

1805 Allegro Drive SE
Olympia WA 98501
November 4, 2018

Nicole Floyd, Lead Planner
Nicole Floyd [nfloyd@ci.olympia.wa.us]
Olympia Community Planning & Development Department
City of Olympia

RE: Olympia High School Expansion, File # 18-4309

Dear Nicole Floyd:

Please accept the following as my public comments regarding the matter of The Olympia High School Expansion proposal, and its Land Use Permit request.

1. Public *education* dollars should not be used to augment non-education groups or organizations. The Olympia School District (OSD) has argued for years that our education dollars should be used for community playfields as well as education, simply on the grounds that the community needs more fields, without apparent regard for the fact that dollars collected for educational resources, should be used – exclusively for educational resources. Otherwise the funds are being mis-used.

2. The OSD is bound, by a Hearing Examiner's (HEX) decision in 2004 to a specific and limited list of potential users of the Ingersoll Stadium complex. The specificity was taken at that time, from a document from the OSD. The specificity was embedded in, and "conditioned" the OSD's Land Use Permit, and remains in effect now. This was done to condition the land use in such a way as to provide needed protections for the residences which closely surround the Olympia High School (OHS).

The OHS, in its current Land Use Permit application, under the City's review, references its plan to use their internal policy for use of controlled lighting and sound, but said in the October 29, 2018 meeting you oversaw, that it had no intention of restricting the potential user groups to those

specified for field use by the HEX in 2004, and which are still binding in the Land Use Permit for the Ingersoll facilities. The reasons the HEX conditioned that previous 2004 Land Use Permit are just as valid for the now-proposed practice field and relocated tennis courts. The currently requested Land Use Permit should be “conditioned” in just the same way, to protect the surrounding residences.

3.

In the meeting on October 29, 2018, we were told, and the PowerPoint presentation in that meeting stated, that a Conditional Use Permit “process” had been started on October 10, 2018. Yet, nearby residences had not been informed of it, even though that is a requirement of the City’s Conditional Use Permit process. In reading through the web based materials to which you directed us via web links in your email (thank you, by the way, for so quickly keeping that commitment you made to us in the meeting!) The OHS “Conformance Narrative” seems to indicate that the OHS wants to simply add onto the Conditional Use Permit that was approved for the performing arts center. OHS proposes that conditioning the use of playfields is the same as it is for classrooms, science labs, student commons, the performing arts center, and etc. Absurd! The fields are not within structures. The OHS intent, in the October 29th meeting, was described as allowing non-district field use on a regular basis. We were told that the use of user-supplied amplified music on the tennis courts and the proposed practice field would be allowed and not seen as a problem at all. Clearly these activities are not ones that will be expected or allowed in classrooms. Likewise, the activities in the classrooms are extremely unlikely to disrupt nearby neighborhood residents.

Please provide me with an acknowledgment of receipt of these comments. Also please note this as a written request for the decision on this project to be sent to me, when it is made.

Thank you very much,
James Jablonski
Jabo4of10@comcast.net

From: [ZWB](#)
To: [Nicole Floyd](#)
Cc: ["ZWB"](#)
Subject: Olympia High School Land Use file 18-4309
Date: Sunday, November 04, 2018 8:38:19 PM
Attachments: [Ingersoll HE 2004 ruling.pdf](#)
[4260P\(C\)-Ingersoll Stadium Facility Use and Rental\(20130701\).pdf](#)
[HE 2013 DECISION Ingersoll 4260P\(C\) Modification 11-0159.pdf](#)

Greetings Ms. Floyd;

Please consider this as Public Comment on File Number 18-4309, Olympia High School latest Land Use Application.

Please provide me with an acknowledgment of receipt of these comments. Also please note; this is a written request of the decision on this project being sent to me, when made. Please see my comments below, and attached documents.

The Olympia High School (OHS) campus also has an adjacent elementary school as part of the Olympia School District (OSD) land complex on that site. These two schools and their properties are closely surrounded by residential homes on all sides. There have been multiple expansions over recent years at both schools, as well as a private school across North St. from OHS, that is part of a Lutheran Church. The infrastructure of this tightly inhabited residential neighborhood has been pushed to the limits by the impacts of this rapid growth. The latest Land Use Request for Olympia High School, shortly after the large expansion on the Pioneer Elementary School attached to the High School, is alarming to those of us dealing with the traffic, lights, noise, vandalism, etc. that comes with too much rapid growth, without restrictions. It is very noticeable how much calmer it is in the summer months when the schools are closed, and just how much impact these schools now have on our residential neighborhood when they are in session. I request that the City insist that the OSD extends the 2004 Hearing Examiner (HE) Land Use Permit Request ruling "conditions" to the new second artificial turf field and tennis courts that are part of this new Land Use Permit (LUP) Request (see HE 2004 ruling attached). OSD has indicated that they do not want to follow those "conditions" for these new sports fields, and want to expand the non-district private groups that they rent the fields to. Instead, it appears that OSD is trying to wrap the new second artificial turf into the building expansion Conditional Use Permit (CUP) which would not cover impacts of a sports field. There is also a concern that if OSD will not adopt those restrictions to the new fields, that there will be no binding limits on hours of operation, portable amplified systems, music, frequency of use, parking, etc., as OSD would be able to change the 4260P(c) language at will. That would increase the traffic, noise, lighting, and number of outside visitors to the neighborhood. The sports fields and stadium on the OHS campus should have a Conditional Use Permit (CUP), especially considering their close proximity to so many residential homes. However OSD has refused to do this. Most High School Stadiums and sports field complexes of this size are not so closely surrounded by homes, and DO have Conditional Use Permits. The noise, traffic, lights, and other impacts often go on until 10:00 p.m. or later, making it hard for families to get sleep, including their school-age children, and for residents to have any peace and sanctuary in their own homes. The light pollution from the OHS sports fields and property has substantially grown over the 25 years I've lived next to Olympia High School. This latest proposal puts no binding restrictions on any of these impacts. That is why I urge the City to put forward the Hearing Examiners 2004 "conditions" to the new field and tennis courts expansion. OSD has not

proven to be a considerate neighbor historically without these binding restrictions.

To provide some history for clarification of my concerns, the Ingersoll Stadium area and adjoining sports fields do not have a Conditional Use Permit (CUP), as they have been piecemealed in over the last 50 years, from what was a small football stadium only, in the late 1960s for Olympia High School (OHS), and is now used by all schools in the Olympia School District (OSD), and rented out frequently to non-district groups, both private and city, as well. The sports fields have gradually grown much bigger, and much more frequently used over time. So, when the stadium area went through its last huge renovation and expansion in 2004, OSD filled for a Land Use Permit (LUP), and since OSD wanted to increase the frequency of use by district and non-district groups, lighting, sound systems, and how they rented the facilities out, neighbors were concerned. One OSD athletic director was quoted in the Olympian Newspaper at the time saying he "visualized the Stadium area as being a southwest WA regional sports hub". The Land Use Permit was challenged in 2004, and the Hearing Examiner (HE) put "conditions" on that Land Use Permit, since OSD had refused to pursue a much needed Conditional Use Permit for Ingersoll Stadium and the adjacent athletic fields. A couple of these conditions were to embed an OSD policy to Ingersoll called policy 4260P(C) (see attached) into that Land Use Permit. That was a policy that had been worked out between some of the neighbors at the time, and OSD staff. It deals with hours of operation, sound system volume, lighting, the use of fireworks, and noise makers, other amplified portable systems, etc., and it places restrictions on all of these. The conditions also limit who OSD is allowed to rent the facility to. If they seek a new Land Use Permit, my concern is whether they will try to restrict, or take out completely these Hearing Examiner protections? In a neighborhood informational meeting, an OSD staff representative recently refused to expand these HE protections to the new artificial turf field and tennis courts that are part of the latest Land Use Permit request. He stated he wanted to expand the non-district groups that had access to the new facilities. I've lived by Ingersoll Stadium and the adjacent sports fields for over 25 years, and it used to be a very noisy area, with some events playing amplified music all night long. The noise, and light pollution, as well as traffic, garbage in surrounding neighborhoods, and property vandalism was more significant before the Hearing Examiner put "conditions" on the 2004 ruling. It is important that we not lose the protections that the Hearing Examiner ruling gave property owners around the Ingersoll Stadium area, and it is important that those same protections be extended to the new artificial turf field, and tennis courts that are part of this new (LUP). Since the Hearing Examiners 2004 ruling, the OSD has tried to eliminate or modify the "conditions" both in 2009 and 2013. They withdrew the 2009 request after multiple SEPA challengers came forward, and in 2013 the HE upheld most of the original ruling (see attached).

Please apply the Hearing Examiners 2004 "conditions" for the athletic Stadium, and artificial turf field, to the new second artificial turf field and tennis courts proposed in this Land Use Request. Specifically it is important to apply binding guidelines that OSD cannot easily change in the 4260P(C), to the additional artificial turf field, as well as restricting the non-district user groups that have access to these fields in this very dense and close residential neighborhood. Also please review, and refuse, the SEPA DNS that OSD did on themselves. It is incomplete, and a farce, in my opinion. Having any agency performing the SEPA on themselves is like asking a fox to guard the hen house. Totally makes a mockery of the intent of the SEPA review, and this incomplete and sloppy OSD SEPA review is a perfect example. They don't even consider the traffic, light, and noise impacts of the new artificial turf and tennis court use, nor the impacts of the non-permeable surface expansion in an area with drainage issues already, and additional recent expansion of the elementary school on the same

campus in combination with this OHS expansion is not considered.

Thank you for considering my comments and concerns above

Zandra Brown

1805 Allegro Dr. S.E.

Olympia, WA 98501

INGERSOLL STADIUM - FACILITY USE AND RENTAL**COMMUNICATIONS**

The District Athletic Director ("Athletic Director") serves as the "point of contact" for enforcement of these procedures and is responsible for maintaining the stadium events calendar. The stadium calendar is available online via the District website. Inquiries regarding information, scheduling and concerns will be directed to the Athletic Director. Concerns regarding Ingersoll Stadium operations and/or management should be addressed to the Athletic Director per OSD Policy 4260, Section VI.5 (d).

A citizen expressing a complaint or concern regarding the operation and/or management of Ingersoll Stadium should refer to the following procedure.

- a) Contact the District Athletic Director, either verbally or in writing, to express the specific concern and asking for a response.
- b) A written response will be provided to the complainant within ten (10) working days from receipt of the complaint or concern.
- c) If the matter remains unresolved, the citizen may refer the issue to the Board of Directors by completing the "Citizen's Complaint Form" as found in OSD Procedure 4220P, and sending it to the Superintendent for Board consideration. This form may also be obtained from the Superintendent's Office.
- d) A written response will be provided to the complainant within ten (10) working days after Board consideration.
- e) Deliberation by the District and/or Board regarding personnel concerns will be conducted in a manner providing safeguards of the employee's right to due process and confidentially.

APPLICATION PROCEDURE

- 1) As stated above, the Athletic Director is responsible for maintaining the stadium event calendar. Applicants are to contact the Athletic Director to schedule events. The applicant must also contact the District's Facilities office at the Knox Administrative Center to obtain a Facility Use Application; also available on the District website.
- 2) Following the receipt of a signed, approved application, the applicant will contact the Athletic Director to verify that the event has been posted correctly on the stadium event calendar.
- 3) The user group must designate, in writing, one person as the "point of contact" for all issues involving the use of the facility. The minimum information provided must include name, mailing address, and daytime and evening phone numbers.
- 4) All other procedures pertaining to application and billing procedures shall be as stated in "Procedure 4260(A), Facility Use and Rental Procedures."

CONDITIONS FOR USE - GENERAL

- 1) All "Rules and Regulations" contained in "Procedure 4260(A), Facility Use and Rental Procedures" are adopted as part of this procedure unless specifically noted otherwise. Additional conditions contained herein are intended to modify or supplement those contained in Procedure 4260(A).

