Planning Commission Meeting
February 4, 2010
Verbatim Excerpt

SE 2008-HM-010 – GEORGE B. & CAROLYN L.E. SAGATOV (Decision Only)
(Public Hearing held on January 28, 2010)

During Commission Matters

Commissioner de la Fe: Mr. Chairman, the public hearing for this case was held on January 28th, 2010. There were three speakers, all in support. A number of other neighbors expressed support by email and other communications. There were no negative comments. The Hunter Mill Land Use Committee recommends approval. Staff recommended denial in its November 18th, 2009 report. In a January 21st, 2010 Addendum, the staff reiterated its recommendation for denial. I appreciate the tremendous amount of work that staff has undertaken over the nearly two years that this proposal has been under consideration and fully recognize the thoroughness of the analysis that led to the denial recommendation. In the Addendum, the staff lists three reasons for its denial recommendation: 1. the proposal would not result in a development that preserves existing vegetation, topography, and other environmental features; 2. it has not been demonstrated that the proposal would result in less impervious surface than if by-right development took place; and 3. the proposal will result in significant disturbance to the EQC.

Commissioner Litzenberger: Second.

Commissioner de la Fe: No, no, no. Wait a minute. I have some more.

Chairman Murphy: Moving right along.

Commissioner de la Fe: Moving right along. The proposal may indeed not preserve existing features, not result in demonstrably less impervious surface, and result in disturbance to the EQC; however, as noted in the staff report, there already has been significant disturbance to the EQC and vegetation, and other natural features have been negatively affected by what has occurred on this site over the last 20 or 30 years. The measure of impervious surface cannot be demonstrated to staff's satisfaction because a parcel owned by the applicant, but not part of this Special Exception proposal, would be involved in the by-right scenario. Although the by-right scenario would involve a parcel not included in the SE, the by-right option exists and, if pursued, would provide more extensive disturbance of the EQC without any mitigation whatsoever. I believe that actions such as Special Exceptions generally are preferable to by-right development because they permit the imposition of development conditions that mitigate negative impacts. In this case, the development conditions provide for mitigation of negative impacts that have already occurred because of past activity on the site as well as assuring that impacts from this development have minimal impact on the natural features. With respect to the level of imperviousness of this SE versus the by-right option, though scientifically precise figures may not be available because the number of lots involved are the not the same, I do not see how development of a cul-de-sac built to VDOT standards, in addition to the new structures and driveways, would result in less impervious surface than under the SE. In this case, I believe that

the SE route, as conditioned, might not be perfect, but it is better than the by-right option. At the public hearing, the applicant requested that Development Condition Number 17 be deleted and that Development Condition Number 7 be changed to permit the greenhouse to remain for the personal use of the owners. Condition Number 17 was added in the Addendum. It did not appear in the original staff report. In my opinion, the development condition imposes requirements on the applicant that are beyond his control since it requires that he obtain dedication agreements from other property owners for what is currently a temporary cul-de-sac. I might add that much of the discussions over the past 18 months with the applicant concerned the relationship of this area and the applicant's property, since the original SE involved it. It was determined that the applicant did not have frontage at this location. That determination in turn resulted in the need for the current proposal. I agree that this condition should be dropped; however, in the development conditions that were handed out today, there is a new Condition Number 17, which is not the one that had been requested. It's a new one which deals with landscaping and restoring the EQC. With respect to Number 7, I agree that the basic purpose of this condition, discontinuance of the nursery business, is correct. However, retention of the greenhouse for the personal use of the owners appears to be a reasonable request and the condition has been amended to reflect such personal use. In the end, my recommendation for approval of this Special Exception as conditioned is based on my firm belief, as I stated before, that a well-conditioned Special Exception development is better than a by-right development, especially with respect to the EQC. Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE 2008-HM-010, SUBJECT TO DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE DATED FEBRUARY 4, 2010.

Commissioners Litzenberger and Lusk: Second.

Chairman Murphy: Seconded by Mr. Litzenberger and Mr. Lusk. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2008-HM-010, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Lawrence: Abstain.

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Lawrence abstains.

Commissioner Hart: Mr. Chairman, I'd ask the record reflect I did not participate in the vote as I'd recused myself from this case.

Chairman Murphy: No vote from Mr. Hart; he recused himself from this application.

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(The motion carried by a vote of 6-0-1 with Commissioner Lawrence abstaining; Commissioner Hart recused himself; Commissioner Sargeant not present for the vote; Commissioners Alcorn, Hall, and Harsel absent from the meeting.)

JN