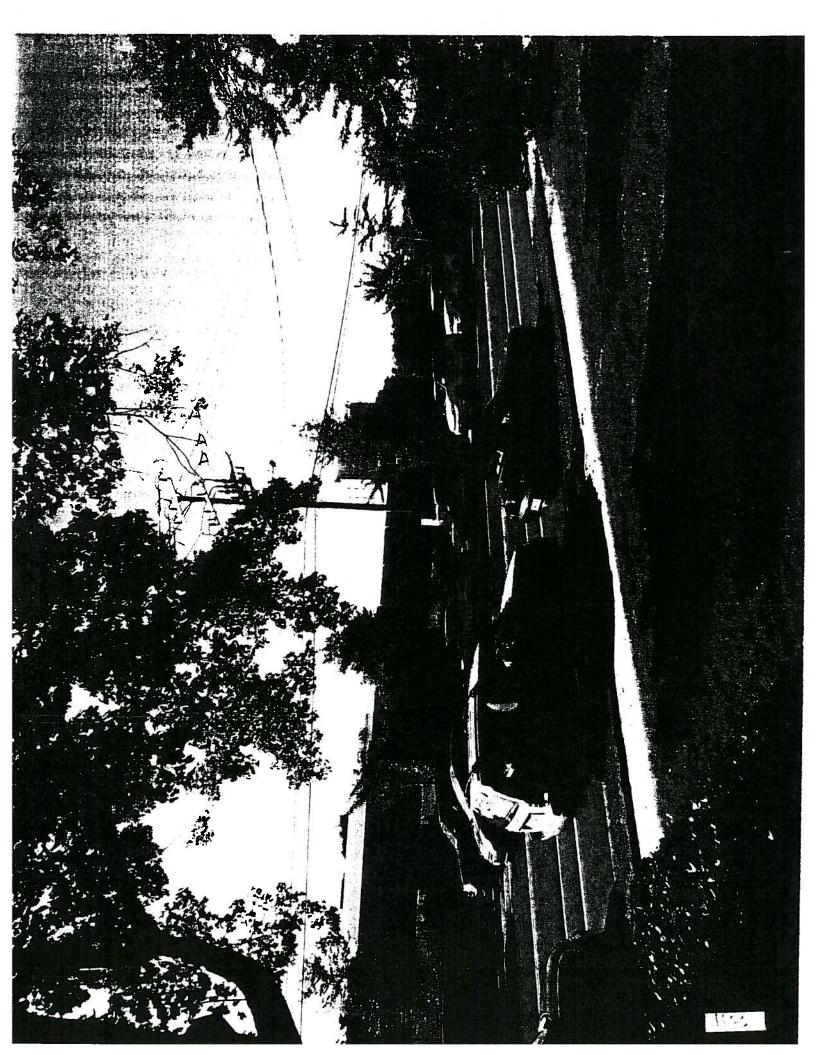


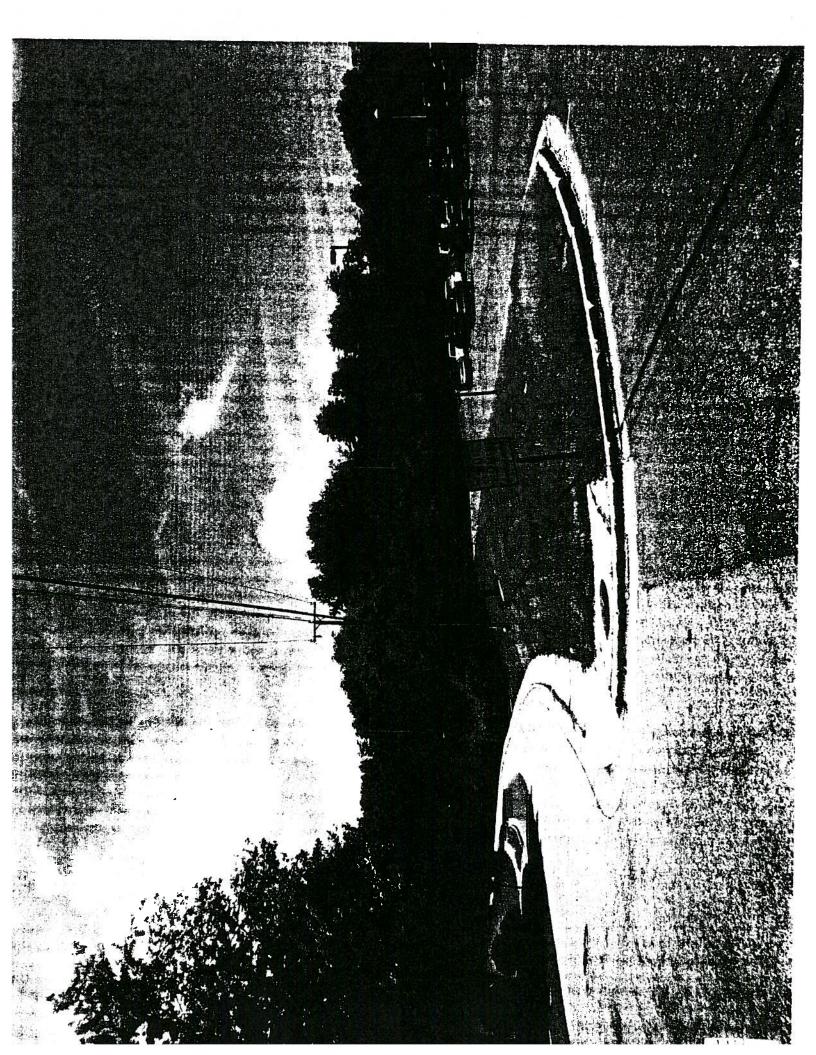




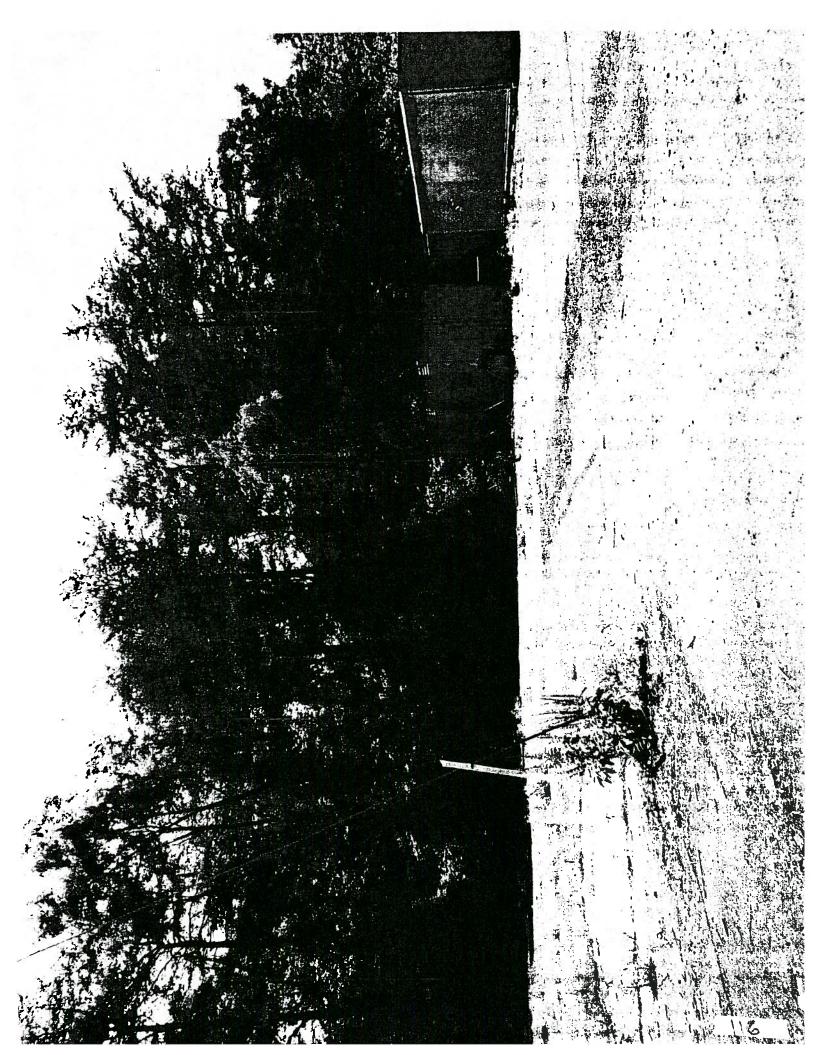


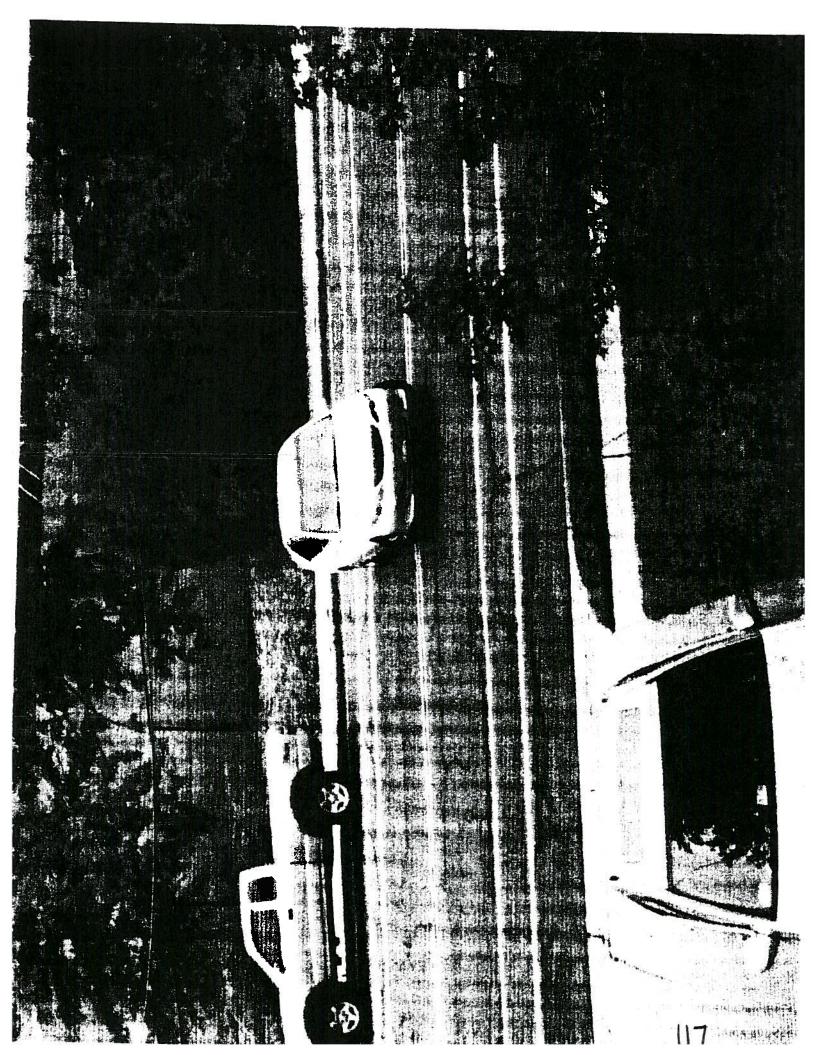


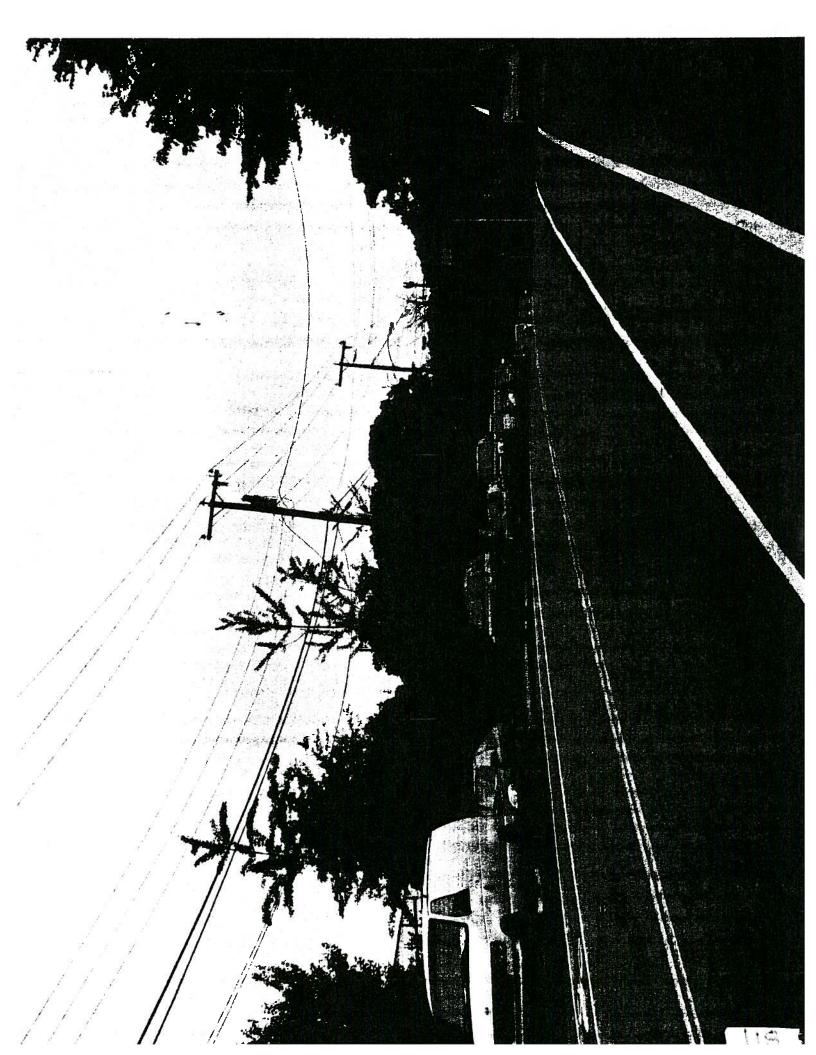


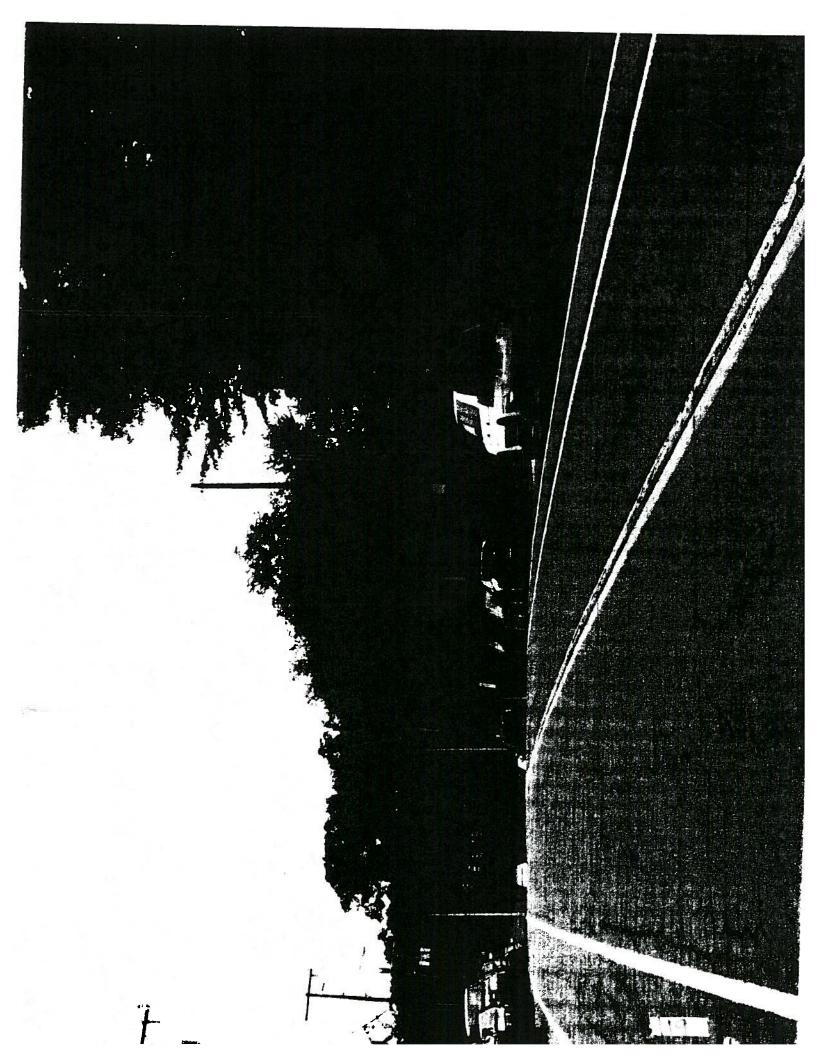


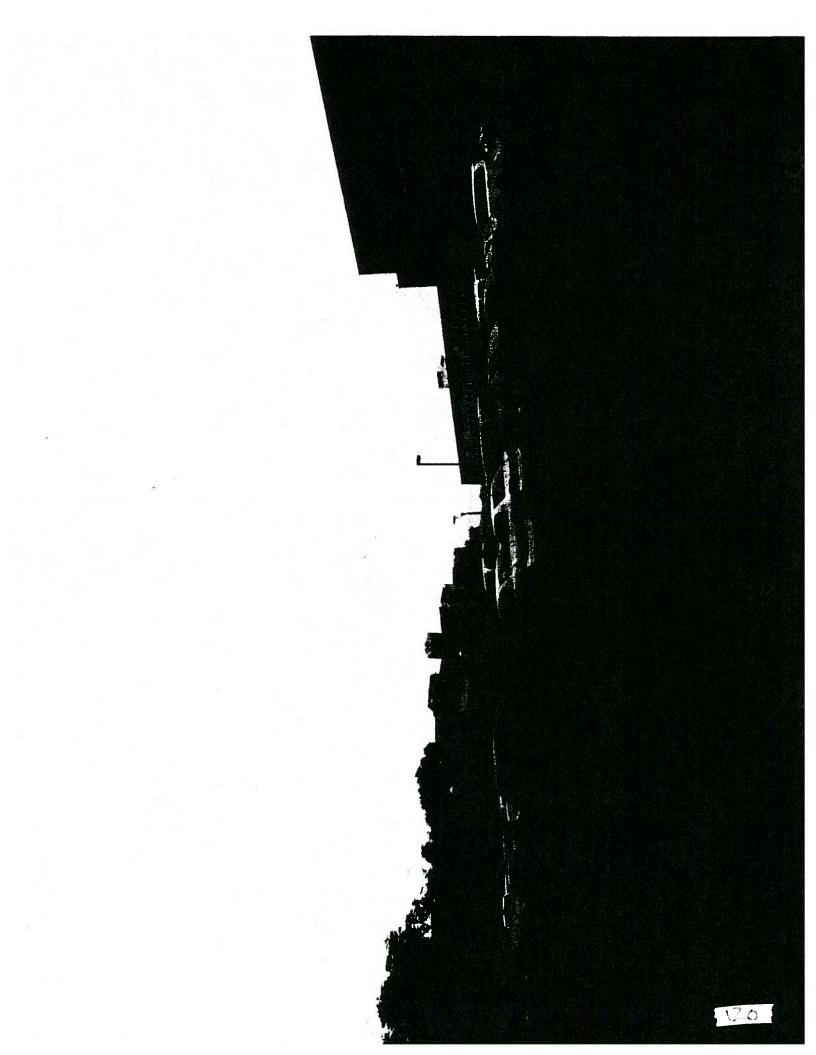


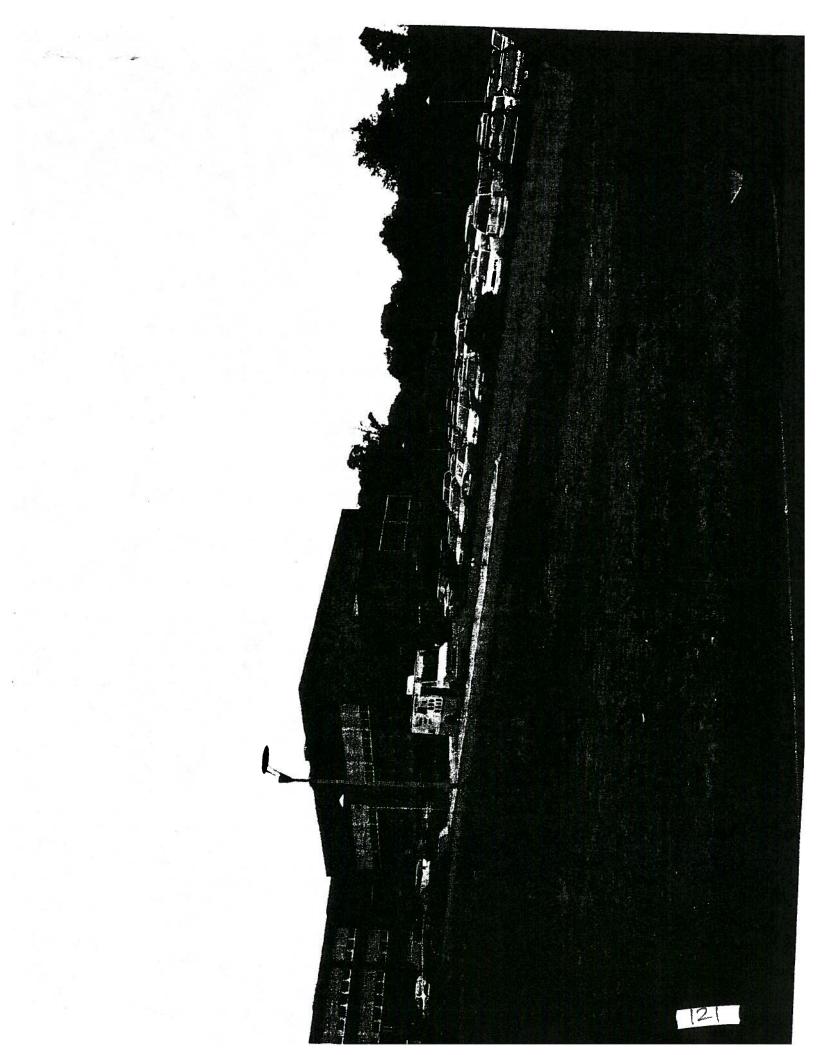


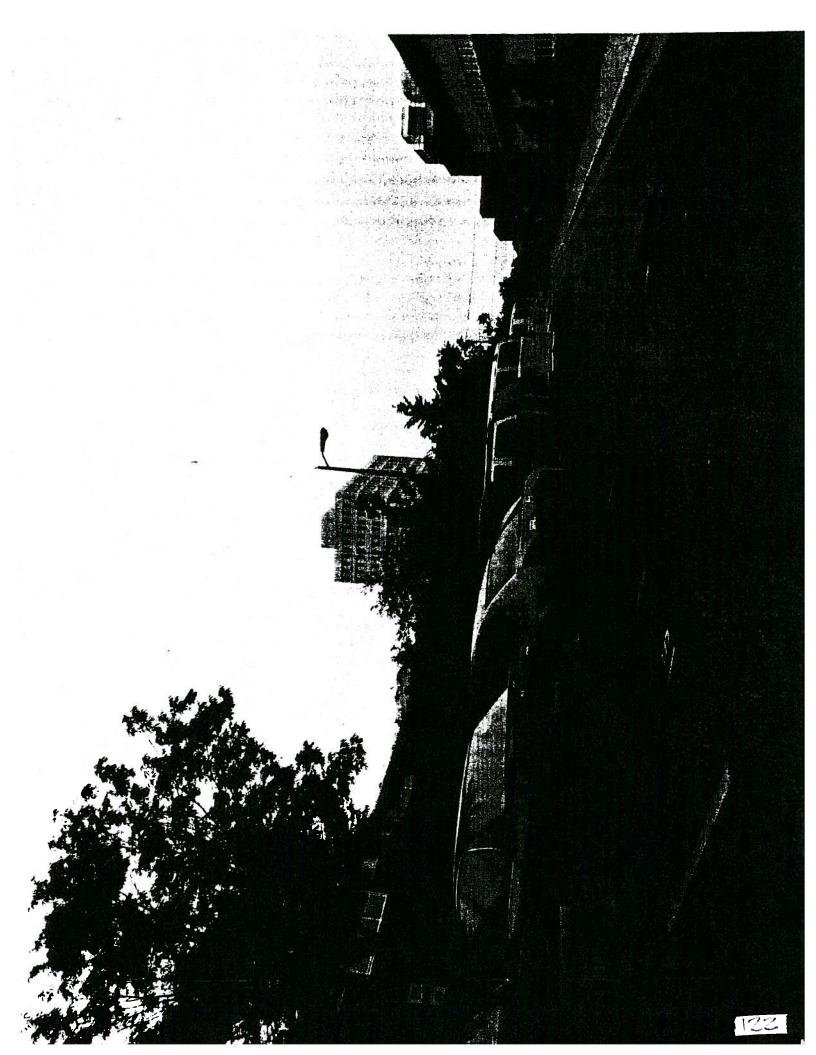