POLICY SECTION 4000 - COMMUNITY RELATIONS

- 2) A District groundskeeper, or other authorized District employee, must be present at the stadium when the facility is in use by a non-district group. The groundskeeper will remain at the facility during the entire event and will be responsible for ensuring compliance with District policies and procedures, and for the cleaning and securing of the facility after its use. Door or gate keys will not be issued to any non-district individual or group.
- 3) Per RCW 28A.210.310, the use of tobacco products is prohibited on school district property. Per RCW 63.44.270, possession of weapons, alcoholic beverages, and other controlled substances, is prohibited on school district property. School property includes any land owned by the school district. School property in the vicinity of the stadium includes areas outside of the stadium fencing, parking lots, walkways, and adjoining fields.
- 4) Only that part of the facility specifically mentioned in the permit is to be used. Use of team meeting rooms, storage rooms, officials' dressing rooms, press box, and other facilities and systems will only be permitted if specifically identified on the application and approved by the District. The concessions area is available only to the District's contracted concessionaire. Sale of food and/or beverages by persons or groups other than the District's contracted concessionaire will only be done with prior approval from the Athletic Director. Restrooms will be available for all scheduled, approved uses.
- 5) School equipment (hurdles, high-jump gear, pole vault pads, etc) cannot be used by non-district groups unless specifically approved by the Athletic Director in consultation with the school owning the equipment. The District must be satisfied that a competent operator is in charge of the equipment during use. An appropriate rental fee will be assessed as determined by the Athletic Director.
- 6) Events exceeding on-site parking capacity (including allowance for any joint-use agreements in place) will not be scheduled concurrently with events in the main gymnasium or the school's performing arts facility. The District shall not rent or make the Stadium available for non-District uses for which attendance exceeds total on-site parking available in the Stadium and High School parking lots. If the High School auditorium is in use at the same time as non-District use of the Stadium, the total attendance of the Stadium and auditorium uses cannot exceed total on-site parking available in the Stadium and High School parking lots.
- 7) No pyrotechnic or other visual displays that are distracting to the surrounding neighborhood may be used in the facility, or in conjunction with stadium activities. Air horns, cowbells, sirens and similar noisemakers are prohibited; appropriate signs will be placed at the entrance. Electronic amplification of music in the facility, or in conjunction with stadium activities, is also prohibited unless specifically noted under "Lighting and Sound Systems" below.
- 8) User groups must exit the facility within 30 minutes following the conclusion of the scheduled event.
- 9) It is the responsibility of the user group to comply with occupancy limits. Maximum seating capacity for the facility is 3000. No use will be approved when the projected attendance will exceed this capacity.
- 10) Pets and animals are strictly prohibited from the stadium facility, except licensed service animals.
- 11) Non-district users will not decorate or alter the facility without prior approval by the Athletic Director.

POLICY SECTION 4000 - COMMUNITY RELATIONS

LIGHTING & SOUND SYSTEMS

Definitions of terms:

- Lighting System:** "Zone 1" refers to the field lights and includes the center bank of lights on each light stand.
"Zone 2" includes 3 outside lights on each light stand.
- Sound System:** "Field Speakers" are those speakers attached under the front edge of the stadium roof and are directed downwards towards the playing field.
"Grandstand Speakers" are those attached inward of the front edge of the stadium roof and directed downwards towards the seating areas.

- 1) The use of the stadium field lights and/or the sound system by non-district users requires the presence of a District groundskeeper.
- 2) The field lights shall only be turned off and on by designated District staff. The use of the "Zone 2" lighting system (side lighting) is limited to high school Varsity football and all soccer games. All other District and non-district events shall only use the "Zone 1" light banks.
- 3) Following the conclusion of an evening event, and as occupants exit the facility, the "Zone 1" lights (center of light bank) will be turned off. The "Zone 2" lights and grandstand lighting will remain on until all occupants have exited the facility and the facility is secure. At that time the "Zone 2" and the grandstand lighting system will be turned off. The field lights will be turned off consistent with the "Hours of Operation."
- 4) The District will post and distribute procedures for use of the sound and lighting systems.
- 5) The sound system can only be used to directly support events conducted/hosted by the school district, including football and soccer playoff games. With the exception of youth track meets conducted by the City of Olympia, Parks, Arts & Recreation Department, the sound system may not be used by non-district user groups. The use of the sound system at the above-mentioned events shall be limited to public address and event-related announcements only. The system shall not be used to amplify music unless it is in support of school district performances (e.g., school drill teams, flag corps, cheerleading routines, "Star Spangled Banner"). District staff announcing contests will receive annual training in microphone operation and announcing protocol.
- 6) The use of a secondary or portable sound system is prohibited
- 7) Exception to items 5 and 6 above: The stadium sound system or a secondary/portable system may be used to amplify music for approximately 20 minutes during pre-game warm-up exercises immediately prior to high school varsity games. At no time may a secondary sound system be used to increase the decibel level above the maximum decibel level of the stadium sound system.

FIELD AND TRACK

- 1) Only shoes and cleats approved for use on turf and/or all-weather track_surfaces may be used.
- 2) Uses not consistent with the performance and durability of the turf or track surface are prohibited.

POLICY SECTION 4000 - COMMUNITY RELATIONS

- 3) No food, gum, seeds, shells, sports drinks, or glass containers are allowed on the playing surfaces. If found after an event, a cleaning fee will be assessed. Only bottled water in containers is acceptable.
- 4) During games/matches, only coaches, players, and event officials are allowed on the turf and/or track surface.
- 5) Parking or any use of a vehicle inside the fenced area of the stadium is prohibited.

HOURS OF OPERATION**1) DISTRICT USE**

The facility is available to District schools for physical education, extra-curricular activities and special assembly uses. It is available for District use during the following hours:

Monday through Friday:	8:00 am to 10:00 pm
Saturday:	9:00 am to 10:00 pm
Sunday:	not available

There will be no use of the facility on recognized District holidays of New Year's Day, Martin Luther King, Jr., Day, Memorial Day, 4th of July, Labor Day, Christmas Eve Day and Christmas Day. There will be no use of the facility on Veterans Day, Thanksgiving Day and the day after Thanksgiving Day, except that Capital High School or Olympia High School may be granted limited use of the facility only when needed to practice for football or soccer playoff games. At no time will the sound system be used during these practices.

2) NON-DISTRICT USE

The facility is available to non-district user groups during the following hours:

Monday through Friday:	5:00 pm to 9:00 pm
Saturday:	9:00 am to 9:00 pm
Sunday:	12:00 (noon) to 6:00 pm.

(Game preparation, conducted by District staff, may take place 30 minutes prior to the times listed above. In no case will the scheduled event begin prior to the times noted above.)

There is to be no use of the facility on recognized District holidays (see above). During school breaks and non-school days, the facility may be available beginning at 9:00 am, Monday through Friday. There will be no concurrent use of the stadium by non-district groups and the operation of Olympia High School.

SUPERVISION

- 1) The user organization is responsible for all of the participants, spectators, and affiliated personnel connected with their use and will ensure their compliance with stipulations for use of the facility.
- 2) Crowd and traffic control is the responsibility of the user organization. Adequate supervisory personnel must be provided to conduct the planned activity safely and in the best interest of school property. Minimum crowd control requirements are:

CROWD	SUPERVISORS
250 to 500	2
500 to 1000	4
1000 to 2000	6
2000 to 3000	8

POLICY SECTION 4000 - COMMUNITY RELATIONS

- 3) Supervisory personnel will wear garments identifying them as such. Supervisory personnel will have the authority to require audience or participants to cease behaviors not conforming to District policies and these procedures, including requiring audience or participants to leave the facility for failure to observe the rules and conditions for use. If non-conforming behaviors continue, District staff has the authority to stop the event until such time as compliance is maintained. In the case of continued non-compliance, District staff has the authority to terminate the event and future events scheduled by the user group.
- 4) Non-district user groups whose anticipated single day capacity exceeding 1000 people must submit, with their application for facility use, a "Crowd/Traffic/Parking Control Plan," listing the people assigned as supervisors and their names and roles in "crowd control," and methods developed to control traffic patterns and parking. The user group must designate one individual as responsible for the site enforcement of the crowd/traffic/parking control plan.. The plan must be reviewed and approved by the Athletic Director prior to the approval of the requested use. The approved plan will be posted on the District's website.
- 5) The user organization may contract with the District for the necessary personnel to supervise the event. District employees will be paid by the District and the user group will be billed accordingly. The user group will also be responsible for expenses related to additional security, police and fire protection, if necessary or required. Non-district user groups with anticipated capacity exceeding 2000 are required to have a minimum of one police officer present for the entire event and are responsible for any and all payments related to that service.

CONDUCT AND COMPLIANCE

- 1) Misconduct, profane and improper language, possession or use of intoxicating beverages, and/or controlled substances, the carrying of weapons, or other violations of District policy or regulations, will be sufficient cause for the denial and/or termination of the use permit.
- 2) Failure to comply with District policy and these procedures will result in termination or the suspension of future use of the facility for a period of time as determined by the Athletic Director. Determination by the Athletic Director regarding the suspension or termination of use will be final.

INSURANCE REQUIREMENTS

- 1) All facility use applicants will hold the District harmless from any loss or damage, liability or expense that may arise during, or in any way be caused by, such use or occupancy. Also, in the event that property loss or damage is incurred during such use or occupancy, the amount of damage will be determined by the District. A bill for damages will be presented to the group occupying the facility during the time the loss or damage was sustained.
- 2) Insurance is required for all non-district user groups. The District has no responsibility to provide liability insurance for injuries to person(s) or property arising from the acts or omission of the applicant organizations, its agents, employees, members, invitees or subcontractors. The District requires that the applicant organization provide such liability insurance. A certificate of insurance is required naming the District as "additional insured." The applicant organization shall provide to the District a certificate of insurance, with minimum limits of \$1,000,000 for general liability, before use of the facility is approved.

FACILITY USE FEES

- 1) The District will determine a fee schedule applicable for the use of the facility. The fee schedule will be evaluated and may be modified on an annual basis.
- 2) If the grandstand and support areas need to be cleaned after the rental group leaves, the group will be charged for the cost of cleaning by District groundskeepers. For evening events, cleaning may take place the day after the event occurs, depending on the timing of the next scheduled use.
- 3) The "schedule of rates" will reflect hourly rates, consistent with the rate schedule, and will be applied to the use of the, field, track and field event areas, team rooms, officials' dressing rooms and event support systems. Rental cost for the use of the facility will include personnel costs. Personnel costs will include groundskeeping and custodial. Additional District-provided supervisory and/or management personnel costs will be applied when required.
- 4) If groundskeeping and/or custodial/maintenance services are required on weekends or holidays, a minimum of four (4) hours is required at an overtime premium rate. If services are required on a weekday past 5:00 pm during school breaks (summer, winter, mid-winter and spring), an hourly overtime premium will be required.



<i>PROCEDURE ESTABLISHED</i>	<i>January 2004</i>
<i>REVISED</i>	<i>May 2009</i>
<i>REVISED</i>	<i>July 2009</i>
<i>REVISED</i>	<i>August 2011</i>
<i>REVISED</i>	<i>April 2013</i>
<i>REVISED</i>	<i>July 2013</i>

This document is approved by the City of Olympia pursuant to land use application File No. 11-0159 and File No. 03-2397.



**OLYMPIA
HEARING EXAMINER
DECISION**

Community Planning & Development
601 4th Avenue E. – PO Box 1967
Olympia WA 98501-1967
Phone: 360.753.8314
Fax: 360.753.8087
cpdinfo@ci.olympia.wa.us
www.olympiawa.gov

April 22, 2013

Greetings,

Subject: INGERSOLL STADIUM USE MODIFICATION
Case# 11-00159

The enclosed decision of the Olympia Hearings Examiner hereby issued on the above date may be of interest to you. This is a final decision of the City of Olympia

In general, any appeal of a final land use decision must be filed in court within twenty-one days. See Revised Code of Washington, Chapter 36.70, for more information relating to timeliness of any appeal and filing, service and other legal requirements applicable to such appeal. In particular, see RCW 36.70C.040.

