Planning Commission Meeting
October 22, 2008
Verbatim Excerpt

SEA 83-D-030-08 - THE MADEIRA SCHOOL, INC.

Decision Only During Commission Matters
(Public Hearing held on June 26, 2008)

Commissioner Donahue: Thank you very much, Mr. Chairman. I just wanted to make sure. This evening, Mr. Chairman, I hope certainly that we will decide SEA 83-D-030-08, submitted by the Madeira School. We had a public hearing on this - - on this application on June 26th. Before I get to my introductory comments and to my motion, I much want to thank both Peter Braham and Cathy Lewis who did yeoman service, staff-wise, on this application. They were very helpful, as was Pat Rosend from the Park Authority. I'd like to thank a number of my fellow Commissioners who were very helpful, even to the degree in some cases of strapping on your hiking boots and going out there and seeing what was really going on. And the school itself. Dean Griffith and staff, especially Meredyth Cole, who was our hike-meister for quite a few weeks there, and of course David Houston, the attorney who has helped us out a great deal. Mr. Chairman, it is important this evening to define and identify what this application is and what this application is not. Basically, it's an application to replace an outdated water treatment sewage plant that badly needs replacing and indeed is under mandate from the State to replace. And not only will it replace it with a better, more modern sewer plant, but it will also put it in a better place. The current plant is inside the EQC. The replacement will be sited outside the EQC, which of course is another advantage. In addition, it retains previously-approved improvements, most granted in the 2002 Special Exception Amendment, and those improvements are staying in there. They want them retained obviously. This is not an application that breaks any new ground, other than the much-desired water treatment plant. Indeed, it abandons pursuit of a number of the items that initially were prayed for in what I think was a May staff report, increase in study body, increase in faculty, major improvements to the equestrian center. In addition, the school has agreed to not develop what was an approved parking lot that also could impact the EQC. So, actually a number of those programs in the May staff report have been abandoned and I think that was a good idea. The much-discussed Potomac River trail remains on our plans and I believe that trail should remain on our plans. I believe next year, the year after, whenever we have a chance to return to that trail, I believe we should reinforce the idea that we feel is an important trail that belongs on the plan and should be done. We were not able to achieve in this application a commitment or a condition that would help us pursue the completion of that trail. And despite the fact that we did not achieve that in this application, I think we should allow this application to go forward because in effect what we're saying is if we - - if we have to have the condition for that trail, we are saying either that we are willing to delay or possibly deny the construction of what is a badly-needed replacement for a sewer treatment plant, or we in effect renege on certain things that have all - - or and we renege on certain things that have already been approved in previous SEAs. Mr. Chairman, as I've said a great help in this process was discussion with some of my fellow Commissioners. And in the last few days, those discussions have led to two - - two new development conditions, which were handed to you this evening. We did discuss these with the applicant, but at the same time I would ask your indulgence to have the applicant come down. I want to read these two into the -

- into the record. And I would like the applicant to come down to confirm them if we could. They are Numbers 16 and 17. Number 16 reads, as follows: "The applicant will partner with the Nature Conservancy, or other qualified trail and conservation organizations, to conduct guided tours on the existing trails at least three times per year on the School campus. At the applicant's discretion, a member of the applicant's faculty or staff may accompany the partner on each hike. All participants may be required to indemnify and hold the applicant harmless from any injury or damage that may occur as a result of the tours." And Number 17 reads: "The unique and endangered plant species that are identified in 'Ecological Communities of the Potomac Gorge in Virginia' along the riverfront shall continue to be protected and the riverfront area shall be stewarded conscientiously." And I would like the applicant to comment on that. Are you willing to agree to those two conditions?

Chairman Murphy: Hold on a minute. We don't have a mic here at the podium.

Commissioner Hall: He's running now.

Chairman Murphy: Hold on.

David Houston, Esquire: David Houston, on behalf of the applicant. We would agree to Conditions 16 and 17, along with the other conditions dated October 8, 2008.

Chairman Murphy: Thank you very much.

Commissioner Donahue: And with that, Mr. Chairman, I will offer the following motion. I MOVE THE PLANNING COMMISSION RECOMMEND THAT SEA 83-D-030-8 BE APPROVED, SUBJECT TO THE DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE CONTAINED IN ATTACHMENT 1 OF THE SECOND STAFF REPORT ADDENDUM, AND WITH THE FOLLOWING TWO ADDITIONAL CONDITIONS TO BE NUMBERED 16 AND 17, AND THEY HAVE ALREADY BEEN READ INTO THE RECORD.

Commissioners Lawrence and Lusk: Second.

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

Commissioner Hall: Mr. Chairman?

Chairman Murphy: Yes, Ms. Hall.