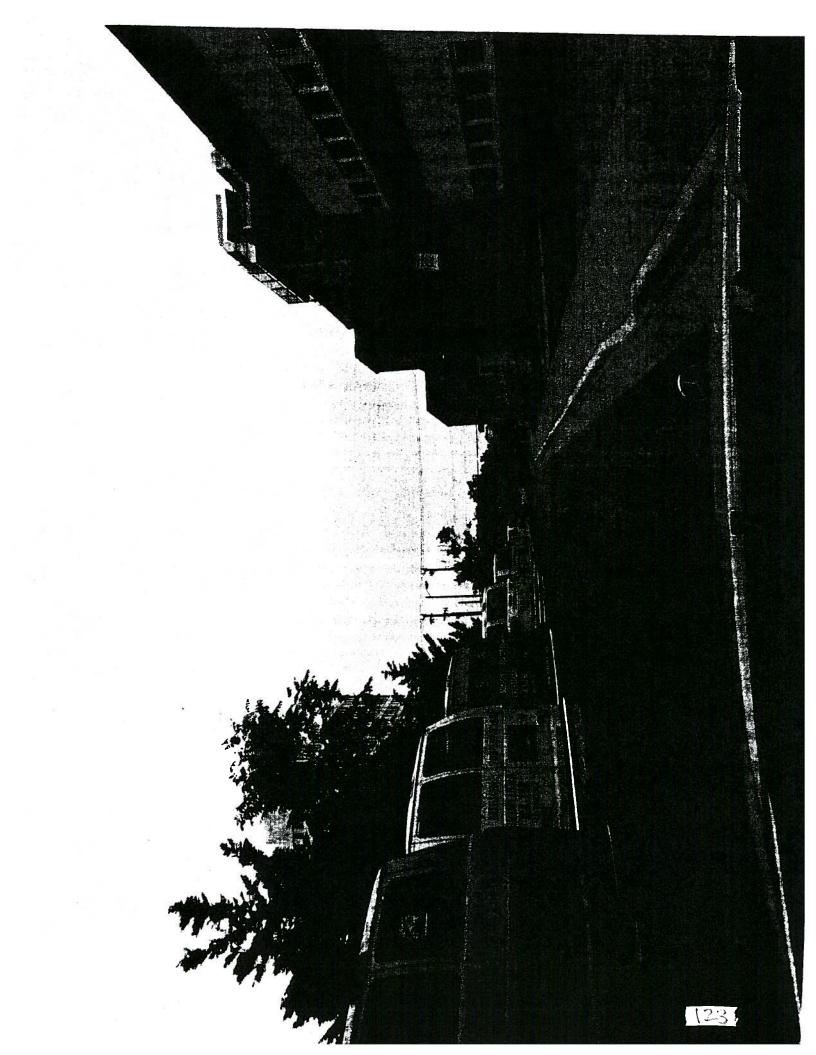


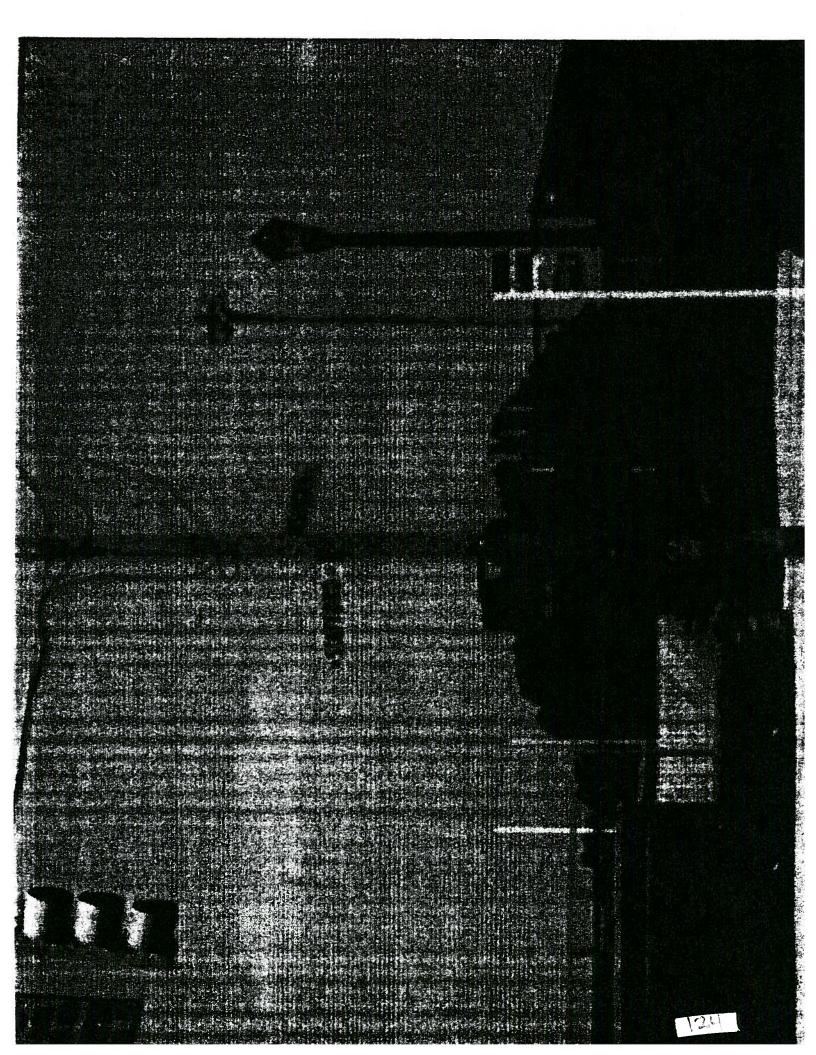




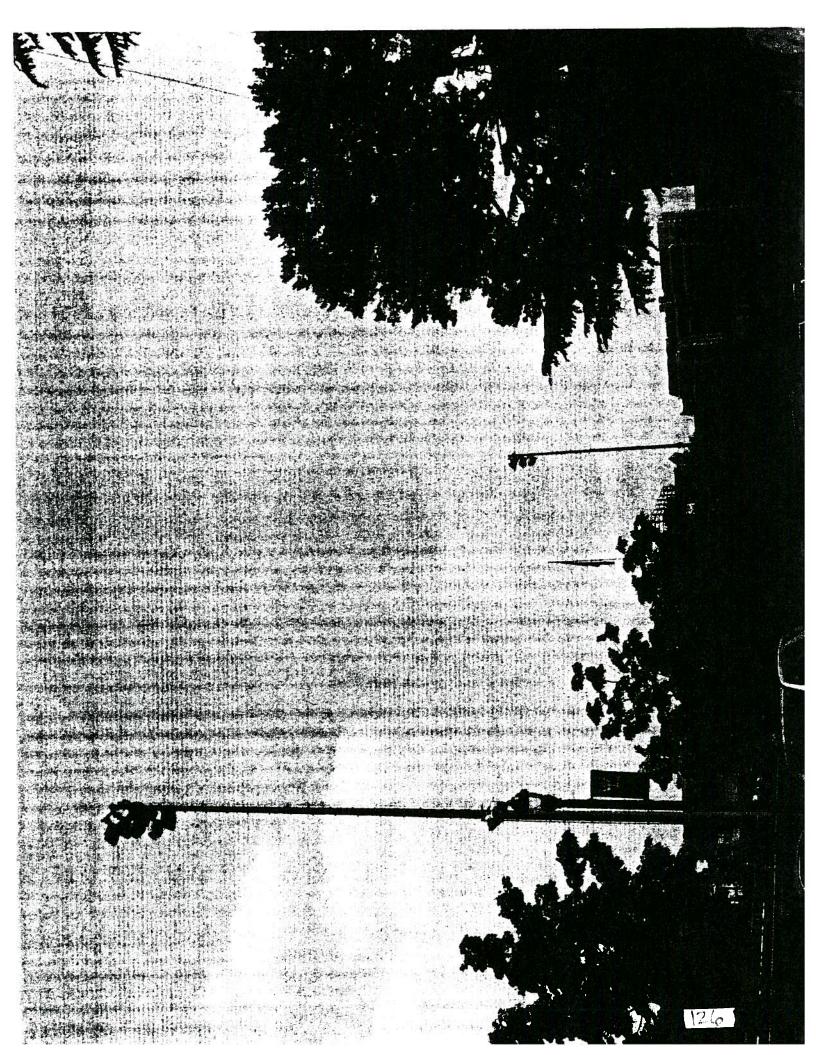


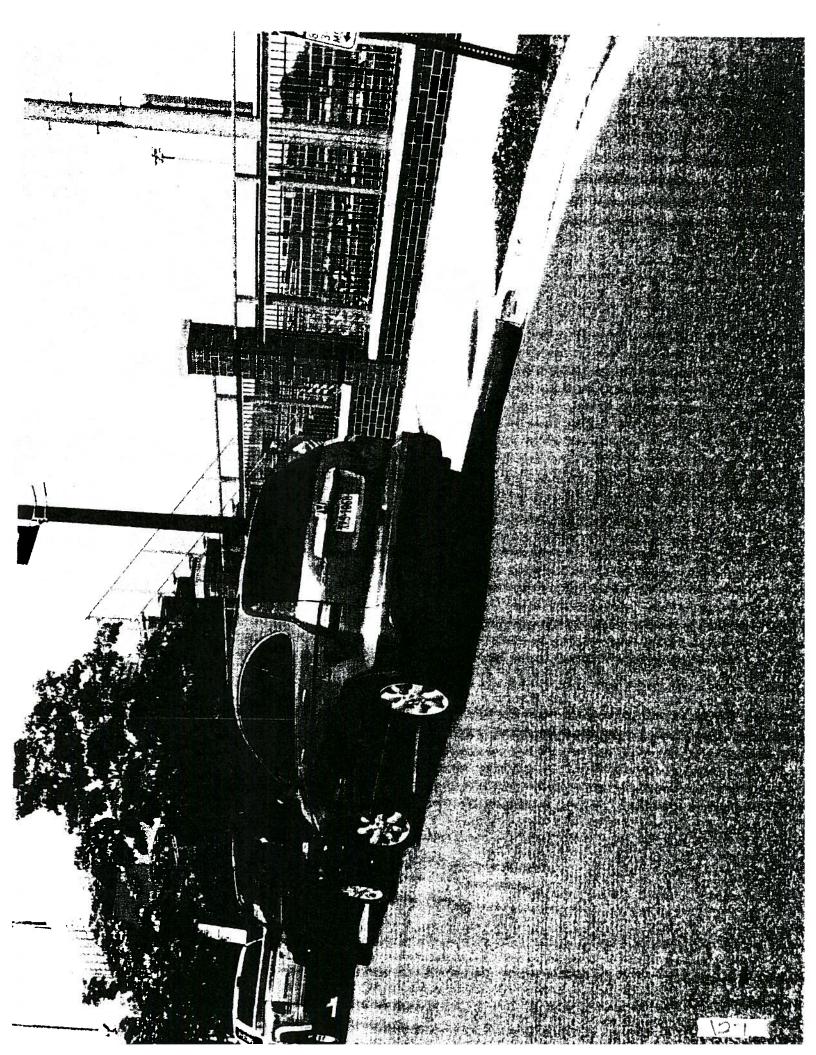


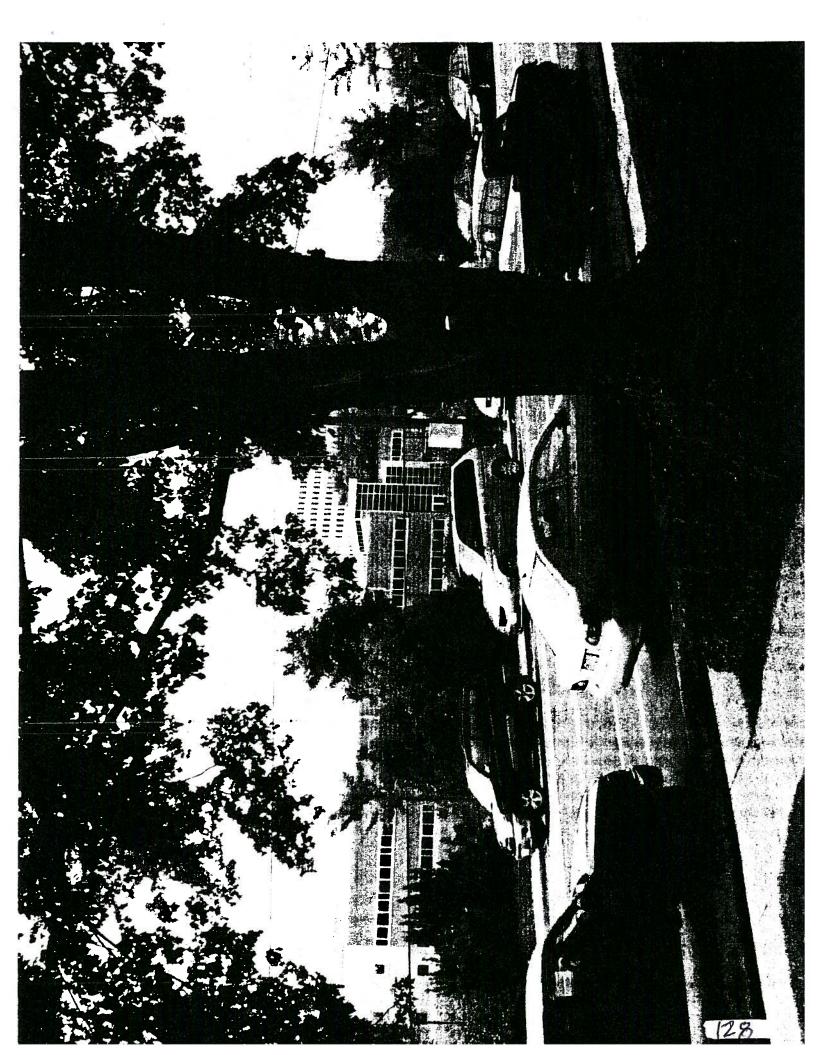




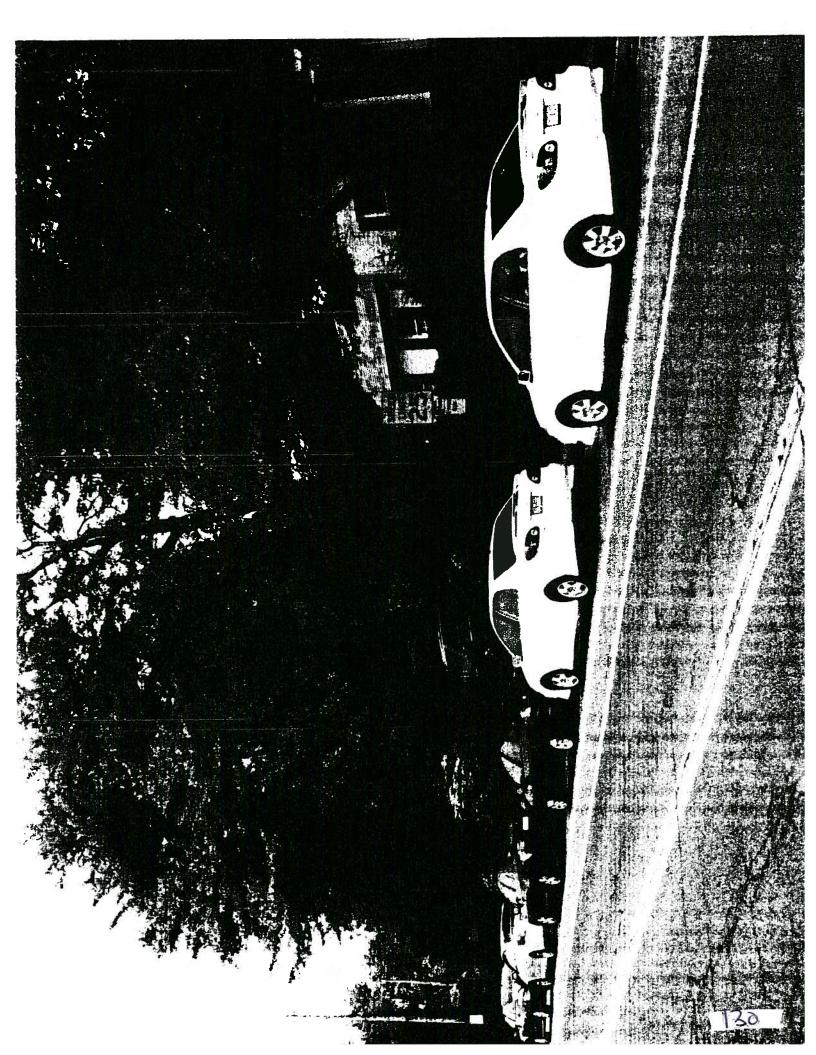
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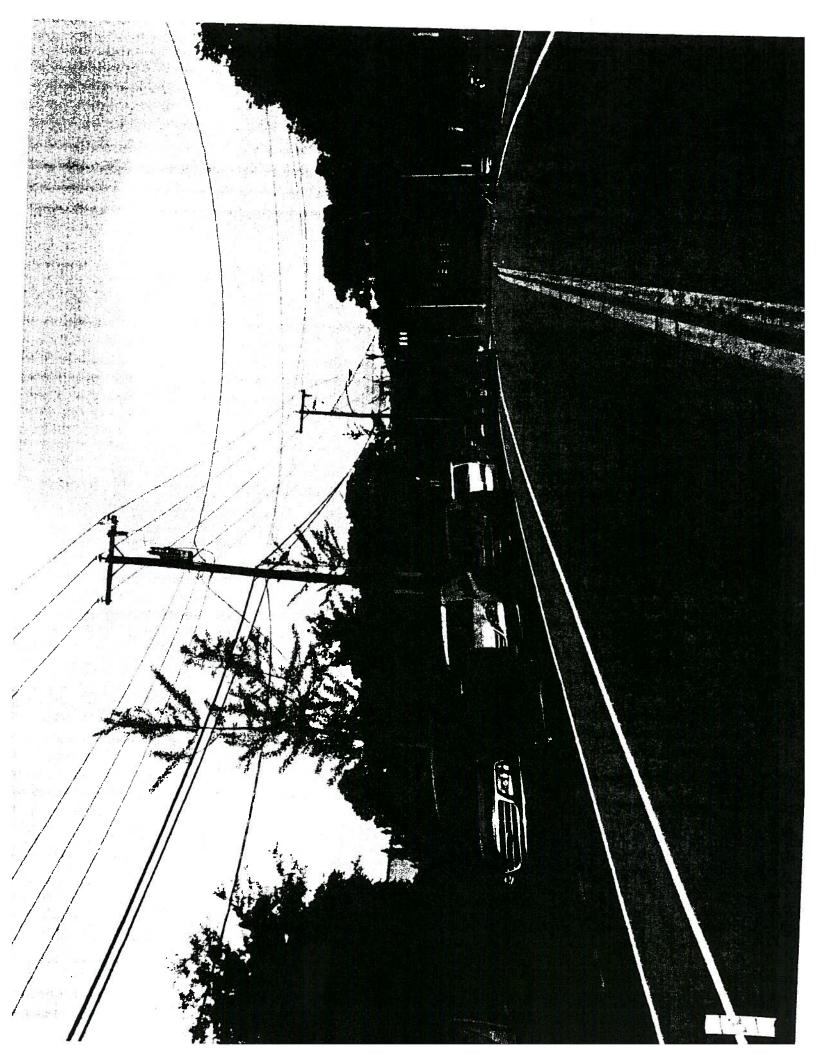


