August 15, 2020

ATTN: Alexandria Planning Commission
c/o Mr. Dirk Geratz, Chief Planner
301 King Street
Alexandria, VA 22314

Re: Docket Item Unfinished Business (September 1, 2020) - Zoning Text Amendment #2019-00007

Dear Mr. Geratz and Members of the Planning Commission:

Thank you to the Planning Commission staff for providing a summary of Zoning Text Amendment #2019-00007 to the North Ridge Citizens' Association (NRCA). We appreciate your office's outreach efforts. Based on the various summary inputs supplied to our organization, NRCA's George Mason Community Task Force and its advisers have reviewed the proposed text amendment to Section 7-2100 and we strongly urge the Commission to recommend that the City Council reject this proposal.

SUMMARY OF NRCA'S POSITION ON THE PROPOSED AMENDMENT TO SECTION 7-2100

We recognize that Alexandria City Public Schools (ACPS) needs to enlarge and modernize school buildings across the City to accommodate the growth in the student population and to help address the more than $230 million in deferred school building maintenance which has accrued, but these needs can be effectively accommodated under the current zoning framework. There is no adequate justification for amending Section 7-2100 to: (1) authorize very large increases in the floor to area ratio ("FAR") of schools *by right* – without mandating approval of those increases under the Special Use Permit hearing process; and, (2) exempt public schools from *any maximum* on the ratio of the floor area of the school building to the lot area.

Furthermore, no such zoning amendments are necessary in order to proceed with the Development Special Use Permit (DSUP) for the MacArthur Elementary School modernization project and other school building enlargements. The submitted DSUP application for MacArthur seeks approval for a new school building with a height of 46 feet and 0.65 floor to area ratio as part of the September 1 docket. With respect to the proposed height, Section 7-2100 already authorizes approval of schools up to 60 feet in

height pursuant to the SUP process. The existing standards are adequate to determine, after public hearings, whether the proposed 46-foot height is appropriate for the neighborhood.

With respect to the proposed floor to area ratio, the MacArthur school plan does exceed the 0.60 maximum established by Section 7-2100. Even if the City were convinced that the additional 0.05 FAR requested in the application is actually essential to the modernization of the school, it would only need to amend the existing floor to ratio maximum in Section 7-2100 from 0.60 to 0.65. Eliminating *any* ceiling on FAR and SUP requirements for large deviations from neighborhood density standards is *unnecessary*.

Adoption of the proposed amendment will result in adverse impacts on residential communities across the City of Alexandria which cannot justify any potential benefits to fast-tracking school building density decisions to potentially unlimited proportions.

The proposed amendments should be rejected for the following reasons:

OBJECTION 1

The elimination of the Special Use Permit process for large deviations from neighborhood density standards now required by Section 7-2100 would undermine the core purposes of the zoning ordinance.

A central purpose of the City's zoning ordinance is to "protect the established character of existing residential neighborhoods." (Section 1-102 (B)). That goal has long been advanced by establishing zones "to provide *and maintain* land areas for *low density* residential neighborhoods of single family homes." (*See* Section 3-301, describing the purposes of the R-8 zone.) In order to protect the "low density" and "character" of these residential neighborhoods, the regulations for these zones only give the School Board the right to build schools that conform to the floor to area ratio that governs all buildings located in the residential zone. (*See e.g.* Section 3-306(B) - establishing a uniform FAR maximum of 0.35 for all types of buildings located in the R-8 zone).

In 2004, Section 7-2100 was adopted to allow some leeway to build larger, taller schools subject to important limitations. Under that section, the School Board was given flexibility to exceed the standard limits on building height and FAR in that zone – subject to a fixed maximum – so long as the deviations are authorized pursuant to the standards and procedures established by the Special Use Permit process.

As the City recognized in adopting Section 7-2100, the Special Use Permit standards impose important constraints on the design process that serve to protect the character and density levels of the City's single-family residential neighborhoods. An SUP can only be granted under Section 11-501 if the building "will be designed and operated" " so as to "avoid, minimize or mitigate any potentially adverse effects" on "the neighborhood as a whole or other properties in the vicinity." In addition, a building that is "injurious to property… in the neighborhood" or that does not "substantially conform to the master plan of the City" cannot be approved under Section 11.504(A).