If you have any questions, please contact me at the City of Olympia, Community Planning and Development Department, at 601 4th Avenue E or at PO Box 1967, Olympia, WA 98507-1967, by phone at 360-753-8591, or by e-mail at sfriddle@ci.olympia.wa.us

Sincerely,

STEVE FRIDDLE
Community Services Manager
Community Planning & Development

**FINDING, CONCLUSION AND DECISION
OF THE HEARING EXAMINER FOR
THE CITY OF OLYMPIA**

CASE: Ingersoll Stadium, Olympia High School, Policies and Procedures
11-0159

APPLICANT: Olympia School District
1113 Legion Way SE
Olympia, WA 98501

REPRESENTATIVES:	Jeff Carpenter	Denise Stiffarm
	Coordinator Health, Fitness & Athletics	Attorney at Law
	1113 Legion Way SE	925 4th Ave, Ste 2900
	Olympia, WA 98501	Seattle, A 98104

SUMMARY OF REQUEST:

Referral to Hearing Examiner from Site Plan Review Committee to review revisions proposed by the Olympia School District to adopted procedures for the operation of Ingersoll Stadium (District Procedure No. 4260P(C)).

LOCATION OF PROPOSAL:

Olympia High School, 1302 North Street SE, being a part of Walker Donations Claim No. 38, T18N, R2W, W.M. (Parcel No. 09890050000)

SUMMARY OF DECISION: The procedures are approved, as revised.

HEARING AND RECORD:

After reviewing the Staff Report, the Hearing Examiner Pro Tempore held a public hearing on March 11, 2013, at Olympia City Hall.

Steve Friddle, Community Services Manager, presented the Staff Report for the City.
Darren Nienaber, Assistant City Attorney, represented the City.

Robert B. Shirley, Attorney at Law, represented property owners Joseph B. Ford, Bonnell C. Jacobs and Jim Lazar.

Jeff Carpenter, Athletics Coordinator, spoke for the School District. Denise Stiffarm, Attorney at Law, represented the District and presented a substitute proposal on the District's behalf.

Public testimony was heard from Joseph Ford, Charles Dinwiddie. James Jablonski, Jan Witt, Zandra Brown, Tim Ahern, Chris Woods, and Jeanne Miller.

41 Exhibits were admitted at the hearing. Eight post-hearing submissions were admitted.

PROCEDURE

1. The instant proceeding is the outgrowth of a Hearing Examiner decision (File No. 03-2397) issued on May 28, 2004. At that time, following an appeal hearing, the Examiner upheld a Site Plan Review Committee Land Use Approval regarding the remodel of Ingersoll Stadium on the grounds of Olympia High School. The Examiner added the following additional conditions of approval:

1. The facilities at issue may be used for School District activities and for only the following non-District activities: Thurston County Youth Football, YMCA and City Parks track meets, occasional sports clinics, and youth soccer associations.
2. As it relates to the Stadium, the District shall comply with its "Procedure No. 4260P(C)" as it is set out in Ex. M-1 Att. B, unless permission is obtained from the Site Plan Review Committee to modify it.
3. The Traffic and Parking Management Plan required by the Land Use Approval shall comply with the requirements of Ex. 1, p.2, Item 6.
4. The District shall not rent or make available the Stadium for non-District uses for which attendance exceeds total on-site parking available in the Stadium and High School parking lots. If the High School auditorium is in use at the same time as non-District use of the Stadium, the total attendance of the Stadium and Auditorium uses cannot exceed total on-site parking available in the Stadium and High School parking lots.
5. The noise exemption of WAC 173-60-050(4)(h) includes those activities that any member of the public may attend, whether or not admission is charged. It does not include other District or non-District activities.
6. Unless exempted by law, all activities at the Stadium and its track and field shall comply with the noise regulations found in WAC 173-60 and other applicable law.

2. Procedure No. 4260P(C) (hereinafter "the Procedures"), which the Hearing Examiner incorporated into the approval of the Stadium remodel, is a set of operating rules governing use of the Stadium adopted by the School District. The Procedures are intended to reduce the effect of the Stadium's use on the surrounding neighborhood through such measures as restricting hours of use, regulating lighting, limiting the use of noise makers.

3. Because of Condition 2 in the Hearing Examiner's 2004 decision, any changes the School District wishes to make in the rules for operating the Stadium, have become a matter of land use approval by the City.

4. The matter at hand is a School District application to revise the Procedures. The Site Plan Review Committee (SPRC) referred this application to the Hearing Examiner to be decided after a public hearing, governed by the new Hearing Examiner Rules adopted in the fall of 2012.

5. In the fall of 2004, shortly after the initial Hearing Examiner decision, the District proposed and the SPRC approved some alterations to the Procedures, known as the "Wolpert Version." These were regarded by the SPRC as non-substantive and no public notice was given prior to their adoption. Because of the lack of notice, this SPRC action was not discovered by appellants in the original case (File No. 03-2397) until November of 2012. Upon this discovery, Ford, Jacobs and Lazar appealed the "Wolpert Version" and then moved both to reopen the original case and to consolidate their "Wolpert" appeal with the instant proceeding. They argued that their appeal was timely under the doctrine of equitable tolling.

6. In the instant proceeding, the applicant School District has sought review of their proposed modifications against the original version of the Procedures adopted as Condition 2 in the Hearing Examiner's May 2004 decision. Controversial additions from the "Wolpert Version." have been eliminated.

7. At the outset of the hearing, the Examiner declined to re-open the original case and denied the motion to consolidate, on the basis that changes in the Procedures made in the "Wolpert Version" would be mooted by the decision in the instant case. Whatever was in effect before will be replaced by the version of the Procedures adopted as a result of the instant proceedings.

8. The Examiner also ruled that the instant case should be heard under Hearing Examiner rules for permits and approvals (Chapter 3) and not under the rules for appeals (Chapter 4). However, cross-examination by counsel for Ford, Jacobs and Lazar was permitted.

9. In its initial oral presentation, the applicant School District revealed that, just prior to the hearing, it had submitted a substitute proposal making some significant changes in what it wants the Procedures to say. During the course of the hearing, the District agreed to some changes in the substitute proposal. At the close of the hearing counsel for Ford, Jacobs and Lazar asked for additional time to comment on the final version of the proposal.

10. The Examiner granted this request and asked that the City circulate a copy of the revised proposal to parties of record as soon as possible after the hearing. The Examiner held the record open for added comments until March 27, 2013. The School District was given until April 3, 2013 to respond to the comments. At that point the record closed.

FINDINGS OF FACT

1. Factual matters contained in the foregoing section on "Procedure" are hereby adopted as findings.

2. The Olympia School District seeks to revise its Procedure No 4260P(C) ("the Procedures"), altering the terms of that document as it was when incorporated as Condition 2 to

the Hearing Examiner's decision of May 28, 2004. The Procedures relate to the use of Ingersoll Stadium at Olympia High School.

3. There was no appeal of the May 2004 decision. Instead, the appellants obtained a promise that special notice would be given to the neighborhood of any future proposed changes to the Procedures. This commitment was not honored in the case of the "Wolpert Version". Nevertheless at the instant hearing and in its post-hearing submission, the District argued that the May 2004 hearing decision is final and that matters decided then cannot now be considered again.

4. Included in the matters then decided was the issue of whether a Conditional Use Permit is required in regard to applications affecting the Stadium and its use. This was decided in the negative, eliminating the usual inquiry into compatibility of the use with its residential setting.

5. Also decided in the May 2004 decision was the issue of coverage of the noise standards of Chapter 173-60 WAC. Under the prior ruling, public events at the Stadium are exempt from the noise standards. Thus, the standards do not apply to most of the events held there.

6. Olympia High School and Ingersoll Stadium are located at 1302 North Street SE on property zoned Residential 4-8. In all directions from the site are single family residential homes located within residential zoning.

7. The persons now expressing concerns about the proposed revisions are residents of the neighborhood in the vicinity of Stadium, most of whom participated in the prior proceedings. They expressed deep distrust of the District's motives and methods, fueled in large part by the lack of public notice of the adoption of the "Wolpert Version" in late 2004.

8. The underlying problem for the residential neighborhood is with the noise, bright lights and mess attending the conduct of Stadium events. The major worry is that the District wants to expand non-school activities at the site, turning it into a profit center, with resulting increased disruption of normal residential life in the neighborhood.

9. The neighbors focused particularly on the non-district users allowed at the Stadium. The allowable list of such users was the subject of Condition 1 of the Hearing Examiner's May 2004 decision. The condition limited non-district activities to : "Thurston County Youth Football, YMCA and City Parks track meets, occasional sports clinics, and youth soccer associations." The "Wolpert Version" incorporated this listing into the Procedures. The concerned citizens urged that Condition 1 is a separate restriction which stands on its own and should not become a part of the Procedures. The apparent perception is that the list would be easier to expand if part of the Procedures.

10. The District attempted to head off this concern by leaving the listing of non-District users out of the instant proposal for the Procedures. Condition 1 is not affected by the version of the Procedures before the Examiner in this case. Nonetheless, the citizens remain suspicious.

11. The School District, as lead agency, determined that the instant proposal is a procedural action exempt from the threshold determination and EIS requirements of the State Environmental Policy Act. WAC 107-11-800(19).

12. The changes actually proposed by the District are, in fact, modest -- many concerning matters of detail or wording. The main modifications proposed, are as follows:

- a. Eliminate all language regarding permissible approved non-District user groups.
- b. Include the language of Condition 4 of the Hearing Examiner's decision of May 28, 2004, forbidding non-District use of the Stadium when available on-site parking will be exceeded.
- c. Restore language in the "Lighting and Sound Systems" section to reflect Examiner's Finding 23, in effect requiring all field lights to be turned off at 10 p.m.
- d. Remove language in the "Hours of Operation" section relating to a special exception for high school varsity football and soccer games.
- e. Restore language in the "Supervision" section calling for the posting of approved Traffic and Parking management plans on the District's website.

13. Initially the District proposed the formation of a citizen's advisory committee to discuss issues related to operations of the Stadium. During the course of the hearing, this proposal was withdrawn, after citizen testimony questioned the likely objectivity of the committee.

14. There was a contention that because the District charges a user fee to non-District users, it is running in a commercial operation, an activity not allowed in the residential district. However, the evidence is clear that the District is not engaged and does not intend to engage in a commercial operation. Money-making is not its object. The District does charge a user fee in order to recoup some of its costs for non-District Stadium use. There is no support in the Code for the proposition that this action somehow converts the use into a commercial one.

15. Since the May 2004 decision, the District has made changes in the lighting and sound systems at the Stadium. The proposed changes to the Procedures are intended to accommodate those changes, and to tighten the restrictions in place. For example, the proposed Procedures add a limitation that the sound system may not be used by non-District users except at youth track meets conducted by the City Parks and Recreation Department.

16. Public commenters on the proposal argued that a number of the provisions are ambiguous. The Examiner disagrees, except as follows:

- (a) The proposal states : "At no time may a secondary sound system be used to increase decibel levels above that allowed for the stadium sound system." Given

the ruling that noise standards do not apply at public events, the objection was made that this does not impose a meaningful limit. The District clarified that the stadium sound system itself has a maximum decibel level and that the purpose of the sentence is to prohibit use of a secondary system that would increase the system's decibel level. The Examiner finds the proposed language ambiguous and directs that it be amended to read: "At no time may a secondary sound system be used to increase the decibel level above the maximum decibel level of the stadium sound system."

(b) Use of the term "field lights" is unclear as that term is used in the proposal. This problem can readily be resolved by amendatory language showing that "field lights" are the Zone 1 lights.

(c) The proposal limits use of "Zone 2" lights to "high school Varsity football and soccer games" A suggestion was made that this be changed to refer to varsity football and varsity soccer games. The District responded that it intends for all levels of soccer games, not just varsity soccer, to have access to the full lighting system. As written, the language is unclear. The reference should be amended to read "high school Varsity football and all soccer games."

17. The proposed changes to the Procedures include a system for the District's handling of citizen complaints regarding the operation or management of the Stadium. While no such formal system was a part of the Procedures in the past, the citizens expressed skepticism as to its likely the objectivity and effectiveness. In any event, adoption of a complaint system by the District in no way with limits the rights of citizens to make complaints to the City.

