Planning Commission Meeting
May 1, 2008
Verbatim Excerpt

SE 2007-MA-028 - THE MONTESSORI SCHOOL OF NORTHERN VIRGINIA, INC.

Decision Only During Commission Matters
(Public Hearing held on April 10, 2008)

Commissioner Hall: Mr. Chairman, on April 10, 2008 the Planning Commission heard application SE 2007-MA-028, the Montessori School of Northern Virginia. At that time there were many speakers and all of them made excellent points. So, decision was deferred until May 1st. I would point out that the Holmes Run Valley Civic Association, being a residential area, has had very little to do with the land use process in Fairfax County. They didn't have to. Nothing was going on. It was homes and things that were in there. Schools have been there for a very long time. I have to commend the community for learning a great deal about the process. They have spent months. They know more about ordinances and conditions and everything else, but they're still somewhat disappointed now that they have been involved in the process. And today I received an e-mail from Peter Deede and Peter is their spokesperson for the committee that had been working on this. And I thought it would help if I would read a few sections from his letter to kind of give you an idea of how the community felt about being involved in the process. And Peter wrote, "I believe one of the most fundamental differences in this process and the perceived need to negotiate is to be fair to all. I understand that it is how the County SE approval process has evolved and from which you must operate. Our belief is that taxpaying residents of Fairfax County are the folks who need to be protected by the system, not the applicant. The residents must abide by the Zoning Ordinances in their daily lives and they also look upon the County to protect the property values and the way of life from outside entities trying to seek approval to move into the neighborhood." I would just point out that the school was in this area before the homes were. This has been a school site for, as I understand it, over 50 years. I can appreciate the perception that the community has that nobody's listening to them, but clearly that is just not the case when you consider it was their conditions that were reviewed here by the Planning Commission, and there have been numerous meetings to try and resolve these issues. Peter goes on to say, "As you well know, the County ordinances established long ago do not give the applicant an inherent right to operate in a residential setting. It is by special exception and even then, there are rules that should and must be followed to maintain the character of a neighborhood. If there is any uncertainty, the system must side with the residents who will be left with the impact and disruption to their harmony, the very reason they bought into the community to begin with. I sincerely hope you ponder this further as you make your presentation to your fellow Commissioners this evening." Well, Peter you can rest assured. I have done nothing but ponder this application. I don't know how long, but it's been a very, very long time. The people in the community are delightful. They are intelligent, they are articulate, they care about their community. But, there's a flip side to this and that is the school and I have to balance both parts. I have to be fair to both parts, whether you want me to or not, that's really the way I see it. So, yes I have thought about it a great deal and I have the following say. I would bring the following information. I bring you this information. The Zoning Ordinance is a checklist. That's why the County has the following - - has - - let's see - - that's why we have all these different reviews, the process. The Zoning Ordinance allows for modifications and

waivers because it recognizes that in certain cases the intent of the Ordinance might be well - - might be well to be able to address, even though the exact letter of the Ordinance isn't met. Waivers are not intended to accommodate the applicant, but to offer flexibility in meeting the intent of the Ordinance. In this case, for example, a modification of the barrier location allows for the fence on the property line, which is arguably more in keeping with residential character than a fence inside a traditional screening area, which also creates a maintenance issue which we sometimes run into when the owner is not allowed to - - to go on the other side of the fence to maintain it. It is the job of the applicant to present their case, to focus on their needs, and then to state how they are addressing the standards of the Ordinance. It is staff's job to evaluate the proposal used as - - as to compare the regulations of the County, including the Zoning Ordinance and the Comprehensive Plan. It all works together. I know the community thinks that the school has gotten off easy and they have not had to suffer in this process. I assure you the school would not say this has been easy, not by a long shot. And they have probably worked as long, I would suspect longer and harder than the community. So, they have that in common. Okay. Although the County rules state that a former special exception approval does not convey to a new owner, it appears that undue weight is given to what was previously authorized regarding the current circumstances. This case involves an existing special exception. The BZA included a condition granting those to the applicant only. Therefore, in this case a new hearing process would be required even if no changes to the conditions were proposed. That said if the only change requested was a modification to the permitee, with no changes to the conditions, staff would not have much room to make additional requests. The existing use of the property, if legal, is a valid component of the application. The approving body and in this case it was the BZA, has stated that use as laid out in those conditions was an appropriate use and intensity. While the citizens might have supported the case with the understanding that much less intensity was intended back in 1988, the BZA did not amend the conditions to reflect that - - to reflect that. Therefore, they made a determination that the higher level was appropriate. And that's what brings us here today. It was difficult for me to understand why the Holmes Run Valley community was so opposed to a new operator of a school that had been functioning for over 50 years. I mean I didn't understand it. And as - - and as I stated, you know, many members of the community spoke out fondly about how when their children grew up in the community 30, 40 years ago, they loved Valley Brook, they enjoyed it, they used it, it was a good part of their community. Many of them spoke in favor. So, it was very difficult to figure out just what was going on. However, I think I can sum it up primarily to three issues. Ms. Flynn, the current operator, only operates her school Monday through Friday from 9 until noon and that works out well for her and the community. However, the current conditions as approved with the support of the community allows from Monday through Friday 8 to 6 - - 8 a.m. to 6 p.m., 52 weeks a year. That is what is currently permitted. It is not the way it functions, but that's what the conditions are. And lastly, MSNV has another campus in the Mason District. It is located in the Hillbrook community. And I think this is really the crux of the problem. This campus is located on a three-acre site. And I'm not judging the school, I am not judging the Hillbrook community or their relationship, but I think it's fair to say it's poor. And I don't know who's at fault and I didn't spend a whole bunch of time looking into it, but because of that relationship the Valley - - the Holmes Run community was scared to death when Montessori came knocking at their door. They were so concerned that they were going to be barraged with problems that they really did