Of great importance here, these determinations must be made by the Planning Commission and the City Council after the conclusion of a full public hearing on the issues. Section 11-504(B) establishes a broad range of factors that can be considered in the hearing process, including whether the "height, mass and scale" of the building will "dominate the immediate vicinity," whether it will "destroy" or "damage" any "significant… physical features of the site" and whether it will "increase the hazard to adjacent property from flood, increased run off or water damage." The SUP process also protects the neighborhood by authorizing the City Council to impose "conditions and restrictions" on the project that serve to mitigate any adverse effects from authorizing the increased density (Section 11-505).

The procedures and substantive standards required by the SUP process have a very concrete impact on the scale and design of school buildings that can be approved. Notably, the recent modernization of the Patrick Henry school (DSUP16-0009) resulted in a new school building with 47.33 feet in height, which exceeded the by right standard of 40 feet for its R-12 residential zone, but did not seek an SUP for the proposed FAR of the building. The FAR for the new school was only .26, which conformed to the 0.30 FAR that applied to all buildings in its R-12 zone (p. C1).

In granting the 7.3-foot increase in height for Patrick Henry, the City determined that the added height would not be "injurious to property in the neighborhood." The staff relied heavily on the fact that the building design used "tapered massing" so that "the height transitions from three stories to one story to integrate with the mass and scale of neighboring structures." (*See* Staff Report DSUP #2016-0009; p. 14-16). It also emphasized that the school was built into a slope that would "help reduce the perceived height of the building" (p. 16).

What might have happened if Section 7-2100 had not required an SUP process when Patrick Henry was modernized? The proposed amendment allows for enormous increases in FAR by allowing for jumps from the .25 and .35 limits to .60 or more. Would ACPS still have proposed the tapered building heights at Patrick Henry that assuaged concerns about the mass of the building? ACPS could have designed the school to exceed the FAR otherwise required for all buildings in its R-12 zone by 100 percent *without seeking any approval under the SUP process.* This represents a significant deviation from the prevailing density and scale in single-family residential neighborhoods. There is no basis to distinguish between the approval process for substantial deviations from neighborhood standards for height versus FAR. Neither should be allowed without the protections afforded by the SUP approval process on a case-by-case basis.

As the Virginia Supreme Court recognized in *Board of Supervisors v. Southland Corporation,* 224 VA 514, 521 (1982), it is appropriate for Virginia localities to require an SUP for uses which will have "a potentially greater impact upon neighboring properties or the public than those uses permitted as a matter of right." The Court emphasized that the SUP provides important protections for the public because it requires "governmental scrutiny in each case" so as to "insure compliance with standards designed to protect neighboring properties" and allows for the imposition of "limitations and conditions" to mitigate adverse effects. The Planning Commission should not approve the elimination of the community's right to a public

hearing and effective mitigation measures for large deviations from the prevailing floor to area ratio for schools built in low-density neighborhoods.

OBJECTION 2

The elimination of the Section 7-2100 mandatory maximum on the floor to area ratio (FAR) of public schools built in residential neighborhoods represents a radical and unsound departure from the City's well-established zoning rules.

As set forth, Section 7-2100 grants the City discretion to allow a maximum FAR of 0.60 for school buildings constructed in residential neighborhoods subject to SUP standards. This discretionary level of density is already 100 percent higher than the maximum FAR for residential lots in the R-12 zone. The mandatory maximum accordingly serves to protect the character of the residential neighborhood, which is a core purpose of the zoning ordinance, by prohibiting even greater deviations from the scale of the neighborhood. The proposed amendment, however, would eliminate *any maximum FAR* for schools built in our city's residential neighborhoods. In other words, the City would be given the discretion to consider approval of a school designed to cover every inch of the lot.

From the standpoint of the City's zoning law, this change would constitute a dramatic departure from the prevailing use of mandatory FAR maximums to regulate density in the City. Mandatory maximums on floor to area ratio are not limited to Alexandria's single-family residential zones. They are, in fact, ubiquitous in local zoning ordinance. In the "mixed use" zones regulated by Article V of the ordinance, for example, every permissible use listed in Section 5-105 includes a maximum FAR even when an SUP is required for the development. Even the RC/High Density Apartment Zone establishes a maximum FAR of 1.25 in Section 3-906. The use of mandatory FAR maximums is a key element of regulatory limits on density. There is accordingly no reason why schools built in residential neighborhoods – which are designed to be the least dense areas of the City – should suddenly be exempt from this core regulatory constraint.