18. Ford, Jacobs and Lazar requested that Procedure 4260P(C) include a statement that the document is "approved by the City of Olympia pursuant to land use application File No. 11-0159 and File No. 03-2397." The District did not oppose including such a statement. The Examiner concurs with the suggestion.

19. Except as set forth above, the Examiner declines to make changes in the proposal as submitted.

20. In addition to the critical comments of neighbors, supportive testimony was given by the principal of Capital High School and the athletic director for Olympia High School, emphasizing the value of athletics and related activities in the educational process.

21. Any conclusion herein which may be deemed a finding is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over this proceeding pursuant to the reference of the SPRC. OMC 18.60.080(C).

2. The requirements of SEPA have been met.

3. Public notification of the hearing was given as required by OMC 18.78.020.
4. The matter was properly treated as an application for approval under Chapter 3 of the Hearing Examiner's Rules.
5. The matters previously decided in the Hearing Examiner's decision of May 28, 2004, have been finally decided and may not be re-litigated in this proceeding. *Wenatchee Sportsmen Ass'n v. Chelan County*, 141 Wn.2d (2000).
6. Accordingly, whether a Conditional Use Permit is needed or whether the activities at public events at the Stadium are subject to State noise limits cannot be considered here.
7. The use involved here is not a Commercial Use as that term is used in Table 4.01, OMC 18.04.040..
8. The proposal is a land use approval governed by Chapter 18.60 OMC. The record does not show that the proposal, as conditioned, is inconsistent with any standards or provisions of the City of Olympia as expressed in the various adopted plans and ordinances, including Title 18.
9. The modifications of District Procedure No 4260P(C), as ultimately proposed in Exhibit 42 herein, are changes which do not alter the operation of the Ingersoll Stadium in any major way. The list of non-District users is not expanded. The conditions of the Hearing Examiner decision of May 28, 2004, are left intact.
10. The Examiner notes that there appears to be an extreme lack of trust of the District by the neighbors of Olympia High. The situation is the kind of community rift that might be effectively addressed through the use of mediation procedures. In any event, there is unquestionably a need for better communication. At a minimum, the City owes a duty to provide notice to residents within a broadly defined vicinity of the site of any changes of any kind in the Procedures, whether deemed substantive or not by the school and governmental actors involved.
11. Any finding herein which may be deemed a conclusion is hereby adopted as such.

CONDITIONS

1. Modified Procedure No. 4260P(C) as set forth in Exhibit 42 herein shall be altered as follows:
 - a. Under "Light and Sound Systems, Definition of Terms: Lighting System:" change the first line to read: " 'Zone 1' refers to the field lights and includes the center bank of lights on each light stand."
 - b. Under "Light and Sound Systems. " paragraph 2. change the second sentence to read: "The use of the 'Zone 2' lighting system (side lighting) is limited to high

school Varsity football and all soccer games."

c. Under "Light and Sound Systems." paragraph 7, change the last sentence to read: At no time may a secondary sound system be used to increase the decibel level above the maximum decibel level of the stadium sound system."

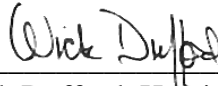
2. Modified Procedure P4260P(C) shall include the following statement: "This document is approved by the City of Olympia pursuant to land use application File No 11-0159 and File No. 03-2397."

3. Notice of any future applications by the School District for changes in the subject Procedures shall be provided by mail to all residents within a 1,000 feet of the Stadium.

DECISION

The proposed modifications to Olympia School District Procedure No. 4260P(C), as set forth in Exhibit 42 herein and as further altered by the above conditions, are approved. This is a final decision of the City.

DATED, this 22nd day of April, 2013.



Wick Dufford, Hearing Examiner Pro Tempore

RECONSIDERATION/APPEAL

This is a final decision of the City. Any party may file a Motion for Reconsideration within 10 days of service of this decision in accordance with OMC 18,75.060. Appeals shall be made to Superior Court pursuant to the provisions of Chapter 36.70C RCW. The filing of a Motion for Reconsideration is not a prerequisite for seeking judicial review. If a Motion for Reconsideration is filed, the time for filing an appeal shall not commence until disposition of the Motion.

Ingersoll Stadium Procedures Hearing -- Exhibits

Exhibits 1 through 33 are attachments to the Staff Report, identified on pages 7 through 9.

Exhibit 34 -- Partial Response by Ford, Jacobs and Lazar to City Staff Report

Exhibit 35 -- Inquiry of Robert Shirley about hearing procedures.

Exhibit 36 -- Substitute Proposal for Procedure 4260P(C), dated March 8, 2013

Exhibit 37 -- Statement of Ray Dinwiddie, March 11, 2013, with noise readings attached.

Exhibit 38 -- Testimony of Joseph B. Ford, March 11, 2013

Exhibit 39 -- Comments of Jeanne Miller, March 10, 2013, with prior comments attached.

Exhibit 40 -- Testimony of Zandra Brown, March 11, 2013

Exhibit 41 -- Statement of James Jablonski, dated March 9, 2013

Exhibit 42 -- Revised Proposal for Procedure 4260P(C) received by City March 13, 2013 and Email showing transmission to Parties of Record on that date.

Exhibit 43 -- Response of James Jablonski, dated March 23, 2013. with four attachments

Exhibit 44 -- Response of Jeanne Miller. dated March 24, 2013

Exhibit 45 -- Response of Zandra Brown, dated March 25, 2013, with photographs

Exhibit 46 -- Response of Tom Culhane, dated March 24, 2013

Exhibit 47 -- Response of Ford, Jacobs and Lazar, dated March 25, 2013

Exhibit 48 -- Response of C.R. Dinwiddie, date March 27, 2013\

Exhibit 49 -- Response to comments by Olympia School District, April 3, 2013.

**FINDINGS AND DECISION OF THE HEARING EXAMINER OF THE
CITY OF OLYMPIA**

CASE NUMBER: 03-2397 (Appeal of land use decision approving remodel of Ingersoll Stadium by Olympia School District)

APPELLANTS:

Joseph B. Ford, Bonnell C. Jacobs and Jim Lazar

APPLICANT: Olympia School District

SUMMARY OF REQUEST:

Appellants Ford, Jacobs and Lazar appealed the Land Use Approval issued April 5, 2004 for remodel of Ingersoll Stadium, located on the grounds of Olympia High School.

SUMMARY OF DECISION:

The Land Use Approval is upheld, subject to additional conditions.

RECORD:

Exhibits M-1 through M-4 relate to a motion to dismiss by the Olympia School District. The remaining exhibits were submitted on the merits of the appeal. All exhibits listed below are part of the record of this appeal.

Exhibit M-1. Motion to Dismiss by Olympia School District; consisting of a letter dated April 27, 2004 from Denise L. Stiffarm to Todd Stamm and the following attachments: Attachment A, containing the administrative order dismissing SEPA appeal dated March 16, 2004 and a letter dated March 9, 2004 from Robert H. Wolpert to James Jablonski, Zandra Brown, and Janet Witt, and Attachment B, containing a letter dated March 12, 2004 from Janet Witt to William Lahmann and an excerpt from Policy Section 4000 of the Olympia School District Policies and Procedures.

Exhibit M-2. Notice of Land Use Decision by the Olympia Site Plan Review Committee on the proposed Ingersoll Stadium remodel, dated April 5, 2004.

Exhibit M-3. Appeal of the Land Use Decision on the proposed Ingersoll Stadium remodel, dated April 19, 2004.

Exhibit M-4. Hearing Examiner decision on motion to dismiss, dated May 10, 2004.

Exhibit 1. Opening Argument of Joseph B. Ford, Bonnell C. Jacobs and Jim Lazar, Appellants, dated May 10, 2004. This exhibit comprises the nine-page argument and exhibits A through J attached to that argument.

Exhibit 2. City Staff Response to Appellants' Opening Argument, dated May 14, 2004.

Exhibit 3. Response Brief of Olympia School District No. 111, with Attachments A through K, dated May 14, 2004.

Exhibit 4. Closing Argument of Joseph B. Ford, Bonnell C. Jacobs and Jim Lazar, Appellants, dated May 17, 2004.

Exhibit 5. Letter dated May 18, 2004 from Bob Wolpert of the School District to the Hearing Examiner. This letter repeats the District's desire for an expeditious decision and asks whether the Examiner wishes the District to respond to a request by the Appellants to vacate the decision on their motion to dismiss.

The parties waived the hearing on this appeal under Olympia Municipal Code (OMC) 18.75.040 (E). Under that provision, the appeal shall be decided on the basis of written briefs or memoranda.

After consideration of the exhibits described above, the Hearing Examiner makes the following findings of fact, conclusions of law, and decision.

FINDINGS OF FACT

A. General findings.

1. On January 24, 2004, Olympia School District No. 111 submitted an application to the City for land use approval of proposed improvements to an existing stadium and associated facilities, located on the grounds of Olympia High School. The proposed improvements include paving and landscaping a parking lot, replacing track surfaces, replacing natural grass fields with synthetic turf, replacing fences, field lighting and the Stadium sound system, constructing additions to locker rooms and the press box, and associated grading and utility improvements.

HEARING EXAMINER DECISION IN NO. 03-2397

PAGE 2

2. These improvements would not increase the number of parking spaces available, the number of athletic fields, or stadium capacity. The improvements, however, would likely increase the frequency of use of the facilities, chiefly through the installation of synthetic turf.

3. On April 5, 2004, the City's Site Plan Review Committee issued a conditional Land Use Approval for the District's proposal. This approval, with its conditions, is found at Ex. M-2.

4. On April 19, 2004, the Appellants filed an appeal of this Land Use Approval to the Hearing Examiner. In this appeal, found at Ex. M-3, the Appellants cite in the "How harmed" section a number of ways in which they believe the proposal will harm them. These include noise emissions, light emissions, traffic congestion, and other effects. In the section of the appeal entitled "How city staff erred", the Appellants state that the staff erred by making the elements of its decision severable and by deciding that public events for which admission is charged fall within the exemption to noise standards for "public events" found in WAC 173-60-050 (4) (h). The decision on the Motion to Dismiss, however, found at Ex. M-4, dismissed the challenge to the severed nature of the Land Use Approval and held that WAC 173-60-050 (4) (h) exempts stadium events which are open to the general public, whether or not admission is charged. Thus, the specific errors alleged in the appeal have each been decided against the Appellants.

5. Even though they have not specifically been claimed in the appeal, it seems clear from the relief requested that the Appellants are also claiming that the City erred by not mitigating the harms claimed in the "How harmed" section or by not denying the proposal on that basis. The Appellants also challenge the City's failure to require a conditional use permit in their briefing, but fail to claim that as an error in their appeal statement. When the opposing party is not prejudiced, plainly intended claims should not be dismissed at this level due to inartful drafting. Therefore, the appeal will be taken to claim also that the City erred by not requiring a conditional use permit, and by not mitigating the harms claimed in the "How harmed" section or by not denying the proposal due to their presence.

6. The decision on the Motion to Dismiss also dismissed a number of the remedies requested by Appellants. For ease of reference, those are here repeated:

(a) The request that the District be ordered to complete work on various "1998 conditional permit projects" is dismissed.

(b) The request that no amplified sound be allowed to originate from the high school campus in general after 10:00 p.m. is dismissed. The request that no amplified sound be allowed to originate from the Stadium after 10:00 p.m. is not dismissed.

(c) The request that no amplified sound be allowed to originate from "accessory uses" on the high school campus in general at any time is dismissed. The request

that no amplified sound be allowed to originate from "accessory uses" in the Stadium at any time is not dismissed.

(d) The request to require compliance with WAC 173-60 is not dismissed. The request to read the exemption of WAC 173-60-050 (4) (h) to include only events sponsored by the District without admission charges is denied.

(e) The request for a general order to enforce permit conditions is dismissed. The request for a noise monitoring schedule is not dismissed.

(f) The request that the number of allowable late-night events be reduced is not dismissed.