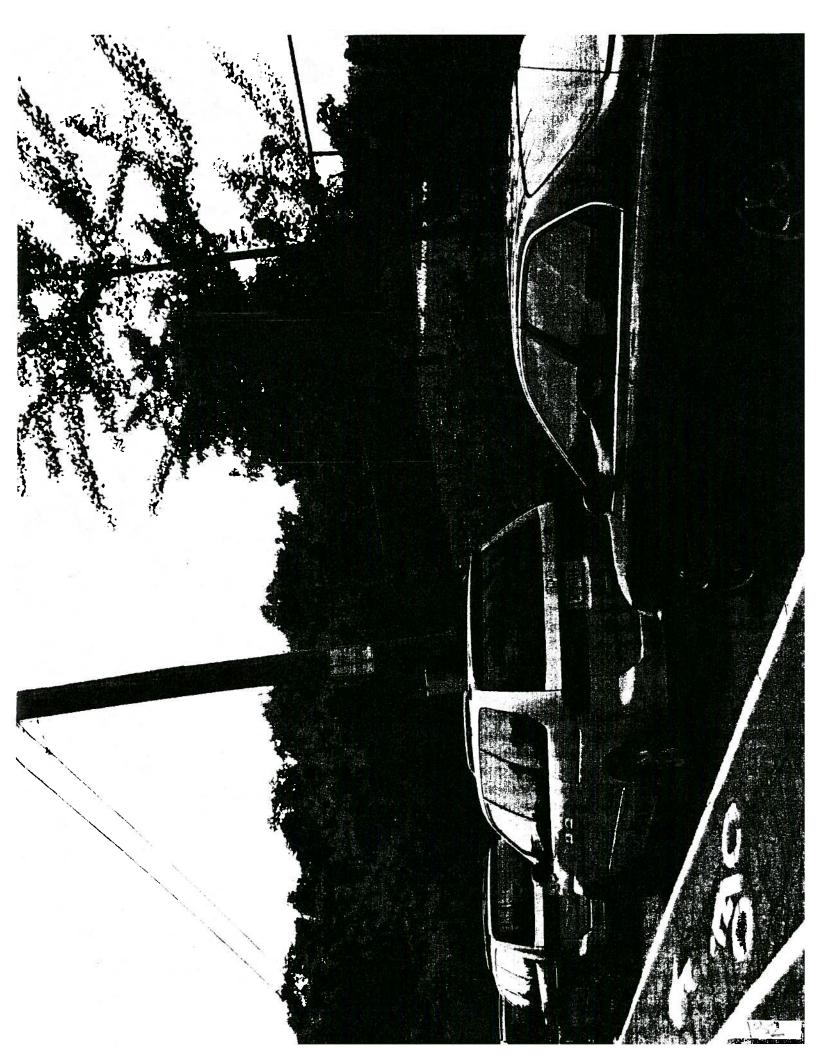




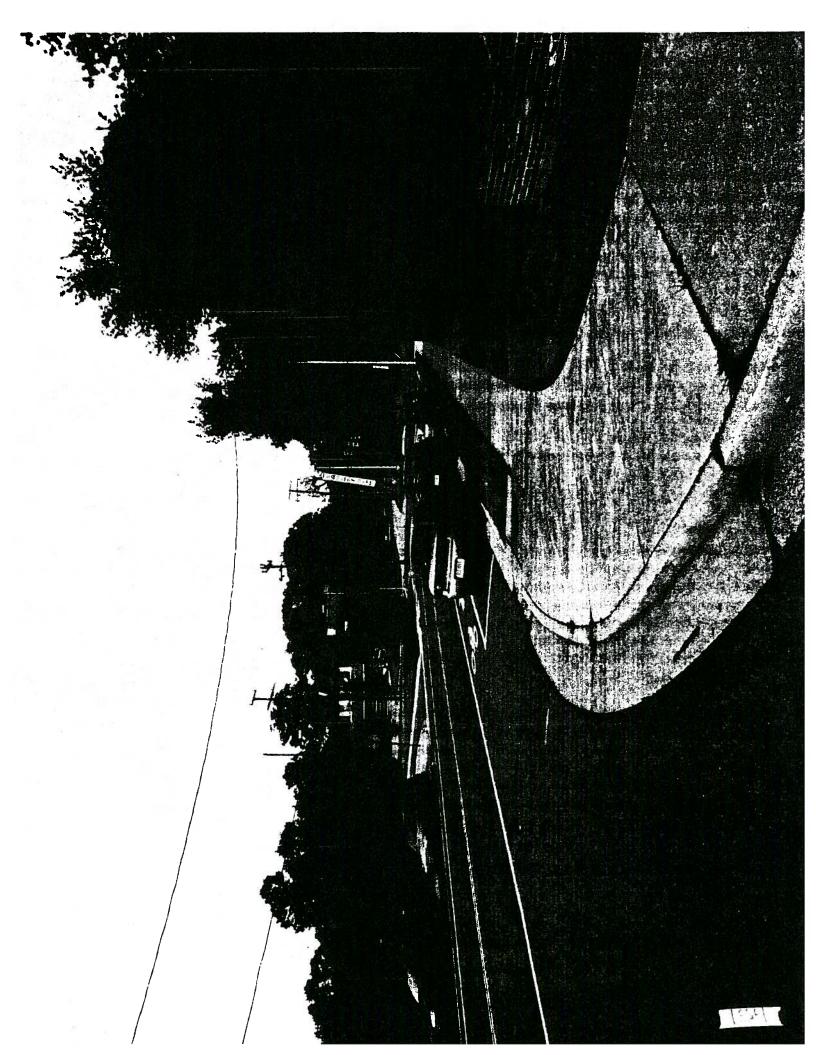






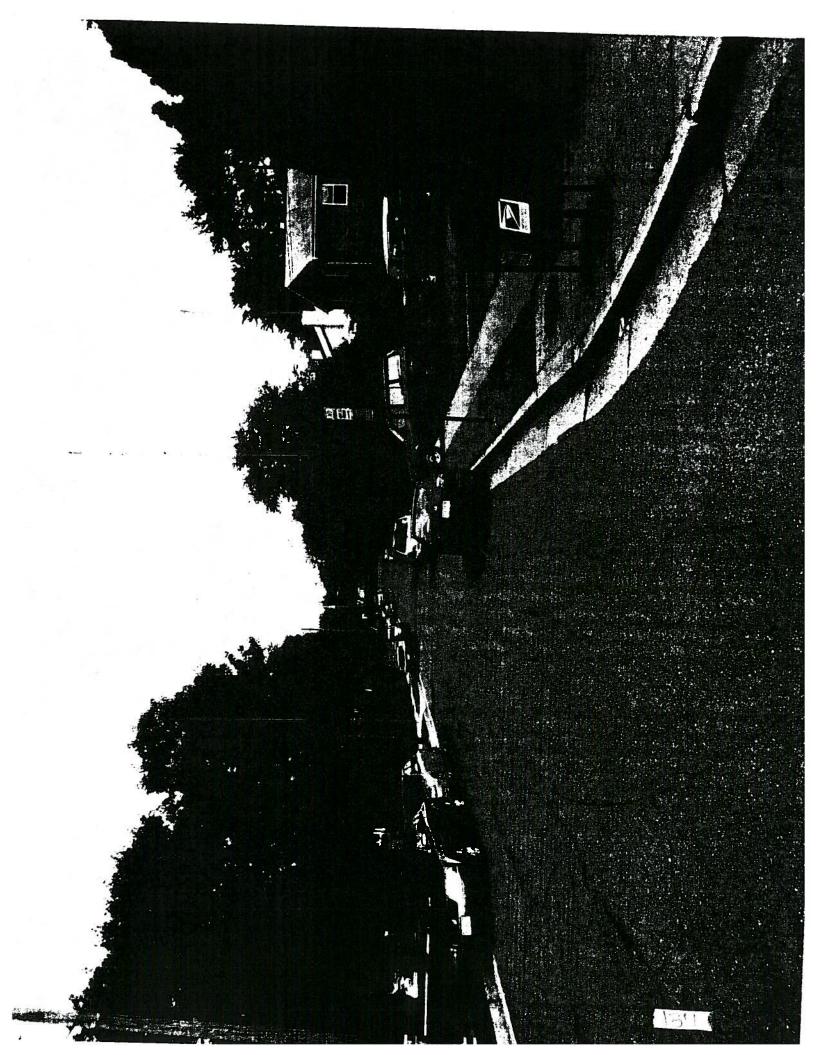


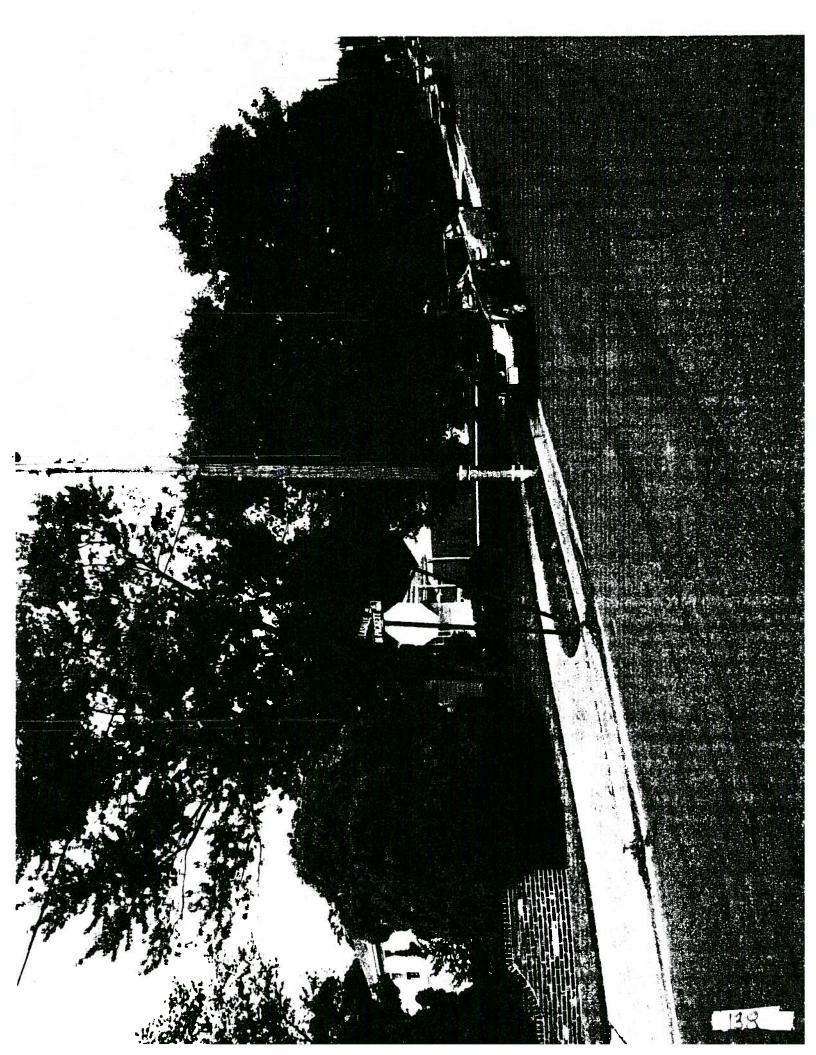


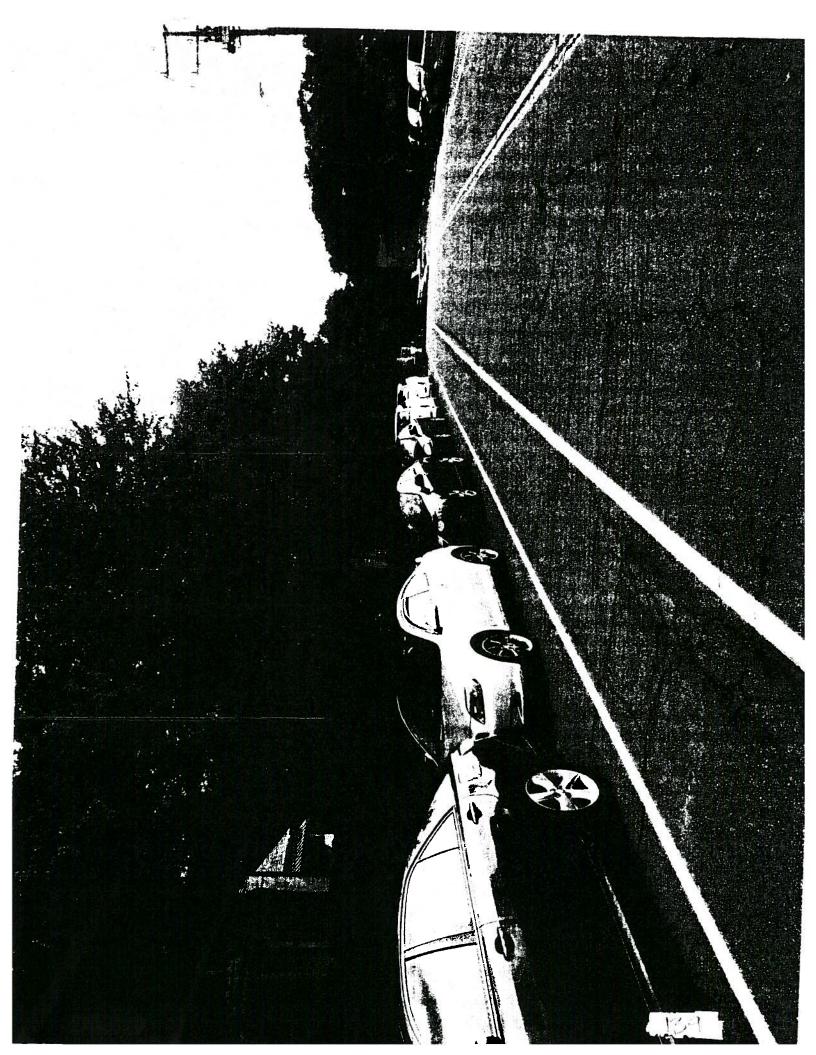


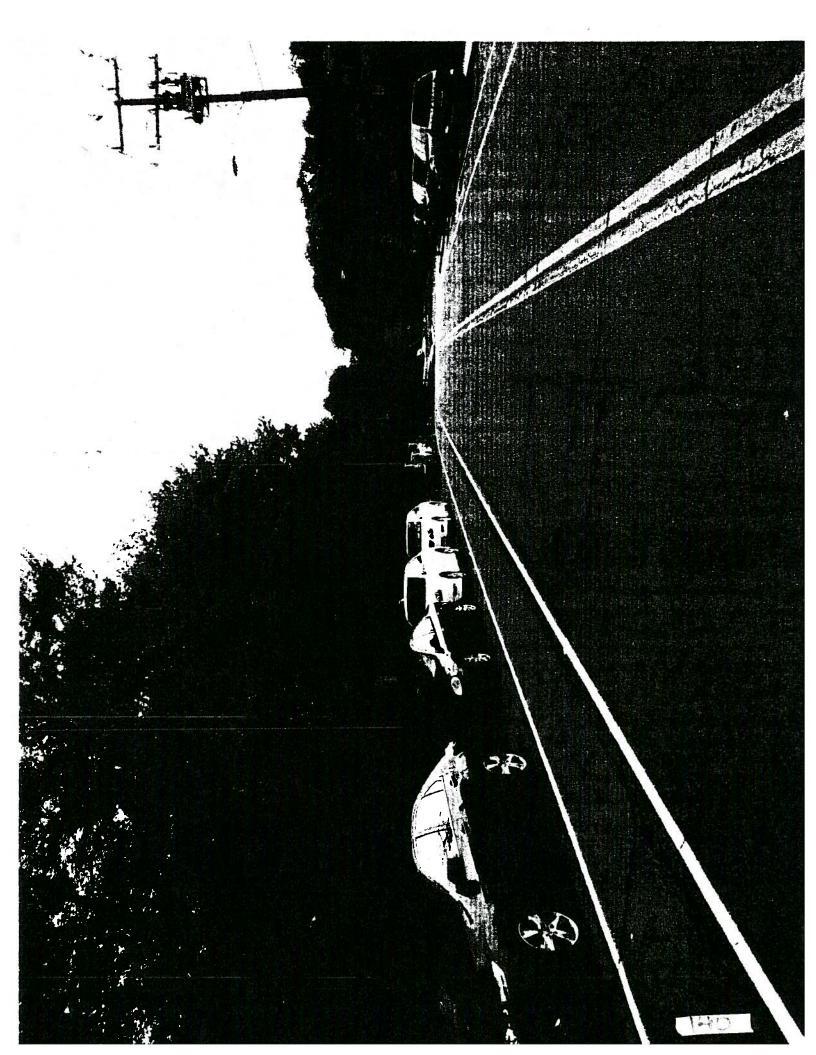




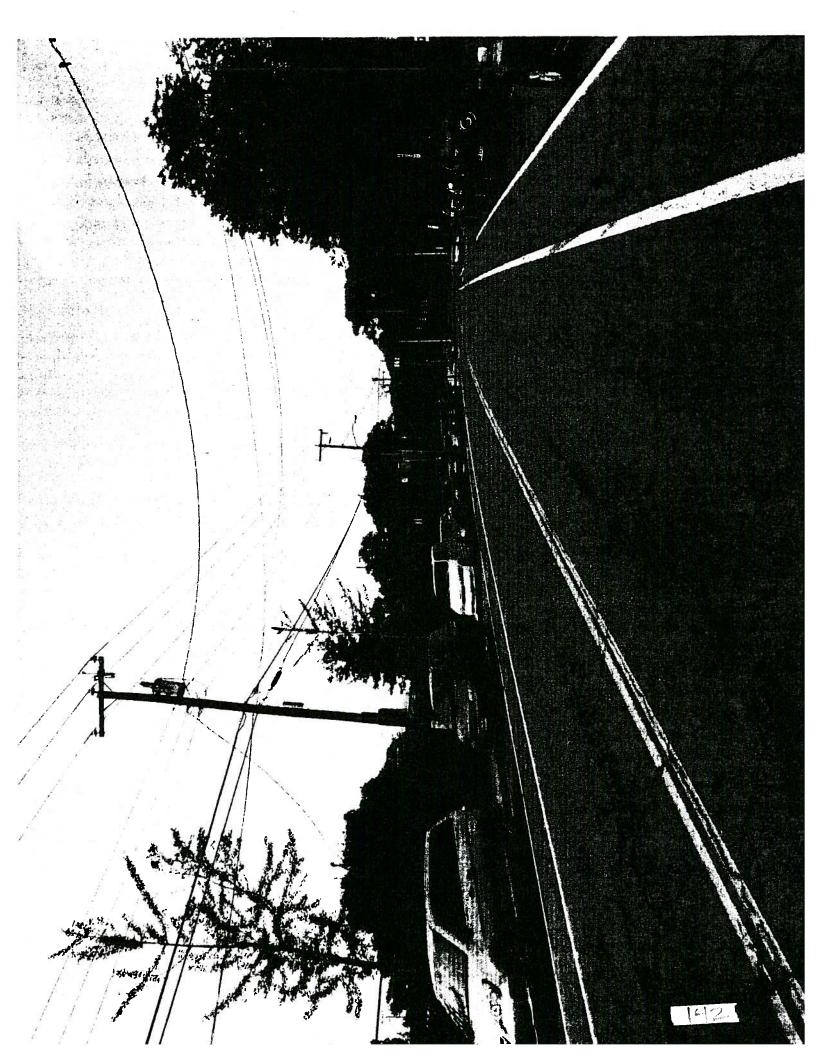




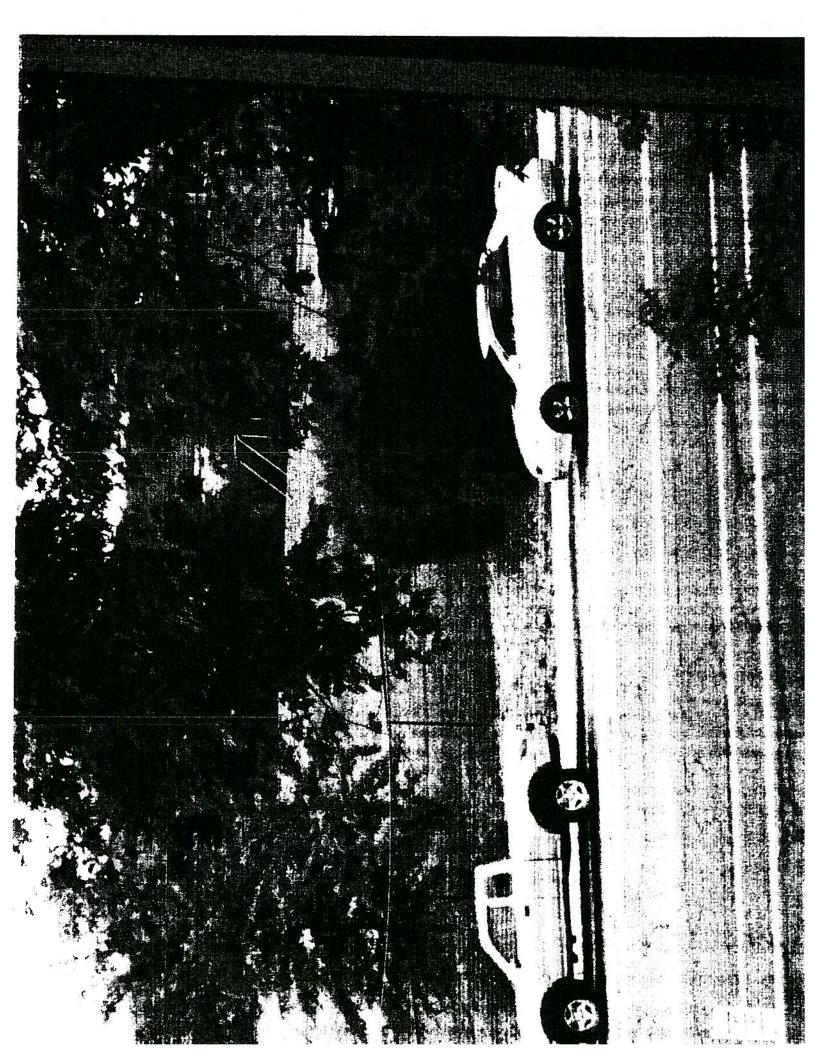


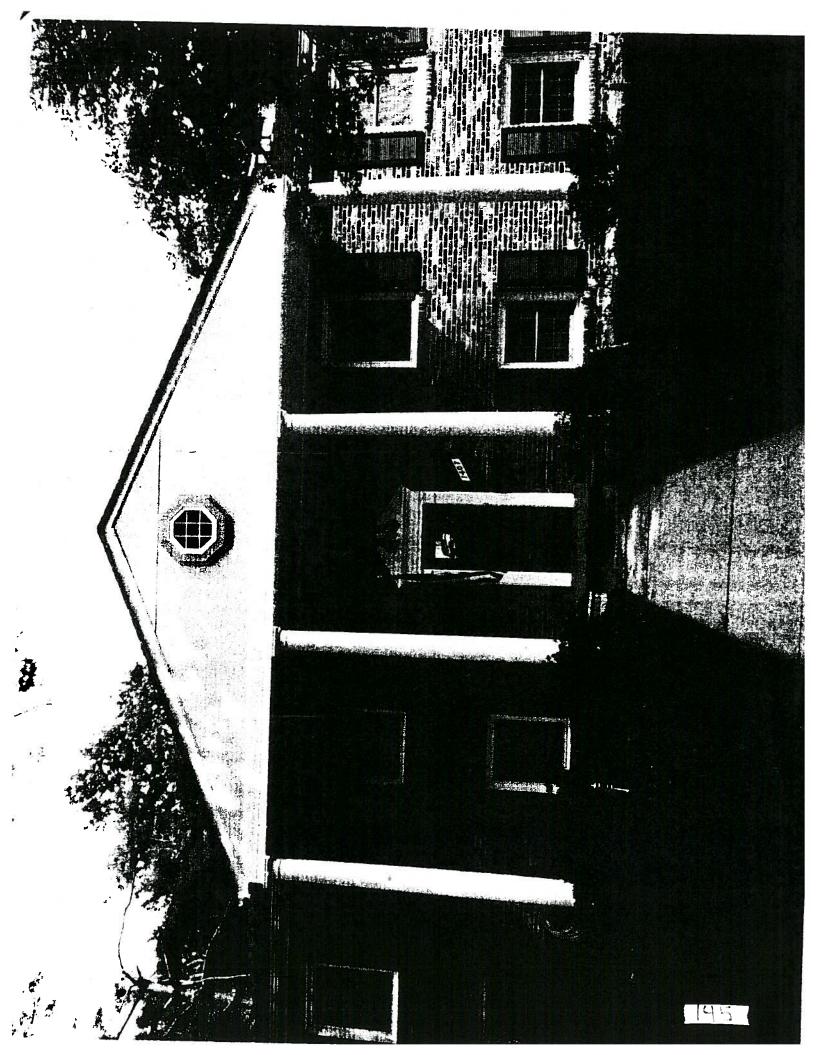












Supplemental Material Submitted By Donnell Fullerton

September 30, 2011

Board of Zoning Appeals City of Alexandria City Hall 301 King Street Alexandria, Virginia 22314

Re: BZA Number 2011-0012, 4646 Seminary Road, Appeal of Planning Director's Determination

Dear Board:

Comes now Appellant Donnell R. Fullerton and files this supplement to his appeal of the decision of the Director of Planning and Zoning of the City of Alexandria ("Planning Director").

In support of Appellant Fullerton's appeal that the decision of the Planning Director was incorrect, Appellant submits this supplement to his appeal filed on June 20, 2011.

Subsequent to the filing of this appeal various documents have been discovered by Appellant as a result of Virginia Freedom of Information Act ("FOIA") requests and other inquiries. This information was not available at the time of the filing of the appeal, largely as a result of the applicant failing to file a complete and truthful application, and its decision to ignore the impact on neighbors resulting from its application, and to exclude information and zoning and city code provisions in its application and in its formal presentation before the Planning Commission.

Over three thousand five hundred (3,500) pages of documents were produced by the City of Alexandria in response to the FOIA request, and the Alexandria City Public Schools ("ACPS") produced about four hundred (400) additional pages. This production included numerous email communications involving applicant, ACPS, the staff, its professional consultants Kimley-Horn and Associates, Inc., and others. Not a single document questioned or explored the impact on this project on neighbors or neighboring properties. Not one.

On June 21, 2011, Appellant Fullerton filed a separate appeal as to the site plan for this project. This was based on a portion of the Planning Director's decision being appealed, i.e. that "This case involves a Special Use Permit approval, which the City construes to be tantamount to a site plan..." After consultation with the Zoning Administrator and City Staff, who acknowledged on behalf of the applicant that no site plan had in fact been filed, this formal separate appeal was withdrawn based on the admission that no site plan

¹ Appellant Seminary Hill Association, Inc. (SHA) is filing a Supplement to its appeal simultaneously to this appeal. Appellant Fullerton adopts and incorporates by reference the SHA Supplement to its Appeal in full.

had been filed, but objection as to site plan inadequacies preserved by Appellant Fullerton and incorporated into the instant pending appeal.

Supplemental Evidence:

Staff subsequently provided Appellant Fullerton the grading plan which had been submitted for administrative review for this project, a complete copy of which is submitted herewith as Supplemental Exhibit 1-entitled Hammond School Replacement Field GRD 2011-00026 Construction Document dated March 11, 2011, drawn by KTB and incorporated into the record on appeal herewith.

Attached hereto and submitted as Supplemental Exhibit 2 is the Memorandum of Understanding ("MOU") by and between the Alexandria City Public Schools ("ACPS") and the Department of Recreation, Parks and Cultural Activities of the City of Alexandria ("RPCA") dated August 2007. This MOU is incorporated into the record on appeal herewith.

Incredibly, notwithstanding months of requests to and the FOIAs filed in this matter, neither the City nor ACPS produced this document. The MOU was independently discovered after Appellant Fullerton's filing of his appeal and the appeal of Appellant Seminary Hill Association, Inc. (SHA). The MOU speaks for itself and clearly establishes RPCA and not ACPS is in fact the true applicant as a matter of fact and law, and that ACPS has no legal authority to either construct a synthetic field at Hammond or erect lighting but rather these are the reserved and exclusive responsibilities of RCPA. We have since confirmed that the MOU continues in full force and effect and is the governing document as to standing and ability to prosecute this project.

Attached hereto and submitted as Supplemental Exhibit 3 is an opinion of value based on an appraisal performed by John Austin Appraisers engaged by Appellant Fullerton to ascertain any economic impact on Appellant's property resulting from this application. Mr. Austin is a licensed Virginian Appraiser, with extensive experience and credentials in serving appraisal needs of Northern Virginian commercial, public and private clients. Mr. Austin, former Director of the City of Alexandria — Office of Real Estate Assessments, is extremely knowledgeable and has qualified as an expert witness before the Circuit Courts of the City of Alexandria, and Counties of Arlington, Fairfax and Prince William, Virginia.

Appellant Fullerton challenged the applicant in its pre-filing neighborhood community hearing to address the negative economic impact of its lighting proposal, citing to a study conducted in Arlington County, Virginia, relied upon by Arlington County in denying an application by Bishop Dennis J. O'Connell High School to erect artificial lights as part of replacement of its natural turf football field with an illuminated synthetic turf project. Appellant Fullerton's protestations and concerns were ignored, and in fact the applicant thereafter promptly filed its application seeking and obtaining an early hearing before the Planning Commission precluding the ability based on time for such a study to be performed. In Appellant Fullerton's opposition filed before the Planning Commission,

Appellant Fullerton cited to this report and to the validation of the economic impacts dealt with in that study in general concept supported by E.J. Hooker, the Director of U.S. Appraisal Operations, for Deloitte the largest appraisal and real estate company in the United States with over 170,000 employees worldwide. Given the time and expense required to generate such a study of the specific impact of this project on the Varsity Park neighborhoodood, Appellant Fullerton requested a delay to allow applicant to conduct and present such a study and in the absence of the presentation of such a study that a negative inference be held against the applicant that significant adverse economic impacts on neighboring properties would result from approval of the application. As reflected in Exhibit 3, in Mr. Austin's expert opinion, approval of this application will significantly and materially injure Appellant Fullerton and result in a loss in value of Appellant Fullerton's property totaling \$85,000 or approximately 9% of its value. ²

Standard of Review:

The Board of Zoning Appeals of the City of Alexandria ("BZA")'s decision in this matter is limited to the issue of whether or not the Planning Director's decision was correct.3 Regardless of the statements relied upon by the Planning Director in her decision, the BZA is required to determine whether or not the decision was correct and must apply the terms of the zoning ordinance even if they were not cited by the Planning Director. The BZA's role is not to determine whether a proposed use is appropriate in a zoning district, but only to determine whether the use is within one of the use classifications the City of Alexandria has decided to allow in the district by ordinance.⁵ Similarly the BZA may not determine what is in the public interest because that determination requires the balancing of private conduct and public interest which is a legislative decision which resides with the governing body, the City of Alexandria, acting in its legislative function.⁶ Finally, the BZA is required in order to facilitate judicial review to make findings in this matter that reasonably articulate the basis for its decision.⁷

² This is consistent with the determination of Arlington County, which concluded that properties within a 1 block radius of stadium lighting would lose 9-11% of its value. The city has completely ignored these studies in their zeal to ram the application through without complying with law and regulation. Neither the city nor ACPS has performed its own studies to assess economic impact. In 4,000 pages of documents, there is not one page considering economic impact upon neighboring properties.

Board of Zoning Appeals of James City County v. University Square Associates, 246 Va. 290 (1993). Town of Madison v . Board of Zoning Appeals/Potichas. 65 Va. Cir. 433 (2004).

⁵Board of Supervisors of Fairfax County v. Southland Corp., 224 Va. 514 (1982)

⁶Helmick v. Town of Warrenton, 254 Va. 225 (1997)- for the proposition that the exercise of legislative power involves the "balancing of the consequences of private conduct against the interest of public welfare, health and safety". See also Board of Supervisors of Fairfax County v. Southland supra. Packer v. Hornsby, 221 VA. 117 (1980)

Argument:

1. Illumination of the field is not a "School Project"

The evidence presented before the Planning Commission and this supplemental evidence clearly demonstrates that the Planning Director was clearly and reversibly wrong in her determination. The Planning Director stated in her June 16 Determination that that: "My reasoning is as follows:

 The work is clearly a school project, which is being paid for through the ACPS's CIP budget;"

This reasoning is simply not correct. The work, erection of four sixty foot light towers, which is the subject of the SUP is the work of RPCA and not ACPS. As demonstrated in the MOU, at the time of filing of the application in this matter and at all times continuing RPCA and not ACPS is responsible for any illumination of the field and for that matter for the installation of any artificial turf. See Supplemental Exhibit 2.

Additionally, the origination of the funding of this project is still being concealed by applicant, but believed to be a settlement from Fox – Seko Contractors and/or its surety as a result of defective school construction at Hammond. The repairs to the construction problems had to be paid by the City of Alexandria by supplementation to ACPS funds. Any settlement should be returned to the Treasury of the City; instead, it was funneled to this project at the last minute and out of the public eye. This funding stream further substantiates that this is a RPCA, and not ACPS, project.

Moreover, the illuminated fields will in fact be used by RPCA in its adult soccer sponsored program for players including non-residents of Alexandria, not by any students of Hammond. As a result, the city is required to apply for a variance from the height regulations because a public school in an R-8 property is building a structure for RPCA use in excess of 40 feet.

2. Special Use Permit Approval is NOT "tantamount to a site plan"

The Planning Director in her decision went on to state that this case involves a Special Use Permit approval which "the City construes to be tantamount to a site plan". In fact the original approved site plan does not in any manner provide for either the enlargement of the athletic field at Hammond or the installation of an oval track or (as we have now learned) the removal of the bus lanes and stormwater containment facility abutting Seminary Road.⁸

⁸ The surrounding community has a great interest in stormwater management along Seminary Road as a result of this change at the site. The stormwater retention system abutting Seminary Road was created because, during Hammond's renovation, there were significant flooding problems along Pickett and Pegram Streets. The stormwater retention system was installed to solve the problem. Obviously, removal of the current system would have serious implications for the site. Additionally, the bus lane was carefully negotiated with the community, SHA and ACPS to manage traffic flow, which has been significantly

The SUP application does not contain those elements required either by a site plan or an amendment to site plan. The "grading plan" submitted by applicant outside of public review utterly fails to address these required elements either. What it does show is that substantial modifications are contemplated at Hammond not permitted under its existing approved site plan including, but not limited to, demolition of the existing athletic field and irregular track and installation of a larger synthetic field and new non-regulation track in a different location, removal of sidewalks, removal of the existing bus lane, construction of new walkways and drive areas in different location than existing and a substantial modification of the existing groundwater retainage system.

A casual review of Supplemental Exhibit 1 reveals in addition to the major activities just described that applicant proposes to undertake a major modification to address significant storm water run off conditions created by installation of a new and enlarged and elevated athletic field. At Sheet 23, it is revealed that the existing storm water system serving Appellant's property (CB-3) as well as major portions of Varsity Park (Sections CB-2, CB-4, and CB-5) are inadequate. Additionally, at Sheet 13, Applicant intends to construct a 15 inch pipe through the northwest portion of the site, *i.e.*, the hill overlooking the existing tennis courts, which is designated as a Chesapeake Bay Protected Area, and perform extensive trenching ultimately discharging a larger portion of the storm water on to Pegram Street. This is in addition to erecting a wall running approximately seventy feet in length at the top of this Chesapeake Bay Preservation Area. See, Sheet 10 – Retaining Wall, See Detail 1, Sheet 26. It is apparent that what is involved here is not a minor modification contemplated by Section 11-416(A).

No plan has in fact been submitted identifying with any specificity the location of the four sixty (60) foot light structures which are the essence of this project. No electric lines are identified on the grading plan or pole structure locations.

This flies in the face of Section 11-403 of the Code of Alexandria which mandates that "No permit shall be issued to erect or alter any building or structure or alter the grade of any land that is subject to this section 11-400 until a site plan has been submitted and approved."

Four sixty (60) foot light towers are clearly structures subject to the requirements of section 11-400. Moreover, Section 11-410 – Site plan requirements at subsection (Y) requires as a condition to the approval of a site plan that "Adequate provision shall be made to avoid glare of vehicular and stationary lights that would affect the established character of the neighborhood, and to the extent such lights will be visible from any residential zone, measures to shield or direct such lights so as to eliminate or mitigate such glare shall be taken." No such action is contained in the application.

A grading plan is an administrative document designed to expedite the process when the changes to the site are relatively minor. It is contrary to the plain language of the Code to

exacerbated by BRAC 133 (as ACPS has stated). Any changes to the bus lane would require community input as well.

use a grading plan to evade public participation and reconstruct significant portions of the site to accommodate the construction of a field and track at a site that is simply too small to handle it.

The Planning Director has totally ignored these elimination or mitigation of glare requirements.

The application ignores these requirements.

The decision of the Planning Commission made in reliance of the Planning Director's wrong decision ignores these requirements.

Incredibly, the Planning Commission limited mitigation of the effects of this proposed project on the community to an insulting requirement that the applicant install four trash cans; it wholly ignored law and regulation and pretended that four trash cans adequately mitigates deleterious effects on the community.

The Planning Director totally ignores well-established negative light pollution impacts inextricably tied to erection of these light towers. It is a scientific fact that this proposal seeking to use sixty foot light towers adjacent to homes located closer the 200 feet from the playing filed perimeter will result in both vertical spill illumination and glare illumination which constitutes serious light trespass impacting on Appellant Fullerton and his neighbors. Glare can not be mitigated on an athletic field with light structures less than seventy feet tall. It is for this reason that design criteria developed by the Fairfax County Park Authority prohibits erection or use of lights to illuminate an athletic field with a structure less than seventy feet in height or located within two hundred feet of the facility's property line. See Supplemental Exhibit 4, White Paper – Light Pole Height Requirements – Figures 2 and 7.

Moreover and incredibly this applicant finally conceded that it can not comply with side yard illumination limits. Initially, the city (ALL departments of the city) required compliance with Section 13-1-3 of City Code, and the applicant's consultant anticipated compliance with that Section, i.e. no side yard illumination exceeding 0.25 footcandles in a residential zone.

