Planning Commission Meeting
January 15, 2009
Verbatim Excerpt

PCA 78-S-063-06/SE 2008-SU-026 – THE AEROSPACE CORPORATION

Rebuttal and Close of the Public Hearing

Chairman Murphy: Thank you very much. Is there anyone else? Ms. Stagg, et. al.

Inda Stagg, Land Use Planner, Walsh, Colucci, Lubeley, Emrich & Walsh, PC: We appreciate your time. We understand that this is a very complicated question that requires a lot of thought, that a lot of you have been thinking about. I do want to show a picture of what a stream restoration will look like after completing, which I put up on the opaque projector here. Because I've shown you, and you were passed around, a copy of what the erosion problem was on the site right now. Once the stream is restored it will look similar to what you're seeing on the opaque projector here. And it's probably a little difficult to see. I'll pass it around here. So, I can pass it around while you're deliberating. But basically, when the streams are restored, it does turn back into an area that does everything that an EQC would do. And we do think that this is a good project and that you should approve it.

Commissioner Hall: Mr. Chairman?

Chairman Murphy: Ms. Hall.

Commissioner Hall: Thank you, Mr. Chairman. I have a question for staff. There was, we heard testimony that no other county has an EQC requirement. Is that what I heard? You're smiling. Enlighten me.

Kristen Abrahamson, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ): I can't definitively answer that. Fairfax County has had an EQC policy for a very long time. And it's been – we were forefront at the development of that 30 years ago. And we continue to be, I think, pretty progressive in our protection of environmental, sensitive areas. To say nobody else has a policy anywhere in this country, even in the State of Virginia, whether they call it environmental quality or not, I can't definitively answer that. I haven't done the research for that. I think that we have had –

Commissioner Hall: Would that come as a surprise to you?

Ms. Abrahamson: Would it come as a surprise? I suppose. I don't know that anyone has a program directly consistent to us, but that doesn't mean – especially under Chesapeake Bay – that other people are not indeed protecting environmental quality. You know, the policy in Fairfax County was written to be quite rigid and to be strong. And one of the reasons that it has been so successful over the years, and one of the reasons that we have at this development level that we are at, the quality of environment that we still maintain is directly related, I think, to the EQC policy. That's not to say, you know, in fairness to the applicant, we've all been very intrigued by this proposal. We think there are many things here that are probably very good

solutions to the problem. And the professionalism of the applicant's team is not to be ignored. That isn't our problem. Our problem as staff is to report to you and to the Board whether or not an application is in conformance with the adopted policies, rules, and regulations of Fairfax County. There are samples, and I guess I'll go ahead and refute this. Billy was going to do it. But there are examples that the applicant has proposed where there are precedents for EQC encroachment. And, you know, it's the applicant's opinion that those are precedential for this case. We beg to graciously disagree. We don't believe that the circumstances in those cases were the same or that particular encroachments are, you know, accruable into what we're looking at here. We think each of those cases stands on its own merit and we're not debating the fact that there were indeed other encroachments in other situations. What's unique about this particular project is not the encroachment so much as the trade-off. And what is happening here is – Noel Kaplan has a wonderful analogy about a gastric bypass, which I think is really very good, but I can't do it justice. But basically what is happening is there is a sacrifice of a small portion of an EQC here. And it is a sacrifice. It will be filled. It really won't be EQC under our definition any longer. But what it does is propose a restoration and a program which will benefit, we believe, all of us I think, believe it will benefit a much larger area of the EQC. I think it's a very intriguing possibility. The policy currently does not allow us to look at that and say, "Is this a good idea?" We have looked at it from the PFM. And Jerry and Mary Ann can probably express much more eloquently how this works than I can. But the issue becomes the trade-off. The EQC is a policy, and, you know, it is our comfortable opinion that what you have before you in the staff report is an adequate and thorough analysis of that policy. It's up to you to determine whether or not an exception, maybe, is a good idea here.

Commissioner Lawrence: Mr. Chairman?

Commissioner Hall: Okay. Thank you very much.

Chairman Murphy: Mr. Lawrence.