(g) The request for post-event clean up is not dismissed.

B. Uses of the improved facilities.

7. On p. 13 of its Response Brief, Ex. 3, the District states that its policies "specifically prohibit the use of the facility for commercial or purely private purposes." The policies then cited, however, do not support this assertion. Those policies prioritize use by the District, encourage use by the "District community", require that uses be "appropriate and compatible", and prohibit concerts, dances and commercial sales. The policies, though, do not contain the blanket prohibition claimed by the District.

8. The facilities have been used and would continue to be used for "the customary uses of a public school district's primary track and athletic field." Ex. 2, p. 5. Those include school activities conducted by the District, such as football and soccer games, athletic practices, drill team practices, and intramural activities. See Ex. 3, Att. E.

9. The facilities have also been available for the following non-District activities: Thurston County Youth Football, YMCA and City Parks track meets, and occasional sports clinics. Ex. 3, Att. E. The only other non-District uses which the District expects are by youth soccer associations. The City Staff Response, Ex. 2, p. 5, is consistent with this, stating that

"no evidence has been presented that this change will result in a facility that can be used for any different sports, functions, or events not possible with the existing surface, but only that they may occur more often."

10. The statements by the District's athletic director reported in the Olympian newspaper, Ex. 1, Ex. D, directly contradict these representations. The athletic director apparently envisions the facilities at issue as "a regional sports hub", which will be better for "southwest Washington" and a "money maker" for the District." Ex. 1, Ex. D. These remarks, however, have been directly repudiated by the District at Ex. 3, p. 10, fn. 3. Therefore, the

evidence shows that both the Land Use Approval and the District's proposal assume that these facilities would continue to be used for District activities and for only the following non-District activities: Thurston County Youth Football, YMCA and City Parks track meets, occasional sports clinics, and youth soccer associations. This decision is conditioned to include these restrictions.

11. The School District has also adopted a new set of policies denoted "Procedure No. 4260P(C)", found at Ex. M-1, Att. B, which directly govern the use of Ingersoll Stadium. These policies mitigate the effect of the facilities on neighboring properties through measures such as limits on the hours of use, requiring the western field lights to be turned off immediately after evening events, and prohibiting air horns, cow bells, sirens and similar noisemakers. Ex. M-1, Att. B. The policy allows events that exceed on-site parking capacity, as long as they are not scheduled at the same time as events in the High School's main gymnasium or performing arts facility.

12. The School District relies repeatedly on these policies in its briefing as support for its position that this proposal will not adversely affect the surrounding neighborhood. These policies, though, are voluntary measures which could be rescinded at any time by the District. Since the District relies on these policies in opposing this appeal, it should be held to them unless the Site Plan Review Committee allows their protections to be weakened. Therefore, this decision is conditioned to require the District to follow these policies, unless permission is obtained from the Site Plan Review Committee to modify them.

C. Noise.

13. The principal ways in which the existing stadium facility creates sound that can be heard in surrounding neighborhoods are through crowd noise, musical instruments, and public address systems. The proposal will create noise in the same way. There is no evidence that the proposal will increase the levels of noise audible in surrounding neighborhoods. However, the proposal will increase the frequency of events which create noise audible in surrounding neighborhoods.

14. In the fall of 2003, the School District carried out sound measurements in the adjoining neighborhood to the east during two football games. The first game was played on October 3, 2003 between Olympia and Capital high schools. This game was played to a capacity crowd between rival teams both of whom were undefeated at that time. The sound measurements from this game are found at Ex. 3, Att. I. The second game was played on October 30, 2003 between Capital and Mt. Tahoma high schools, with a crowd at only about 25% of stadium capacity. The sound measurements from this game are found at Ex. 3, Att. J. For each of the two games, sound measurements were taken from the same three locations, identified in each study.

15. One of the measuring locations, Position 1, is on School District property, just across Henderson Boulevard from the Stadium grounds. The other two, Positions 2 and 3, are

on residential streets to the east, as shown on Ex. 3, Atts. I and J.

16. The measurements at Positions 2 and 3 during the game on October 3, 2003 show that the sound measured at those locations came principally from the football game. See Ex. 3, Att. I, p. 5. At Position 2, the sound from the football game was generally between 60 and 70 dBA, with spikes of sound between 70 and 80 dBA and two spikes at or above 80 dBA. See Ex. 3, Att. I, p. 3. The average noise level at Position 2 during this game was 65.5 dBA. See Ex. 3, Att. I, p. 4. The sound from this football game at Position 3 was generally between 50 and 60 dBA, with spikes between 60 and approximately 67 dBA. See Ex. 3, Att. I, p. 4. The average noise level at Position 3 during the second half of this game was 54.7 dBA.

17. The measurements at Positions 2 and 3 during the game on October 30, 2003 were significantly less. The average noise level at Position 2 during the first half of this game was 58.7 dBA and 54.5 dBA in the second half. See Ex. 3, Att. J, p. 4. At Position 3 the average noise level during the second half of this game was 45.7 dBA. See Ex. 3, Att. J, p. 4.

18. Under this proposal, the existing sound system at the Stadium will be replaced. The new system will employ speakers with specific coverage patterns on the field and with reduced sound outside these patterns. Ex. 3, Att. H. The speakers will be pointed down to reduce sound transmission over distance. Ex. 3, Att. H. The sound system power will only provide the necessary sound level to be clearly audible on the field. Ex. 3, Att. H. At the maximum sound level achievable, the speakers would create sound at 58 dBA at 1100 feet, approximately to the corner of Henderson and North Streets. Ex. 3, Att. H.

19. Under District Procedure No. 4260P(C), the sound system may only be used to directly support the scheduled event through public address announcements and event-related announcements. It may only be used to amplify music in support of School District performances. It may not be used to amplify music for non-District events. Ex. 3, Att. C, p. 2.

D. Lighting.

20. The current field lighting at the Stadium consists of four light poles approximately 70 feet high on the east side of the field and field lights on the grandstand canopy 47 feet above the track. These will be replaced by four one hundred-foot high light poles. Two poles will be located west of the field behind the grandstand and two will be east of the field along the easterly fence line.

21. The increased height of the poles will allow light to be directed at a steeper downward angle, which should reduce spillage of light to surrounding properties.

22. The west side field lights are the ones most likely to affect surrounding neighborhoods. District Procedure No. 4260P(C) requires that the west side field lights be

turned off immediately following evening events, with the east side field lights remaining on until all occupants have exited.

23. The Land Use Approval on appeal is conditioned to require all field lights to be turned off after 10 p.m.

E. Parking.

24. As part of the proposal, the existing gravel parking lot south of the Stadium will be paved, landscaped and fitted with a stormwater system, consistent with City standards. The resurfaced lot will have approximately 158 parking spaces, which approximates the number of vehicles which the existing gravel lot can accommodate. The proposed six accessible spaces conform with City standards and the Land Use Approval is conditioned to require the requisite bicycle parking.

25. The Land Use Approval is conditioned to require that any non-District user group anticipating a use involving more than 1000 people prepare and implement a Traffic and Parking Management Plan, the primary purpose of which is to minimize traffic congestion and off-site parking.

26. The Appellants presented evidence that there currently is inadequate on-site parking available for High School events and that event parking in adjacent neighborhoods blocks driveways and causes similar problems. See Ex. 1, p. 5 and Atts. F and G.

27. The Appellants request two additional conditions to mitigate parking problems. In Item No. 6 of the "Remedies Sought" section of their Opening Argument, they ask for increased detail and standards in the Traffic and Parking Management Plan and for more extensive posting of the Plan. Ex. 1, p. 2. The City Staff has no objection to this proposed Item No. 6. This condition is reasonable and is required by this decision.

28. The second additional condition sought by Appellants to mitigate parking problems is to prohibit the District from renting the Stadium for non-District uses for which attendance exceeds total on-site parking available in the Stadium and High School parking lots. If the High School auditorium is in use at the same time as non-District use of the Stadium, the total attendance of the Stadium and auditorium uses cannot exceed total on-site parking available in the Stadium and High School parking lots. See Ex. 1, p. 2, Item 5. The District responds at Ex. 3, p. 16 by stating that this already is required by its Procedure No. 4260P(C) at Conditions for Use - General, Paragraph 6. This paragraph, however, requires something different: that Stadium events exceeding on-site parking cannot be scheduled at the same time as events in the gymnasium or performing arts facility. Be that as it may, the District is assenting to proposed Item 5 by the Appellants. Therefore, that is included as a condition of this decision.

F. Traffic.

29. The Appellants claim that cumulative traffic congestion for Stadium events has not been studied and that this proposal, together with other developments, will cause traffic on adjacent streets to become highly congested. See Ex. 1, p. 5.

30. No evidence was offered showing that the proposal will exceed any thresholds requiring traffic studies or that it will cause the level of service for any intersection to decline below the minimum adopted standard.

G. Neighborhood clean-up.

31. The Appellants submitted a letter from one nearby property owner, see Ex. 1, Ex. G, who stated that students who park in front of her home leave garbage, cigarette butts and pop cans and that she constantly has to clean up after them.

32. The City Staff responds by characterizing this claim as anecdotal and stating that it cannot be attributed to the design of the facility. The District responds by characterizing the claim as speculative and baseless and states that it has no control over public streets.

33. There is nothing speculative about the assertions in Ex. 1, Ex. G. That letter contains un rebutted statements about problems caused by student activities. Those assertions may be anecdotal in that they are not supported by a technical or controlled survey, but that does not detract from their force. What does weaken them somewhat is that they are offered by only one homeowner, which suggests that the problems asserted may not be widespread. Finally, it is irrelevant that the design of the facility does not cause these problems with litter. The issue is whether the increased use of the facility will exacerbate this problem in a way that violates applicable standards. That issue is discussed below.

CONCLUSIONS OF LAW

A. The standard of review.

1. This is an appeal of a Land Use Approval issued by the Site Plan Review Committee. The appeal is subject to the standards of review set out in OMC 18.75.040 (F), which states that:

" . . . With regard to decisions of city staff, the Examiner shall accord due deference to the expertise and experience of the staff rendering such decision. The Examiner shall only grant the relief requested by an appellant upon finding that the appellant has established that:

1. the staff engaged in unlawful procedures or failed to follow a prescribed procedure;

2. the staff's decision was an erroneous interpretation of the law;
3. the decision is not supported by substantial evidence within the context of the whole record;
4. the decision is a clearly erroneous application of the law to the facts;
5. the decision is outside the authority or jurisdiction of the decision-maker;
6. the decision violates the constitutional rights of the party seeking relief, or
7. the decision is clearly in conflict with the City's adopted plans, policies or ordinances."

2. Land use approvals are governed by Chap. 18.60 OMC. The standard which the Site Plan Review Committee follows in deciding whether to grant such approvals is found in OMC 18.60.080 (B) (5), which states that the Committee

"shall review proposed projects for consistency with the standards and provisions of the City of Olympia as expressed in the various adopted plans and ordinances, including this Title."

Thus the central issue on appeal is whether the land use approval is consistent with the "various adopted plans and ordinances", as judged under the standards of review from OMC 18.75.040 (F) set out above.

3. Land use approval must be distinguished from conditional use approval. Under the latter review, the Hearing Examiner is given fairly broad authority to condition or deny a proposal due to its incompatibility with or adverse effects on surrounding property. See OMC 18.48.040. No such authority is granted with land use approvals. The standard, rather, is consistency with the adopted plans and ordinances. OMC 18.60.080 (B) (5), above. To retain the distinction between these types of review, a Hearing Examiner reviewing land use approval does not have carte blanche to inquire into whether the proposal is compatible with surrounding uses and properties. Instead, the Examiner must examine whether the proposal is consistent with adopted plans and ordinances. Incompatibility with surrounding uses is considered only if it would be inconsistent with these plans or ordinances.