It also bears emphasis that the City's zoning ordinance affords special importance to the provisions establishing a maximum height and a maximum floor to area ratio for school buildings and other developments. Many of the limitations established in the zoning ordinance, such as minimum setbacks, are subject to "modification" upon application by the owner of a development under Section 11-416 (*See* MacArthur Elementary application on the docket seeking the elimination of a 45-foot rear yard setback). The maximum limit on FAR, however, is viewed as so central to our land use planning that Section 11-416 removes any discretion from the Planning Commission to grant relief from any FAR maximum. Yet the proposed amendment would give the City authority to permit construction of a public school building *no matter how extreme its floor to area ratio.* Keep in mind, a central purpose of the zoning ordinance is to "protect against the… overcrowding of land" (Section 1-102(I).

In the case of the George Mason Elementary modernization project, consultants retained by ACPS advised earlier this year that the new school should be 100,815 square feet, representing a floor to area ratio of

0.25 – a size that would not even require a special use permit under the existing terms of Section 7-2100. [See report submitted to Alexandria School Board, January 2020; p. 7, 9.] The proposed amendment would nevertheless allow ACPS to potentially fill the entire 9.4-acre parcel with its school building.

Objection 3

The proposed amendments to Section 7-2100 conflict with provisions of the Master Plan requiring policies that promote preservation of low density and open space in single-family home neighborhoods, such as North Ridge/Rosemont.

Virginia law requires the City to adopt a "comprehensive plan" for the "purpose of guiding and accomplishing a coordinated, adjusted and harmonious development" of the city (VA Code Section 15.2-2223(A)). Alexandria's Master Plan incorporates a series of "Small Area Plans" that establish the principles that govern land use and zoning regulations in residential neighborhoods. The North Ridge/Rosemont Small Area Plan is illustrative. The Plan unequivocally establishes that the "goals of this plan are to protect and preserve existing residential areas" by protecting the "density and scale" of the "existing residential areas," and "*[e]nsur[ing]* preservation of existing open space" (p. 26). These overarching principles are also incorporated into the Citywide chapters of the Master Plan. For example, the Master Plan establishes that one of the five goals of the plan is to "preserve and increase parkland… and open space" and that "nonresidential development adjacent to 1 or 2 family housing areas *should be limited to low density, low scale (say 3 ½ story) uses" (p. 1-2).* Compliance with this plan is not optional. The Virginia Code requires that no "public building… shall be… authorized" unless the "location" and "character" of the building is "substantially in accord" with the City's comprehensive plan (VA Code Section 15.2-2232(A)).

The Small Area Plan itself establishes on its opening page that its purpose is to "serve as the basis for future City Council… actions affecting land use [and] zoning" in the North Ridge area. This plainly means that the City should not adopt amendments to the zoning ordinance that undermine the goals of the Master Plan.

The proposed amendment would nevertheless *eliminate any cap whatsoever* on the floor to area ratio for a school built on the George Mason Elementary site, even though the rest of the R-8 neighborhood is subject to a maximum FAR of 0.35. In other words, Section 7-2100 would potentially authorize the City to approve a school building 60 feet in height that occupied every inch of the site. It is no answer that the City would be unlikely to approve such a proposal under the SUP process (which would be required for buildings that exceed a .60 FAR). Maximum FAR is a core method of controlling "density and scale" and preserving open space – the central objectives of the Small Area Plan for residential neighborhoods.

Objection 4

The proposed amendments potentially undermine the City's commitment to the preservation of recreational and open space in its Long Range Educational Facilities Plan.

The City has unequivocally committed itself to the preservation of open space for the use of our schools and the broader residential community. With respect to schools, Section 3.2 of the 2010 Department of Education Guidelines establishes that a public elementary school in Virginia should provide adequate open space on its campus for outdoor physical education programs. In 2015, ACPS and the City issued its Long Range Educational Facilities Plan and adopted the goal of "meeting the [DOE] guidelines" governing the size of a campus needed for educational and recreational purposes (3.12). The Plan emphasizes that the campus must be large enough, because it is "important for students to recreate, have access to explore nature, and learn in an outdoor class room." With respect to the neighborhood, the Long Range Plan further confirms that the ACPS goal is "*no net loss of usable open space for the community*" (3.12) and stresses the need to "maximize community use" of the "recreation program space" (3.13).