The Planning Director in her decision acknowledges that information provided by applicant indicates that lighting at the front of the properties ranges from .18 to .44 footcandles. Appellant Fullerton's property, as most of his neighbors, has both a front yard and side yards. The Planning Director refuses to address that .44 illumination will

White Paper- Final Draft Athletic Field Lighting and Control of Obtrusive Light Pollution. Fairfax County Park Authority July 2010- "Light trespass is a term of relatively recent original and denotes (1) light that spills beyond the boundaries of one property onto the surfaces of another, thereby producing unwanted illumination of it, and (2) glare that is generated by sources on one property that lie within the normal field of view of the occupants of another property.....When light crosses property lines it can detract from the property value and quality of life of those whose property it is improperly directed. It can be a particularly objectionable problem when obtrusive recreational or commercial lighting it immediately adjacent to residential neighborhoods...... See page 6 of White Paper attached as Supplemental Exhibit 4.

impact Appellant Fullerton's side yard in violation of Section 13-1-3 even while referencing the statute in her decision.

As pointed out in the June 20 appeal, even if the Planning Director's stunningly wrong determination is upheld, the regulation she relies upon to evade setback limits requires an affirmative determination from the Planning Commission that there "is no detrimental impact upon the surrounding neighborhood."

The Planning Commission made no such finding (nor could it since no work was done to address the question). Thus, in the event that the Planning Director's determination is upheld (for any reason whatsoever), it would still require vacating the Planning Commission decision to determine whether there is any detrimental impact to the neighborhood.

Supplemental Exhibit 3 submitted herewith clearly establishes that Appellant's property which is across the street from the proposed project and the adjacent Varsity Park neighborhood will be subject to a significant detrimental impact. The Planning Director failed to consider detrimental impact to the Varsity Park neighborhood in general and Appellant Fullerton's property located adjacent to the proposed project. Mr. Austin's expert opinion clearly establishes that approval of this application will injure Appellant Fullerton and result in a loss in value of his property totaling \$85,000 or approximately 9% of its value.

One of the required findings under Section 7-2100 of the Code is that the application will not be "injurious to property or improvements in the neighborhood." The Planning Director ignored this requirement and omitted any reference to it in her decision. The BZA is not afforded the ability to pick and choose portions of the Code as the Planning Director has done but rather must apply the law as it exists.

The Planning Commission erroneously relied on the Planning Director's wrong decision and then committed reversible error while relying thereon.

The Planning Commission chose to ignore the requirement that a finding of no detrimental impact on the neighborhood was a prerequisite to application of Section 7-2100.

The Planning Commission chose to apply a "comparative good" standard concluding that there is always some impact as a result of any application. This is not the standard and was clearly wrong.

The overall motivation for this application as evidenced from a review of the FOIA documents is that this application is the opening thrust in a decision by RPCA supported

¹⁰ This is consistent with the determination of Arlington County, which concluded that properties within a 1 block radius of stadium lighting would lose 9-11% of its value. The city has completely ignored these studies in their zeal to ram the application through without complying with the plain language of law and regulation. Neither the city nor ACPS has performed its own studies to assess economic impact.

by many in City government (in a surreptitious manner) to implement a change in usage of recreational fields in the City shifting from natural grass to illuminated synthetic turf fields throughout the City. The intent is to illuminate all fields under the control of RCPA, especially T.C. Williams High School.

As pointed out in other filings, the city rejected Hammond as a potential site for illumination of its fields in 2006 and 2009. There are no studies recommending this site. The decision was made to focus on Hammond Middle School given their assessment that fewer neighbors would be immediately impacted and less of a citizen opposition would be encountered. For example, the 2009 study also included a criteria entitled "process," which was an assessment of the political opposition to be expected in each neighborhood. Hammond scored a 2 in that category (meaning some political opposition was expected but could be overcome), while many other sites scored a 1 (meaning that political opposition would be more significant and difficult to overcome). The authors of the study do not explain the basis of their political assessments. This factor alone accounted for Hammond being rated in the upper tier on the assessment. Had Hammond been treated like other sites for political purposes, or had political purposes not been a factor, Hammond would have been viewed technically as a mediocre to below average candidate and other sites would have been elevated from a technical and neighborhood perspective, according to the study.

Conclusion:

The Planning Director's decision is clearly not correct and must be invalidated.

The following findings of fact are called to be determined by the BZA:

- 1. RPCA is the true applicant.
- 2. RPCA is not entitled to rely on Section 7-2100 since it is not a school.
- 3. The applicant has not filed a site plan.
- 4. The applicant's filing does not meet the requirements of a site plan.
- 5. The applicant has admitted and conceded that Section 13-1-3 applies in this case and committed to meeting it.
- 6. The applicant admits that this project if constructed will violate Section 13-1-3 of the City Code.
- 7. Approval of the application will be injurious to property or improvements in the neighborhood.
- 8. This application seeks approval of two light towers which require a variance from front yard set back requirements from 70' to 23' and 25'.
- 9. This application seeks approval of construction of four sixty foot light towers which require a height variance of 20 feet each.
- 10. The existing field is currently being used, demonstrating that the property at issue may be used and that no hardship exists supporting grant of any such variance.
- 11. The decision of the Planning Director is incorrect, arbitrary and contrary to the plain language of the Zoning Code and City Code.

12. The decision of the Planning Commission in reliance on the decision is invalid and must be reversed.

Respectfully submitted:

Appellant Fullerton, by Counsel Erika L. Dogan, Esq. CARTER FULLERTON & HAYES, LLC 4015 Annandale Road, Suite 205

Annandale, Virginia 22003 703-658-7737 Appellant Donnell R. Fullerton

1407 N. Pickett Street Alexandria, Virginia 22304

VERIFIED APPEAL

By: Donnell R. Fullerton, Appellant

I, Donnell R. Fullerton, having been duly sworn and under the penalty of perjury, do hereby affirm that the statements attributed to Appellant Donnell R. Fullerton in the forgoing Supplemental Petition are true and accurate to my best knowledge and belief.

Donnell R. Fullerton

Commonwealth of Virginia: County of Fairfax :

Before me appeared Donnell R. Fullerton, to me known, who being duly sworn affirmed and verified the facts attributed to him in the foregoing instrument this 30 day of September 2011.

My Commission expires: 11-30-2014

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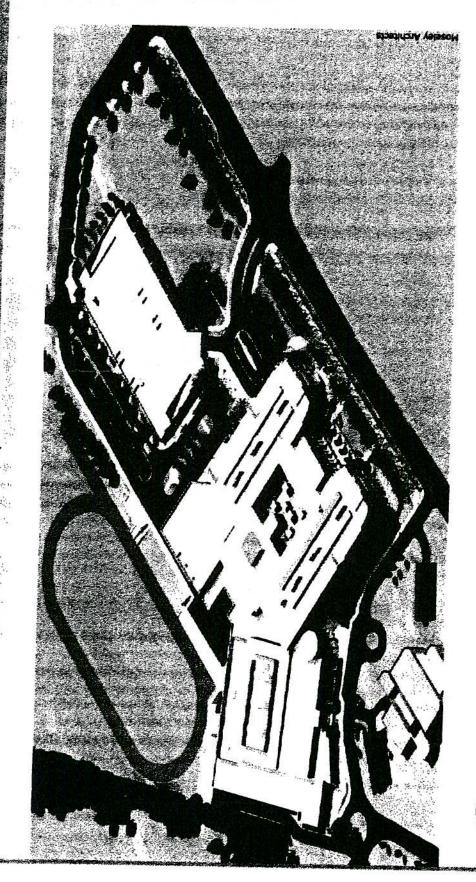
Supplemental Exhibit 1

Hammond School Replacement Field GRD2011-00026 Construction Documents

*Exhibit 1 is available in the Planning and Zoning office for review

Supplemental Exhibit 2

Memorandum of Understanding



Alexandria City Public Schools Schools Outdoor Maintenance Agreement City of Alexandria, Virginia Alexandria City Public Schools



Charles Barrett Elementary School Cora Kelly School for Math, Sclence and Technology Douglas MacArthur Elementary School Francis C. Hammond Middle School George Washington Middle School James K. Polk Elementary School John Adams Elementary School John Adams Elementary School Lyles-Crouch Traditional Academy Maury Elementary School Minnie Howard High School Patrick Henry Elementary School Samuel W. Tucker Elementary School Cost Comparisons T.C. Williams High School William Remsay Elementary School Cost Comparisons Transfer of Resources Required in FY 2008 Interdepartmental City Contract Memorandum of Understanding Signature Page
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existing structure of maintenance responsibilities at the public schools. The proposal focused on developing better communication between the Departments of Recreation, Parks and Cultural Activities (RPCA), Transportation and Environmental Services (T&ES), and the Alexandria City During the City Council Budget Hearings in 2006, the City Council proposed changes to the

Board and City Council proposed that ACPS concentrate on educating the students, RPCA provide roles of each agency and to update the existing Memorandum of Understanding signed by each Internal meetings were held between City and School Staff to further define the maintenance agency in 1997. In an effort to utilize and manage City resources more effectively, the School the grounds maintenance, and T&ES provide snow removal and paving for the 17 schools.

As part of the City Manager's desire to provide better efficiencies to the community and increase allowing them to gain a significant amount of time for maintenance functions that had previous recently reorganized into seven districts that decentralized the operations to on-site locations, services, the internal working group proposed that the existing school grounds maintenance crew be reassigned to the RPCA Park Operations Division. The Park Operations Division was

The internal working group developed a plan that enabled ACPS to reassign the current grounds maintenance for each school, enhancing the beauty and providing a better quality of life for the Operations Division, the City would gain additional efficiencies and provide a higher level of maintenance employees to the City, reducing ACPS's obligation to grounds maintenance functions and allowing them to concentrate on education. Working with the RPCA Park



position engaged in this function to the City's (RPCA) payroll at City wage and benefit rates. It is intended that this memorandum will be signed in July, 2007 and be retroactive to July 1, 2007. taking in consideration the reassignment of seven current Schools employees and one vacant The estimate contained in this MOU for the cost of services in FY 2008 is \$577,000 including \$212,000 in material costs and horticultural services, and \$365,000 in wages and benefits,

Overview

Mowing Operations

The schools sites will be mown at frequencies prescribed in their assigned level of service, (discussed in more detail on page 20) April through October depending on weather conditions and the condition of the individual sites. Every attempt

Leaf Collection

Leaf collection will begin with City scheduled removal of leaves during November and December. Collection activity will be conducted according to level of service assigned to each site. Every attempt will be made not to disrupt school activities.

removal days to make sure schools are plowed and sidewalks are cleared within the time frames listed per level of service. highlighted in yellow and orange on the following pages. The parking areas will be maintained in accordance with the 1997 City/School Facilities Use and Maintenance & Service Agreement, and/or its successor. Each school will be treated as a top priority site for snow removal. The crews will operate on 12-hour shifts during snow Winter maintenance programs will take place in January and February. The snow removal plans for each school are

shrub beds and repairs to the fields and turf areas. These activities may extend into the school day. Every attempt will be In March and April, each site will receive additional maintenance including pruning the trees, overhauling the flower and

Tree Services

priority is to provide arterial road access for health and safety concerns for the general public. Storm damage clean-up Yearly pruning and tree maintenance will be provided by RPCA on a regular schedule. During storm events RPCA's first at schools will be assigned a priority status depending on damage. Any damage that inhibits school operations will be assigned top priority. All other storm damage will be attended to as soon as possible.

Overview

Horticulture Services

The goal is to provide perennials and seasonal color to all designated areas at each school according to the assigned level Landscape Consultant to determine plant needs and provide a coordinated effort of planning for each site. Mulch will be provided through requests to the Facilities Department. Any additional landscape areas or services not identified in this of service. The Horticultural Supervisor will determine and plant the landscaping areas. RPCA will consult with ACPS's

Additional Grounds Maintenance

Trash removal at each site will be re-evaluated around the school perimeter including parking lots, and walkways. Historic trends and area uses will be studied to determine how often trash removal will be provided. Service will be provided daily, twice weekly or upon inspection every 5-7 days, depending on the trash can. All trash cans in the school and courtyards will remain the ACPS's responsibility to empty, maintaln and service. Plans showing ACPS maintenance boundaries are

Capital Improvement Projects

engineered play areas, miracle fields, etc. The RPCA will consult with ACPS staff during the development of the City Manager's proposed CIP. Such projects, if proposed by the City Manager, will be contained in the RPCA section of the CIP. maintained by RPCA. Such improvements could include, but are not limited to; new irrigation systems, synthetic fields, The City and ACPS recognize that consideration should be given to making capital improvements on school grounds

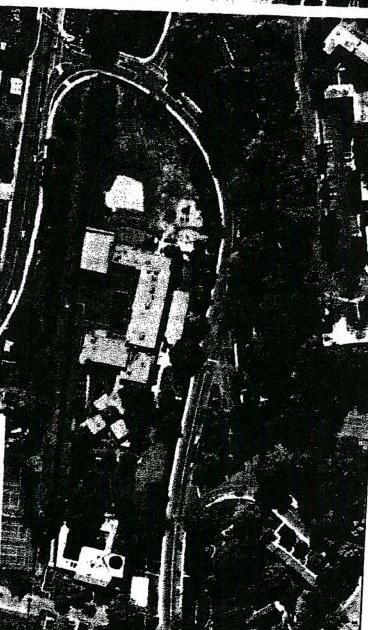
Charles Barrett Elementary School - Four Mile Run District

Charles Barrett School serves grades K- 5 and is located in the north end of the city adjacent to Charles Barrett Recreation Center,

1115 Martha Custis Drive Located at:







ACPS Maintenance RPCA Snow Removal T&ES Snow Removal August 6, 2007

Property Boundary

162

TAIS OF SERVICE IN THE PRINCIPLE

Cora Kelly School for Math, Science and Technology - Four Mile Run District

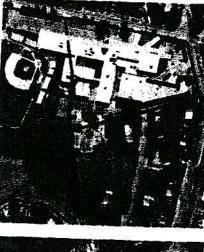
Cora Kelly serves grades K- 5 and is located in the north portion of the city adjacent to Cora Kelly Recreation Center.

Located at: 3600 Commonwealth Avenue Alexandria, VA 22305

Service Level 3



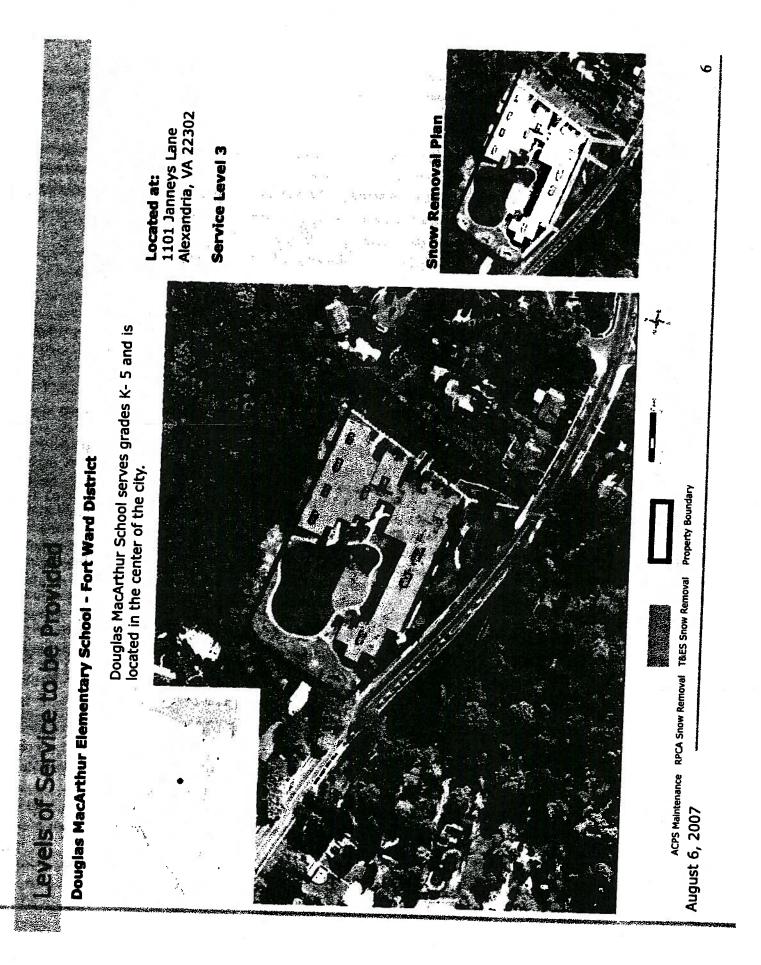
Snow Removal Plan



AUGUST 6, 2007

Property Boundary

(63



George Mason School serves grades K- 5 and is located in the north end of the city.

2601 Cameron Mills Road Alexandria, VA 22302 Located at:

Service Level 3



ACPS Maintenance RPCA Snow Removal T&ES Snow Removal August 6, 2007

Property Boundary

166

1005 Mount Vernon Avenue Alexandria, VA 22301 Located at: George Washington Middle School serves grades 6-8 and is located in the central portion of the city. Property Boundary George Washington Middle School - Simpson District AUGUST 6, 2007

Jefferson-Houston School for Arts and Academics - Simpson District

Jefferson-Houston serves grades K- 5 and is located in the southeast portion of the city adjacent to Jefferson-Houston Recreation Center.

1501 Cameron Street Alexandria, VA 22314



ACPS Maintenance RPCA Snow Removal TRES Snow Removal

Property Boundary

Lyles-Crouch Traditional Academy - Waterfront District

Lyles-Crouch serves students in grades K- 5 in the south Old Town area of the city.

520 S. St. Asaph Street Alexandria, VA 22314 Located at:

























Maury Elementary School - Four Mile Run District

Maury School serves grades K- 5 and is located in the central portion of the city.

Located at: 600 Russell Road Alexandria, VA 22301

Service Level 3



ACPS Maintenance RPCA Snow Removal T&ES Snow Removal Property Boundary

172

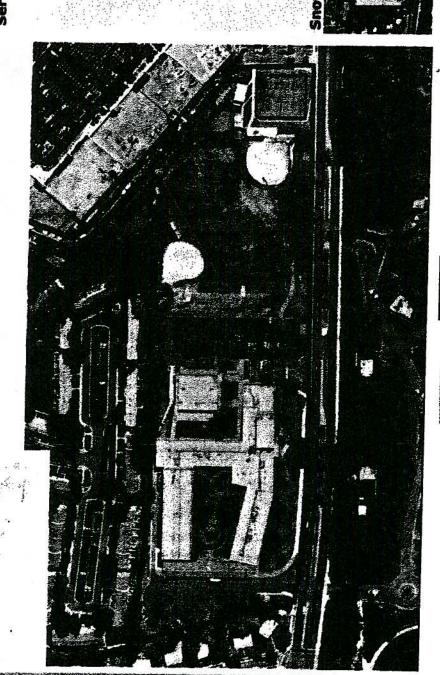
evels of Service to be Provined

Minnie Howard High School - Fort Ward District

Minnie Howard High School serves 9th grade students and is located in the west end of the city.

Located at: 3801 W. Braddock Road Alexandria, Virginia 22302

Service Level 3



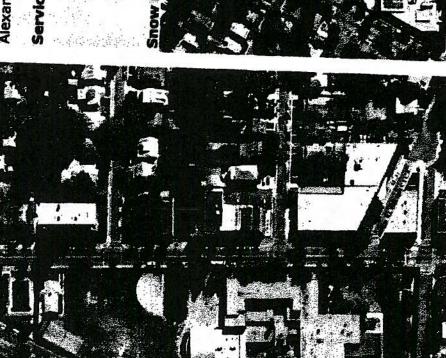
ACPS Maintenance RPCA Snow Removal T&ES Snow Removal Property Boundary

173

Mount Vernon Community School - Simpson District

Mount Vernon School serves grades K- 5 and is located in the north end of the city adjacent to Mount Vernon Recreation Center.

Located at: 2601 Commonwealth Avenue Alexandria, VA 22305



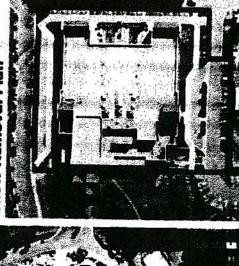
ACPS Maintenance RPCA Snow Removal T&ES Snow Removal Property Boundary August 6, 2007

Alexandria, VA 22304 4643 Taney Avenue Located at: west end of the city adjacent to Patrick Henry Recreation Patrick Henry serves grades K- 5 and is located in the Patrick Henry Elementary School - Noimes Run District Property Boundary ACPS Maintenance RPCA Snow Removal T&ES Snow Removal Center. August 6, 2007

Station and Boothe Park.

435 Ferdinand Day Drive Alexandria, VA 22304 Located at: Samuel W. Tucker School serves grades K- 5 and is located in the southwest portion of the city adjacent to Cameron

Service Level 3



ACPS Maintenance RPCA Snow Removal T&ES Snow Removal

Property Boundary



T.C. Williams High School - Fort Ward District

T.C. Williams School serves grades 10-12 and is located in the central portion of the city.

Alexandria, VA 22302 3330 King Street Located at:

Service Level 3

Williams in Fiscal Year 2008. *ACPS is responsible for al maintenance costs at T.C.











Property Boundary

evels of Service to be Provided

William Ramsay Elementary School - Holmes Run District

William Ramsay serves grades K- 5 and is located in the west end of the city adjacent to William Ramsay Recreation Center.

Located at: 5700 Sanger Avenue Alexandria, VA 22311

Service Level 3



ACPS Maintenance RPCA Snow Removal T&ES Snow Removal Property Boundary

Note: Actual expenses may vary.

Proposed Operating Costs- Non-Personnel

District	Material Cont
Brenman District	44 000 to
1	\$4,000
Samuel W. Tucker School	\$4,000
	12
Waterfront District	\$4,000
Lyles-Crouch	\$4,000
Holmes Run District	\$52,000
John Adams	\$20,000
Patrick Henry	\$16,000
James K. Polk	\$8,000
William Ramsay	\$8,000
Fort Ward District	\$24,000
Francis C. Hammond	\$16,000
Douglas MacArthur	\$4,000
Minnie Howard	\$4,000
T.C. Williams	0\$
Four Mile Run District	\$36,000
Charles Barrett	\$8,000
Cora Kelly	\$16,000
George Mason	\$8,000
Maury	\$4,000
Simpson District	\$44,800
George Washington	\$28.800
Jefferson-Houston	\$8,000
Mount Vernon	\$8,000

Maintenance Levels

H
-
Š
=

4 seasons of color: Spring, Summer, Fall, 7 day schedule (April- October) Bare Pavement within 4 hours Daily and Winter (annuals) 7 day schedule Snow Removal: Frash Removal: Leaf Collection: Level 1 Horticulture: Mowing:

Costs of materials: \$560,000/ year

Level 2

2 seasons of color: Spring, Fall, (annuals) 7-10 day schedule (April- October) Bare Pavement within 6 hours 10 day schedule Twice weekly Snow Removal: Trash Removal: Leaf Collection Horticulture: Mowing:

Costs of materials:

\$460,000/ year

Level 3

10-14 day schedule- April- October 15 day schedule Bare Pavement within 8 hours Inspections every 5-7 days No annuals- Perennials only Leaf Collection: Snow Removal: Trash Removal: Horticulture: Mowing:

Costs of materials and horticultural services: \$212,000 in FY 2008

Horticultural Services

\$212,000 \$47,200

August 6, 2007

Total



Transfer of Equipment

Rolling Stock and Equipment Replacement Inventory
1. 1998 GMC Truck
2. 2004 Halmark Trailer
3. 2004 Halmark Trailer
4. 2005 72" Mower
5. 2006 Leaf Blower
6. 2003 Truck Loader

Personnel Transfer to City Employment

William Bannister
 Eric McKinney
 Gregory Ross

Gregory Ross Willie Ruffan Joe Burks Marlon Newman

Ralph Wanzer

Vacant 4.6.6.6.8



August 6, 2007

180

WHEREAS, The City of Alexandria is fortunate to be able to provide many fine public facilities for use by its citizens; and

WHEREAS, the Alexandria City Manager and the Alexandria School Superintendent jointly have agreed that it is in the best public interest to work together to ensure the maximum feasible public use of these facilities for educational and

related to their specific areas of responsibility and for the ACPS to provide for the education and indoor maintenance of the WHEREAS, the Alexandria City Public Schools (ACPS), and the City of Alexandria Department of Recreation, Parks, and Cultural Activities (RPCA), agree to have the RPCA provide outdoor ground maintenance activities and mutual services Schools and mutual services related to their specific areas of responsibility.

NOW THEREFORE, the Alexandria City Manager and the Alexandria School Superintendent do hereby enter into the following agreement for the cooperative use, management and financial support of these community facilities.

Philosophy, Situation, and Terms of This Agreement

- A. The purpose of this agreement is to provide detailed understanding and structure for cost effective grounds maintenance associated with school grounds, open space, and park property to provide greater efficiency to the Čity of Alexandria
- B. It is recognized that the ACPS and other City agencies are limited in financial, personnel, and facility resources to support their respective programs. Therefore, establishing a mutual maintenance agreement that provides best management practices to support the mission and desires of the City residents and provides maximum effective utilization of all
- fund to effectuate this funding arrangement, and City and ACPS staff shall recommend appropriate actions be taken by to ACPS School Board that \$577,000 shall be provided from the FY 2007 year-end fund balance of the ACPS operating That the City Manager shall recommend to City Council and the Alexandria School Superintendent shall recommend

- D. RPCA shall provide all outdoor grounds maintenance in the designated areas found in this agreement and that the current ACPS ground maintenance positions, as identified in this agreement, shall reassigned to RPCA.
- That the City Council approve an ACPS fund balance transfer of personnel and non-personnel operational expenses in the amount of \$577,000, which shall be included in the FY 2008, RPCA operating budget. After this one time transfer, I will maintain these costs through the City budget process.
- City/School staff believe that this reallocation of responsibilities will provide both the City and Schools with a cost savings benefit and consistent care that relates to the City's overall grounds care program.
- Superintendent, respectively agree that this oversight committee address any grounds maintenance /snow removal issues that may arise, and develop strong communication avenues to communicate with the principals, PTA, and G. The existing City Schools maintenance facility work group as appointed by the City Manager and the School community.
- H. The existing City/School maintenance facility work group shall attempt to resolve all issues relating to the joint use of the facilities as covered by the guidelines contained herein and in the Memorandum of Understanding signed by all in 1997
- This Memorandum of Understanding incorporates all provisions of the 1997 City/School Facilities Use and Maintenance & Service Agreement, and/or its successor.
- School principals and RPCA staff will jointly review the condition of the facilities on a quarterly basis (March, June, September, and December), and report their findings to the Director of RPCA and to the School Facilities Director.
- trash services are required for special School events the costs will be determined before the event and paid for by ACPS. ACPS shall be responsible for the electrical and water costs associated with each site. ACPS shall be responsible for the grounds with the understanding that there is a coordinated effort to keep the grounds clean. If additional cleaning or litter pick up at all ACPS sponsored events. RPCA shall be responsible for litter pick up at all RPCA sponsored events. RPCA shall empty the designated trash cans identified at each site and be responsible for daily litter pick up of the

Funding

warranted for any reason, each shall notify the other in a timely fashion during the development of their respective budget In FY 2009 and thereafter, the City and Schools shall fund necessary costs pursuant to this agreement in accordance with normal budgetary procedures. If either RPCA or ACPS staff believe that a change in the negotiated levels of service are

whatever is necessary in the RPCA budget to cover inflation, COLAs, increased benefits costs and other operational cost City staff shall make good faith efforts to maintain the levels of service as negotiated in this agreement and shall add increases that are necessary to provide that level of service. If the ACPS desires higher levels of service than those negotiated here, then the cost of such increases would be the responsibility of ACPS.