B. Specific legal issues.

1. Requirement of a conditional use permit.

4. The Appellants argue that this proposal requires a conditional use permit. As set out in the City Staff Response, Ex. 2, the prior permitting history of the Stadium and High School

is obscure. The Staff searched City records, but was unable to find any conditional use permit or land use approval for the initial construction of the High School in 1958-59 or construction of the Stadium in 1968. The Staff did find a building permit issued in 1959 to construct the new High School and construction permits issued in 1968 for the Stadium. In 1998 the District obtained a conditional use permit for remodeling and expanding the High School. See Ex. 3, Att. A. This permit did not cover the Stadium, its track and field, or the unpaved parking lot to the south of the Stadium.

5. The District states on p. 7 of its Response Brief, Ex. 3, that the 1998 approval recognizes and acknowledges "the permit approvals relevant to the Stadium facility and the accessory parking." I have reviewed each of the cited elements of the 1998 approval and can find nothing to support this statement. The 1998 approval recognizes the presence of the Stadium and parking lot, but says nothing about their permit approvals. The District's representation to the contrary is misleading.

6. All told, the record is insufficient to determine whether conditional use permits should have been obtained for the initial construction of the High School in 1959 or construction of the Stadium in 1968. If such permits were required, the time for challenging either the 1959 or 1968 projects is long past. However, if conditional use permits should have been obtained for these projects, then improvements or expansions to them should be judged under the standards for amending conditional use permits.

7. OMC 18.48.020 (C) states that

"[t]he Site Plan Review Committee (SPRC) may authorize up to a twenty-five (25) percent expansion, in any five (5) year period, of an approved conditional uses gross floor area, height, parking and occupancy (e.g., number of seats, classrooms and students). The SPRC may also authorize alterations to the site design, including landscaping, fences, lighting, signs and similar site features. If the expansion in a residential zone exceeds 5,000 square feet in floor space, it must receive approval from the Design Review Board. All such modifications shall be consistent with the original conditions of approval and applicable regulations . . ."

The proposal at issue does not exceed these 25% thresholds. Therefore, even if a conditional use permit should have been required for the original 1968 construction of the Stadium, the current land use review process before the Site Plan Review Committee complies substantively with the requirements for amending such a conditional use permit.

8. In addition, the Appellants have the burden under OMC 18.75.040 (F) to show that this proposal should proceed as a conditional use permit. The evidence submitted does not show that a conditional use permit was required for the 1958-59 or 1968 projects. For these reasons, the Staff determination that a conditional use permit is not required for this proposal must be upheld.

2. Noise.

9. WAC 173-60-040 prescribes the maximum noise level in decibels which may be generated by uses on certain properties and received on others. WAC 173-60-050 (4) (h) exempts "[s]ounds originating from officially sanctioned parades and other public events" from these standards. These standards are adopted by City ordinance.

10. My decision on the District's motion to dismiss, Ex. M-4, adopted the rule from STAT v. Clark County, 2001 WL 898758, that a public event, as used in this exemption, is "one that any member of the public may attend . . . [i]t does not matter whether admission is charged, at least if admission does not operate to exclude most of the public." Thus, games and other events at the Stadium which are open to the public are exempt from these noise regulations.

11. The District urges a broader exemption, arguing that because it is a public entity, all of its activities fall under this exemption. This reading would deem activities such as band or drill team practices to be "public events" even if closed to the public. This is contrary to both ordinary English usage and the rule adopted from STAT. Further, it would effectively exempt all activities of state and local government from state noise regulations, a consequences which seems well beyond the purpose of the exemption. For these reasons, this exemption should be read to include those activities that any member of the public may attend, whether or not admission is charged. It does not include other District or non-District activities.

12. The noise measurements described in the Findings, above, show that football games with large crowds likely result in noise which exceeds the maximum levels set in WAC 173-60 for residential receiving property. As noted, though, games open to the public are exempt from these noise restrictions. No evidence was submitted showing that District or non-District activities which are outside the public event exemption would exceed or even approach applicable noise levels. Therefore, there is no basis on which to require noise monitoring as requested by the Appellants. To assure compliance with the law, however, this decision expressly requires that all activities at the Stadium which do not fall within an exemption to state and local noise regulations comply with those regulations.

13. The conditions of this decision restricting uses of the improved facilities will limit increases in the frequency of events which are audible in surrounding neighborhoods, even if such events comply with noise restrictions.

14. The new sound system will not increase the level of noise in surrounding residential neighborhoods.

15. As conditioned, the proposal meets adopted plans and ordinances governing noise.

3. Other effects of the proposal.

16. The new field lights should not increase, and should even decrease, the amount of light spillage onto adjacent property. As conditioned, the proposal meets adopted plans and ordinances governing lighting.

17. As conditioned, the proposal meets adopted plans and ordinances governing parking.

18. As conditioned, the proposal meets adopted plans and ordinances governing traffic mitigation.

19. The evidence suggested that this proposal will increase the incidents of littering and similar problems in the surrounding neighborhoods. However, no showing was made that this proposal would violate any adopted plans and ordinances because event participants would litter in nearby neighborhoods. Because this appeal is of a land use approval, I lack the authority to impose conditions beyond those needed to ensure that the proposal complies with the standards which govern it. Therefore, the most this decision can do is to urge the District to examine this potential problem and at least adopt a program which better admonishes those attending Stadium events not to litter or leave garbage in the surrounding neighborhoods.

20. Before issuance of the land use approval, nearby residents Niel Stusser and Shannon Beigert objected to the lack of a public hearing for this proposal in the land use approval process. See Ex. 1, Ex. H. The Appellants then claimed in their opening brief that the absence of a hearing violated OMC 18.48.020 (C). It is questionable whether the Appellants have standing to raise this issue on behalf of Mr. Stusser and Ms. Beigert. Assuming they do have such standing, the City was under no duty to hold a hearing as part of the land use approval process. Chap. 18.60, the ordinance dealing with land use approvals, does not require a hearing by the Site Plan Review Committee in this situation. OMC 18.48.020 (C) deals with conditional use permits and, therefore, is inapplicable to this process. The City did not err by failing to hold a public hearing as part of the land use approval process.

21. The remaining issues on appeal were decided in the motion to dismiss.

DECISION

The Land Use Approval issued April 5, 2004 for remodel of Ingersoll Stadium, as conditioned in that Approval, is upheld; subject to the following additional conditions:

1. The facilities at issue may be used for School District activities and for only the following non-District activities: Thurston County Youth Football, YMCA and City Parks track meets, occasional sports clinics, and youth soccer associations.

2. As it relates to the Stadium, the District shall comply with its "Procedure No. 4260P(C)" as it is set out in Ex. M-1, Att. B, unless permission is obtained from the Site Plan

Review Committee to modify it.

3. The Traffic and Parking Management Plan required by the Land Use Approval shall comply with the requirements of Ex. 1, p. 2, Item 6.

4. The District shall not rent or make available the Stadium for non-District uses for which attendance exceeds total on-site parking available in the Stadium and High School parking lots. If the High School auditorium is in use at the same time as non-District use of the Stadium, the total attendance of the Stadium and auditorium uses cannot exceed total on-site parking available in the Stadium and High School parking lots.

5. The noise exemption of WAC 173-60-050 (4) (h) includes those activities that any member of the public may attend, whether or not admission is charged. It does not include other District or non-District activities.

6. Unless exempted by law, all activities at the Stadium and its track and field shall comply with the noise regulations found in WAC 173-60 and other applicable law.

Dated this 28th day of May, 2004.


Thomas R. Bjorgen
Hearing Examiner

3012 Fir Street S.E.
Olympia, WA 98501

November 4, 2018

Nicole Floyd, Lead Planner
Olympia Community Planning & Development Department
601 4th Ave E
Olympia, WA 98501

Dear Ms. Floyd,

Following are my comments regarding the Land Use Application for the "Olympia High School - Classroom Addition and Field Improvements" proposal.

1,

I live near Olympia High School.

On October 25th I received by mail the City's Notice of Land Use Application for the proposal. During the neighborhood meeting on October 29th I learned that a DNS for the proposal had already been issued. On November 1st I received your email with links to volumes of information pertaining to the proposal.

Documents under review by the City indicate that discussion and planning for the proposal has been occurring for at least 5 months. People living in effected neighborhoods near the high school have been given a relatively very short time to review and comment on the proposal prior to established deadlines.

2.

My concerns are primarily related to the proposed new athletic field. According to information provided at the neighborhood meeting the new field would be constructed of crumb rubber artificial turf. It would be nearly as large as the Ingersoll Stadium field and lie adjacent to the stadium. The new field would be illuminated.

The purpose of SEPA is of course to identify and assess environmental impacts of proposals *before* decisions are made and actions are taken. To achieve that goal, SEPA requires that Checklist responses be accurate and complete. Many of the SEPA Checklist responses pertaining to the proposal are inaccurate, incomplete and/or misleading - specifically, responses

to questions regarding at least the following environmental elements: Air, Energy, Noise, Aesthetics, Light and Glare and Transportation (traffic).

The DNS should be withdrawn. Furthermore, Ingersoll Stadium, tennis courts and the proposed new illuminated sports field together would constitute a sports complex. Environmental impacts of such a complex should be assessed together in a single environmental review process.

Incorporated by reference into this comment are additional comments I'll be submitting to OSD prior to the DNS comment deadline of 4 PM, November 6th. I'll submit a copy of that to you.

3.

The traffic impact analysis associated with the proposal is incomplete, leading to erroneous conclusions.

The study assessed impacts based on projected increases in student population at Olympia High School. The study did not consider future traffic increases that would occur as a result of student population increases at nearby Pioneer Elementary School and Washington Middle School *in addition to* increases at the high school. The study did also did not consider traffic increases associated with the proposed new illuminated athletic field. And the study did not assess traffic increases that would occur during times when there is significant activity at Ingersoll Stadium and/or the High School *in addition to* activity at the proposed new field.

4.

Olympia High School is located in a Residential Zone. Neighborhood homes surround the school on all sides. In 2004, in response to neighborhood concerns about adverse environmental impacts of Ingersoll Stadium, the City of Olympia Hearing Examiner imposed Conditions on use of the stadium. The Conditions included the OSD District's 4260 PC Policy in effect at that time pertaining to Ingersoll Stadium as well as a list of specific non-district user groups allowed use of the stadium. The Conditions were designed to help protect neighborhoods. The Conditions were reaffirmed by a City Hearing Examiner in 2013. Those protective Conditions should carry over to the proposed additional athletic field and tennis courts.

SUMMARY AND CONCLUSION

The DNS should be withdrawn because Checklist responses are incomplete and insufficient, leading to erroneous conclusions.

The Land Use Application should not be accepted or approved until a complete and accurate environmental assessment under SEPA is completed.

Due to conflict of interest issues inherent in this situation where the project proponent has identified itself as lead in environmental review of its own proposal - and due to the insufficiency and inaccuracy of the review that has been submitted - I request that the City of Olympia assume lead agency status under SEPA for this proposal.

Conditions that the City Hearing Examiner imposed on use of Ingersoll Stadium should also apply to the proposed new athletic field and tennis courts.

Cumulative impacts of the entire complex - stadium, tennis courts, and new illuminated field - should be assessed together in a single environmental review process.

Thank you for the opportunity to comment.

Janet L. Witt

James Jablonski and Zandra Brown
1805 Allegro Drive SE
Olympia WA 98501
November 5, 2018

Ms. Jennifer Priddy, Assistant Superintendent
Olympia School District No. 111
1113 Legion Way S.E. Room 21
Olympia, WA 98501

Regarding: "Determination of Non-Significance" (DNS) of the
SEPA review for the proposal titled "Olympia High School
Classroom Addition, Modernization, and Illuminated Playfield".

Ms. Priddy:

Here are our comments regarding the Olympia School District's (OSD) "Determination of Non-significance" (DNS) regarding their SEPA checklist and review, issued on October 23, 2018. Some components of this latest High School expansion **will** have significant impacts on nearby residents and the environment.