The zoning rules now embodied in Section 7-2100 represent an important method of promoting compliance with these open space requirements for school campuses. By requiring an SUP for large deviations from the neighborhood density and limiting the floor to area ratio to a maximum of 0.60, the rules effectively promote the preservation of open space. The proposed amendments, on the other hand, would authorize the potential loss of vast portions of the little open space remaining on school campuses in Alexandria. According to the Planning staff, it would impact up to 12 ACPS sites.

We recognize that ACPS and the Planning Commission still value open space and that proposals under the new amendment would hopefully seek to preserve open space for students by "stacking it" onto underground parking garages and other means, despite the elimination of the maximum FAR in Section 7-2100. But the purpose of a maximum FAR is to protect the public by eliminating any discretion to exceed reasonable limits on density that serve to protect open space. If the City is committed to the protection of open space, then it should not award itself the statutory authority under the proposed amendment to automatically double the FAR of a school, or to eliminate any maximum FAR whatsoever.

Objection 5

The proposed amendments undermine achievement of the City's environmental policies.

Not long ago, the City prized protection of the environment over the quest for ever-increasing density. It proudly invested substantial resources towards comprehensive environmental plans to preserve the dwindling urban forest canopy and protect groundwater quality through dedicated stream and channel maintenance. There has never before been any suggestion that public schools should be exempt from these commitments. To the contrary, the Long Range Education Facilities Plan expressly adopts a policy to "maximize canopy coverage" and seeks to "fulfill the goals of the Urban Forestry Master Plan" (3.13). The City's Master Plan in turn requires preservation of existing trees "to the maximum extent feasible."

Sadly, these documented assurances ring hollow when the City seeks to amend Section 7-2100 to eliminate the cap on floor to area ratio in residential and mixed-used zones. *The authorization of larger buildings inevitably authorizes the destruction of more trees.* This is a serious concern for the North Ridge

community, which runs a dedicated Tree Canopy Restoration Program through its civic association, which the City has acknowledged through award recognition.

The George Mason Elementary School site, by way of example, is characterized by "remnant forest groves," including Pignut Hickory trees that are designated City co-champions (March 2014 Natural Resources Technical Report 14-1; p. 8). If ACPS is given the *right* to increase the size of a school on the site by 70 percent without SUP approval under the proposed amendment, will it still be "feasible" to preserve these irreplaceable groves? If the City someday determines in its discretion that a huge school building on the George Mason site with a FAR of 2.0 is more necessary than the remnant forest groves, would the community have any meaningful legal recourse?

Large increases in the authorized density of schools in residential neighborhoods not only threaten the urban canopy, they also substantially increase the risk of flooding and detrimental groundwater flows. The George Mason Elementary site again provides an excellent example of the need to retain existing limits on the density of school buildings in residential neighborhoods. The City has recognized that the open athletic fields now found on the site – which would also be threatened by authorization of increased density—are "important for groundwater infiltration and recharge, as well as protecting water resources and waterways downslope" (March 2014 Natural Resources Technical Report 14-1; p. 8).

CONCLUSION

The City has not offered a sound justification for removing the critical protections now afforded by Section 7-2100. It promotes compliance with our land use plans to preserve community open space, to save our remnant forests and to protect the character of low-density residential neighborhoods. The City does not need to eliminate any maximum on the floor to area ratio of City schools. Other buildings in the City remain subject to a maximum FAR. Schools should be, too. The City also does not need to abrogate the current requirement for public SUP hearings and approvals when ACPS wants to build schools with a much higher FAR than any other buildings in existing surrounds. The SUP process imposes important constraints on the design process, it has worked well and it should be retained for large deviations from neighborhood density – whether attributable to increased height or to FAR. ACPS modernization projects can be achieved under the existing framework, or with modest changes to maximum FAR in Section 7-2100. We accordingly urge the Commission to reject the proposed amendment.

Sincerely,

Mr. Chuck Kent, President
North Ridge Citizens' Association (NRCA)

cc: City Council, Wilmer Hale, LLC