Board Agenda Item
August 3, 2009

3:00 p.m.

Board Decision on SE 2008-SP-025 (Islamic Saudi Academy) to Permit Building Additions and Associated Modifications to Site Design and Development Conditions to an Existing Private School of General Education, Located on Approximately 34.05 Acres Zoned R-C and WS, Springfield District

The application property is located at 11101, 11115, 11121, 11123 Popes Head Road. Tax Map 68-3 ((1)) 61, 62, 63 and 64.

PLANNING COMMISSION RECOMMENDATION:
On Thursday, June 11, 2009, the Planning Commission voted unanimously (Commissioners Alcorn and Hall absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of SE 2008-SP-025, subject to the Development Conditions dated May 14, 2009;
- Modification of the transitional screening requirement to allow the use of existing vegetation;
- Waiver of the barrier requirement;
- Waiver of the Comprehensive Plan trail requirement, as conditioned; and
- Waiver of the interparcel access requirement.

ENCLOSED DOCUMENTS:
None. Staff Report previously furnished.

STAFF:
Regina Coyle, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Tracy Strunk, Senior Staff Coordinator, Zoning Evaluation Division, DPZ

Planning Commission Meeting
June 11, 2009
Verbatim Excerpt

SE 2008-SP-025 – ISLAMIC SAUDI ACADEMY

Decision Only During Commission Matters
(Public Hearing on March 18, 2009)

Commissioner Murphy: I have a decision only from a public hearing held March 18th, on Special Exception, SE-2008-SP-025, the Islamic Saudi Academy. From the outset, this has been an application which, unfortunately, has been beset with distractions that focused on issues that are not germane to our public hearing process, either at homeowner association meetings, our community meetings or, most assuredly, at the Planning Commission public hearing. As I mentioned in my introductory remarks before our public hearing, and I quote, "The Planning Commission's job is to make a land use decision. When I make my motion and when the Planning Commission votes, we will be making a land use recommendation to the Board of Supervisors." Since the public hearing, I moved to defer the decision twice with the record remaining open for comments, and in those motions, I reiterated that my decision would be based on land use issues and that I was in the process of evaluating the land use-oriented written comments and pertinent information received before, during, and after the public hearing and the testimony at the hearing. All items received will be entered into the record. I thank the citizens on both sides of the land use issues, the applicants and their attorney, Lynne Strobel; and the Planning and Zoning staff coordinator, Tracy Strunk; senior staff member, Kris Abrahamson; and Chuck Almquist from the Office of Transportation, for all their work on this complex endeavor and, in particularly, for remaining focused on the land use issues that I will discuss tonight. In examining a complex, controversial application, I have always made it a point to return to the basics and evaluate the application and its relationship to the County's Comprehensive Plan, the Zoning Ordinance, and since this is a Special Exception, it must be examined with the General Special Exception Standards and the Additional Standards for Private Schools of Education that are found in the staff report. The application is requesting to construct building additions to an already existing private school of education and to increase the enrollment to 500 students, grades K through 12, on 34.05 acres of land on Popes Head Road. The existing school with two buildings was approved with a Special Permit application in 1964 by the Board of Zoning Appeals to house the Reverend John Thoburn's Springfield Christian Academy with an enrollment of 400 students, K through 12th grade. Between 1964 and 1969, there were several actions by the BZA and one interpretation by the Zoning Administrator that now allow an enrollment of 605 students. In 1984, Saudi Arabia purchased the land and the school from the Reverend Thoburn and it has been operating at this site for 25 years. There was a year-long hiatus last year when the Islamic Saudi Academy relocated its students from this site to the Old Mount Vernon High School on the Richmond Highway where they joined with other Saudi Academy students in this facility that is leased to Saudi Arabia by Fairfax County. As I understand it, the Islamic Saudi Academy could continue operation on the Popes Head Road site with no additional action by Fairfax County, in its current buildings that could accommodate approximately, give or take, 300 students. There has been an approved private school of education on this site on Popes Head Road for 45 years. Since the establishment of the school, our Zoning Ordinance has been amended, and now a private school of education is now a Special