Public Information

The City/School Staff Facilities Committee will prepare annually for the City manager and Superintendent of Schools an evaluation report on the administration of this agreement, which will be disseminated by the Manager and Superintendent

for proper use of the City/School Facilities and assigns responsibilities for the ground maintenance and snow removal for the of Alexandria, VA, Public Schools, and the City Manager of Alexandria, VA. It formalizes and gives credence to procedures Day of This agreement is made on this

1 so that appropriate budget adjustments may be made by both parties for the fiscal year commencing twelve months later. unilaterally upon giving the other party, in writing, twelve months notice of its intention to terminate the agreement by July This agreement shall be for an indefinite term commencing on July 1, 2007. Either party may terminate this agreement

By: City Manager of Alexandria, VA

20.8.8

By: Superintendent, Alexandria City Public Schools Lebech Lie

Approved to form August 6, 2007

Supplemental Exhibit 3

Opinion of Value Based on Appraisal

JOHN AUSTIN APPRAISERS

John Austin, Inc.

Real Estate Appraisal and Consulting 9101 Ashmeade Drive, Fairfax, Virginia 22032 (703) 323-5626 Fax (703) 978-7565 Email jausfin503-a aol.com

Ms. Erika L. Dogan Carter, Fullerton, & Hayes LLC 4115 Annandale Road Suite 405 Annandale, VA 22003

Reference: Appraisals 1407 N. Pickett Street, Alexandria, VA 22304

Dear Ms. Dogan:

At your request, I have appraised the above-captioned property for the purpose of estimating market value. Two appraisals are involved, one with the property in "as is" condition, the other based on changes that will take place at the neighboring Francis Hammond Middle School. The changes will occur as a result of a proposal to increase use of the school's athletic field that is located across the street from the subject. More specifically, the changes will include installation of lights in order to extend playing hours on the athletic field. This increased use of the playing field will not only be facilitated by lights that will impact the subject property, but will also bring increased traffic and noise to the subject's immediate neighborhood. Our second appraisal will take into consideration changes in value due to the field lights as well as the increased noise and changes in traffic and parking that added field use will bring.

In valuing the subject property based on changes to the school site, we have analyzed market data to arrive at an opinion of damages. We have also surveyed a number of professionals who reside and work in the City of Alexandria regarding their opinions on the proposed changes to the school athletic field and the possibility of any associated damages to the subject. Both of these analyses are contained in our appraisal.

Our analyses indicate that the "before" value of the property is \$950,000, while the "after" value of the property is \$865,000. This represents a loss in value of \$85,000 or approximately 9%. All data relevant to these findings are contained in the summary reports provided to you. These reports are done in conformance of the Uniform Standards of Professional Appraisal Practice (USPAP). They are intended to assist you and your client in resolving a legal issue with the City of Alexandria. The appraisals are effective August 24, 2011, the date the property was inspected for this assignment.

Thank you for the opportunity to complete this assignment. Please contact me if I can be of further assistance.

Sincerely yours,

John Austin, ASA

Qualifications and Experience JOHN F. AUSTIN

9101 Ashmeade Drive Fairfax, VA 22032 Phone (703) 323-5626 Fax (703) 978-7565 Email- jaustin503@aol.com

PROFESSIONAL EXPERIENCE:

JOHN AUSTIN APPRAISERS - Fairfax, VA, January 1995 to present. President of real estate appraisal and consulting firm serving a diverse clientele in virtually all facets of residential and commercial real estate appraisal.

AUSTIN-BYRNE APPRAISERS - Alexandria, VA, 1987-1995. Principal in private partnership that served the appraisal needs of a wide range of clients including public agencies, lenders, and private companies and individuals. Appraised residential, commercial, industrial and special purpose properties as well as vacant land.

HENDERSHOTT APPRAISAL SERVICE - Alexandria, VA, 1986-1987. Valuation of commercial and residential real estate.

CITY OF ALEXANDRIA, VIRGINIA, OFFICE OF REAL ESTATE ASSESSMENTS - July 1986 - April 1987: Acting Director; June 1980 - July 1986: Deputy Director. Managed the assessment of the city's 35,000 real estate parcels including a department-wide update of the city's assessment process.

ALEXANDRIA REAL ESTATE ASSESSMENTS - June 1977 - June 1980: Senior Appraiser. Responsible for the appraisal of the city's more complex residential and commercial parcels.

ROBERT H. JONES AND ASSOCIATES - 1977-1978: Part-time real estate appraisal of residential properties for Northern Virginia lenders.

<u>SPECIAL QUALIFICATIONS</u>: Qualified as an expert witness, Circuit Court, City of Alexandria, Counties of Arlington, Fairfax and Prince William, Virginia. Specializing is domestic relations, condemnation proceedings and tax appeal.

PROFESSIONAL AFFILIATIONS AND LICENSES:

Virginia Real Estate Appraisal License, Certified General #4001 000446.

* American Society of Appraisers, senior member holding the ASA residential and urban designations.

* Northern Virginia Board of Realtors, real estate sales license with Chase Realty, McLean, Virginia

EDUCATION: University of Louisville, Louisville, Kentucky. B.A., June 1972, Psychology.

Supplemental Exhibit 4

White Paper – Final Draft
Athletic Field Lighting and Control of
Obtrusive Light Pollution

White Paper - Final Draft

Athletic Field Lighting and Control of Obtrusive Light Pollution

Fairfax County Park Authority

July 2010

Athletic Field Lighting and Control of Obtrusive Light Pollution

White Paper Project Team

Hal Strickland, Park Authority Board
Frank Crandall, Environmental Quality Advisory Council
Bob McLaren, Environmental Quality Advisory Council
Jack Reale, Department of Planning and Zoning
Lorrie Kirst, Department of Planning and Zoning
John Lehman, Fairfax County Park Authority
Sandy Stallman, Fairfax County Park Authority
Timothy Scott, Fairfax County Park Authority
Isabel Villarroel, Fairfax County Park Authority

Consultants

Ray Shaffer, SWSG, P. C.
Don McLean, DMD Associates Ltd.
Dr. Ian Lewin, Lighting Sciences, Inc.

White Paper - Final Draft

Athletic Field Lighting and Control of Obtrusive Light Pollution

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Introduction

In 2003 Fairfax County issued a new Outdoor Lighting Ordinance as a sub-section of its Zoning Ordinance. In their 2003 Annual Report on the Environment, the Environmental Quality Advisory Council recommended that the Board of Supervisors ensure that "...the Fairfax County Park Authority fully comply with the new ordinance and consistently follow the recommendations of the Illuminating Engineering Society of North America." As a result of significant advancements in athletic field lighting technology, the Park Authority commissioned a study to analyze the issues related to athletic field lighting. This study resulted in the development of the Park Authority's Performance Outline Specifications for Athletic Field Lighting Systems that were implemented in November 2006. In their 2007 Annual Report on the Environment, EQAC commented that the issue of glare was not adequately addressed in the specifications. In response to EQAC's recommendations, the Park Authority commissioned a "White Paper" to clarify issues and limitations related to the measurement and control of glare. The Fairfax County's Board of Supervisors requested the Park Authority to work with EQAC and the Department of Planning and Zoning (DPZ) to clarify this issue.

The following discussions of the "Response of the Human Eye to Light," and "Issues and Problems Controlling Light Pollution" has been prepared in cooperation with the Fairfax County Environmental Quality Council (EQAC); the Fairfax County Department of Planning and Zoning (DPZ); and input from DMD Associates Ltd., Consulting Engineers; Dr. Ian Lewin, President, Lighting Sciences, Inc.; and SWSG, PC, Consulting Engineers.

Overview

Light pollution is a general term used to describe light output, primarily from exterior (outdoor) sources, that is excessive in amount and/or that causes harmful glare to be directed into residential neighborhoods or into the path of vehicular or pedestrian travel. Light pollution is thus both a safety issue and a quality of life issue. With the increasing urbanization of Fairfax County, outdoor lighting and light pollution in its many forms have become pressing issues to our communities. In the past, Fairfax County had some regulations regarding exterior lighting, but they were minimal and out of date. A major effort was undertaken in 2002 to write a totally new and modern Outdoor Lighting Zoning Ordinance Standard that took into account the numerous advances that had been made in lighting technology in recent years. This highly successful effort utilized a number of workshops, in which several county agencies, EQAC, and local experts participated, and came to fruition in the summer of 2003 with the adoption of the new Zoning Ordinance Outdoor Lighting Standards. The new standards are regarded by experts in the outdoor lighting community as being one of the best in the mid-Atlantic region and has been cited and largely copied by localities in Connecticut, New York, Illinois and California.

However, there were a few technical areas at that time that could not be adequately addressed by the new standards, since suitable standards and convenient measurement technology were not available. This report will focus on these areas.

The Fairfax County Park Authority and the Fairfax County Public Schools are the two largest providers of lighted recreational facilities and sports fields in the county. Parks and schools by their very nature are usually located in the midst of residential communities where the outdoor lighting, if inadequately designed, can have a serious impact on the surrounding residents. Schools, particularly high schools, often have sports practice sessions extending into the early evening hours and games that begin after the dinner hour and run into the later evening hours. In addition, schools of all categories often have "security" lights that burn from dusk to dawn, although they could perhaps be better served by motion-detector activated lights. Our park and school systems, faced with increasing demand for team athletic facilities, will necessarily have to turn to synthetic turf and lighting during the evening to enable greater utilization of its existing fields. It is the responsibility of both organizations to utilize the best designs and equipment in addressing the increased demand. It is the vision of the Park Authority to enhance our community's quality of life. To do less would un-necessarily and unfairly impact the surrounding neighborhoods and diminish both property values and quality of life.

Definitions and Terminology

In order to clarify the concepts and information presented in this document, we must repeat much of the lighting terminology and definitions from the original 2005 Athletic Field Lighting Technical Report. In some cases the information has been simplified to better explain the definitions. Definitions and terminology are listed below.

Lumens

An electric lamp produces radiant energy (luminous flux) in the form of light. This "luminous flux" is expressed in lumens (lm). The lumen is the unit that quantifies the total amount of light emitted by a source. This unit is typically used to rate the light output of lamps. For example, the flame of a candle generates about 12 lumens. A standard 60 Watt incandescent lamp is rated at 890 lumens. A typical 1500 Watt lamp used for sports lighting is rated at 155,000 lumens.

Luminous Intensity (Candela)

Sports lighting fixtures (and many other fixtures, as well) use reflectors to concentrate the luminous flux from a lamp in a specific direction. This concentration of the luminous flux in a given direction represents the fixture's intensity in that direction. Intensity is also commonly termed "candlepower". The candela (cd) is the unit used to measure the intensity of light at a given angle. The familiar candle flame generates one candela in all directions. The candle is actually the historical basis for defining the candela. Designers are able to describe the intensity of a light in a given direction by determining the candelas from standard test reports.

Illuminance

Illuminance is the amount of light falling on a given surface; the more lumens that fall on the surface, the higher the illuminance. The unit of illuminance is expressed in foot-candles (fc) or lux (lx). A foot-candle is defined as one lumen uniformly distributed over an area of one square foot whereas a Lux is one lumen over a square meter. Illuminance is inversely proportional to the square of the distance between the light source and the surface. That is, the farther the surface intercepting a beam of light is away from the light source, the lower the illuminance.

Luminance

Luminance is a measure of luminous intensity reflected towards the eye per unit area of a diffuse surface. What the eye sees is related to luminance, and is expressed in candela per meter squared (cd/m²). For small sources at a large distance, however, the eye does not see luminance, but rather source appearance which is based on its intensity.

Brightness

The brightness of a source is the human subjective effect produced by its luminance. The term brightness is also used to describe the general or ambient perceived light level of an outdoor area.

The proper definition of "brightness" is "perceived luminance." That is, it is the luminance, or intensity per unit area, that creates a sensation on the retina. Actually, it is quite similar in meaning to luminance, but is affected by variables such as pupil size.

The area of a light source viewed at a reasonably short distance produces discomfort glare. However, when a small source is viewed from a considerable distance, its area has no effect on

the eye; it is perceived as a point source and thus its area has no meaning. The perception of such sources therefore is by intensity only.

Source Intensity

This defines the intensity of the lighting source(s) and is measured in candelas. It is an effective method of both calculating and measuring off-site light trespass impact. The concept of source intensity is defined further in CIE 150:2003 Guide on the Limitation of the Effects of Obtrusive Light from Outdoor Lighting Installations. Table 2.1 Environmental Lighting Zones and Tables 2.3 Maximum Values of Intensity of Luminaries give suggested values for source intensity.

Spill Light

Spill light is any amount of light that falls beyond the area that is being illuminated. Spill light is also known as light trespass. Spill light is measured and expressed in fc or lux, and is usually measured and calculated in the vertical plane at the edge of residential property lines at 5' above grade or horizontally at 3' above grade at the property line.

Glare

The IESNA defines glare as "the sensation produced by luminance within the visual field that are sufficiently greater than the luminance to which the eyes are adapted, which causes annoyance, discomfort, or loss in visual performance and visibility. The magnitude of the sensation of glare depends on such factors as the size, position, and luminance of a source, the number of sources, and the luminance to which the eyes are adapted." The IESNA definition does not take into account the source-to-background contrast ratio or the very recent discoveries of melanopsin and pupilary control mechanisms in the eye.

Response of the Human Eye to Light

To put other sections of this report in proper context and introduce some useful terminology, it is helpful to briefly review how the human eye perceives and reacts to light. The eye works very much like a camera with an iris diaphragm that controls the amount of light reaching the interior of the eye. The iris is followed by the lens that brings the light to a focus on the retina, which is the matrix of sensory cells that convert the light into electrical signals going to the brain. The various cells of the retina of the eye contain what are called visual pigments. These pigments, in the fully dark-adapted condition, are complex proteins consisting of two linked components. The pigments respond to light by "bleaching" (actually the dissociation of the two protein moieties). The brighter the light, the greater is the bleaching and the longer the regeneration time. The greater the bleaching, the lower is the sensitivity of the retinal cell. The retina contains three types of sensory cells:

- The rods are most numerous toward the periphery of the retina and contain the visual pigment rhodopsin. They are useful primarily in quite low light and provide monochromatic images (i.e., objects are perceived as dim in relatively dark shades of gray).
- Three types of cones, mostly concentrated in the central portion of the retina, provide
 color vision. They contain respectively photopsin I (erythrolabe), photopsin II
 (chlorolabe), and photopsin III (cyanolabe). Their peak sensitivities are in the red, green,
 and blue portions of the spectrum just like the sensor chip in a digital camera. (George
 Wald received the 1967 Nobel Prize in Medicine for his work on the three kinds of cone
 photopsins.)
- The spidery retinal ganglion cells contain the visual pigment melanopsin. These cells perform two different functions: (1) control of the size of the pupil of the eye in response to light, and (2) as the control that resets the body's day-night cycle clock. Prolonged exposure of melanopsin to bright lights during normally dark periods of the evening can result in significant disturbances of the sleep-wake cycle. The pigment melanopsin was discovered in 1998 by Ignacio Provencio (now faculty at the University of Virginia). Soon thereafter exploratory work on the functions of this pigment was undertaken by David Berson and his graduate students at Brown University. Major findings announced in 2002 and 2005 showed that in addition to control of the constriction of the pupil in response to light the pigment of these cells is the sensor that controls the setting of the circadian clock which in turn regulates many of the physiological functions of the body. In addition to its importance in the vertebrate animals, melanopsin has now been found to have importance in a number of invertebrates, as well.

Issues and Problems in Controlling Light Pollution

The main issues and problems of light pollution resulting from athletic field lighting may be summarized as follows:

Light Trespass

Light trespass is a term of relatively recent origin and denotes (1) light that spills beyond the boundaries of one property onto the surfaces of another, thereby producing unwanted illumination of it, and (2) glare that is generated by sources on one property that lie within the normal field of view of the occupants of another property. Increasingly, such light intrusions are being regarded as trespass violations every bit as serious as physical trespass of a person onto the property of another. Problems of illumination encroaching on adjacent properties are nearly always due to poor design and/or control of outdoor lighting such that surfaces on the adjacent property are illuminated by unwanted light. This problem can be readily avoided by the selection of proper fixtures, intensity levels and the use of timers and various sensors/controllers.

When light crosses property lines it can detract from the property value and quality of life of those whose property it is improperly directed. It can be a particularly objectionable problem when obtrusive recreational or commercial lighting is immediately adjacent to residential neighborhoods (or when a homeowner uses inappropriate fixtures, light levels and lighting duration, often in the interest of "security").

Lighting engineers often refer to light that trespasses across property lines to illuminate parts of an adjacent property as "spill light".

Glare

Glare is generally understood as excessive brightness occurring in the normal field of view. This indicates that the perception of glare results from an individual facing toward the light source so that the light from it directly enters the eye. In this way glare differs from spill light where the individual is not directly facing the source but is seeing the illumination of objects receiving light from it. Thus, the same light source (bulb/lamp) can produce both spill light and glare but the perception depends on whether the light rays enter the eye directly or illuminate an object which is viewed.

Glare, as defined by the Illuminating Engineering Society of North America (IESNA), falls into three main categories, which represent a difference of degree rather than a difference of kind:

Nuisance or annoyance glare – Nuisance glare diverts one's attention away from the activity of interest to the intrusive light source and results in complaints such as, "The light is shining in my window."

Discomfort glare – Discomfort glare may not necessarily reduce the ability to see an object, but it produces a sensation of discomfort due to high contrast or non-uniform distribution of light in the field of view.

Disability glare – Disability glare (sometimes less accurately referred to as veiling luminance) is caused by an overly bright light source that shines directly into one's eyes and is dangerous because it is blinding (i.e., it totally overloads the eye's light sensor cells by causing excessive bleaching of the visual pigments which in turn causes very long regeneration times). Some of the new high intensity automobile headlamps are examples of this level of glare source.

Glare may be a significant problem that seriously impairs both safety and quality of life. Glare can be a serious safety hazard (for example for drivers and pedestrians) in that it demands attention since one's eyes are naturally attracted to bright light, and at night this destroys the eye's dark adaptation (i.e., the eye's sensitivity to lower light levels). Dark adaptation is due to restoration of the linkage of the two protein components of the visual pigments. Quality of life is adversely impacted by obtrusive lighting by commercial establishments; and selection of inappropriate fixtures for exterior residential lighting, and outdoor lighting at some public facilities, such as park and school recreation fields. High intensity lights and their placement as used to adequately illuminate recreational fields in parks and at school properties is a unique concern. Glare and excessive illumination (which, as noted above, are two separate problems) when cast into surrounding residential neighborhoods not only detract from the quality of life but can make it difficult for pedestrians and homeowners to see their surroundings. Recent installations of athletic field lighting in parks that use current lighting technology have vastly reduced the impact of glare and excessive illumination over older, non-cut-off lighting.

Both spill and glare may be present in a given situation. Illumination, that is, the amount of light energy falling on a surface, is readily measured by simple hand held instruments and is expressed in foot candles. The County's current Outdoor Lighting regulations do not provide for a maximum allowable footcandle standard at a property line, although the Park Authority uses a maximum of 0.5 footcandles as an acceptable maximum limit for illumination at the property lines that border their facilities. Recent lighting installations at our county parks are consistently meeting the standard for spill light and the design specifications which follow in this document ensure that this will continue to be the case. It is noted that prior to the adoption of the current Outdoor Lighting Standards, the County's Zoning Ordinance contained a provision that prohibited illumination in excess of 0.5 footcandles at the property line of a residentially zoned

property. The recently adopted Outdoor Lighting Standards shift the focus of prevention/protection from illumination limits at a property line to the more pertinent, and complex issue of glare. The more recent standards for outdoor are geared toward preventing or reducing spill and glare, primarily by requiring that lighting fixtures incorporate appropriate shielding. These standards include a requirement that a Sports Illumination Plan (SIP) be submitted for all outdoor recreation facilities that include illuminated playing fields and/or courts that individually or cumulatively exceed 10.000 square feet in area, and/or have light poles that exceed 20 feet in height. The SIP submission requirement is designed to ensure that on-field and near-field lighting is maintained at appropriate levels and that all field/court lighting fixtures are either full cut-off or directionally shielded. The SIP also requires that on-site lighting fixtures that are not used for field/court lighting be full cutoff.

Glare or excessive brightness is a more complex and difficult-to-measure phenomenon. It is experienced when the light producing source (the bulb/lamp) is directly visible, but also depends on the luminance (brightness) of the source and on the contrast between that source and the surrounding background. For example, even a very bright light source viewed against a daytime sky doesn't seem particularly glaring or objectionable, but the same source viewed against a fully dark night sky is very objectionable and seems so bright as to be almost painful. One of the problems in addressing this kind of light trespass, or more properly glare trespass, is that there have not been good standards for acceptable limits, and instruments to measure this kind of glare are necessarily complex and difficult to operate.

Glare experienced from high-intensity sources, like those used to light athletic fields, is a result of the source-to-background contrast ratio. A typical field lighting fixture seen against a very dark sky seems very intense and intrusive, but if seen against a day time sky seems hardly noticeable. One can also readily see this by viewing a full moon at 2:00 or 3:00 a.m. when it appears as an intense disc so bright that it shows few features and will actually cast shadows. However, the same moon viewed at 9:00 or 10:00 a.m. is a very pale appearing disc with only slight contrast against the daylight sky and shows an extensive array of features. This effect is due to the great difference in contrast with the background against which it is viewed. The mathematical difference between the source and the background is known as the source-to-background contrast ratio. Unfortunately this is a fundamental law of nature over which there is no control.

Limits on Management and Control of Glare

Glare is recognized as a significant and pervasive problem, but one that for which there are very limited solutions. The Fairfax County Park Authority has attempted to address public demand for sports field availability by installing synthetic turf and lighting to increase the hours of availability of existing sports fields. Being aware that it bears a special responsibility to ensure that such lighting systems minimize adverse impact on adjacent residential neighborhoods it has continued to seek ways to avoid such impacts. It has been suggested that the problem of glare could be relatively easily solved by installing "full cut-off", i.e., fully shielded light fixtures, or in some cases using supplementary shielding panels, to prevent glare trespass onto adjacent residential properties. Indeed, the International Dark-Sky Association in its outdoor lighting handbook has colored illustrations of a field lighted with full cutoff fixtures that appear to minimize the glare problem, but a detailed engineering analysis shows that the pole placements required and the fact that most of our fields are multi-use and are located less than 300-500 feet from the property lines make this a non-viable solution for Fairfax County. However, in order to illuminate field surfaces adequately lights must be mounted on tall poles. This means that even when the sides of fixtures are shielded the light source is still visible through the bottom of the fixture when one is close to it. Glare impacts may still result when using full cut-off fixtures when athletic fields are in close proximity to neighboring houses. In some cases with aimable fixtures it is possible to place them on taller poles which permit steeper aiming angles and thereby reduce the distance at which the bulb is visible. On a baseball field near an adjacent neighborhood the Park Authority has had excellent results with this method.

Test results from a pair of rectangular fields outfitted with lights have been very informative. While the illumination of the surface of the first field is very good and light spillover illumination at the property line, which is only 70 feet from the field edge, meets the Park Authority's standard of 0.5 footcandle, the glare from the fully exposed, 1,500 watt lamps on 70 foot tall poles facing a residential neighborhood is intense (in the range of 12,000 lumens at 200 feet). An adjacent field outfitted with an advanced model of fixtures of the same type shows outstanding illumination of the field surface but no improvement in glare. The Park Authority's recently drafted specifications fully address the light spill problem but are unable to fully address the glare problem since it is primarily governed by fundamental laws of nature over which man has no real control. The ultimate consideration when glare becomes a pivotal issue is the decision for a particular site of "to light or not to light". Some additional measures that might well be considered as new modifications to the Outdoor Lighting Ordinance would include screening requirements, separation distances from property lines, pole heights, and field orientation as a test of whether a site is a good candidate for lighting. It should be noted, however, that field orientation during the initial master planning stage may make it possible to minimize glare problems, but this is unusual when retrofitting lights to existing fields.

Some of the problems with lighting that have resulted in the most frequent and strident complaints are lights left on after users have left the field or lights that are set to turn on automatically for scheduled activities but users have not shown up. These are operational and scheduling problems and not subject to engineering solutions. It is important to remember that a typical four pole rectangular field has lights that consume electrical power at the rate of 42 kilowatts. (Power consumption, i.e., what one is billed for, is measured in kilowatt-hours.) Thus, burning those lights incurs a considerable operating expense. Hence, rigorous control of scheduling and supervision of field usage is essential.

These same concerns apply equally to the Fairfax County Public Schools, which also use lighted sports fields and frequently have security lighting that remain on all night.

Engineering Considerations

In 2005, DMD and Associates Ltd and SWSG, PC co-authored the Athletic Field Lighting Technical Report for the Fairfax County Park Authority. The report focused on sports lighting standards and a review of various supplier's products. The report also discussed fundamental concepts and industry standards, reviewed the requirements of the Fairfax County Zoning Ordinance, and included analysis of various products and recommendations. The Park Authority is currently using the Athletic Field Lighting Performance Specifications that were developed in conjunction with the Athletic Field Lighting Technical Report and recommendations of EQAC. Performance standards for spill light and source intensity are specified for rectangular and diamond fields. Fairfax County Park Authority's Athletic Field Lighting Performance Specifications are comprehensive, aggressive and stringent specifications - when compared to other jurisdictions in the surrounding area and on the mid-Atlantic region. The Park Authority has installed nineteen fields using the established performance specifications. Measured source intensity and spill have been substantially reduced compared to previously installed systems. The Fairfax County Park Authority will continue to monitor the performance of our field lighting systems and will strive to improve our standards as lighting technology advances.

The Fairfax County Park Authority prepared this White Paper as a follow-up to the original 2005 report. The intent of this White Paper is to further explain the relationship between glare and source intensity and to document the limits that control of source intensity has on glare.

The initial scope of this White Paper was to discuss and elaborate further on the glare analysis method noted in the 2005 Athletic Field Lighting Technical Report. Upon further review it was determined that the design method noted in the 2005 Report as "glare analysis" was better defined by the use of term "source intensity" as it better represents the methods of analysis noted in that report. At this time no one has developed a viable method for fully controlling glare since it is dependent on the source-to-background contrast ratio over which we have no control.

Therefore the Park Authority's standards are directed at controlling the source intensity to minimize the effects of light trespass.

Source intensity is a published method of estimating the off-site impacts of a sports lighting system. The International Commission of Illumination (CIE) has also produced a document CIE 150:2003 Guide on the Limitation of the Effects of Obtrusive Light from Outdoor Lighting Installations which defines limitations for source brightness (intensity) and spill light for outdoor lighting applications. IESNA TM-11 Lighting Trespass: Research, Results and Recommendations states, "Source brightness had been generally identified as being the principal characteristic [of athletic field lighting] to which persons object. Spill light was seen as a less significant effect. It was decided, therefore, to design experimentation to identify quantitatively the relationship between source brightness and the degree to which the light source was found objectionable."

