

Planning Commission Meeting
February 16, 2011
Verbatim Excerpt

SE 2008-PR-021 – JAMES W. JACKSON (Lord Fairfax Academy)

After the Close of the Public Hearing

Chairman Murphy: Public hearing is closed; Mr. Lawrence.

Commissioner Lawrence: Mr. Chairman, this matter was heard first in 2009. Because there had been changes in the application, we have tonight had a second public hearing. I want to thank those from the neighborhood who testified tonight or sent us correspondence with their views on the present version of this application. I note that, although there have been several rounds of changes to this application and we are now on the third addendum to the staff report, the concerns of the community remain unresolved, despite this activity. Commissioners will recall that in its earlier version, this application had several serious issues. It was for that reason that I deferred the decision on it. As now presented, the applicant has addressed some of the issues. For example, the proposed enrollment of children has been somewhat reduced, and the height of the structure proposed for the site has also been reduced to 35 feet. I believe, however, that the fundamental issues with this application have not been resolved. At the root of these issues is the proposed intensity of use. This intensity relates very directly to the number of children contemplated in the present version of the proposal. Staff has reported that they continue to recommend denial of this application. I concur with that view. Staff spells out the issues in the staff report. My own thoughts follow. Early in my service on this Commission, I was given some excellent advice; namely, that every case is unique. In this instance, analysis must begin with the site. The applicant prepared a table with examples of day care facilities with comparable numbers of children on small sites. It is true that this is a small site. But its description is not complete at that point. This site is a shallow rectangle, situated at the intersection of Route 123 and Sutton Road, both very busy travel ways. It is constrained not only by size and shape, but also by limited access. Access can only be made from the Sutton Road side of the site, and that is constrained by the shallow site dimension and by some gas company structures in the VDOT easement along that side. The concerns given by the County's Department of Transportation in the staff report reflect both the constraints of the site and the envisioned intensity of use. I certainly share those concerns, especially about the proposed driveway to the site, and I believe that the future very likely holds only more problems. When Vaden Road Extended is completed, Sutton will be part of a new option in movements from Chain Bridge to Lee Highway and vice versa. If and when Sutton is widened as a part of intersection improvements at 123, and/or to add throughput capacity, the service road access and stacking will be lost, and access to the site will be an even greater challenge. On this site, the applicant would put a building whose size is a function of the number of children and staff to be accommodated. As expressed in calculations of FAR, the design is for some 6,228 square feet; I'm told that if cellar space were included it would be 11,170 square feet. The applicant operates other such facilities; it's reasonable to conclude that this size building is needed for this number of children, as determined by the applicant's previous experience. The homes nearby are mostly older ones; they are about 2,700 square feet in size. Of course, today's homes are larger; they average about 3,500 square feet. Footprints for such homes would be about 1,400 to 1,750

square feet. Even compared to present-day large homes, the proposed building is very much bigger, something over four times the footprint size with a footprint of 7,350 square feet. It's greater than five times the footprint size of the homes now on the nearby land. In the language on Intent and Purpose under the Special Exception provisions of the Zoning Ordinance Article 9-001, we read in part, "The Board may approve a Special Exception under the provisions of this Article when it is concluded that the proposed use complies with all specified standards and that - - and that such use will be compatible with existing or planned development in the area." In Article 9-006 setting forth General Standard Number 3, the size of a building is given as one of the factors in determining whether a proposal is harmonious with the use or development of neighboring properties. General Standard Number 4 in Article 9-006 further states that pedestrian and vehicular traffic should not be hazardous or conflict with existing and anticipated traffic around the site of the proposed use. The layout of the site is greatly affected by the contemplated intensity, as well. Between the number of staff required to attend the children on the site and the number of visitors and parents expected, over 20 parking spaces must be provided. When the drive paths that are needed to create access, egress, and an orderly on-site circulation for vehicles are added, the result is the amount of paved site area shown on the SE Plat. It covers a significant portion of the whole land area. In the same way, play space for the children must be provided. By the rules, this space must be other than that required for the necessary front, side, and rear yards. As the Plat shows, about 2,980 square feet of play space can be provided on this site. At 100 square feet per child, that play space would serve at most 29 of the children at a time. When setbacks, building footprint, yard space, play space, and paved area are totted up, the space left on the site can be used for landscaping, transitional screening, and required barriers. The applicant asks that we waive the normal requirements for barriers, landscape, and screening, in favor of what is shown on the SE Plat. In the Special Exception situation, the land use differs from the neighboring uses. Screening the different use is extremely important. In Article 9-006 under General Standard 3, the Ordinance states, in part, "the nature and extent of screening, buffering, and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land." As an additional observation on the importance of the screening feature, I note that the Ordinance states, in regulating modifications to approved Special Exceptions under Article 9-004, Paragraph 4A(4) that modifications shall in no event "reduce the effectiveness of approved transitional screening, buffering, landscaping, or open space." These words embody in detail the general County policy to protect our suburban residential neighborhoods; in this context, by seeking to assure and maintain proper transitional screening for different uses. In this case, I believe that adjacent and nearby residential neighbors will be affected by the insufficiencies in the buffering and screening provided for the proposed use. I believe it's worth a moment to examine the transitional screening at the rear of the site where it faces the present Verizon telephone facility. We know from current events and applications that telephone technology is in a state of dramatic change. It's not implausible that at a future time within the span of our Comprehensive Plan, there will no longer be a need for this kind of facility in that place. In such a situation, the land now zoned R-E, might be again used for residential, perhaps with a zoning similar to that immediately to its rear along Sutton. Once again, the transitional screening feature for the proposed day care center would be of great importance to such a development. The applicant asks for a waiver of the three-foot peripheral landscaping requirement along this site boundary. It is clear that the

proposed intensity of the day care use on this constrained site results inevitably in fundamental issues. For the number of children to be served, the size of the proposed building is not compatible with the adjacent residential homes, and at the same time, the site is so filled with the building and other required items, such as play space and parking, that there is not enough room for the very transitional buffering and screening that is essential to fitting in a different use in one of our residential neighborhoods. The staff report presents development conditions for the proposal. In Development Condition Number 2, the desired enrollment is given as 150 children, but of these it is said that no more than 120 would actually be on site at any given time. It is certainly practicable to verify total enrollment; we can look at the list, as staff has aptly spelled out in their development condition language. But it is as a practical matter simply not possible, in my view, to enforce a condition on how many children might be on the site at some given time, such as during a special event of some sort. Who would do the counting? The same point can be made about the number of children on the available play space; this difficulty might present itself, for example, when a busload of older children arrives at the site on a nice day. There'll be no program of instruction for the older children, and they could be on the site until 6:30 in the evening. There might be other children on the play space, but I think it very plausible that the new arrivals will want to be there too. Again, who will count? In short, I believe such development conditions to be unenforceable. While this concern may not be of paramount importance in this case, it nevertheless reflects the manifold problems that overly intensive use brings. Therefore, Mr. Chairman, for these and all of the reasons set forth in the staff report, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT APPLICATION SE 2008-PR-021 BE DENIED.

Commissioner Alcorn: Second.

Chairman Murphy: Seconded by Mr. Alcorn. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it deny SE 2008-PR-021, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioner Hall: No.

Chairman Murphy: Motion carries. Ms. Hall votes, "no."

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(The motion carried by a vote of 9-1 with Commissioner Hall opposed; Commissioners Harsel and Sargeant absent from the meeting.)

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