Exception use in the R-C, that's Residential/Conservation District, and any modifications, such as the addition of facilities as we see in this application must be approved by the Board of Supervisors, following a land use recommendation from the Planning Commission. From the oral and written testimony there are, in my opinion, three key issues that must be addressed: noise, the environment, and transportation. At the public hearing, neighbors raised concerns about the traffic on Popes Head Road, water quality impacts on the streams, and impacts such as noise from the increased use of the soccer field and other events at the school. To address the issue of noise and impacts on the surrounding properties because of the increased use at the school, the school has agreed to development conditions limiting weeknight activities to a maximum of eight times a month, or about twice a week. Such evening events, which will include events such as club meetings, will end at 7:30 if they are outdoor events and 8 p.m. if they are indoor. Weekend events are limited to no more than two weekends a month, 9 to 5 on Saturday, or 9 to 1 on Sunday. The school has also agreed to publish an events calendar at the beginning of the school year and furnish this to presidents of the surrounding homeowner associations, civic associations, and to the Springfield District Supervisor's Office. With these parameters and with the fact that because of the size of the property, the nearest residences are significantly buffered from the uses on the school property, I believe that the additional use at the school will not negatively impact the surrounding area. To address the environmental concerns, the school had already agreed to keep 50 percent of the site in undisturbed open space and to provide water quality features on-site, in addition to the undisturbed open space. Because of these features and other environmental initiatives, the Occoquan Watershed Coalition recommended that future applications in the Occoquan Watershed adopt similar practices. And the Springfield District has had the Occoquan Watershed in its district for the last 27 years, as far - - as long as I've been on the Planning Commission. And it has always been our practice and remains our practice that any application that's filed in the Occoquan Watershed will be reviewed by the Occoquan Watershed Coalition. I'd like to read a statement from David Schnare, who is an environmentalist by trade and who is a member of the Occoquan Watershed Coalition. And I'd like to read it for the record. "Having examined the proposal in detail, we find that their plans to use infiltration trenches to move rain water off impervious surfaces and into the ground to be the best example of environmental sensitivity in any institutional proposal on the downzoned area that we have ever reviewed. In general, we ask that institutional development keep impervious surfaces to less than 18 percent of the property in order to protect stream beds, water courses, and the Occoquan Reservoir. The innovative techniques proposed by the Academy are expected to result in an effective impervious surface of less than 10 percent. This is the measure of performance we would like to see used throughout the County and in particular in every future institutional development project on the downzoned area." Since the public hearing, the applicant has further agreed to a development condition requiring the creation of an Integrated Pest Management Plan designed to limit the amounts of pesticides and fertilizers used on-site to promote water quality. The applicant has also added fencing around the soccer field and play areas to both provide additional screening for neighbors and aid in keeping activity out of the streams and areas designated as undisturbed open space. Without a doubt, the defining issue of this Special Exception application, in my opinion, is the transportation issue and how the increased use and traffic will impact Popes Head Road. Quite frankly, in analyzing the oral and written testimony we received during our public hearing process, the transportation issue could

be argued both ways for a recommendation of approval or denial. So, here's my analysis. Popes Head Road is a road that is narrow, curving, and has a number of sight distance issues. Excuse me. There have been a number of reported accidents and no doubt, a large number of smaller accidents that were not reported. That said, the school is located at the eastern end of Popes Head Road, less than a quarter mile from Route 123. The worst sections of the road are farther to the west. The school has committed, through conditions, to encourage parents, staff, and buses to arrive from the east, from Route 123, Ox Road. When the school reaches an enrollment of 425 students, a determination will be made by the Fairfax County Office of Transportation to require the school to lengthen the eastbound, right-turn lane at the intersection of Popes Head Road with Ox Road, and to lengthen the northbound lane, left-turn lane at the intersection of Ox Road and Popes Head Road. The school's frontage will also be improved, with a left-turn lane and road widening to improve sight distances along this section of the road. There is a blind hill directly west of the school property, and a concern was raised that traffic turning into the school could back up, surprising cars coming over the hill and causing accidents. The school has, however, provided a right-turn taper into the site and has sufficient room on the site to stack traffic. It is unlikely that traffic will queue off-site to the west. The school has further committed to install a flashing school warning sign to further address the issue. Also a concern was raised that the influx of high school students would add young, inexperienced drivers to Popes Head Road. The school has committed in the development conditions that students will not be allowed to drive themselves to school except on special occasions, such as if they have a doctor's appointment. There will be no on-site parking for students. The school has further committed to provide sufficient bus service for all students. With these commitments, it is the staff recommendation and my belief that with the increased traffic - - the increased traffic will not negatively impact the surrounding residents. Mr. Chairman, this has been a very - -