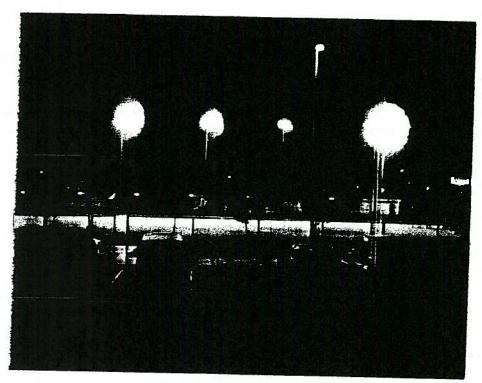
Relationship Between Glare and Light Source Intensity

Though the term "glare" has been used in the 2005 Athletic Field Lighting Technical Report the term "source intensity" is a better representation of the methods noted in that report. Source intensity can be directly measured and is partially related to, but as explained earlier by no means equivalent to the perception of glare.

Source intensity applies to each sports lighting luminaire in the potentially obtrusive direction, outside of the area being lit. One can both calculate and measure light source intensity for any given sports lighting luminaire.

Unlike glare there are levels given in documents noted below which define allowable levels of source intensity for given types of areas. The basic principal here is the lower the light source intensity when viewed from a given specific point of interest, such as a residence, the less obtrusive the lighting will be.

Photograph 1.1 shows four different groups of sports lighting fixtures of the same beam type and wattage aimed at the same point on the field. This photo demonstrates how fixture optics can lead to different levels of source intensity when viewed from a defined location off the field. Aiming, wattage, supply voltage and other aspects of the demonstration shown in the photo have been verified to ensure an accurate comparison. Note the fixture intensity as captured (in the foreground) is a low wattage parking lot light. Each of the group of sports lights has different optics and shielding, which results in various levels of intensity. The intensity of light emitted from the fixtures, as observed in the photograph, varies greatly at this viewing angle.



Photograph 1.1

From the Park Authority's experience source intensity has been generally identified as being the principal characteristic to which residents object. We have found by reducing the source intensity residential concerns and issues are mitigated. We have found source intensity levels (when viewed off-site) to vary depending on the product, even though most products illuminate the playing fields to the required on-field lighting levels.

In Photograph 1.1, the third cluster of lights from the left is far less bright than the others. The third cluster of lights has superior spill and source intensity control optics and is less obtrusive than the others and demonstrates how the control and direct measurement of source intensity limits the perceived effects of glare.

The measurement of source intensity can be performed and is a simple way to evaluate sports lighting and at least partially limit its impacts. Though we agree a comprehensive glare calculation would be a better method of analysis than source intensity, there is not an agreed upon method for glare measurements nor is there research to define not-to-exceed levels.

Calculating Source Intensity

Laboratory photometric testing is used to establish the basis for performance and output of the proposed fixture. Photometric testing of a fixture involves gathering data that characterizes its intensity (or candlepower) distribution. Once the intensity values in all directions of emission are known, it is developed into photometric test reports. The measurement device used in a laboratory is a goniophotometer. Several different types of this instrument are used to rotate a photo-detector around the fixture, through both horizontal and vertical angles. Light readings are taken in fine angular steps at numerous points throughout the angular grid, so that the full lighting distribution is accurately quantified.

Data processing software reads the collected intensity array and produces test reports that provide the various required tables and graphs. Also produced is an electronic data file that stores the intensity (candela) array and other required information in a standard file format. This file (most common file format is that established by the IESNA) can be used as input data for computerized lighting design software performing the lighting design.

To assess the source intensity of a fixture one can simply review the sports lighting suppliers' photometric report, which can be obtained in PDF format from the sports lighting supplier. A sample photometric report is shown in the figure below.

The report below represents a typical sports lighting fixture from a supplier. The test report should be produced by a third-party testing agency for the supplier. Sports lighting fixture suppliers normally can provide such reports on any of their fixtures. These reports are the basis of the digital IESNA photometric files used for computerized lighting calculations.

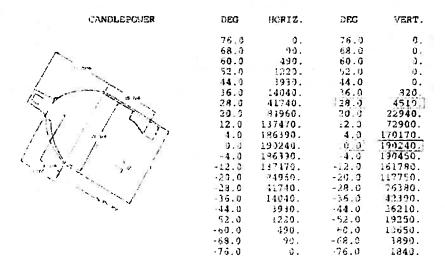


Figure 1 - Example of Fixture Photometric File

Figure 1 above shows the various levels of intensity (candlepower) at various angles in both the vertical and horizontal planes. We have found intensities in the vertical plane to be the most significant and typically have the most impact on adjacent residences. From the photometric report one can see the most intense part of the vertical beam (190,240 cd) is at an angle of 0 degrees which is aimed to a defined location on the field. The most intense light is emitted at the (0, 0 angle) with the intensity decreasing as the angles (DEG) increase as shown in the table above. The positive vertical angles (DEG) define the upper part of the fixture beam and negative vertical angles (DEG) define the lower part of the fixture beam. The intensities at the upper (positive) vertical angles are typically the most visible when viewed from residences off site. As one can see, far less intensity is emitted from the upper angles than from the equivalent lower angles.

When undertaking lighting design, one must prepare lighting calculations to determine the on-field and off-field spill light levels. The designer selects a mounting height and aims the fixtures to various points on the field. The lighting design results should produce uniform illumination on the field. The fixture aiming points along with the fixture photometric files are a key to assessing off-site intensity (candlepower). This shall apply to all field types.

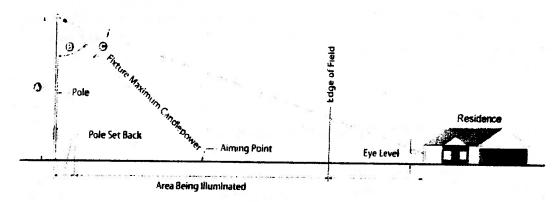


Figure 2 – Defining Source Intensity

To determine the source intensity of a given fixture when viewed from the point off site (as shown in Figure 2) one can undertake the following steps:

- Obtain fixture photometric report data files from supplier.
- Determine aiming angles from supplier or consultant for the computerized lighting calculations.
- The aiming angles (B) are based on the aiming point and fixture mounting height (A).
- The fixture aiming position will be the maximum candlepower at angle zero from the supplier's photometric report (see table on Figure 1).

• Determine the vertical angle (C) between the aiming point and the point 5 ft above grade at the residential property line. This angle is typically 20 to 30 degrees. If this angle was found to be 28 degrees, then based on the photometric report above the source intensity would be 4510 cd.

The intensity (candlepower) will be quite similar for various beam types from one supplier to another, in the lower and upper vertical angles range. Vast differences will be found from one supplier to another in 20 to 30 degree vertical ranges, which are the typical angles the fixtures will be seen from adjacent local residences.

As part of the fixture and mounting height selection process, it is recommended that the lighting designer should review the supplier's fixture candlepower curves and select the appropriate fixture mounting height and optical system so that from any given fixture no greater than 12,000 candlepower will be visible from the adjacent residential property lines.

This method of using the fixture supplier's candlepower curves to assess intensity (candlepower) is a common sense approach. The 12,000 cd level is the level recommended in the FCPA Lighting Specifications and was based on assessment, over the years, of products and public feedback from many sports lighting installations. Lower candlepower levels should be strived for as the lower the level the less the impact on the local residents. Care must be taken not to reduce the vertical light component too far, as it can be critical to sports such as baseball, which require vertical illumination to properly illuminate the ball.

Field Measurement of Source Intensity

Field photometric measurements are used to verify and monitor performance of the lighting system design. Similar types of photo-detectors, or photocells, are used for both laboratory and field measurements. Laboratory testing requires that the photo-detector be moved to many different positions around the fixture tested, so that its complete photometric distribution can be charted. However, field photometry measurements involve the use of a portable instrument known as a light meter with a photo-detector that can be placed at numerous locations around the field to assess the performance of the entire lighting system. The light meter measurements are given in foot-candle or lux.

Sports lighting calculations are typically performed using computer analysis with lighting design software and the fixture supplier's IESNA photometric files. The designs are undertaken via a trial and adjust process to meet the lighting criteria. Mounting height, number of poles, fixture wattage, number of fixtures, fixture aiming and fixture photometric files all have impact on the on-field and off-field lighting calculation results. Lighting calculations provide a fairly accurate

representation of the anticipated on and off-field light levels. This method has traditionally been used to analyze and refine a sports lighting design.

Recommendations and Conclusions

- There is no readily available direct method to measure glare. It is a perceived effect that
 is dependent on the source-to-background contrast ratio and it also varies from observer
 to observer.
- Light source intensity is an easily measured quantifiable effect that is indirectly related to glare.
- The International Commission of Illumination (CIE) has issued guidelines for light source intensity.
- There are many ways to reduce source intensity as viewed by local residents and still meet the required on-field lighting requirements. Shielding, reflectors, wattages, beam types, mounting height and aiming angles all impact the source intensity and are key considerations in reducing glare.
- Consideration should be given to locating fields during the master planning process to take advantage of natural screening in order to reduce light trespass impacts. The location, alignment, and layout of fields with respect to reducing light trespass impacts will reduce potential spill and glare impacts.
- Problems related to illumination encroaching on adjacent properties can be reduced by the selection of proper fixtures, intensity levels and the use of timers and various sensors/controllers.
- Rigorous control of scheduling and supervision of field usage is essential in addressing complaints related to the operational and scheduling problems such as lights left burning before and/or after field use.
- In cases where properties are in close proximity to fields, and the location/layout of the
 fields can not be adjusted to reduce spill and glare, Park Authority Standards need to be
 examined and modified as needed to reduce impacts to neighboring residences.

References

- Illuminating Engineering Society of North America, IESNA Lighting Handbook (8th Edition), IESNA, New York, NY, 1993.
- Illuminating Engineering Society of North America IESNA RP-33-00, Lighting for Exterior Environments, IESNA, New York, NY, 1999.
- Illuminating Engineering Society of North America, IESNA TM-11-00, Light Trespass: Research, Results and Recommendations, IESNA, New York, NY, 2000.
- CIE 150:2003 Guide on the Limitation of the Effects of Obtrusive Light from Outdoor Lighting Installations, ISBN 3 901 906 19 3
- CIE112-1994 Glare Evaluation System for Use within Outdoor and Area Lighting

ATHLETIC FIELD LIGHTING SYSTEMS

Performance Outline Specifications

Revision 3.3

July 28, 2010

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ATHLETIC FIELD LIGHTING SYSTEMS SYSTEMS PERFORMANCE OUTLINE SPECIFICATIONS

1.0	AF	PPLICABILITY	
	The type	ese Specifications are applicable to and prescribe minimum performance reces of athletic fields (see Attachment Figures 1 to 6 for field layout drawings):	quirements for the following
		Field Type	Field Dimensions
	1		180 ft x 360 ft
	2		210 ft x 360 ft
	3.		200 ft x 200 ft x 200 ft
	4.	Slow Pitch / Softball Diamond Field (see Figure 4)	300 ft x 300 ft x 300 ft
	5.		310 ft x 380 ft x 310 ft
	6.	Overlay Field (Slow Pitch / Softball Diamond and Small Rectangular Field	s) (see Figure 6)
2.0	GE	NERAL DESIGN CRITERIA	
	1.	IBC International Building Code	(IBC)
	2.	Virginia Uniform Statewide Building Code	(VIISBC)
	3.	Fairfax County Zoning Ordinance (December 5, 2006)	(FC70)
	4.	illuminating Engineering Society of North America standards	(IFSNA)
	5.	American Association of State Highway and Transportation Officials	(AASHTO)
	6.	Class of Play Category (IESNA RP-6-01)	
	7.	Lighting Environmental Zone Classification (IESNA RP-33-99)	F2 and F2
	8.	Luminaires (including spill and glare control devices)	111 1500 00
	9.	Light Loss Factor (LLF)	0.00
	10.	Aimable system	when applicable.
3.0	ELE	CTRICAL REQUIREMENTS	
	1.	Voltage	480 Volt 3 Physa
	2.	Voltage drop (max)	the total electrical system
	3.	Lamps	1 500 Wat metal ballat
	4.	Electrical equipment enclosures	NEMA 3R

4.0 LIGHTING PERFORMANCE REQUIREMENTS

(see Table 1 below)

5.0 REMOTE CONTROL SYSTEM REQUIREMENTS

- 5.1 A security code based, 24-hour, remote control system that enables Owner and/or authorized user to remotely turn the system on or off, control the field lighting schedule, and monitor the system, using telephone and web based or software driven computer.
- 5.2 The remote control system shall be protected against power outages and memory loss, shall reboot to real-time once power is restored, and execute any commands issued prior to the outage.
- 5.3 The remote control system shall monitor and provide reports of actual lighting system usage.
- 5.4 On-site equipment shall include manual on/off switches for maintenance and for manual operation.
- 5.5 System shall be capable of operating any given field from multiple computers via the Internet.

6.0 POLE AND FOUNDATION REQUIREMENTS

- 6.3 Pole Material Hot-dip galvanized ASTM A595 Grade A or A572 Grade 65 steel, or precast concrete

- 6.6 Design of poles and foundations shall be based on the 2003 edition of the International Building Code, wind speed of 90 mph, 3 second gust, exposure category C.
- 6.7 Design of luminaire, visor, and crossarm assembly shall be based on AASHTO: Wind speed of 125 mph with 1.3 gust factor, and maintaining luminaire aiming alignment.
- 6.8 Soil Conditions: Owner to provide geotechnical information (Boring Logs) at time of bid.
- 6.9 Design of poles, pole foundations, and crossarms shall be certified, signed and sealed by a Virginia State licensed Professional Engineer.

7.0 WARRANTY AND MAINTENANCE REQUIREMENTS

- 7.1 The lighting system manufacturer shall provide all materials and labor to ensure all lighting system components, excluding lamps, remain in good operating condition for a 10 year Warranty Period.
- 7.2 The lighting system manufacturer shall provide all materials and labor to ensure the lighting system performs as designed, throughout the Maintenance Period of 9,000 service hours or 15 years, whichever occurs first. During the Maintenance Period the manufacturer shall:
 - Maintain horizontal lighting levels within ±10% of the maintained average horizontal illuminance level for the entire field.
 - Group-replace all lamps when they reach the end of their service life as specified by the lamp manufacturer.
 - Spot-replace individual lamps when 10% of the lamps are extinguished on the entire athletic field or more than one lamp is extinguished on any one pole.
- 7.3 All repairs shall be made within 2 weeks of notification.

TABLES

Table I . Lighting Performance Requirements

THE COURSE OF THE COURSE AND A COURSE OF THE COURSE OF THE

JCHTING PRPEODMANCE DECIMPERSORES	RECT	RECTANGULAR FIELDS	ELDS	7(a	DIAMOND FIELDS	rDS
A CONTRACT NEGOTIVE N	On-Field	Off-Field Off-Field Standard B	Off-Field Standard B	Infield	Outfield	Off-Field Standard B

ON-FIELD ILLUMINATION REQUIREMENTS

7 164				
Class of Play Calegory [IESNA RP-6-0]	III	-		
		=	-	83
LIEBUILE ENVIRONMENTAL CONE CIASSIFICATION [IESNA RP-33-99]	E2 ~ E3	E	3	
ight occ Factor of Ex		,,		
THE TOTAL OF THE CONTRACT OF T	08.0	=	080	
Maximum on field maintained contract				
Market Market Inch Individual average notizonial illuminance (FCZO)		20 C	444 5	
Sec. 14-97	2	 3 00	3	
Minimum on-lield maintained average bostonical illingia				
The state of the s	33 fc	2) 42	32 %	
Taifornity Ratio (max)		20.00	23.15	
CHICAL THE CHIEAN		1.6	1.50	
On-field calculation aris and an		÷ • •		
Since the special spec	30 ft 1, 30 ft	20 6	30.6	
Cla-field manufacture and description	1201	 11 (1)	11 11	_
Consider the same in Film spacing (max)	30 ft x 30 ft	30 02	20 6- 20 6	
			= = = = = = = = = = = = = = = = = = = =	

OFF-FIELD SPILL LIGHT LIMITATION REQUIREMENTS

S X C	l Su fi	30 fi
0.3 fc 0.8 fc	150 Ու	30 n
Maximum permitted initial vertical spill light	Listance from the edge of the playing surface, foul line, or outfield fence line to the off-field Spill Light Measurement Line	Carculation and measurement point spacing along the off-field Spill Light Measurement Line

OFF-FIELD GLARE (SOURCE INTENSITY) LIMITATION REQUIREMENTS

M. STREMENTS	EMENTO				
Maximum permitted initial glare	-	7,000 cd 12,000 cd			Pro CHAD CT
Ustance from the edge of the playing surface, foul line, or outfield fence					2000
line to the off-field Glare Measurement Line		200 ft			200 ft
Calculation and measurement point spacing along the off-field Glare					
Measurement Line		30 ft	-		30 ft
				•	

Notes.

1. OnFried Standard: A 'is generally applicable to rectangular jields with an edge of the playing surface within 200 Ji from an adjacent residential property line.

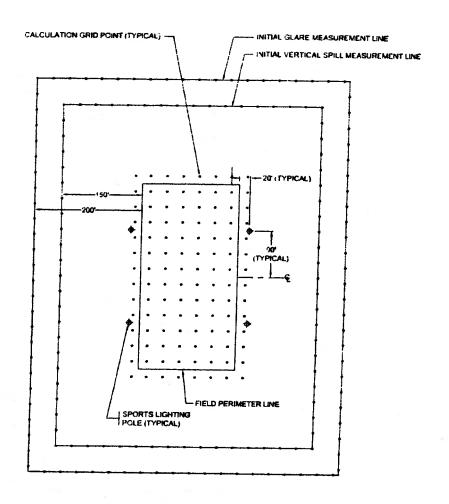
Table 2 • Lighting Pole Height Requirements (relative to reference ground elevation of playing field)

Attachment Figure	ATHLETIC FIELD		POLE HEIGHT	
	Туре	Poles	Min.	- Max.
l	Small Rectangular Field (180ft x 360 ft)	All		
2	Large Rectangular Field (210 ft x 360 ft)	All	70	_
3	Little League - U13 / Fast Pitch Diamond Field (a.k.a. 60 ft Diamond Field)	A		0
.,	(200 ft x 200 ft x 200 ft)	В		
	Slow Pitch Softball Diamond Fleid	9A	1	
4	(a.k.a. 65 ft Diamond Field)	В	80	90
	(300 ft x 300 ft x 300 ft)	С		
		A	/0	
5	Babe Ruth Baseball Diamond Field (a.k.a. 90 ft Diamond Field)	В		
	(310 ft x 380 ft x 310 ft)	C		
		D	70	
_	Overlay Field	A	I	
6	(Combined Slow Pitch Softball Diamond and Small Rectangular Fields) (see dimensions above)	В	80	
		C	70	
		D	~ /	

TYPICAL ATHLETIC FIELD LAYOUTS FIGURES 1 - 6

GLARE ANALYSIS

FIGURE 7

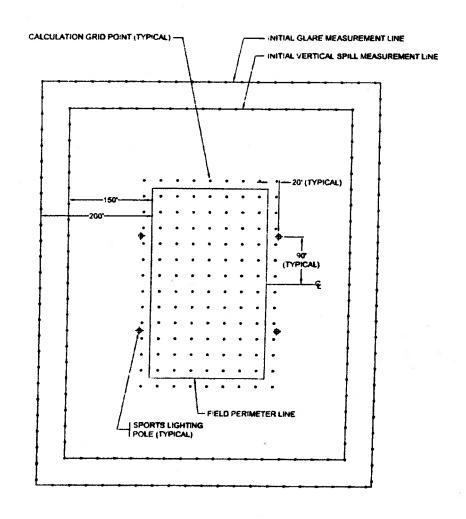


SMALL RECTANGULAR FIELD LAYOUT

0 50 100

FIGURE 1

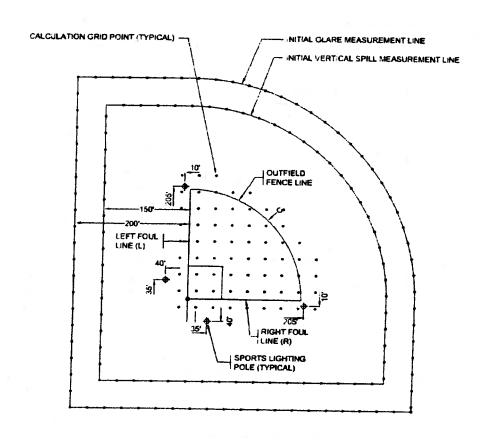
216



LARGE RECTANGULAR FIELD LAYOUT (210'W x 380'H)

0 50 100

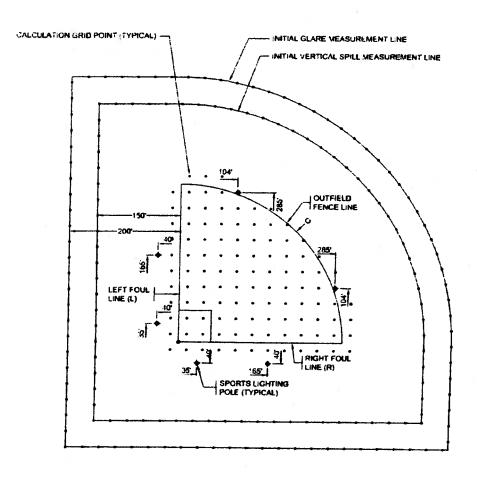
FIGURE 2



POLE LOCATION DIMENSIONS ARE RELATIVE TO HOME PLATE (0,0 REFERENCE POINT) **

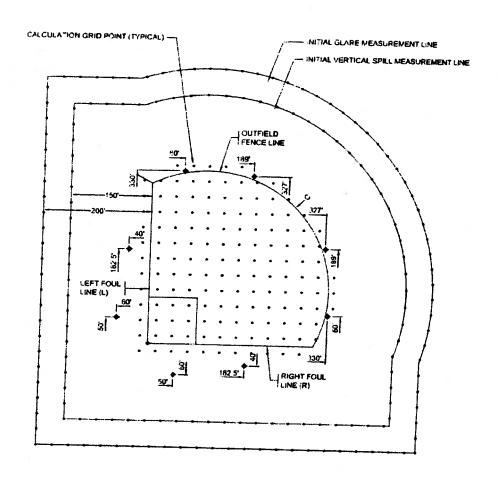
LITTLE LEAGUE - U13 / FAST PITCH DIAMOND FIELD LAYOUT (L-200°, C-200°, R-200°)

0 50 100



POLE LOCATION DIMENSIONS ARE RELATIVE TO HOME PLATE (0.0 REFERENCE POINT) &

SLOW PITCH / SOFTBALL DIAMOND FIELD LAYOUT L=100', C=300', R=300')

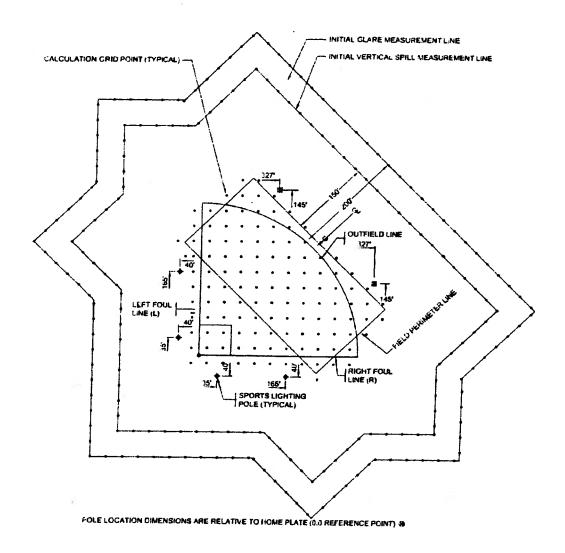


POLE LOCATION DIMENSIONS ARE RELATIVE TO HOME PLATE (C.C REFERENCE POINT) @

BABE RUTH / BASEBALL DIAMOND FIELD LAYOUT

(L+310", C+380", H=310")

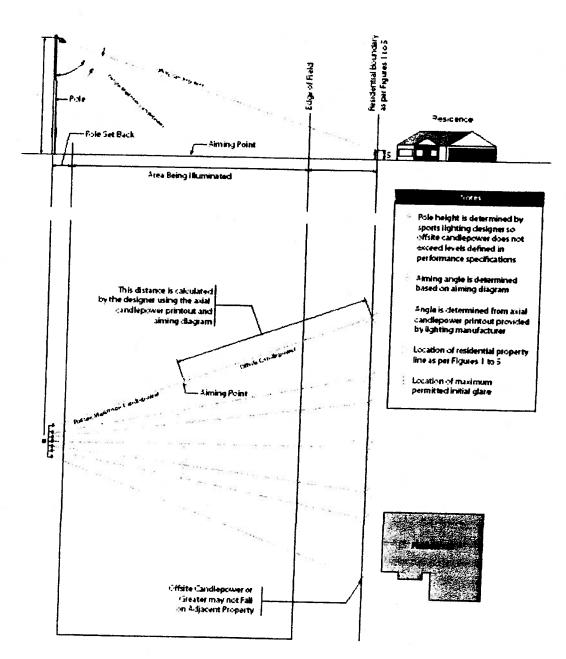
0 50 100



SLOW PITCH / SOFTBALL DIAMOND -SMALL RECTANGULAR FIELD OVERLAY FIELD

(L=300', C=300' R=300') (180'W x 360'H)

0 50 100



Glare Analysis

Supplemental Material Submitted By The Seminary Hill Association, Inc. (SHA)

Members of the Board of Zoning Appeals City of Alexandria 301 King Street Alexandria, VA 22314

October 4, 2011

Re: BZA Number 2011-0012, 4646 Seminary Road, Appeal of Planning Director's Determination

Gentlemen and Lady:

On June 20, 2011, Seminary Hill Association, Inc. (SHA) and Don Fullerton appealed the June 16, 2011, determination by the Planning Director that the purported applicant, Alexandria City Public Schools (ACPS), was entitled to partial or full relief from zoning and city code obligations relating to height, setback and illumination. In addition to the positions staked out in the Appeal, we have obtained a Memorandum of Understanding (MOU) between ACPS and the Department of Recreation, Parks and Cultural Activities (RPCA) that conclusively demonstrates that RPCA is the true and sole party in interest in the Special Use Permit (SUP) application (not the ACPS). Because RPCA is the true applicant, it may not take advantage of the height restrictions applicable to the construction, expansion or reconstruction of public schools.

We have also received documents in response to the Freedom of Information Act (FOIA) which (1) demonstrate conclusively that the illumination requirements in Section 13-1-3 of the City Code apply and (2) further substantiate that RPCA is the party in interest for purposes of the height regulations.¹

In common parlance, the MOU and the FOIA documents are "smoking guns" on the height and illumination issues, and the Planning Director's June 16 Determination must be reversed as a matter of fact and law.

This letter supplements the positions explained in the June 20, 2011, appeal, which continues to apply in full. 2

STANDARD OF REVIEW

In 2007, the Supreme Court of Virginia set forth the standards in evaluating whether a Planning Director's determination must be reversed. Trustees of Christ and St. Luke's Episcopal Church v. Board of Zoning Appeals of City of Norfolk, 273 Va. 375, 641 S.E.2d 104 (2007). In Board of Zoning Appeals v. 852, LLC, 257 Va. 485, 514 S.E.2d 767 (1999), the landowner challenged the zoning administrator's interpretation of the York County Zoning Ordinance

² Appellant Fullerton has filed a separate supplement to the June 20 Appeal simultaneously. SHA adopts and incorporate appellant Fullerton's supplement in full.