Commissioner Lawrence: Thank you, Mr. Chairman. This is very difficult. There is a great deal in this application to applaud. I wish I had the time to detail that. I don't know what my colleague's intention is. I urge that the decision be deferred. Let me say why. As I understand it, the whole thing pivots around the EQC policy. We have this policy; it's a long-standing policy. It's not entirely rigid, although you have said that it was written to be such. Your own staff report forgives intrusions into the EQC in this very application because of their nature. So it would appear that it is the nature of the intrusion. That is, the purposes for which the intrusion is made, the structures, the parking lot, the tunnel, this and that and the other, that to you are so egregious that they constitute a violation of the policy any way you look at it. And you're saying, "We can't stomach this. If we let this go, we have no policy."

Ms. Abrahamson: Yes. I guess so. I think there's a much –

Commissioner Lawrence: All right. Let me then ask you this question. And I asked this question a while ago when I was talking to the applicant. Tonight they said that the answer was no, but

I'm going to ask you. Is there a possible design that would at least reduce this intrusion? Can this site be configured in such a way that the EQC would be better observed?

Ms. Abrahamson: That's an extremely difficult question to answer.

Commissioner Lawrence: I know it is. This is a difficult application.

Ms. Abrahamson: I know. And basically, the answer to your question, the simple answer is, "Yes, of course." The harder answer to your question is: the applicant has a desired program that they want to have. They have very specific needs and wants and desires for that program. That, in the applicant's mind, is something that's set on this application. We have to look at it in a much broader sense. And to answer your question, I'd have to say another applicant, another time, another use, most definitely. This applicant, perhaps, but not with the program that they're proposing. They feel that this program is essential to them and, therefore, they can't adapt it any more than they have. And in fairness, they have adapted it. But it isn't to the point where we feel that we can honestly say to you as our, you know, professional staff recommendation, that this is truly the minimal intrusion necessary here. We feel that there is some room here. We've had many, many, many discussions with the applicant over, you know, what perhaps they could do just a little bit differently that might lessen it, or at least to demonstrate to us that there really is, you know, a need to do this quantity of fill. And we haven't been able to reach that resolution. We've resolved a lot of other issues. We've gotten rid of numerous other intrusions. I mean, they've done a lot. But on this base point, you know, on these roughly three acres at this entrance, we can't get there. And therefore, our recommendation has to be to you that we just can't – we can't come to you and say, "This is a minimal intrusion and therefore it's okay." We just can't do that and, you know, pass the grid test. But, you know, there is their side of it to consider. And that's why you have a recommendation from staff for denial.

Chairman Murphy: Okay.

Ms. Abrahamson: It's not an easy recommendation.

Commissioner Lawrence: I have to observe that tonight we were told that it was not precedential, yet in the very presentation we had submission of three so-called precedents. I have a picture in my mind of an applicant coming with a Tysons Corner application in the near future with a picture of something that has four such decisions on it. Thank you, Mr. Chairman.

Chairman Murphy: Did you finish, Ms. Stagg? Did you finish your – have you finished your rebuttal?

Ms. Stagg: Yes.

Chairman Murphy: That was in Dolby sound. And I think we heard from the elderly gentleman with the white hair.

Commissioner Hart: We all heard.

Chairman Murphy: Yes, Mr. Alcorn.

Commissioner Alcorn: Just quickly, regardless of what happens with this case, I would encourage Commissioner Hart with the Environment Committee to bring this topic to the committee; and the issue of trade-offs for EQC. I think it is a very important policy issue that we should be talking about, apart from this case. Thank you.