not want Montessori to come to their community. And they don't want what happened in Hillbrook to happen to them. Again, I'm not judging, but this is the perception. I believe this explains why I feel I needed to take so much time with the community and I did spend a lot of time with them and they were extremely positive. I also spent a lot of time with the school and their representative, but because of all this concern, that's why the conditions you received this evening, and there are 36 conditions, is to make sure that there is a viable relationship between Montessori and the Holmes Run Valley Civic Association. They're trying - - I think everybody is trying to make sure that this is a good situation for everybody. I know we can only try to make things better. I do know that the community has requested a private agreement with the school concerning limiting future expansion on the site. I will tell you that I have told them this is a private agreement and clearly Fairfax County cannot take any position with this agreement. But, I applaud the efforts of both of them to try and build that foundation that - - so that they can trust each other and move forward in the future. I really, knowing both groups as well as I do, I believe that this is going to be a win-win for both groups, at least I sure as do hope that's the case. With that, Mr. Chairman, I MOVE THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE 2007-MA-028, SUBJECT TO THE DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE DATED MAY 1, 2008.

Commissioners Alcorn and Lawrence: Second.

Chairman Murphy: Seconded by Mr. Alcorn and Mr. Lawrence. Is there a discussion of the motion?

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Hart.

Commissioner Hart: Thank you. I'll try to be brief. I agree that the application meets the special exception standards. I would compliment everyone involved, including Commissioner Hall, on their efforts on this case. I have a concern about the wording of four of the development conditions as being inappropriate. I'm not going to oppose the motion on the basis that the applicant is on board with these. But, in general in a non-residential use where we're imposing development conditions, I think it is inappropriate for us to condition the zoning approval on action by a civic association because there's no way for us to enforce that. Clearly, there are no procedures spelled out. Development Conditions 15c and 18c, little ii - - excuse me - - 15c, 17, 18c little ii, and 18c little iii, require certain things either upon a request by the civic association or in two cases, require agreement by the civic association. There's no guidance provided in the condition as to how that request is to be made or how that agreement is to be manifested. Is there a quorum, are there a certain number of votes, is there some sort of written notice that's required in advance? Any of those requirements are just setting us up for trouble if there's ever a violation of those conditions. I would not impose those in a special exception. On the understanding that the applicant is going into this with their eyes open, fine, but we probably ought not to be doing that. Thank you.

Commissioner Hall: Mr. Chairman?

Chairman Murphy: Yes, Ms. Hall.

Commissioner Hall: As much as I'm delighted that this part of the process is coming to an end this evening for the Planning Commission, I have pointed out to the community, to the school, and I even have offered to volunteer to continue to work with this. But, I have no doubt that we haven't seen the final conditions and they certainly can take a closer look at those before it goes to the Board. Thank you, Mr. Chairman.

Chairman Murphy: Further discussion?

Commissioner de la Fe: Mr. Chairman?

Chairman Murphy: Yes, Mr. de la Fe.

Commissioner de la Fe: Just one item. I want to second what Commissioner Hart said on this. I mentioned last night - - I mean I had some problems with some of the conditions, not exactly the same as were mentioned by Commissioner Hart. But, I do - - I would have no problems if these were proffers and I will support it. But, we can accept proffers because they're voluntary. Development conditions are things imposed by the government and I do believe that some of these are inappropriate, but as she said we haven't seen the end of the process. Thank you.

Chairman Murphy: Further discussion?

Commissioner Sargeant: Mr. Chairman?

Chairman Murphy: Mr. Sargeant.