In the information provided to us from the City of Olympia, there is an extensive "Preliminary Stormwater Site Plan"(dated September 2018) which says there may be additional stormwater runoff due to the project and the variances of wet weather. The sampling work was done in the driest part of summer and the study could not determine or estimate the stormwater runoff during the rainy season. The upshot being a sort of "we don't know and we can't determine, but we can fix it later" recommendation. Then, the OSD requested (dated October 11, 2018) from the City of Olympia, a "Variance Request" which was based in part on conjecture regarding potentially changing Olympia Municipal Code (OMC). Nothing in the information provided to us states that the referenced OMC has been resolved. Nothing in the DNS addresses the vagaries of the stormwater runoff issues or how they will be resolved. The DNS should be withdrawn until information is available to address this.

We were told in the public meeting on October 29, 2018 that the OSD does NOT plan to restrict non-district user groups wanting to use the huge multi-use practice field proposed for placement just behind the Ingersoll stadium, in the same way as the Ingersoll part of the school property. The presenter indicated that non-district and non-school users would be welcome and expected, beyond those allowed on the Ingersoll field by the Hearing Examiner in 2004. We believe the DNS reasoning that this usage will have a non-significant impact is in error. Since the proposed "practice field" does not yet exist, the use of this new school playfield will obviously result in increased traffic, parking, noise, and of course, wear and tear on the field surface. The traffic study did not address the increased amount of traffic associated with the proposed new "practice field". There are significant cumulative traffic impacts that were not addressed in the traffic study with the athletic complex that is also open to community use that is being piecemealed into the Olympia High School campus. It

also did not address the increased traffic in the area associated with the expansion of the nearby Pioneer Elementary school and the expanded use of the (across the street) church and its expanded school and facilities. OHS does not exist in a nice vacuum. Its increase in traffic exists in a mix of increased traffic in the surrounding neighborhoods. The DNS should be withdrawn until information and an actual resolution to this is made available.

One can also reasonably expect an increase in noise and light pollution, disruptive to the surrounding neighborhoods. We request that the land use conditions embedded in the Hearing Examiner's decision in 2004, and in large part reaffirmed by another Hearings Examiner in 2013, be required conditions for the use of the proposed practice field. Limiting the specific list of user groups, the hours of use, and use of any amplified sound and music associated with the new field, should be *required* so that the nearby neighborhoods will be protected. OSD, and/or OHS policies do not provide these protections. The DNS should be withdrawn until the protections provided to the neighborhoods, in the Hearing Examiner's ruling of 2004 are required as part of this round of OHS expansion.

Section 8 of the SEPA checklist - used to substantiate the DNS - states that some of the data needed to evaluate the SEPA significance was missing ("to be prepared"). It seems like a serious error to make a SEPA DNS without using information required to make such a decision. We believe that the DNS should be withdrawn until required information is available, and until it is documented as being integrated into the decision making process.

We have heard verbally that the comment and appeal periods are going to be extended, and if so, we reserve the right to add additional comments and/or appeal the SEPA decision.

Please provide us with an acknowledgment of receipt of these comments.

Also please note this as a written request for the decision on this SEPA review to be sent to us, when it is made.

Thank you for accepting and considering our comments,

James Jablonski (jabo4of10@comcast.net)
1805 Allegro Drive SE
Olympia WA 98501

Zandra Brown (zandrabrown@comcast.net)
1805 Allegro Drive SE
Olympia WA 98501

3012 Fir Street SE
Olympia, WA 98501

November 5, 2018

Ms. Jennifer Priddy, Assistant Superintendent, Olympia School District No. 111
1113 Legion Way S.E.
Olympia School District, Room 21
Olympia, WA 98501

Dear Assistant Superintendent Priddy,

Following are my comments regarding Checklist responses and DNS for the proposal titled "Olympia High School Classroom Addition, Modernization, and Illuminated Playfield".

I. INTRODUCTION / BACKGROUND

Olympia High School is located in an area zoned R 4-8 (Single Family Residential). The school property is surrounded by neighborhoods, most homes of which were built when the school was much smaller. While most living in neighborhoods near the school have understood, accepted and even benefited from aspects of school growth over the years, adverse environmental impacts related to that growth have also become increasingly apparent, particularly impacts associated with and generated by growth and use of Ingersoll Stadium.

In 2004, in response to community concerns regarding Ingersoll Stadium impacts, a City of Olympia Hearing Examiner placed Conditions on use of the stadium. The Conditions were designed to help protect neighborhoods. Among other protective measures, the Conditions included a list of specific non-district user groups that would be allowed to use the stadium. In 2013 a City Hearing Examiner reaffirmed the Conditions.

On October 25th, 2018 neighbors and I received a Notice from the City of Olympia pertaining to the Land Use Application for the current OSD proposal. That was the first we'd heard about the proposal. During a neighborhood meeting on October 29th we learned that OSD had already issued a DNS for the proposal. At that time neighbors were also informed that Conditions set by the City Hearing Examiner regarding use of Ingersoll Stadium would not apply to the proposed new illuminated athletic field.

II. COMMENT AND APPEAL DEADLINES

The DNS Notice indicates that the comment deadline is 4 P.M., November 6th, 2018. The notice states: "...The Responsible Official will reconsider the DNS based on timely comments and may retain, modify, or, if significant adverse impacts are likely, withdraw the DNS. If the DNS is retained, it will be final after the expiration of the comment deadline."

The notice then proceeds to set an appeal deadline of November 6, 2018 at 4:00 PM - the same date and time as the comment period deadline.

If comments are submitted near the comment period deadline, the responsible official would obviously not even have time to read, much less consider, those comments prior to the time the DNS would be final. The timing of the deadlines is illogical as well as inconsistent with SEPA statutes which indicate that when a 14-day comment period deadline is established, then the deadline for appeal should be extended 7 days beyond the comment period deadline. (WAC 197-11-680(3)(a)(vii) and RCW 36.70B.110(9).

III. SEPA / CHECKLIST RESPONSES

The primary purpose of SEPA is of course to study the impact of proposals and projects *before* decisions are made and actions are taken. To achieve that purpose, SEPA requires that Checklist responses be as complete and accurate as possible.

Many responses to Checklist Questions pertaining to the proposal are incomplete and inaccurate.

Following are comments pertaining to specific SEPA Checklist questions and responses:

A.8. background

The Checklist asks for information that has been prepared, or will be prepared, directly related to this proposal)

The response states that a Geotech Study and a Hazardous Material Report “will be prepared.”

Comment

SEPA requires that decisions be based on complete information provided in Checklist responses.

The Geotech Study and Hazardous Material Report should have been available for and subject to review prior to issuance of a determination.

B.1.g.& B.3. ENVIRONMENTAL ELEMENTS – Water

Checklist responses indicate that the proposal would result in increased impervious surface in the area (from 53% impervious to roughly 57% impervious). The responses indicate that stormwater in the area drains to Freshman Pond, a “closed depression”. The responses also indicate that waste water could possibly enter ground or surface waters.

Comment

Given very limited amount of time, I've been unable to review all of the 139 pg. Preliminary Stormwater Site Plan document.

Suffice it to say, stormwater runoff in general presents major environmental concerns - all the way from local flooding, contamination of groundwater, streams and rivers to pollution in Puget Sound. Particularly given that the proposals would result in increases in impervious surfaces, mitigation measures should be applied. Implementation of such measures would be a learning

opportunity for students as well as the community. Pervious paving could be replaced with 'turf stone' and vegetative roofs should be installed on future buildings whenever possible.

B. 2. ENVIRONMENTAL ELEMENTS - AIR

The checklist asks: "What types of emissions to the air would result from the proposed construction ... when the project is completed?"

The response states: "Following construction, automobiles and school busses will emit exhaust largely consistent with the present use."

Comment

The response is insufficient. Use of an artificial illuminated athletic field (nearly the size of the Ingersoll Stadium field) would result in increased road traffic and associated exhaust emissions.

B.6. ENVIRONMENTAL ELEMENTS – ENERGY AND NATURAL REOURCES

The checklist asks "What kind of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed projects energy needs?"

Comment

The response does not mention that illuminated lights at the proposed new athletic field would be powered by electricity.

B.7.a.3) ENVIRONMENTAL HEALTH – TOXIC OR HAZARDOUS MATERIALS

The checklist asks for a description of "any toxic or hazardous chemicals that might be ... produced ... at any time during the operating life of the project."

The response does not indicate that the turf planned to be installed on the proposed new athletic field would contain crumb rubber.

Comment

Nationwide, concerns have been raised regarding potential adverse health effects of crumb rubber artificial turf. The EPA is currently conducting research and study regarding the chemical makeup of crumb rubber and impacts on health. The precautionary principle should prevail. Turf constructed of crumb rubber should not be installed on school property until such time as the material is verified as safe by the EPA.

B.7.b.2) ENVIRONMENTAL HEALTH - NOISE

The checklist asks: "What types of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site."

The response states that “After construction is completed, the long-term noise will be consistent with the existing school use, including school and bus noise which is most prevalent during school starting and ending times.”

Comment

The response is incomplete and misleading: Existing school noise is *not* most prevalent during school starting and ending times. Noise emitted from school property is most evident during times that Ingersoll Stadium is being used – when loud noise can be heard inside homes many blocks away from the stadium. Addition of an additional large illuminated field would result in noise levels above and beyond levels currently emitted from Ingersoll. Additionally, the proposed illuminated field would result in increased traffic and road noise, particularly during evening/night hours.

Checklist responders erred in not identifying and assessing noise impacts pertaining to the proposed illuminated athletic field *in addition to* noise emitted at Ingersoll Stadium.

Intrusive loud noise can not only act as an irritant, adversely impact quality of life. It can also pose significant health risks.

Dr. William Stewart, former US Surgeon General, once stated:

Calling noise a nuisance is like calling smog an inconvenience. Noise must be considered a hazard to the health of people everywhere. (1.)

According to a report of the World Health Organization:

Epidemiological and laboratory studies involving workers exposed to occupational noise, and general populations (including children) living in noisy areas around airports, industries and noisy streets, indicate that noise may have both temporary and permanent impacts on physiological functions in humans. It has been postulated that noise acts as an environmental stressor. Acute noise exposures activate the autonomic and hormonal systems, leading to temporary changes such as increased blood pressure, increased heart rate and vasoconstriction. After prolonged exposure, susceptible individuals in the general population may develop permanent effects, such as hypertension and ischemic heart disease associated with exposures to high sound pressure levels. (2.)

B.7.b.3) ENVIRONMENTAL HEALTH - NOISE

The checklist asks about “proposed measures to reduce or control noise impacts, if any”.

The response to this question refers only to measures that would reduce noise during construction and during school pick up and drop off times.

Comment

Noise impacts that would occur as a result of the proposed new athletic field should have been identified and assessed in this environmental review. Cumulative noise impacts of Ingersoll *and*

proposed new field use together should also have been assessed. Mitigation measures should have been identified.

Conditions that the City Hearing Examiner imposed on Ingersoll Stadium use in 2004, including noise reduction measures contained in the District's Policy 4260P(C), should apply to the proposed illuminated field as well as the stadium.

B.8.e.& I. ENVIRONMENTAL ELEMENTS – LAND USE

The Checklist (e.) asks “What is the current zoning classification of the site?” The Checklist (I.) asks for information regarding “Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans.”

The response to the zoning question is: “zoned R-4-8(Single Family Residential)”.

The response to the inquiry regarding compatibility with existing land use designation (Residential), is: *“Schools are typically integrated into residential neighborhoods to best serve the area children. The project is designed to match and serve the neighborhood context, while providing a public need in terms of education, as well as recreation, and cultural benefits.”*

Comment

The response that schools “are typically integrated into residential neighborhoods to best serve the area children” does not answer the question of whether *large sports complexes* emitting high levels of noise and light during nighttime hours are compatible with very nearby residential neighborhoods (in which many children live).

My home is located several blocks away from Ingersoll Stadium. Noise intrusions into my home from the stadium occur during evening hours on a regular basis, particularly during Autumn months.

Addition of a new illuminated sports field will result in additional noise pollution in neighborhoods near the High School. Construction of such a new field - in addition to the adjacent Stadium that already exists – constitutes a gradual morphing of school property into a major sports complex. Such complexes are not compatible with Residential zoning.