Chairman Murphy: I probably should have disclosed this when I called for disclosures and Mr. Hart was the only one that disclosed it. But I will disclose the fact that back in 1985 there was no Sully District and the Springfield District went from Keene Mill Road out to Loudoun County. And Westfields, which was then zoned by a Board's own motion "industrial," was in the Springfield District. And I had the honor and the privilege of doing the rezoning that was referred to tonight as "a loosely constructed proffer on the EQC." My disclosure is that I had nothing to do with that proffer. I think Mr. Rolband was the one who wrote it. But quite frankly, at that particular time, and going back years before that, the reason all this land in this very valuable – what is now a very valuable part of town – was zoned industrial by a Board's Own Motion, because it was in close proximity, theoretically speaking, to Dulles Airport. And the Board zoned a lot of land in Fairfax County near railroad tracks and near the airport to be industrial, thinking industrial use will be good for the economy. And that of course did not happen in Fairfax County. The industrial use was good for the economy. What they determined later on was that other office, parks, and so forth, where we are today, was better for the economy than industrial, especially industrial traffic. So we did go and rezone this property so that we could have the uses like we have tonight in this application. And quite frankly, the staff said it was not in conformance with the Comprehensive Plan. And they're talking about that part of the Plan which deals with the environment. But when you look at the language for this particular site on the Westfields development, it is in conformance with everything that the Plan calls for. The FAR is .50. It is an office development in a highly regarded office park. And Mr. Lusk brought up the fact that we're dealing with BRAC on the other end of the County and that we're looking for contractor development near Fort Belvoir and the Engineer Proving Ground to save trips, etcetera, and so forth. What better example of that is right here in this application, which again is in conformance with the Comprehensive Plan. The precedents that we were talking about, and everybody gets nervous with the word "precedent," you know, we have had this encroachment precedent before; maybe not as Mr. Hart articulated earlier in one of his questions, one-by-one, by-one, by-one, and say, "No, we've never had one like that before." Well, no we haven't because every application is different and has to be judged on its own merits, and you probably will never see that again. But I can tell you the ones we've approved – and I believe there was one in the Hunter Mill District; there was one in the Providence District early on, it might be in the early, you know, 1990s or so – none of them were alike either. But we approved them. Where this does set a precedent is, in those other applications that we approved because there was encroachment, there was not an offsetting trade-off. None of the others, in my opinion, had a trade-off as dramatic as this that mitigates, that mitigates this invasion into the EQC. Any other questions or comments from the Commission? Closing comments from staff? Final questions, comments from the Commission?

Commissioner Sargeant: Mr. Chairman.

Chairman Murphy: Yes, Mr. –

Commissioner Sargeant: Echoing some comments regarding precedent, you know, this application references LEED certification. And we've referenced LEED certification in the approval of many new applications now, many large, high-density applications, even though LEED is not our standard. "Green building" is the umbrella under which we say certification is utilized. So we're using a standard that we have not accepted, that the County has not adopted as its only standard. So we have to make those kinds of decisions as we move forward. In this case, I think we have some reasons for moving forward with this application. Intrusions in the EQC, stormwater outfall is less than the more traditional pipe and channel outfall concept; the success criteria for stream restoration involves state monitoring, maintenance programs in perpetuity; the proposal goes so far as to mitigate erosion to the tributaries within the site and goes so far as to mitigate the impacts of erosion to the County's sanitary sewer lines on the property, also in perpetuity. Success criteria, restoration, stream restoration, monitoring and maintenance in perpetuity – these are, if not benchmarks, hallmarks of our EQC policy discussions for the future. I think this is a good way to start. Thank you.

Chairman Murphy: I'm going to close the public hearing and recognize Mr. Litzenberger. I want to just stress one fact to the Commission. This is on a short fuse; it has a Board date, so a verbatim has to be prepared. And we have some holidays coming up. So I would ask you, if there are any other comments or questions under the "long-winded" category, if you could say them now before I close the public hearing, I would be eternally grateful.

Commissioner Lawrence: Mr. Chairman?

Chairman Murphy: Mr. – no, not long-wind, Mr. Lawrence.

Commissioner Lawrence: Thank you in both cases, Mr. Chairman. Either we protect the environment or we don't. I think it boils down to that. It is an agonizing decision for me to make. I particularly favor this kind of application and these very people – I used to be part of that fraternity, if you will call it that. But tonight I sit here and say either we do this or we don't. I'm not going to be able to support a motion to accept this application, I'm very, very sorry to say.

Chairman Murphy: The public hearing –

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Yes, Mr. Hart.

Commissioner Hart: I have, what I guess are long-winded comments too. If they're not supposed to be on the verbatim, should I do them now?

Chairman Murphy: Well, you had a choice, but I would prefer if you could make them now.