Secretary Harsel: Oh. I'm Madam Chairman.

Commissioner Murphy: Madam Chairman, this has been a very difficult application. And after the analysis of the land use issues, I returned to the basics. I concur with the staff analysis that with the imposition of the 39 development conditions, several added after the public hearing to address citizens' concerns, this application is in fact, in conformance with the Comprehensive Plan, the Zoning Ordinance, and the applicable General Special Exception Standards and the Additional Standards for Private Schools of Education. Therefore, Madam Chairman - -

Secretary Harsel: Thank you.

Commissioner Murphy: I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE 2008-SP-025, SUBJECT TO THE DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE DATED MAY 14, 2009.

Commissioners Lawrence, Lusk, and Flanagan: Second.

Secretary Harsel: Second by Mr. Lawrence, Mr. Lusk, and Mr. Flanagan. Is there any discussion on this?

Commissioner Hart: Madam Chairman?

Secretary Harsel: Mr. Hart.

Commissioner Hart: Thank you, Madam Chairman. I'm grateful that Commissioner Murphy has focused, in a very thorough manner, on the land use issues in the context of the standards for review set out in the applicable regulations. I also have appreciated, for the most part, the input we have received from the community. I ask the Commission's indulgence with the hope that an explanation of my reasons will make my vote understandable on a case, which has attracted significant citizen interest. I reside in the R-C District, coincidentally in a neighborhood on a road which also has significant transportation challenges, including a ban on through truck traffic and which also has been designated a Scenic Byway by the General Assembly. That road also has several schools and places of worship along it. And the special exception and special permit approvals for some of those facilities involved an often contentious debate, which did not always reach complete consensus with neighbors. But by and large, those uses, when approved with site-specific development conditions, operate in harmony with the surrounding low-density residential district and complement the Scenic Byway. These debates have taken place with full awareness of the 1982 Occoquan downzoning and Fairfax County's objectives for protection of water quality in the Occoquan Reservoir and Chesapeake Bay. Of all the cases heard by the Board of Zoning Appeals and Planning Commission, applications for non-residential uses in the R-C are of the most interest to me. As my colleagues know, over the past nine years I have not always supported those applications. I have a particular concern that these cases be rigorously reviewed, and that review has been at least as rigorous on this case as we expect. While all parties may not be in agreement on all issues, I am in agreement with staff's conclusion that this application is in conformance with the Comprehensive Plan and the applicable provisions of the Zoning Ordinance and that all procedural requirements have been met. I'm satisfied that the proposed development conditions, as most recently revised, adequately mitigate any potential negative impacts. I'm also satisfied that these development conditions are fair and appropriate, as well as consistent with many other approvals for non-residential, institutional uses in the R-C. I wanted to address, briefly, two other points, which in my view should not factor into the Commission's deliberations. With the respect to the concerns expressed to us over the school's curriculum or content of textbooks, those are not matters for our land use decision. Nothing in the *State Code*, the Comprehensive Plan, or the Zoning Ordinance authorizes the Commission to take a role in matters of curriculum, or base a land use decision on textbook content. I do not believe it would be appropriate for us, in the context of a land use application, to instruct, for example, the Bishop of Arlington over the content of the Catholic Diocese High School textbooks, and we have not done so in the past. We received an unusually large volume of written communications on this case, on both sides, a small portion of which to me was offensive and/or intolerant. With respect to the suggestions that the application should be denied because this particular applicant or certain alumni may be fostering terrorism, again, that is not a land use issue and the Commission is not charged with its resolution. Neither staff nor the Commission is in a position to investigate or evaluate those claims or do anything about them. Although County staff and the Zoning Administrator can and do pursue zoning violations, staff has confirmed that there has been no history of zoning violations on this property for the past 25 years or so during