Commissioner Hall: Thank you, Mr. Chairman. As a result of the public hearing and the testimony, I was not willing to support this application. I felt that many of the parents, and this is my opinion, not the Planning Commission, that it was inappropriate for the parents to tell their children that the trail, if there's a trail, suddenly Madeira was going to be a dangerous place as a

result of the trail. The reality of it is, whether there's a trail there or not, with that much footage and no security barrier whatsoever, the fence that was there has fallen down. If somebody wants to get on that campus, they're going to get on that campus. And I did not like that the parents seem to be blaming the trail for creating this security breach of the school because I think that does not serve their children very well. I'm a mother. I have been involved with the U.S. Marshals Service. I know a little something about borders and if you want to breach them, something like what's there now is not a problem. However, as the application has been amended and essentially all but what is truly needed to keep the school operating in a safe environment, I can fully support the application as it is amended. But, I would strongly encourage the school to basically have a chat, not only with the parents but the students, that we live in a dangerous world and you really do need to take precautions. And I don't care where you are and not think because there's a street or there's a public trail that somehow that's going to create a dangerous environment because in my opinion, and I did - - and I do appreciate the school did take me out and I was very happy to have my daughter and her friend, who practically carried me off the trail once it was finished because it is definitely not for the faint of heart. Let's keep our perspective. You know, trails are a benefit. Maybe not right now, maybe not in this area, but they're definitely something you need to be thinking about, but not being afraid of. And I - - as I said, I don't think you do your students or the parents do their children any service if they pretend just because there's a trail, there's a dangerous situation. The bottom line is in this environment, where we are today, you always have to be on your toes. You always have to be thinking about where you're going and how you're getting there and who you're with, regardless of whether it's Madeira or anywhere else. With that, I will be supporting the application, as amended.

Commissioner de la Fe: Mr. Chairman?

Chairman Murphy: All right, Mr. de la Fe and Mr. Sargeant and Mr. Hart. And we're on verbatim.

Commissioner de la Fe: I will keep it short. I - - as with Ms. Hall, I would have opposed this had it remained the way it is. In effect, all that we are doing is permitting the applicant to comply with a court order that they upgrade their sewer system, so I don't have an objection to, you know, and will approve the SE. However, I do still have a problem with what will be a motion later about waiving the construction of the trail, but I will abstain on that one.

Chairman Murphy: Mr. Hart.

Commissioner Hart: It was me or Tim?

Chairman Murphy: Well, go ahead.

Commissioner Hart: Okay. Thank you, Mr. Chairman. I appreciate the applicant's continued dialogue with the Commission and staff following the public hearing and Commissioner Donahue's efforts on this difficult case. I will support the motion with the intensification of the

use deleted, but I want to address two significant points on this application. In my view, the appropriate framework for a debate as to the location of a trail is at the time the Comprehensive Plan is adopted or reviewed, rather than at the special exception stage. Part of our function under the Ordinance is to determine whether an application is in conformance with the adopted Comprehensive Plan. In this case however, we were repeatedly asked to revisit or modify the riverfront trail on this property, which has been part of the adopted Comprehensive Plan for approximately 25 years without significant controversy. For a variety of reasons, the applicant and some adjacent owners objected to this site's trail requirement. Those debates should more properly take place during an Area Plans Review item or an Out-of-Turn Plan Amendment or an amendment to the Trails Plan. If we instead second guess the Board of Supervisors' earlier decision at the special exception stage, we undermine the Board's adopted policy and water down the meaning of the adopted Plan. Trail waivers on one site have consequences reaching far beyond an application's property line and create gaps in the Countywide Trails System. These gaps frustrate the Board's objectives of connectivity and continuity. While there may be legitimate, economic, aesthetic, environmental, or functional reasons for modifications to a trail location, if they're considered in the context of the Comprehensive Plan, alternate routes and alternate connections can be considered and evaluated. But creating a site-specific waiver at the special exception stage simply creates a gap. In addition, the perceived issue of security was argued as a justification for waiving this particular trail requirement. If security is an excuse to avoid a trail requirement, it can be raised on almost every church or school case or many other applications, which is unfortunate. In some respects also and in my experience, a trail may increase human presence in an otherwise isolated area rather than creating a security hazard. If security is a reason to waive a trail as late as the special exception stage, we again jeopardize the Board's objectives of a connected and meaningful, multimodal transportation system. The Madeira School has been a good neighbor and a welcomed citizen in Fairfax County. If the previously-approved trail on this site or any other presents a legitimate, environmental, or functional problem, I would encourage the applicant to pursue with the citizens and the Supervisor an appropriate review of the Comprehensive Plan requirements, evaluating alternate routes and connections in the larger context of the Trails Plan, rather than looking at this site alone while specific application is under consideration. I hope that dialogue can continue. Thank you.

Chairman Murphy: Mr. Sargeant.