Commissioner Hart: I'll make them now. Two kinds of comments. First of all, I will say I've skimmed through the 20-some page addendum that was handed out this evening. This has been a difficult case. It involves a site of over 40 acres. I've sat through, I think, four lengthy presentations by the applicant, did a site visit, including the balloon test, went on a trip to Reston to see the stream restoration, and I've tried to read everything that we got. I even came in Tuesday morning to see if we had gotten anything else. I didn't come back to this building until this evening when this was in the pile. But we were starting the transportation meeting in a few minutes. Usually on a case like this, we don't vote the night of big substantive new things being handed out. I'm concerned that these proffers, however well-intentioned, haven't been entirely vetted. And I would have been more comfortable if we weren't voting the same night as a 20-some page addendum that, I don't know if anyone's had the chance to go through. Having said that, I'm prepared to at least make some observations. I, like Commissioner Lawrence, have some problem with voting on this without a change to the policy. The procedural dilemma that this case creates raises, to my mind, Countywide issues. I want to say I appreciate also the applicant's efforts. And I think I've been a skeptic of this approach from the get-go. But I would acknowledge there are some very attractive proffers or ideas in here. I have no problem whatsoever with the height. We haven't spent any time talking about the height increase, which is really what the special exception was about. No one can see it; no one will be bothered. There are other big things around. It's an attractive building. It shouldn't bother anybody. It wouldn't bother me if one side or the other was a little higher even, and perhaps some of the intensity pushed to one side or the other. The stream restoration also, I think, is a positive example. And whether we're getting into the trade-off business or not, I think there are plenty of cases where this type of stream restoration – maybe not as big of an area – but it ought to be considered, it ought to be something we're talking about on these cases. This applicant also, however, asks to do several things which are in conflict with the existing policy, putting a building surface parking, stormwater management, and this underground corridor within the EQC, and also pipe two perennial streams. Those are dramatic requests. The Board, instead of going in that direction, I think, the last couple years, has been promoting policies of expansion of our protections of streams. And we've been spending a lot of time with the Environment Committee looking at what we thought were going to be regulation of not only the RPAs on the map, but also intermittent and ephemeral, but at least going upstream from these existing buffers for all kinds of reasons. And staff has alluded to that and I think they go beyond merely a mathematical calculation of the amount of site disturbance or something else. The Board, to my mind, hasn't been suggesting that we're going to rationalize development in those EQCs with trade-offs or negotiations. In my view also, it's a mistake to evaluate this site in isolation. It looks pretty good if we're looking at this one site at a time. But setting aside this height special exception, which I don't really think is driving this, a proffered condition amendment is essentially a rezoning which sets important precedents with consequences. There really isn't any viable way to wordsmith a motion on a PCA or a rezoning so that it doesn't set a precedent. The courts have repeatedly told us that a locality impermissibly discriminates when it denies to one owner what it has already granted to a similarly situated owner. There are many sites throughout this County which are problematic for development because they have EQC or streams on them, where people have been waiting for years, and sites are vacant, and maybe we had assumed those sites probably wouldn't be developed. Once we open the door, we create incentives to revisit those

parcels. This is a game-changing kind of case, because if anybody with a problem site that's split by a stream, where the access is affected by the stream, wants to come in and say, "Well, we'll give you some stream restoration" or "We'll make a huge contribution for this, that, or the other… Hear us out. Let us do it," we increase incrementally, I think, the intensity of development in these areas. We are increasing impervious surface. We are diminishing wildlife habitat. We are probably increasing the amount of runoff, increase in the water temperature, and all sorts of things that these buffers are designed to protect, that the Board has been aspiring to. We diminish that. And I think if we look at this not only Countywide now, but 10 years from now or 20 years from now, we might ask the question, "How many more of these are we going to see," whether it's Tysons, or BRAC, or who knows what. There are streams all over the County. How much more development will we have put in the EQC because of these trade-offs? In my view, it would be better to do this after the policy has been looked at, after we've developed some regulations or standards to determine how much stream restoration you do, how much reforestation you do. How can we be consistent? Are there other things we ought to be looking at? Are there criteria for some sites where we ought to absolutely not do it? Are there other sites where maybe it's not such a big deal? If we're going down this road, we ought to have changed the policy first. If the Board is looking for our advice, I think, my suggestion would be that we tell them it's a mistake to do this kind of thing where we're putting perennial streams in pipes, a building in the EQC, parking in the EQC, an underground corridor, and stormwater management because we have an attractive tenant or we have an attractive developer with an attractive proffer package. Doing that one at a time is a mistake and I can't support the application. Much as I'd like to, I can't because it's not – I think is staff is right about the policy. So that's my long-winded explanation. Thank you, Mr. Chairman.