B.10.a.&b. AESTHETICS

The Checklist asks: “What is the tallest height of any proposed structure(s) ...?” and “What views in the immediate vicinity would be altered or obstructed?”

The responses refer to proposed building heights. They do not mention light pole heights.

Comment

Neither response identifies illuminating light poles as a potentially aesthetic issue. During a Neighborhood meeting of October 29th, a District representative affirmed that the height of the poles will extend beyond the height of the Ingersoll Stadium bleachers. Views would likely be altered by the new light poles.

B.11. ENVIRONMENTAL ELEMENTS – LIGHT AND GLARE

The Checklist asks “What type of light or glare will the proposal produce?”

Comment

While the responses discuss measures that will be taken to “minimize glare to adjacent properties to the greatest degree possible”, there is no assessment of degree to which various kinds of light (direct glare, reflected glare, spill light) will nevertheless actually impact surrounding residences.

I live about six blocks away from Ingersoll Stadium. From my front yard I can see direct light emitting from the stadium light poles as well as sky glow that often occurs over a wide area when stadium lighting is on. The responses do not identify and assess cumulative impacts that would occur when both the proposed new illuminated field *and* Ingersoll Stadium lights are on.

B. 14. TRANSPORTATION

The checklist response (at B.14.f.) states that the current proposal increases permanent student capacity for the Olympia High School campus by 255 students. The traffic analysis associated with this proposal based traffic impacts on that projected increase in student population at Olympia High School.

The traffic study did not consider traffic impacts of growth in student populations at nearby Pioneer Elementary School and Washington Middle School *in addition to* the projected population growth at Olympia High School.

The traffic study did not assess (or even mention) traffic impacts that would occur as a result of the proposed new illuminated athletic field (*in addition to* current Ingersoll Stadium traffic.)

The traffic study recommended a mitigation measure of a new left turn lane on Henderson Blvd. at Carlyon in the future. Given that the study did not consider future growth at other nearby schools, it’s reasonable to assume that additional mitigation measures will be needed if the proposals are approved. Such measures should be identified and assessed now, *before* decisions are made.

VARIANCE REQUEST

One of the documents included in the City “Olympia School Expansion File # 18-43-09 is a Variance Request dated October 11, 2018, in which OSD “seeks a variance ... to increase Maximum Impervious Surface Coverage in Zoning District R-8...”

In one section the form asks for assurances...

...That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which subject property is situated...

OSD’s response is:

*Granting of this variance benefits public welfare as it wisely continues the consolidation of resources in a property already developed and managed for educational and community uses, furthers public safety, makes efficient use of available OSD land and built infrastructure, and makes efficient use of human resources as it keeps new classrooms and athletic facilities on the Olympia High School's campus. Variance approval will benefit the Olympia High School service area, the neighborhood, and others in this R4-8 Land Use District **as it will not have detrimental impacts on traffic, noise, light, and use patterns for all of the improvements are internal to the site, rather than on the site's periphery and next to neighbors.** (emphasis added)*

Comment

The response is misleading. Noise and light do not respect property boundaries. Neighbors have legitimate concerns about additional noise and light pollution that an illuminated athletic field would bring, as well as additional traffic that an illuminated field, particularly one which would be open to unknown numbers of non-district uses, could bring. Unfortunately, those living in neighboring areas were not informed of plans or invited into discussion pertaining to them until very recently. SEPA Checklist responses that ignore or minimize community concerns do not alleviate those concerns.

In another section of the Variance Request OSD discusses alternatives to the current proposals:

Another option considered is to purchase off-campus property to accommodate the Classrooms and Synthetic Turf Field. Property acquisitions for what would essentially be a separate satellite campus to Olympia High School would represent poor planning, result in an inefficient use of public resources, unnecessarily create a wide range of unresolvable life, health, educational, community, and safety issues, and would prove to be a poor use of scarce taxpayer dollars.

Comment

It's unlikely that anyone in the community or neighborhood would favor moving classrooms off campus. However, there may be far wider support for a coordinated effort with the City Parks Department to explore the option of acquisition of property in a non-residential area for an additional illuminated athletic field.

Were the discussion of alternatives (to the current proposal) to be opened to Olympia High School students and the community, it's likely that other educational purposes could be found for school land that would be more compatible with location in a Residential Zone. (Example: a Botanical Garden created and maintained by students where they could congregate, study or just relax – where classes could even be held during warmer weather months ...)

IV. CONCLUSION

Many of the Checklist responses are erroneous, misleading, and/or incomplete. The Checklist does not provide sufficient reliable information upon which to base a determination. The DNS should be withdrawn.

The Application for Land Use, of which the SEPA Checklist is a required component, should also be withdrawn.

If the entire proposal is retained, then revised Checklist responses should accurately identify and assess impacts pertaining to use of the entire sports complex (Stadium, tennis courts, proposed new illuminated athletic field) together, rather than assessing impacts in piecemeal fashion.

Conditions imposed by the City Hearing Examiner in 2004 to help protect neighborhoods from adverse environmental impacts of noise and light pollution should carry over to the proposed new athletic field as well.

Crumb rubber artificial turf should not be constructed on school grounds until such time as EPA studies verify that such material is safe.

Stormwater mitigation measures should be implemented.

The deadline for appeal of this proposal should extend 7 days beyond the deadline of the comment period.

Thank you for this opportunity to comment.

Respectfully,

Janet L. Witt

1. Noise: A Health Problem, U.S. Environmental Protection Agency, August 1978

2. Adverse Effects of Noise, Guidelines for Community Noise, World Health Organization, 1999, section 3.7, pg. 49 to 50

From: [Jennifer Priddy](#)
To: [Katie Kolan](#); [Nicole Floyd](#)
Subject: RE: Comment regarding Olympia high school
Date: Tuesday, November 13, 2018 6:59:08 PM

Good evening Katie,

I appreciate that you have taken the time to comment. Nicole and I will make sure your email address is included in future communications regarding the project, and I will study your concerns with our architects and planners.

Jennifer

From: Katie Kolan [mailto:kkolan444@gmail.com]
Sent: Tuesday, November 13, 2018 5:47 PM
To: jpriddy@osd.wednet.edu; nfloyd@ci.olympia.wa.us
Subject: Comment regarding Olympia high school

Thank you so much for accepting my comment. This is regarding file number 18 - 4309 for a project located at 1302 North St. S.E..

I am a resident at 3310 Fairview St. SE. in regularly use all intersections within a half mile radius of my house. I can't fully appreciate from the public notices what project is being contemplated other than its 36,000 ft.² and can anticipate an increased load of 255 students. The intersections around my neighborhood with her often also full of children are highly dangerous, congested, it'll marked, and pose grave liability to city interest not to mention its residents.

I'm confident the project as well and well thought through and it is my **strong request that these intersections be made much more visible and accommodating for pedestrians and people who navigate these neighborhoods by foot. And increase in the number of students, construction, and use of the space will increase the risk of harm at intersections for people who travel by foot.**

It's no fewer than one time per week where I am nearly run over by a car. This can happen during the daylight or during night time. The intersections are increasingly cramped since 2014. Car is blocking the intersections obviously during peak hours but at night especially, intersections exiting the Braemar neighborhood end up on Cain and North Street are borderline aggressive and highly dangerous for pedestrians. In the mornings I've watched daily as children are crowded into intersections that are not well marked and entertain far too much vehicle congestion.

I welcome any further discussion and thanks again for considering my comment.

Katie

Katie Kolan
(206) 618-4821

From: [ROGER WILSON](#)
To: [Nicole Floyd](#)
Subject: RE: Oly High
Date: Thursday, November 29, 2018 12:50:11 PM

Ms. Floyd,

Thank you for the link. The areas for new construction are more easily identified than on the item that was mailed. My only comment about this proposal concerns the additional classrooms--primarily if those classrooms result in additional students.

One of the great things about the neighborhood in which I live is the proximity to both Pioneer Elementary and Olympia High Schools. One of the not so good byproducts however, is the river of traffic that runs down Boundary SE. Parents, students and buses use this two-block connection between Eskridge and Carlyon prior to and after school. This is also a walking route for neighbors and students. There is a considerable increase in traffic for a neighborhood street without sidewalks, and some of the drivers seem to think 35 mph is an entirely appropriate speed.

In reading this I sound like a whiner, but during the last decade or so I have witnessed increased traffic with the expansions at Pioneer and increased capacity at Olympia.

Best regards,

roger wilson

2922 boundary st se

On November 7, 2018 at 4:29 PM Nicole Floyd <nfloyd@ci.olympia.wa.us> wrote:

Here is the link to the website where all the project information is being provided:
<http://olympiawa.gov/news-and-faq-s/construction-news/ohs-expansion.aspx>

The site plan is under project documents and is in the 2nd column, about half way down. Let me know if you have any questions.

From: ROGER WILSON <rogerwilson21@comcast.net>

Sent: Wednesday, November 07, 2018 1:11 PM

To: Nicole Floyd <nfloyd@ci.olympia.wa.us>

Subject: Oly High

Ms. Floyd,

I am sorry to have missed the meeting. From the notice I received in the mail it is unclear to me what is proposed to be constructed in the area south of the existing tennis courts or where additional vehicle parking will be placed. Can you provide a link to the site plan, please?

Thank you,

roger wilson

2922 boundary se

From: [Karen Messmer](#)
To: [Nicole Floyd](#)
Subject: Re: 19-0166 Olympia High School, 1302 North St SE, 18-4309
Date: Friday, February 15, 2019 7:41:24 AM

Thank you Nicole - this is very helpful. Good to know the access to North St will remain the same number. Also, ignore my #4 comment about incremental total project - that was an error.

KM

On 2/15/2019 7:37 AM, Nicole Floyd wrote:

> Karen,
>
> I will forward your comments to the Hearing Examiner. For a few - I think I might have helpful information / questions for clarification:
>
> 1) The City has prohibited additional accesses on North Street. The revised submittal (mid January) has this access point removed.
> 2) The proposal is relocating vehicular parking, but not increasing. They are actually losing about 11 spaces in total. The proposal includes several new covered bike parking locations in order to meet the current requirements for a school of this size.
> 3) No change is proposed to the Mountain View pedestrian access route. This project should not cause temporary or permanent closures. I will double check this to make sure.
> 4) Are you referring to the auditorium, which was approved in 1998 or the stadium remodel approved in 2003 (this one got appealed and was in various stages of court for years).
>
> -----Original Message-----
> From: Karen Messmer <karen@karenmessmer.com>
> Sent: Thursday, February 14, 2019 2:16 PM
> To: Nicole Floyd <nfloyd@ci.olympia.wa.us>
> Subject: 19-0166 Olympia High School, 1302 North St SE, 18-4309
>
> Nicole -
>
> I may send additional comments on this but here are a few:
>
> 1. Additional driveway access to North Street is adding potential conflicts with people walking on the sidewalk. Emergency access could be provided without adding more motorized traffic crossing the sidewalk.
> That emergency access could be limited to incident response vehicles only. I wonder this many access points would be allowed for a new commercial project. I understand the site constraints but this is a heavy foot traffic area and requires special attention to avoiding crashes.
>
> 2. It is time for the high school property to install an adequate amount of truly covered dry bicycle parking. They could have multiple locations for the dry parking and in fact near each door entry is what is needed. The increase in parking spaces for cars should trigger this but so also should the need to support people who ride bikes. A bicycle is a big investment for many people and a dry covered space to park is important. The district has supported Walk and Roll programs for many years so they understand the connection to student health.
>
> 3. The Mountain View street access continues to be an important way for people to walk and bicycle to the school. I am concerned that this renovation project might close that access temporarily or permanently.
> The district should not be allowed to close this access, it is a public access.
>
> 4. Because of the incremental approach to this and the performing center project, it seems as if the scope of this project is really larger in total. They two projects seem close enough together in time/process that they should be

treated as one for purposes of review and standards.

>

> Karen Messmer

>

>

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> “Anti-intellectualism has been a constant thread winding its way through our political and cultural life,

> nurtured by the false notion that democracy means that 'my ignorance is just as good as your knowledge.'”

> — Isaac Asimov

>

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