Commissioner Sargeant: Thank you, Mr. Chairman. I would add I agree with Commissioner Hart on the issue of a Comprehensive Plan review. I think that's an appropriate avenue for review of this particular issue. However, I think during the process of these discussions, we heard basically the idea that the issue of consistent trail application that all trails are alike and that security was different or similar here to other trails. I would disagree. Part of it was the discussion of trails that went through planned communities, which I don't think is an appropriate comparison to this particular site, given its isolated nature, given the history of the site. I agree that presence of a trail or no presence of a trail would not necessarily exclude the horrendous events that occurred on this site many, many years ago, but in terms of security and risk management, you obviously considered the isolated nature of this site. So, I think that was

appropriate to raise during this particular discussion. Having said that, I'm very pleased that the Madeira School, especially through the additional proffered condition here that we see, will partner with the Nature Conservancy. In spite of the challenges and the points of view and the different points of view on a trail, they are working very closely to open up their property to the public and I think that's to be commended. Thank you very much.

Chairman Murphy: Further discussion?

Commissioner Flanagan: Mr. Chairman?

Chairman Murphy: Mr. Flanagan.

Commissioner Flanagan: Thank you, Mr. Chairman. I too want to compliment Commissioner Donahue because I think he has come up with a creative solution, which to a certain extent, it relieves me of a dilemma that might occur when approval of a trail through Fort Belvoir that again emerges. When we last revised the Trails Plan, I did recommend that the trail along - - through Fort Belvoir be deleted along the river shore and moved up to Route 1. And Commissioner Byers did recommend that and that's the way the Map is at the present time. So, we did follow Commissioner Hart's recommendation in that regard. However, I know that the Trails people are not - - have not given up on that - - trails along the Potomac and so consequently, the solution that Commissioner Donahue has drafted here I think offers them a compromise in a way. There might even be that the Fort Belvoir, for security reasons, you know might be willing to consider a trail along the river if it was supervised in the manner that he's proposing for Madeira. And so I would - - I'm going to vote in favor of this because I think it's really - - the Commissioner's come up with an outstanding recommendation.

Chairman Murphy: Further discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt SEA 83-D-030-8, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Donahue.

Commissioner Donahue: Thank you, Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE TRANSITIONAL SCREENING REQUIREMENT ALONG ALL BOUNDARIES TO THAT SHOWN ON THE SEA PLAT.

Commissioners Lawrence, Lusk, and Sargeant: Second.

Chairman Murphy: Seconded by Mr. Lawrence, Mr. Lusk, Mr. Sargeant. Discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Donahue.

Commissioner Donahue: Thank you, Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE BARRIER REQUIREMENT ALONG ALL BOUNDARIES TO THAT SHOWN ON THE SEA PLAT.

Commissioners Sargeant, Lawrence, and Lusk: Second.

Chairman Murphy: Seconded by - -

Commissioner Hall: The gang.

Chairman Murphy: See no evil, hear no evil, speak no evil. Mr. Sargeant, Mr. Lawrence, and Mr. Lusk. All those in favor of that motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? I didn't say, Moe, Larry, Curly. Opposed? Motion carries. Mr. Donahue.

Commissioner Donahue: Are we back? Okay, okay. I MOVE THAT THE PLANNING COMMISSION RECOMMEND REAFFIRMATION OF THE PREVIOUSLY-APPROVED MODIFICATION OF THE TRAIL REQUIREMENT ALONG GEORGETOWN PIKE, IN FAVOR OF THE PREVIOUSLY-GRANTED EASEMENT AND CONSTRUCTION ESCROW PREVIOUSLY POSTED BY THE SCHOOL.

Commissioners Sargeant and Lusk: Second.

Chairman Murphy: Seconded by Mr. Sargeant and Mr. Lusk. Is there a discussion of that motion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Donahue: And Mr. Chairman, I MOVE THE PLANNING COMMISSION RECOMMEND THAT THE REQUIREMENT FOR THE STREAM VALLEY TRAIL ALONG THE POTOMAC RIVER BE WAIVED FOR THIS APPROVAL ONLY.

Commissioners Sargeant and Lusk: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioner de la Fe: Abstain.

Chairman Murphy: Motion carries.

Commissioner Hart: Abstain.

Chairman Murphy: Mr. de la Fe and Mr. Hart abstain.

Commissioner Harsel: Yes, stress the "only," stress the "only," stress the "only."

Chairman Murphy: Thank you very much, Mr. Braham. Thank you so much. Mr. Donahue, we can say it officially now, welcome to the Planning Commission.

Commissioner Donahue: And thank - - and thank sincerely, Mr. Chairman, I appreciate the words of Mr. Flanagan, but so many of these ideas and so many of these creative compromises, so to speak, came from discussion with Planning Commissioners as well as the applicant. So, team effort all the way around and I appreciate it. Thank you.

Chairman Murphy: I do want to mention also that we received, I don't know, I'm going to say hundreds of letters, e-mails that supported one position or the other or the other. And for the record, they will all be entered into the record, so we save some time tonight by not reading them all.

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(Motions 1, 2, 3, and 4 carried unanimously with Commissioner Alcorn absent from the meeting.)

(Motion 5 carried by a vote of 9-0-2 with Commissioners de la Fe and Hart abstaining; Commissioner Alcorn absent from the meeting.)

KAD