Commissioner Sargeant: Thank you, Mr. Chairman. Quick - - couple of questions here on the development conditions. I'm looking at what is now listed as Development Condition Number 8, "All parking for staff, volunteers, and visitors, shall be provided on-site." Who are visitors? Does that include parents picking their kids up, so does that include guest visitors? How is that term used?

Commissioner Hall: Visitors are the people who would normally show up at a school and by that, I mean parents picking up children who are sick. Deliveries are covered somewhere else. There may be inspectors from the County. These are considered the normal type of people that might stop at any school for any valid reason.

Commissioner Sargeant: So, the design is such that now parents picking up their kids or dropping them off can all park on-site as opposed to on the street?

Commissioner Hall: If they're dropping them off or if they're picking them up, they are not parking. There is a very elaborate program designed to make sure that all drop-offs and all pick-ups are on-site. If you got an e-mail from Bill Bailey this morning, regrettably there was a car accident. And, you know, on one hand I think that's terrible. On the other hand, if you foolishly cross the street you're looking to potentially be in an accident. I hope people would have more sense. That is one of the reasons that written throughout here and designed by the school and supported by the community, that all drop-offs and all pick-ups which resulted in an extended driveway, be on-site.

Commissioner Sargeant: Another question that gets to the point, given the amount of cut-through traffic that we've been talking about with this particular application. Public schools have opportunities for things like crossing guards and other safety measures that address that. Is there no other opportunity for such a - - such an initiative here?

Commissioner Hall: Actually, there is a public school, Beech Tree, around the corner.

Commissioner Sargeant: Yes.

Commissioner Hall: And there - - you know, the thing is I just couldn't - - my children were cross guards, but I don't see where cross guards would work in this situation. However, staff members are assigned the responsibility to make sure traffic is moving well, making sure cars are unloaded, and I think that's the very best you could do in this situation. I don't see where - - there's not really going to be children crossing a street per se, nor should they be running across the street to go to the school.

Commissioner Sargeant: Are there opportunities - -

Chairman Murphy: We're on verbatim. I just want to remind everyone.

Commissioner Sargeant: Are there future opportunities that this community can pursue concerning traffic-calming measures, especially with regard to cut-through traffic?

Commissioner Hall: It's my understanding that that opportunity has been raised several times within this community and at this point, they do not have the support of the entire community to support traffic-calming measures. Maybe as a result of this case they may want to revisit it.

Commissioner Sargeant: Okay. Thank you.

Chairman Murphy: All those in favor of the motion?

Commissioner Flanagan: Mr. Chairman?

Chairman Murphy: Mr. Flanagan.

Commissioner Flanagan: Short on verbatim.

Chairman Murphy: Okay.

Commissioner Flanagan: During the public hearing, I had commented - - the only thing that I had commented upon was the amount of parking on Rose Lane during the large events. And I see that the proffer - - the conditions do require all attendees now instead of just parents to be directed to a satellite parking rather than being allowed to park on Rose Lane. My comment to this whole thing though is that the micromanagement that this application requires is evidence in my mind, you know, that this is not good planning. But, what we're dealing with here is a bad situation that we are trying to - - we're trying to help the applicant, you know, with what is a bad situation. And I'm not too sure this is good planning, but I'm going to vote in favor of your motion because I do think that you have addressed the problem that I had concerns about.

Chairman Murphy: Further discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2007-MA-028, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Hall.

Commissioner Hall: I move that the Planning Commission recommend approval - - let's start this over again. I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE MODIFICATION OF TRANSITIONAL SCREENING, IN FAVOR OF THAT SHOWN ON THE SE PLAT, AND FURTHER MODIFIED BY THE CONDITIONS.

Commissioner Alcorn: Second.

Chairman Murphy: Seconded by Mr. Alcorn. Is there a discussion of that motion? All - -

Commissioner Harsel: Yes.

Chairman Murphy: Ms. Harsel.

Commissioner Harsel: Do we only recommend the approval of the modification or are you recommending that the Board recommend approval?

Commissioner Hall: We recommend.

Commissioner Harsel: Okay. So, the Board doesn't have to do it?

Tracy Strunk: Well, the Board would then approve.

Commissioner Harsel: Okay, I just thought the motion was that we recommend that the Board approve the modification.

Chairman Murphy: No, to approve.

Commissioner Harsel: Yes.

Chairman Murphy: Further discussion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hall: Finally, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE MODIFICATION OF THE BARRIER LOCATION REQUIREMENT TO ALLOW BARRIER TO BE LOCATED AS SHOWN ON THE SE PLAT, AND FURTHER MODIFY THE CONDITIONS.

Commissioner Alcorn: Second.

Chairman Murphy: Seconded by Mr. Alcorn. Is there a discussion of the motion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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(The motions carried unanimously with Commissioner Litzenberger absent from the meeting.)

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