¹ The fact that RPCA is the party in interest is relevant to the height issue only. The identity of the party in interest is irrelevant to the illumination issue – all are required to comply with the Illumination restrictions of Section 13-1-3 of the City Code, regardless of which department of the government is the party in interest.

governing the calculation of density credits which determined the amount of developable land. The Supreme Court of Virginia held that the zoning administrator's interpretation was plainly wrong, and it reviewed the principles governing the assessment of the administrator's interpretation of the zoning ordinance:

When an ordinance is plain and unambiguous, there is no room for interpretation or construction; the plain meaning and intent of the ordinance must be given it. Donovan v. Board of Zoning Appeals, 251 Va. 271, 274, 467 S.E.2d 808, 810 (1996); McClung v. County of Henrico, 200 Va. 870, 875, 108 S.E.2d 513, 516 (1959). . . "Nevertheless, if the administrative interpretation of a portion of an ordinance is so at odds with the plain language used in the ordinance as a whole, such interpretation is plainly wrong, and must be reversed." Cook v. Board of Zoning Appeals, 244 Va. 107, 111, 418 S.E.2d 879, 881 (1992).

The Trustees of Christ decision confirmed that this standard still applies. Any deference given to the Planning Director's determination is limited to interpreting ambiguities and confusion in the code. No such ambiguities and confusion exist here. As explained in detail in the June 20 appeal, this supplemental letter, and appellant Fullerton's supplemental letter, the Planning Director's decision is fatally flawed because, among other reasons, it is plainly wrong and is at odds with the plain language of the ordinance (both in specifics and as a whole) regarding height, setback and illumination. Adding weight to this finding is that the Planning Director is plainly wrong on the facts. As a result, the Supreme Court of Virginia has found that that such plain error "must be reversed."

After considerable research, SHA has been unable to locate a single determination in Virginia remotely close to the Planning Director's determination here. SHA has located other Virginia jurisdictions specifically rejecting the unsupported opinions the Planning Director urges here, and requiring local governments to comply with the Zoning Code as written when seeking to install stadium lighting in residential zones. For example, on April 22, 2011, the Loudon County Zoning Administrator issued a determination that found, among other things, that the Loudon County RPCA must comply with illumination and lighting standards that are nearly verbatim to Section 13-1-3 of the Alexandria City Code.

SETBACK

For the reasons set forth in the June 20 appeal, and in appellant Fullerton's supplemental appeal, the Planning Director's June 16 determination regarding setback must be reversed because a SUP and a site plan are wholly independent and separate legal documents under the Zoning Code, with different purposes and standards, and it is contrary to the plain language of the code to pretend that a SUP could borrow from a site plan standard to evade compliance with code. In any case, even under the Planning Director's plainly wrong determination, the SUP application must be returned to the Planning Commission for it to make a finding whether there is any detrimental impact upon the neighborhood, in accordance with the provision that the Planning Director's determination says is applicable here.

d

ILLUMINATION

As explained in detail in the June 20 Appeal, Hammond is zoned as an R-8 property and is therefore required to meet illumination restrictions in Section 13-1-3 of the City Code. To summarize, Section 13-1-3 limits illumination into side and rear yards to .25 footcandles. In this instance, the lights would spill about .44 footcandles (taking the contractor's calculation at face value). In her June 16 determination, the Planning Director simply states that this section does not apply, providing no reasons or explanation. Instead, the Planning Director states in response that the applicant can meet the .60 footcandles restriction applicable to public sidewalks. In addition to being irrelevant and non-responsive, FOIA documents revealed that the Planning Director, RPCA, ACPS, and others in city government (such as Transportation and Environmental Services) admit and know full well that Section 13-1-3 applies, and are simply choosing to ignore their own formal decisions and the plain language used in the ordinance.

After the city filed the SUP application, the city conducted a normal review of the application. In correspondence to the applicant and its contractor, the city's Department of Transportation & Environmental Services (T&ES) and Planning and Zoning (P&Z) submitted comments on the application (Exhibit 5). Significantly, P&Z and T&ES wrote the following comment back to the contractors on December 10, 2010:

Lighting should be shielded to mitigate impact upon adjoining properties per Section 13-1-3 of Code of the City of Alexandria, 1981, as amended.

Exhibit 5, page 4. To make sure that this point was understood completely and fully, a city employee handwrote a notation immediately after this comment stating "0.25 foot candles @ property line." *Id.* The city also attached Section 13-1-3, and underlined the specific illumination restrictions. There was no misunderstanding -- the city concluded unequivocally that Section 13-1-3 applies and the stadium lighting must comply with those legal restrictions (just as it would to any other property owner.) Exhibit 5, pp. 6-7. Every department was given an opportunity to comment on these instructions to the applicant, and all chose to accept it and send it to the applicant.

On January 20, 2011, the contractor, on behalf of the applicant, submitted a formal response to those comments. Among other things, it stated that:

The proposed lights will use technology that shields and directs the lights to prevent glare on neighboring residential properties along the south side of North Pickett Street, the east side of Seminary Road, and the west side of North Pegram Street. Lighting levels will meet City of Alexandria code requirements set forth in Section 13-1-3.

(Exhibit 6, p. 2). Again, to make sure they were being clear, RPCA and the contractor put those words in italics and bold in the original.

³ The calculation of .44 footcandles was a conclusion reached by the contractor, without any oversight or scrutiny by any city official. The FOIA documents demonstrate that the likely number invading neighboring properties is much higher than what has been admitted.

The application of Section 13-1-3 was clearly understood and accepted by both the city and applicant. After the January 20, 2011, response from the contractor, Section 13-1-3 is not mentioned again until the public noticed this violation and brought it up (nor is there any indication that the city, ACPS, RPCA, or the contractor ever thought its official position that Section 13-1-3 applied was incorrect). Shortly after the city directed compliance with Section 13-1-3, and the applicant committed to compliance, an illumination analysis demonstrated conclusively that RPCA and the contractor could not come close to meeting this requirement. As a result, it appears that the Planning Director chose to give this requirement a blind eye, presumably hoping that the public would not figure out that Section 13-1-3 is the illumination standard at issue. In any case, no citizen would ever be permitted to flood neighboring properties with invasive lighting in violation of law and regulation, and neither should RPCA.

The government is not exempt from the law.

In addition, the construction and operation of stadium lighting, as proposed, will result in an immediate and ongoing violation of Section 13-1-3. Under these circumstances, the city staff report and endorsement of the project by city officials is unlawful unless and until the illumination requirements are met. The City has a legal duty to apply and enforce these regulations, including sister organizations within the city government. Here, the Planning Director chooses to ignore not only illumination limitations required by law but existing zoning and the restrictions on the size of construction of improvements, front yard setback requirements, as well as requirements for and amendment of an existing site plan for Hammond Middle School. Once the magnitude and scope of a previously approved plan is materially and substantially modified such as here with reconfiguration of the existing bus lanes, retaining walls, and removal and redesign of the existing storm water detention system, it is required to pursue either a modification to the existing site plan or submit a new site plan. The city has done neither.⁴

HEIGHT

In her June 16, 2011 decision, the Planning Director made a series of statements suggesting that ACPS is the party in interest in seeking lighted fields at Francis C. Hammond Middle School. As pointed out in great detail in the appeal, that position makes no sense for many reasons, such as the fact that no middle school children need fields at 10:00 p.m. every evening and the fact that ACPS has acted as nothing more than a pass-through to RPCA for any questions or issues relating to the SUP application. At the June 7, 2011, Planning Commission hearing, Commissioners publicly stated that the identity of the true applicant and party in interest is vague and elusive. The applicant and the Planning Director insist that the party in interest is ACPS and therefore they may advance convoluted and tortured theories to evade scrutiny. The Planning Commission never did get to the bottom of the identity of the party in interest, although the June 16 determination relating to height restrictions completely relies upon the party in interest being ACPS.

⁴ Documents produced in response to FOIA demonstrate that pursuit of a SUP with a grading plan (which only requires staff review), vice a SUP with proper amendments to the Hammond Site Plan (which requires public review), was a knowing decision by ACPS, RPCA and P&Z. Appellant Fullerton's Supplemental letter explains why this should serve as another basis to reverse the Planning Director.

ACPS and RPCA signed a Memorandum of Understanding (MOU) (Exhibit 1) in 2007 that governs the management and maintenance of athletic fields adjacent to schools or located on school property, including Hammond. City Council authorized the MOU on a 7-0 vote, making it legally binding upon the City of Alexandria. The MOU provides that RPCA is responsible for maintenance of the outdoors part of the school grounds, including the installation of synthetic turf, while ACPS is responsible for the indoors of the facilities and the skating rink. The purpose of the agreement is, in part, to allow ACPS to focus upon its main mission: educating the students of Alexandria, while RPCA assumed all responsibility for managing athletic fields, including the Hammond fields.

Neither ACPS, RPCA, nor the Planning Director, disclosed the existence or relevance of the MOU during the budget and SUP process, and no mention is made in the June 16 determination. It was not produced in response to the FOIA request. We learned of the MOU's existence through a newsletter from the T.C. Williams Parent Teacher's Association. The newsletter emphasized that the lights at Hammond would be for RCPA (not ACPS) use after 6:30 p.m. and on weekends. The newsletter then explained that:

The ACPS and RPCA have operated the fields in the City under a joint MOU for some time. That basically means that the lines that have existed for so long between these two parts of government in essence no longer exist. The fields are simply City fields.

This passage is a fair (if understated) summary of the MOU: Contrary to what the Planning Director states in her June 16 determination, management of the fields at Hammond (including conversion to synthetic turf and installation of lights) is the sole province of RPCA. Page 7 of the MOU contains a map of Hammond Middle School which clearly identifies that the responsibilities of ACPS ends at the school buildings and in-line skate rink, and RPCA is responsible for most of the other property on school grounds. Page 3 of the MOU contains the following statement:

The City and ACPS recognize that consideration should be given to making capital improvements on school grounds maintained by RPCA. Such improvements could include, but are not limited to; new irrigation systems, synthetic fields, engineered play areas, miracle fields, etc. The RPCA will consult with ACPS staff during the development of the City Manager's proposed CIP.

Thus, there is no ambiguity and the MOU is dispositive: the SUP application is the province of RPCA, and it is inappropriate and contrary to written, binding agreements and City Council directed policy to continue pretending that the SUP application at issue is an ACPS matter for the purpose of evading law and regulation. As a result, we respectfully request that the BZA consider the MOU and the fact that the Planning Director is flatly wrong – the lights at Hammond have nothing to do with ACPS. As demonstrated in the June 20 Appeal, there was little doubt over who the real party in interest is here – it's RPCA, although the city insists upon continuing the charade that ACPS is the applicant and party in interest. The MOU and

⁵ The technical title of the document is "School Outdoor Maintenance Agreement," but is referred to in city documents as the MOU. City Council authorized the MOU on June 26, 2007.

newsletter confirm that RPCA is the responsible government organization, and the Planning Director's June 16 determination should be reversed.

Further confirmation that RPCA is the party in interest, and that ACPS is merely acting as a front to wrongfully evade height requirements, are in documents produced in response to the FOIA. For example, in an email dated November 19, 2011 from the Deputy Planning Director to the Planning Director and Deputy City Manager (shortly after the SUP was filed), the Deputy Planning Director states that ACPS disclosed that it has NO INTEREST in stadium lighting. Its interest lies exclusively with the conversion of the field. ACPS made crystal clear that the lights were solely within the purview of RPCA, and that ACPS has no interest. After noting that ACPS is applying for the SUP because RPCA will not support conversion of fields for the children of Alexandria without lighting it for adults, the Deputy Planning Director stated:

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 schools program. If [RPCA] were not insisting, they would not be doing it.

November 19, 2010, e-mail, Deputy Planning Director to Planning Director and Deputy City Manager (who forwarded it to the City Manager) (Exhibit 2). The email confirms that ACPS wanted nothing to do with the lighting, recognizing that lighting the field is an RPCA matter since no students of ACPS (nor any children) would be using playing fields at 10 p.m. each evening, and the schools reap no benefit of lighting (yet is stuck with the \$2 million bill, out of education funding for our children). Recognizing the threat this posed to RPCA plan to evade public scrutiny, as well as law and regulation, the FOIA request demonstrated that ACPS was put under enormous political pressure from senior city officials to pretend that it had an interest in the stadium lighting. Nothing could be further from the truth.

Indeed, RPCA continues to maintain that stadium lighting is necessary for it to support conversion to a turf field. For example, the Planning Director suggested postponing the Planning Commission hearing from June 7 to the fall to allow adequate time to consider the "serious and important" issues surrounding this application, among other political reasons. RPCA strongly opposed any postponement. Significantly, the Chairwoman of the Parks and Recreation

⁶ For example, the FOIA records also showed that the city panicked when ACPS made clear its position that the lights had nothing to do with the schools. ACPS has never disavowed that position. Yet the Deputy City Manager directed ACPS, RPCA and P&Z to meet to develop a more palatable public answer to the question of "where did the idea for lights come from?" He directed ACPS, RPCA and P&Z "not to say that the lights are required by the City or a City policy on returfed fields." (Exhibit 3). While city staff and organizations naturally complied with the misleading instructions from the Deputy City Manager and continue pretending that the lights are for the children of ACPS, the fact that the Deputy City Manager directed city staff to minimize and dismiss the city's interests and overstate ACPS' interest (despite the plain facts) does not change the most important fact for this appeal: the lighting towers have nothing to do with the schools and RPCA does not come close to meeting the criteria for height relief based upon the construction, renovation or reconstruction of a public school. A variance is required.

Notably, on June 22, 2011, the Deputy City Manager sent another email to the City Manager and Director, RPCA (but not ACPS), expressing concern that in light of this appeal, ACPS will take the position that "the lights are a City project because night use would be largely for adults." For its part, ACPS has never stated that it has an interest in the lights for students at Hammond or any other ACPS school (nor should it be given any credibility if ACPS is pressured to change its position now).

Commission wrote to the Planning Director, Chairman of the Planning Commission and the Director of RPCA, making plain that RPCA is the true party in interest regarding stadium lighting:

Spending a million bucks to put in an artificial turf field without lights is fiscally irresponsible. Pretty much a waste.

May 22, 2011 e-mail from Chairwoman, Parks and Recreation Commission to Chairman, Planning Commission, Planning Director, and Director, RPCA (Exhibit 4). Notably, ACPS is not included in any of the email traffic or correspondence regarding the timing of the hearing (or any other issue); ACPS is simply irrelevant. This email confirms the continued accuracy and completeness of the November 19 statement from the Deputy Planning Director: ACPS has no interest in the stadium lighting and is only allowing its name to be used on the application because RPCA will not support conversion of the turf field for the students of Hammond without lighting it for adults, many of whom are non-residents of Alexandria.

The plain fact is RPCA is the party in interest for stadium lighting. The Planning Director's June 16 determination is premised on incorrect facts, in addition to its fatal legal flaws. At the Planning Commission hearing, several commissioners and speakers remarked that the real party in interest was vague and elusive, and suspected that ACPS was being manipulated. RPCA and ACPS, unsurprisingly, said nothing about the point.

We now know why the applicant evaded revealing the true party in interest: It is RPCA, and as a result is required to obey the law and regulations, and seek a height variance from the height regulations, just like everybody else.

CONCLUSION

The June 20 Appeal continues to apply in full and this letter should be viewed as supplementing the appeal as it applies to violations of height and illumination restrictions; for the reasons set out in the June 20 appeal, the Planning Director rendered a fatally flawed and reversible decision on setback, too. We reserve the right to continue to inform the BZA of information as it becomes available.

Very truly yours,

Frank Putzu

Authorized Representative, Seminary Hill Association, Inc.

⁷ Whether installation of turf field without lights is appropriate and responsible is a policy matter for the Planning Commission and City Council. SHA notes that T.C. Williams High School, Episcopal High School, Bishop Ireton High School and St. Stephen's/St. Agnes all have synthetic turf and track without lights. They obviously have reached a different conclusion – that installation of synthetic turf and track without lights is fiscally responsible.

Supplemental Exhibit 1



Alexandria City Public Schools Schools Outdoor Maintenance Agreement City of Alexandria, Virginia



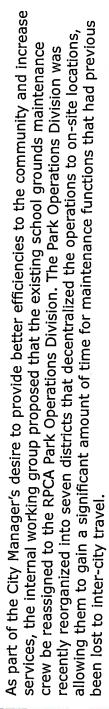
August 6, 2007

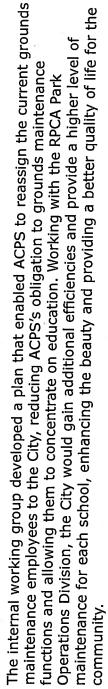
Introduction



existing structure of maintenance responsibilities at the public schools. The proposal focused on Activities (RPCA), Transportation and Environmental Services (T&ES), and the Alexandria City developing better communication between the Departments of Recreation, Parks and Cultural During the City Council Budget Hearings in 2006, the City Council proposed changes to the Public Schools (ACPS).

Board and City Council proposed that ACPS concentrate on educating the students, RPCA provide roles of each agency and to update the existing Memorandum of Understanding signed by each Internal meetings were held between City and School Staff to further define the maintenance agency in 1997. In an effort to utilize and manage City resources more effectively, the School the grounds maintenance, and T&ES provide snow removal and paving for the 17 schools.







position engaged in this function to the City's (RPCA) payroll at City wage and benefit rates. It is intended that this memorandum will be signed in July, 2007 and be retroactive to July 1, 2007. taking in consideration the reassignment of seven current Schools employees and one vacant The estimate contained in this MOU for the cost of services in FY 2008 is \$577,000 including \$212,000 in material costs and horticultural services, and \$365,000 in wages and benefits,

Overview

Mowing Operations

page 20) April through October depending on weather conditions and the condition of the individual sites. Every attempt The schools sites will be mown at frequencies prescribed in their assigned level of service, (discussed in more detail on will be made to conduct mowing operations before the school day starts.

Leaf Collection

Leaf collection will begin with City scheduled removal of leaves during November and December. Collection activity will be conducted according to level of service assigned to each site. Every attempt will be made not to disrupt school activities.

Snow Removal

highlighted in yellow and orange on the following pages. The parking areas will be maintained in accordance with the 1997 City/School Facilities Use and Maintenance & Service Agreement, and/or its successor. Each school will be treated as a top priority site for snow removal. The crews will operate on 12-hour shifts during snow removal days to make sure schools are plowed and sidewalks are cleared within the time frames listed per level of service. Winter maintenance programs will take place in January and February. The snow removal plans for each school are

Spring Maintenance

shrub beds and repairs to the fields and turf areas. These activities may extend into the school day. Every attempt will be In March and April, each site will receive additional maintenance including pruning the trees, overhauling the flower and made not to disrupt school classes.

Tree Services

priority is to provide arterial road access for health and safety concerns for the general public. Storm damage clean-up Yearly pruning and tree maintenance will be provided by RPCA on a regular schedule. During storm events RPCA's first at schools will be assigned a priority status depending on damage. Any damage that inhibits school operations will be assigned top priority. All other storm damage will be attended to as soon as possible.

Overview

Horticulture Services

The goal is to provide perennials and seasonal color to all designated areas at each school according to the assigned level Landscape Consultant to determine plant needs and provide a coordinated effort of planning for each site. Mulch will be provided through requests to the Facilities Department. Any additional landscape areas or services not identified in this of service. The Horticultural Supervisor will determine and plant the landscaping areas. RPCA will consult with ACPS's plan that the ACPS desire will be at the expense of ACPS.

Additional Grounds Maintenance

Trash removal at each site will be re-evaluated around the school perimeter including parking lots, and walkways. Historic trends and area uses will be studied to determine how often trash removal will be provided. Service will be provided daily, twice weekly or upon inspection every 5-7 days, depending on the trash can. All trash cans in the school and courtyards will remain the ACPS's responsibility to empty, maintain and service. Plans showing ACPS maintenance boundaries are included on the following pages.

Capital Improvement Projects

engineered play areas, miracle fields, etc. The RPCA will consult with ACPS staff during the development of the City Manager's proposed CIP. Such projects, if proposed by the City Manager, will be contained in the RPCA section of the CIP. maintained by RPCA. Such improvements could include, but are not limited to; new irrigation systems, synthetic fields, The City and ACPS recognize that consideration should be given to making capital improvements on school grounds

Charles Barrett Elementary School - Four Mile Run District

Charles Barrett School serves grades K-5 and is located in the north end of the city adjacent to Charles Barrett Recreation Center.

Located at: 1115 Martha Custis Drive Alexandria, VA 22302

Service Level 3



0.25

ACPS Maintenance RPCA Snow Removal T&ES Snow Removal Property Boundary August 6, 2007

Cora Kelly School for Math, Science and Technology - Four Mile Run District

Cora Kelly serves grades K-5 and is located in the north portion of the city adjacent to Cora Kelly Recreation Center.

3600 Commonwealth Avenue Alexandria, VA 22305 Located at:

Service Level 3















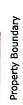






ACPS Maintenance RPCA Snow Removal

August 6, 2007



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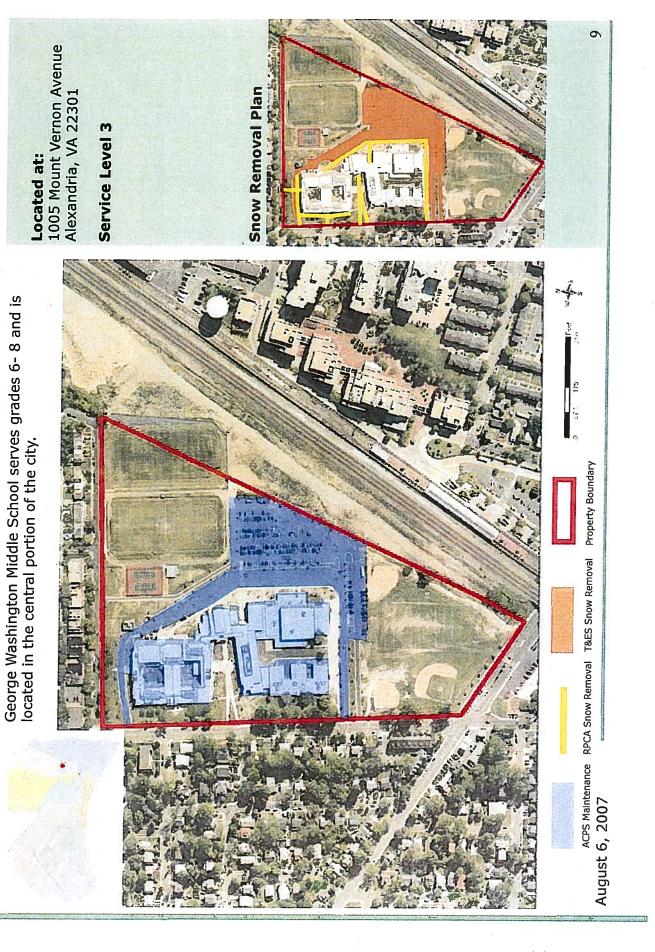
9 Alexandria, VA 22302 1101 Janneys Lane Service Level 3 Located at: Douglas MacArthur School serves grades K- 5 and is located in the center of the city. Douglas MacArthur Elementary School - Fort Ward District Property Boundary ACPS Maintenance RPCA Snow Removal T&ES Snow Removal August 6, 2007

Levels of Service to be Provided

4646 Seminary Road Alexandria, VA 22304 Snow Removal Plan Service Level 3 Located at: Francis C. Hammond School serves grades 6-8 and is located in the west end of the city. Property Boundary Francis C. Hammond Middle School - Fort Ward District Levels of Service to be Provided ACPS Maintenance RPCA Snow Removal T&ES Snow Removal August 6, 2007

Located at: 2601 Cameron Mills Road Alexandria, VA 22302 **Snow Removal Plan** Service Level 3 George Mason School serves grades K- 5 and is located in the north end of the city. George Mason Elementary School - Four Mile Run District Property Boundary Levels of Service to be Provided ACPS Maintenance RPCA Snow Removal T&ES Snow Removal August 6, 2007

George Washington Middle School - Simpson District



10 **Snow Removal Plan** Located at: 5000 Polk Avenue Alexandria, VA 22304 Service Level 3 James K. Polk School serves grades K-5 and is located in the west end of the city. Property Boundary James K. Polk Elementary School - Holmes Run District ACPS Maintenance RPCA Snow Removal T&ES Snow Removal August 6, 2007

Levels of Service to be Provided

Jefferson-Houston School for Arts and Academics - Simpson District

Service Level 3 Located at: southeast portion of the city adjacent to Jefferson-Houston Jefferson-Houston serves grades K- 5 and is located in the Recreation Center.

1501 Cameron Street Alexandria, VA 22314

ACPS Maintenance RPCA Snow Removal T&ES Snow Removal

August 6, 2007

Property Boundary

8 21 .

Located at: 5651 Rayburn Avenue Alexandria, VA 22311 Service Level 3 John Adams School serves grades K- 5 and is located in the northwest portion of the city. Property Boundary John Adams Elementary School - Holmes Run District ACPS Maintenance RPCA Snow Removai T&ES Snow Removal August 6, 2007

Levels of Service to be Provided

520 S. St. Asaph Street Alexandria, VA 22314 **Snow Removal Plan** Service Level 3 Located at: Lyles-Crouch serves students in grades K- 5 in the south Property Boundary Lyles-Crouch Traditional Academy - Waterfront District 心地が一古 Old Town area of the city. Levels of Service to be Provided ACPS Maintenance RPCA Snow Removal T&ES Snow Removal August 6, 2007 1 . A.C.

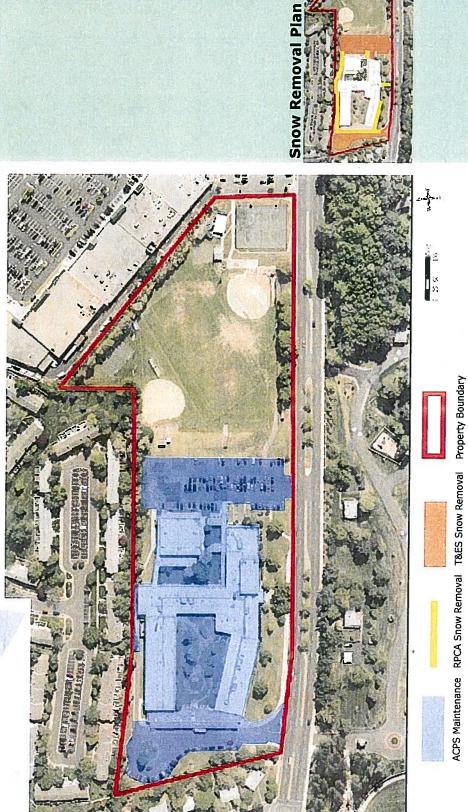
Located at: 600 Russell Road Alexandria, VA 22301 Service Level 3 Maury School serves grades K- 5 and is located in the central portion of the city. Property Boundary Maury Elementary School - Four Mile Run District Levels of Service to be Provided ACPS Maintenance RPCA Snow Removal T&ES Snow Removal August 6, 2007

Minnie Howard High School - Fort Ward District

Minnie Howard High School serves 9th grade students and is located in the west end of the city.