the applicant's ownership. More importantly, if the persons raising those objections have specific knowledge of criminal activity, they should notify the appropriate law enforcement authorities, such as the FBI or the Police Department. The Planning Commission is not the responsible agency for those matters, which in my view, are out of bounds on a land use application. I agree with staff's conclusion and those articulated by Commissioner Murphy. For those reasons, Madam Chairman, I will be supporting the motion. Thank you.

Secretary Harsel: Thank you. Are there further discussion? Mr. Flanagan.

Commissioner Flanagan: Yes. Thank you, Madam Chairman. The Mount Vernon Council, or the Mount Vernon District has been the site of the Islamic Saudi Academy for quite some time now and they have been an exemplary facility in our community. And we are going to greatly miss them once they depart for their new location on Popes Head Road. So, I would just like to note that Mount Vernon District would be voting in favor of this proposal.

Secretary Harsel: Before I call for the vote, I want to say I was not present for the public hearing, but I did come in because of all the written comments. Also, because several citizens living in the Braddock District spoke to me concerning the case, so I thought it was only fair. I came in, brought my needlework, and watched the hearing. And I must say - - .

Commissioner de la Fe: Did you stay until midnight?

Secretary Harsel: No, I started at 10 in the morning.

Commissioner de la Fe: Oh.

Secretary Harsel: So, I finished early.

Commissioner Murphy: She finished her bedspread.

Secretary Harsel: That's right. But I must say, I think basically, and I have to disagree with Mr. Hart. I thought the cases were well made. I thought it was a very - - I think as a rule, the citizens living around this site, the ones that have to live with it made good land use cases. I really have to commend them on their land use and sticking to land use things. So, therefore, having watched it, listened to it, read all of these, plus the e-mail, I am going to participate and vote in this case.

Commissioner Lawrence: Madam Chairman?

Secretary Harsel: Further discussion? Mr. Lawrence.

Commissioner Lawrence: Thank you, Madam Chairman. I have one small point. I would like to see in the future more agreements in areas such as pesticide control. I'm very happy to see that in this particular application. Thank you.

Secretary Harsel: Further discussion? All those in favor of the vote to approve this application, please signify by saying aye.

Commissioners: Aye.

Secretary Harsel: Opposed? Motion carries. Mr. Murphy.

Commissioner Murphy: Madam Chairman, I MOVE THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS TO APPROVE THE MODIFICATION OF THE TRANSITIONAL SCREENING TO ALLOW THE USE OF EXISTING VEGETATION, TO APPROVE A WAIVER OF THE BARRIER REQUIREMENT, AND TO MOVE APPROVAL OF A WAIVER OF THE COMPREHENSIVE PLAN TRAIL REQUIREMENT, AS CONDITIONED, AND RECOMMEND APPROVAL OF A WAIVER OF THE INTER-PARCEL ACCESS REQUIREMENTS.

Commissioners Lawrence, Lusk, and Flanagan: Second.

Secretary Harsel: Seconded by Mr. Lawrence, Mr. Lusk, and Mr. Flanagan. Or, I should say Commissioners Lawrence, Lusk, and Flanagan. Is there discussion? All those in favor, signify by saying aye.

Commissioners: Aye.

Secretary Harsel: Opposed? Motion carries. The Chair is yours, Mr. Chairman.

Chairman Murphy: Thank you very much. Thank you, Ms. Strunk. Again, I appreciate your efforts.

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(The motions carried unanimously with Commissioners Alcorn and Hall absent from the meeting.)

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