Located at: 3801 W. Braddock Road Alexandria, Virginia 22302

Service Level 3



August 6, 2007

15



Mount Vernon School serves grades K-5 and is located in the north end of the city adjacent to Mount Vernon Recreation Center. Service Level 3

Located at:2601 Commonwealth Avenue Alexandria, VA 22305

Property Boundary

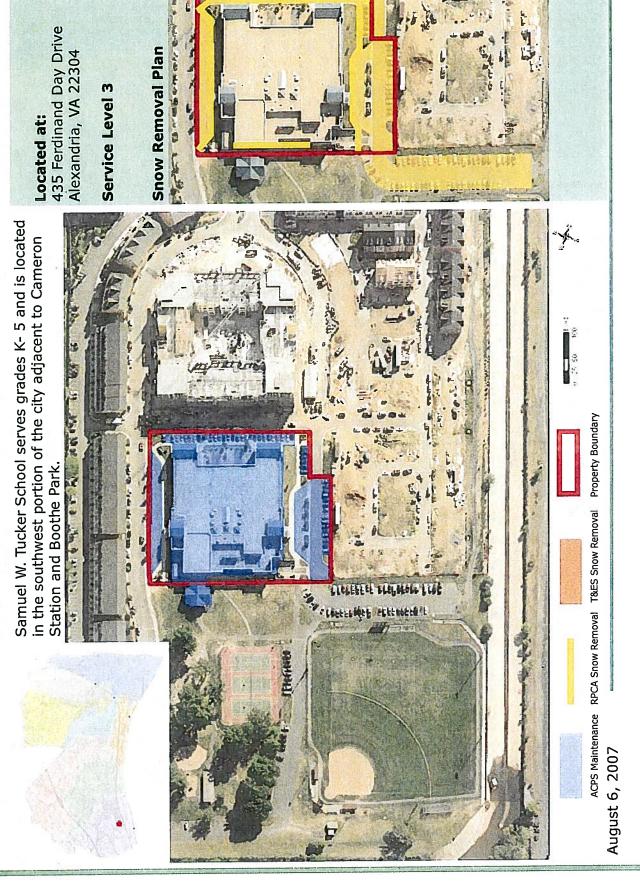
16



August 6, 2007

Located at: 4643 Taney Avenue Alexandria, VA 22304 Service Level 3 west end of the city adjacent to Patrick Henry Recreation Patrick Henry serves grades K- 5 and is located in the Property Boundary Patrick Henry Elementary School - Holmes Run District Levels of Service to be Provided ACPS Maintenance RPCA Snow Removal T&ES Snow Removal **Senter** August 6, 2007

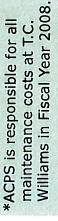
Samuel W. Tucker Elementary School - Brenman District

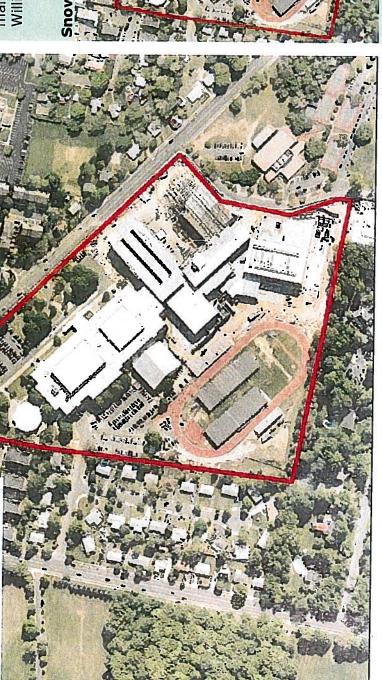


T.C. Williams High School - Fort Ward District

T.C. Williams School serves grades 10-12 and is located in the central portion of the city.





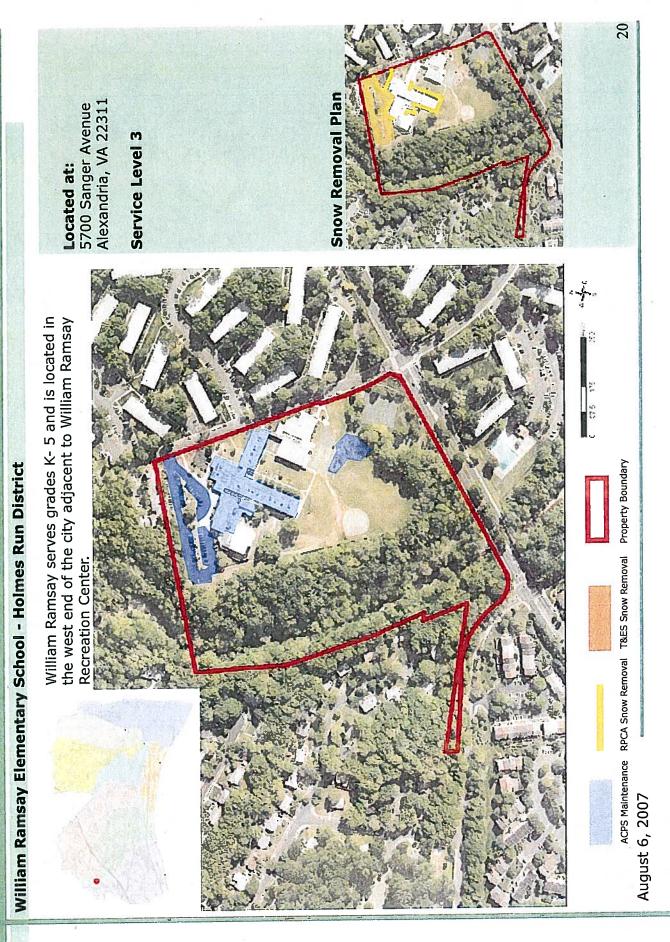


ACPS Maintenance RPCA Snow Removal

August 6, 2007

T&ES Snow Removal

Property Boundary



Note: Actual expenses may vary.

Levels of Service to be Provided

Proposed Operating Costs- Non-Personnel

District	Matorial Cost	
Brenman District	\$4,000	
Samuel W. Tucker School	\$4,000	
Waterfront District	\$4,000	
Lyles-Crouch	\$4,000	
	SI SI	
Holmes Run District	\$52,000	
John Adams	\$20,000	
Patrick Henry	\$16,000	
James K. Polk	\$8,000	
William Ramsay	\$8,000	
Fort Ward District	\$24,000	
Francis C. Hammond	\$16,000	
Douglas MacArthur	\$4,000	
Minnie Howard	\$4,000	
T.C. Williams	\$0	90
\$		
Four Mile Run District	\$36,000	
Charles Barrett	\$8,000	
Cora Kelly	\$16,000	
George Mason	\$8,000	
Maury	\$4,000	
Simpson District	\$44,800	
George Washington	\$28,800	
Jefferson-Houston	\$8,000	
Mount Vernon	\$8,000	
Horticultural Services	\$47,200	

Maintenance Levels

Level 1	
Horticulture:	4 seasons of color: Spring, Summer, Fall,
	and Winter (annuals)
Mowing:	7 day schedule (April- October)
Leaf Collection:	7 day schedule
Snow Removal:	Bare Pavement within 4 hours
Trash Removal:	Daily

Costs of materials: \$560,000/ year

	2 seasons of color: Spring, Fall, (annuals)	7-10 day schedule (April- October)	10 day schedule	Bare Pavement within 6 hours	Twice weekly
2	Horticulture:	.g:	Leaf Collection:	Snow Removal:	Trash Removal:
Level 2	Hortic	Mowing:	Leaf (Snow	Trash

Costs of materials: \$460,000/ year

	No annuals- Perennials only	10-14 day schedule- April- October	15 day schedule	Bare Pavement within 8 hours	Inspections every 5-7 days
Level 3	Horticulture:	Mowing:	Leaf Collection:	Snow Removal:	Trash Removal:

Costs of materials and horticultural services: \$212,000 in FY 2008

August 6, 2007

\$212,000

Total

Transfer of Resources Required in FY 2008



Transfer of Equipment

Rolling Stock and Equipment Replacement Inventory
1. 1998 GMC Truck
2. 2004 Halmark Trailer
3. 2004 Halmark Trailer

72" Mower 2005

eaf Blower 2006

Truck Loader 2003 4. 7. 9

Personnel Transfer to City Employment

1. William Bannister

Eric McKinney

Gregory Ross Willie Ruffan

Joe Burks 4.7.9.7.8

Marlon Newman

Ralph Wanzer





August 6, 2007

Interdepartmental City Contract

WHEREAS, The City of Alexandria is fortunate to be able to provide many fine public facilities for use by its citizens; and

WHEREAS, the Alexandria City Manager and the Alexandria School Superintendent jointly have agreed that it is in the best public interest to work together to ensure the maximum feasible public use of these facilities for educational and recreational purposes; and

related to their specific areas of responsibility and for the ACPS to provide for the education and indoor maintenance of the WHEREAS, the Alexandria City Public Schools (ACPS), and the City of Alexandria Department of Recreation, Parks, and Cultural Activities (RPCA), agree to have the RPCA provide outdoor ground maintenance activities and mutual services Schools and mutual services related to their specific areas of responsibility. NOW THEREFORE, the Alexandria City Manager and the Alexandria School Superintendent do hereby enter into the following agreement for the cooperative use, management and financial support of these community facilities.

Philosophy, Situation, and Terms of This Agreement

- A. The purpose of this agreement is to provide detailed understanding and structure for cost effective grounds maintenance associated with school grounds, open space, and park property to provide greater efficiency to the City of Alexandria taxpayers.
- It is recognized that the ACPS and other City agencies are limited in financial, personnel, and facility resources to support their respective programs. Therefore, establishing a mutual maintenance agreement that provides best management practices to support the mission and desires of the City residents and provides maximum effective utilization of all public/community facilities is beneficial. <u>а</u>
- to ACPS School Board that \$577,000 shall be provided from the FY 2007 year-end fund balance of the ACPS operating fund to effectuate this funding arrangement, and City and ACPS staff shall recommend appropriate actions be taken by That the City Manager shall recommend to City Council and the Alexandria School Superintendent shall recommend City Council and ACPS School Board to do so. ن

Interdepartmental City Contract

- D. RPCA shall provide all outdoor grounds maintenance in the designated areas found in this agreement and that the current ACPS ground maintenance positions, as identified in this agreement, shall reassigned to RPCA.
- That the City Council approve an ACPS fund balance transfer of personnel and non-personnel operational expenses in the amount of \$577,000, which shall be included in the FY 2008, RPCA operating budget. After this one time transfer, RPCA will maintain these costs through the City budget process. . نى
- City/School staff believe that this reallocation of responsibilities will provide both the City and Schools with a cost savings benefit and consistent care that relates to the City's overall grounds care program. u.
- Superintendent, respectively agree that this oversight committee address any grounds maintenance /snow removal issues that may arise, and develop strong communication avenues to communicate with the principals, PTA, and The existing City Schools maintenance facility work group as appointed by the City Manager and the School G
- H. The existing City/School maintenance facility work group shall attempt to resolve all issues relating to the joint use of the facilities as covered by the guidelines contained herein and in the Memorandum of Understanding signed by all in 1997 and/or its successor.
- This Memorandum of Understanding incorporates all provisions of the 1997 City/School Facilities Use and Maintenance & Service Agreement, and/or its successor.
- School principals and RPCA staff will jointly review the condition of the facilities on a quarterly basis (March, June, September, and December), and report their findings to the Director of RPCA and to the School Facilities Director.
- trash services are required for special School events the costs will be determined before the event and paid for by ACPS. ACPS shall be responsible for the electrical and water costs associated with each site. ACPS shall be responsible for the grounds with the understanding that there is a coordinated effort to keep the grounds clean. If additional cleaning or litter pick up at all ACPS sponsored events. RPCA shall be responsible for litter pick up at all RPCA sponsored events. RPCA shall empty the designated trash cans identified at each site and be responsible for daily litter pick up of the

256

Funding

warranted for any reason, each shall notify the other in a timely fashion during the development of their respective budget In FY 2009 and thereafter, the City and Schools shall fund necessary costs pursuant to this agreement in accordance with normal budgetary procedures. If either RPCA or ACPS staff believe that a change in the negotiated levels of service are

whatever is necessary in the RPCA budget to cover inflation, COLAs, increased benefits costs and other operational cost increases that are necessary to provide that level of service. If the ACPS desires higher levels of service than those City staff shall make good faith efforts to maintain the levels of service as negotiated in this agreement and shall add negotiated here, then the cost of such increases would be the responsibility of ACPS.

Public Information

evaluation report on the administration of this agreement, which will be disseminated by the Manager and Superintendent The City/School Staff Facilities Committee will prepare annually for the City manager and Superintendent of Schools an

for proper use of the City/School Facilities and assigns responsibilities for the ground maintenance and snow removal for the _200___, by and between the Superintendent of Alexandria, VA, Public Schools, and the City Manager of Alexandria, VA. It formalizes and gives credence to procedures Day of This agreement is made on this

1 so that appropriate budget adjustments may be made by both parties for the fiscal year commencing twelve months later. unilaterally upon giving the other party, in writing, twelve months notice of its intention to terminate the agreement by July This agreement shall be for an indefinite term commencing on July 1, 2007. Either party may terminate this agreement

By: City Manager of Alexandria, VA

10.8.8

By: Superintendent, Alexandria City Ker CCN L

Approved to form August 6, 2007

Mark Jinks

Frome

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.

--- Forwarded by Barbara Ross/Alex on 12/08/2010 01:12 PM ---

From

Barbara Ross/Alex

Tα

Gwen Wright/Alex@ALEX, Patricia Eacher/Alex@ALEX

Cc: Date: Faroli Hamer/Alex

Subject:

11/23/2010 04:22 PM 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 returned 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 Eves 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 ali??? 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.

Dorothy Juchnewicz

From:

Komoroske, John < John.Komoroske@finra.org>

Sent:

Friday, July 01, 2011 3:01 PM Dorothy Juchnewicz

10: Subject:

in response to the Jennings 6/29/11 FOIA Request

From: Faroil Hamer [mailto:Faroil.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.

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

Faroli 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



605 Prince Street, Alexandria, VA 22314 [t.] 703.739.9366 x.105 [f.] 703.739.9481 www.noritakeassociates.com inoritake@nka-arch.com

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DEPARTMENT OF PLANNING AND ZONING

Sent via E-mail

1 3.

December 10, 2010

Kevin Van Hise, CLA Bob Barusefski Kimley-Horn & Assoc., Inc. 13221 Woodland Park Road Suite 400 Herndon, VA 20171

Re: Hammond Middle School - Athletic Field Lighting - SUP 2010-0079

Gentlemen:

City staff has completed the review of preliminary plan for the above referenced project. As part of our review, the attached comments have been identified and need to be addressed with the subsequent submissions.

Please be advised that prior to proceeding to the Planning Commission/City Council public hearings for this application, it is advised that various local civic groups meetings be attended to allow for community input for the proposed improvements to the Hammond Middle School athletic field. Staff recommends that the following groups be notified and that City staff is made aware of the dates and times of when you will be presenting to these civic groups.

Brookville Seminary Valley – Geoffrey Goodale, President - geoff.goodale@bsvca.net
Seminary Hill – Nancy Jennings, President - Nrjennings@comcast.net
Parkside at Alexandria – Jeremy Hogg, President - jeremyhogg@gmail.com

In the event you have any questions, please feel free to contact me at 703.746.3812 or via email at Paricia. Escher@alexandriava.gov.

Regards,

Patricia Escher, AICP, ASLA
Principal Planner, Development

c: Gwen Wright, Chief, Development

Call: 703.746.4666 Connect: www.alexandrisva.gov

Come by: 301 King Street, Room 2100 Alexandria, VA 22314

Please respond to the following comments:

PLANNING AND ZONING

- While the bleachers are an ancillary use to the athletic fields, the incorporation of this
 amenity into this application would require an amendment to the existing development
 site plan (DSP2004-0044), in addition to the requested special use permit for the lighting
 of the fields.
- 2. The construction of the synthetic field and redesign of the track will be processed under a separate grading plan application.
- 3. The proposed storage shed will be part of the grading plan and preliminary elevations of the shed should be submitted with that application.

TRANSPORTATION & ENVIRONMENTAL SERVICES

Findings:

4. Parcel is flagged as being in a Marine Clay Area and Hazardous Use. (T&ES)

Recommendations:

- 5. All loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)
- 6. The proposed lights shall be shielded and directed in a manner as to not create a nuisance to the residential properties along the south side of North Pickett Street, the east side of Seminary Road or the west side of North Pegram Street. (T&ES)
- 7. A grading plan showing all improvements and alterations to the site must be approved prior to installation of site improvements. (T&ES)

Code Requirements:

8. The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line. (T&ES)

RECREATION PARKS & CULTURAL ACTIVITIES

- The applicant shall provide field schedule documents and plan to Recreation staff for review and approval prior to finalization for each season of play.
- 10. On sheets 1,3, and 4 show all adjacent residential units, including those on the opposite

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City Compiled Comments
Hammond Middle School Athletic Field Lighting
SUP #2010-0079

side of North Pickett Street

CODE ADMINISTRATION

18

- C-1 The proposed installation will require a Building Permit for foundation/footings/erection, etc. and electrical permit for wiring
- C-2 Application for the above building permit will require five sets of plans with emphasis on soil conditions and foundation details, anchorage, wind load design, etc. These plans will need to be sealed by a PE licensed in the Commonwealth.
- C-3 Installation/erection is subject to special inspections.

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City of Álexandria, Virginia Minimum Average Lighting Design Standards Under Section 622.6 of BOCA Code

Type of Area	Unit	Single Family (4 Units or Less)	Office and Multi- Family	Shopping Areas Wholesale and Retail	Industrial
Parking Area	*Foot-candles	0.6	1.0	2.0	1.0
	Uniformity Ratio (Avg/Min)	6:1	3:1 except in aisle	3:1	3:1
Walkways	*Foot-candles	0.6	1.0	2.0	1.0
	Uniformity Ratio (Avg/Min)	6:1	6:1	3:1	3:1
Roadways (Without	*Foot-candles	0.6	0.6	2.0	0.5
Parallel Walks or Parking)	Uniformity Ratio (Avg/Min)	6:1	6:1	3:1	6:1

^{*}Average design level of foot-candles defined as luminance on a surface that is everywhere one foot from a uniform point source of light of one candle and equal to one lumen per square foot.

Note:

TRANSPORTATION AND ENVIRONMENTAL SERVICES PLANNING AND ZONING.

Minimum Requirements for Lighting Plans

- Show and indicate existing and proposed lighting fixtures on street and site development plan sheet.
- 2. Provide detail and specifications for all proposed fixtures; manufacture, strength, monument height.
- Include existing lights on photometric plan, show clearly existing and proposed fixtures, type, north arrow, public/private streets and orient plan consistent with development plan.
 Provide lighting calculation to verify that lighting lights.
- 4. Provide lighting calculation to verify that lighting level meets City standards.
 5. Provide lighting schedule indicating number of and the lighting schedule.
- 5. Provide lighting schedule indicating number of each style of fixture to be installed.6. Provide City standard signature block.
- 7. Lighting should be shield to mitigate impact on adjoining properties per Sec. 13-1-3 on the Code of the City of Alexandria, 1981, as amended.

0.25 foot - Candles @ property line

Other Requirements for New Fixtures

- 1. No frosted fixtures.
- 2. Sodium vapor bulbs, except mercury vapor can be used where over 80% of existing lights are mercury vapor.
- 3. Consider shade tree location.
- Use manufacturer's charts for fixture used when available.
- 5. Outages caused by wiring problems must be corrected within thirty (30) days.
- 6. Fixtures cleaned, etc., and bulbs replaced upon notice of defect (maximum seven days).
- 7. Spacing fixtures along walks and parking spaces to be maximum 5 times the height.

 8. One side lighting to be spaced at maximum 31/4 in the space of the spaced at maximum 31/4 in the space of the spaced at maximum 31/4 in the spaced at maximum 5 times the height.
- 8. One side lighting to be spaced at maximum 2½ times the depth of walk and/or parking space being lighted.
- 9. The uniformity requirements shall not be used to preclude focus lighting of special buildings and/or objects.
- 10. The above standards are not to apply in areas with previously City Council approved lighting standards, such as Gadsby Incandescent District Limits.

Sec. 13-1-3 - Commercial properties and residential properties—night illumination.

- (a) 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 to property used for residential purposes, to use for the cutdoor lighting of the commercial property or residential property lights which are so arranged that the illumination and glure therefrom is thrown upon the site yard or reer yard of the adjacent property occupied for residential purposes in an amount of illumination which measures more than point twenty-five hundredths footcancles measured at any point seven feet beyond the property line of the adjacent property used for residential purposes.
- (b) All lights used by an owner or operator of a commercial property or an owner or occupant of residential property shall be shielded or directed so as to confine the area of diffusion to the property which it is intended to illuminate. (Code 1963, Sec. 23-6)

§ 13-1-46 Metal detecting and digging on city property. § 13-1-41 Panhandling.

Sec. 13-1-1 Abusive language.

If any person shall, within the city, in the presence or hearing of another, curse or abuse such person, or use any violent, abusive language to such person concerning himself or any of his relations, or otherwise use such language, under circumstances reasonably calculated to provoke a breach of the peace, he shall be guilty of a class 3 misdemeaner. (Code 1968, Sec. 23-1; Ord. No. 2826, 6/28/83, Sec. 1)

State Low References Similar provisions, Code of Va., Soc. 18.3-416.

Sec. 13-1-2 Assault; assault and hattery.

Any person who shall commit a simple assault or assault and battery shall be guilty of a class 1 mindemeanor. (Code 1968, Sec. 23-2; Ord. No. 2829, 6/28/83, Sec. 2)

Sec. 13-1-3 Commercial properties and residential properties—night illumination.

(a) 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 to 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 my point seven feet beyond the property line of the adjacent property used for residential purposes.

(b) All lights used by an owner or operator of a commercial property or an owner or occupant of residential property shall be shielded or directed so as to confine the area of diffusion to the property which it is intended to illuminate. (Code 1963, Sec. 28-6)

Sec. 18-1-4 Cursing and swearing—over telephone.

If any person shall curse or abuse anyone or use obscene, vulgar, profane, lewd, lascivious or indecent language, or make any suggestion or proposal of an obscene nature, or threaten any illegal or immoral act with the intent to coerce, intimidate or harass any person, over any telephone in the city, he shall be guilty of a class 1 mindemessor. (Code 1963, Sec. 23-8; Ord. No. 2826, 6/28/83, Sec. 3).

State Law Rubysmust Similar population, Cade of Va., Sec. 28.3-497.

Cross References Abustro languaga, Sec. 13-1-1.

Sec. 13-1-5 Public interiention.

If any person is intunicated in public, whether such intunication results from alcohol, narcotic drug or other intunicant or drug of whatever nature, he shall be deemed guilty of a class 4 misdemeanor. If there is a court-approved detoxification center in the city or a neighboring jurisdiction, a law enforcement officer may authorize the transportation, by police or otherwise, of a person who is in violation of this section to such detoxification center in lieu of arrest; provided, however, that no person shall be involuntarily detained in such center. (Code 1963, Sec. 28-11; Ord. No. 2826, 6/28/83, Sec. 4; Ord. No. 3589, 10/17/92, Sec. 1)

Charter References Anthoning Sea. 2.06(a).
State Law References For cluster state law, see Code of Va., Sec. 18.5-386.

Sec. 13-1-5.1 Possession of open or opened receptacles centaining an alcoholic beverage.

(a) It shall be unlawful for any person, while in the city, to possess an open or opened receptacle containing an alcoholis beverage (i) in or on any publicly or privately owned park, playground, street, alley, sidewalk or other pedestrian walkway or parking lot to which the public has, or is permitted to have, access, or (ii) in a motor vehicle located on any such street, alley or parking lot, whether or not such vehicle is moving. Any person violating this section shall be guilty of a class 4 misdemeanor.

(b) Nothing in subsection (a) shall prevent a person from possessing an open or opened receptacle containing an alcoholis beverage (i) in a place licensed by the Virginia Alcoholis Beverage Control Board ("Board") to sell alcoholis beverages at retail for on-premises consumption, (ii) in an area approved by the Board and during an event for which the Board has granted a banquet license or mixed beverage special events license, or (iii) in a public street which has been tempo-

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January 20, 2011

City of Alexandria
Office of Planning
Attn: Patricia Escher, AICP, ASLA
Principal Planner, Development
301 King Street, Room 2100
Alexandria, VA 22314

RE: Hammond Middle School - Athletic Field Lighting - Comment Responses

SUP 2010-0079

Patricia.

Pursuant to your comments dated December 10, 2010 Kimley-Horn and Associates, Inc., has amended the SUP as required for this applications' review. The following outline summarizes our response to each comment by item number. Please note that we will be submitting letters in support of this project at a later date before February 14th. This will allow us to collect the letters after the Community Informational Meeting at Hammond Middle School on February 8th.

PLANNING AND ZONING

1. While the bleachers are an ancillary use to the athletic fields, the incorporation of this amenity into this application would require an amendment to the existing development site plan (DSP2004-0044), in addition to the requested special use permit for the lighting of the fields.

RESPONSE: Bleachers have been removed from the project.

2. The construction of the synthetic field and redesign of the track will be processed under a separate grading plan application.

RESPONSE: Acknowledged. The grading plan for the synthetic field and redesign of the track will be submitted separately from this SUP application but concurrently.

3. The proposed storage shed will be part of the grading plan and preliminary elevations of the shed should be submitted with that application.

RESPONSE: Acknowledged. The storage structure will be submitted as part of the grading plan and elevations will be provided with that application.

TRANSPORTATION & ENVIRONMENTAL SERVICES

Findings:

4. Parcel is flagged as being in a Marine Clay Area and Hazardous Use. (T&ES)

RESPONSE: Acknowledged. We are conducting a geotechnical analysis to determine the extent or presence of marine clay in the project area.

Recommendations:

5. All loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)

RESPONSE: Acknowledged. Loudspeakers will not be used on the exterior of the building and amplified sounds will not be audible at the property line.

6. The proposed lights shall be shielded and directed in a manner as to not create a nuisance to the residential properties along the south side of North Pickett Street, the east side of Seminary Road or the west side of North Pegram Street. (T&ES)

RESPONSE: The proposed lights will use technology that shields and directs the light to prevent glare on neighboring residential properties along the south side of North Pickett Street, the east side of Seminary Road, and the west side of North Pegram Street. Lighting levels will meet City of Alexandria code requirements set forth in Sec. 13-1-3.

7. A grading plan showing all improvements and alterations to the site must be approved prior to installation of site improvements. (T&ES)

RESPONSE: Acknowledged. A grading plan will be submitted separately from this SUP application but concurrently.

Code Requirements:

8. The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line. (T&ES)

RESPONSE: Acknowledged. ACPS will comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5.

RECREATION PARKS& CULTURAL ACTIVITIES

 The applicant shall provide field schedule documents and plan to Recreation staff for review and approval prior to finalization for each season of play.

RESPONSE: Acknowledged. ACPS will provide the field schedule documents and plans to Recreation staff for review and approval prior to finalization for each season of play.

10. On sheets 1,3, and 4 show all adjacent residential units, including those on the opposite side of North Pickett Street

RESPONSE: Sheets 1,3, and 4 have been revised to show all adjacent residential units, including those on the south side of North Pickett Street.

CODE ADMINISTRATION

C-1 The proposed installation will require a Building Permit for foundation/footings/erection, etc. and electrical permit for wiring

RESPONSE: Acknowledged.

C-2 Application for the above building permit will require five sets of plans with emphasis on soil conditions and foundation details, anchorage, wind load design, etc. These plans will need to be sealed by a PE licensed in the Commonwealth.

RESPONSE: Acknowledged. Five (5) sets of plans will be prepared and sealed to obtain the necessary building permits for the lights.

C-3 Installation/erection is subject to special inspections.

RESPONSE: Acknowledged.

I trust you will find we have addressed all comments sufficiently. I have included one copy of the revised SUP package, along with letters of support, and this comment response letter for your review. Please do not hesitate to call should you have any questions.

Sincerely,

Kevin Van Hise

Project Manager

Kimley-Horn and Associates, Inc.