Chairman Murphy: All right. Just one question: On the other precedential, the other encroachments: did the staff recommend denial on all those applications?

William O'Donnell, ZED, DPZ: Environmental Branch needs to answer that question.

Mary Ann Welton, Planning Division, DPZ: Staff did not feel that the cases cited were comparable to this particular case. None of them were at all the same. The cases cited had previous intrusions into the EQC or the EQC had been fragmented. None of the other cases cited involved the amount of fill that this case involves. Those were buffer reductions. This fill is unprecedented in our opinion.

Chairman Murphy: So, the answer to the question is, the staff recommended approval of applications that encroached into the EQC.

Ms. Welton: Staff recommended approval of some cases where the EQC was negotiated.

Chairman Murphy: – with trade offs?

Ms. Abrahamson: I think the question there is the trade off. Unfortunately, I don't feel as comfortable with the specifics of the examples as I do with this application. But what they

haven't done is have trade-offs. There have been negotiated areas in EQCs, and that's been happening for a very long time and for very minor –

Chairman Murphy: So this is better because of the trade-off.

Ms. Abrahamson: What this does is provide a mitigation, which is a trade-off for a loss of a certain area.

Chairman Murphy: Okay.

Ms. Abrahamson: That's different. And that, to my knowledge, is unprecedented.

Chairman Murphy: Okay. So we have a denial on an application that has a trade-off that makes the whole environmental situation better in this case, where the others we had approval to an encroachment where there wasn't as good a trade-off as this.

Ms. Abrahamson: Right.

Chairman Murphy: The public hearing is closed; recognize Mr. Litzenberger.

Commissioner Litzenberger: Thank you, Mr. Chairman. Thank you, Mr. Chairman. Please bear with me fellow Commissioners. This is a long one. Mr. Chairman, as I begin, I just want to say that this application is less complicated than the size of the staff report would suggest. And that is a direct result of the tremendous efforts by County staff, including Billy O'Donnell, Kris Abrahamson, Noel Kaplan, Jerry Stonefield, Pam Nee, and Mary Ann Welton. I also want to make sure that my fellow Commissioners are cognizant of the time and energy expended by the applicant's team to work cooperatively with staff and to respond quickly and comprehensively to each of the identified concerns. Given the scope and number of issues we had at our initial meeting, I am satisfied that staff and the applicant both tried diligently to get this application into approvable condition. While we all would obviously prefer no inclusion – intrusion into the EQC, I believe that this application has significant merit for the following reasons: This application proposes no increase in density over what is currently permitted. The applicant is requesting an increase in allowable building height and to permit a relatively small encroachment into the EQC. Over half the site, 21 acres, will be preserved. As part of the proposal the applicant has committed to secure LEED certification and to incorporate several LID measures. They have also agreed to contribute towards the construction of an off-site stream valley trail. The proposed landscape plan also provides for exemplary perimeter buffering where the Zoning Ordinance requires none. And the applicant has proposed to include a significant tree preservation area with a large portion further dedicated as a conservation easement. This tree preservation plan has a goal of ensuring protection to trees on the perimeter of the limits of clearing and grading. As stated by the applicant, the function of the proposed buildings and the security requirements of the federal government have dictated their design. Staff has correctly noted that a different tenant may have different needs which the site may have been able to accommodate without intrusion into the EQC. Nevertheless, the desire of Aerospace to locate this parcel in Westfields, adjacent in close proximity to the clients they serve, has other significant benefits to the County,

especially in terms of reduced traffic impacts, which is a stated goal for this land unit within the Comprehensive Plan. Furthermore, the applicant has agreed to provide off-site traffic improvements which will improve the overall circulation of the Westfields traffic and agreed to a formal TDM strategy with a vehicular peak trip reduction goal of 10 percent. I would like to thank Commissioner Lawrence for his help in this matter. The applicant has also agreed to provide and maintain two bus shelters. In addition, I feel the applicant has presented a strong development proposal, which I recognize has both environmental costs and benefits. In my view, the overall benefits outweigh the costs. In reaching this conclusion I have considered three environmentally related factors in particular, none of which on its own would warrant a recommendation for approval, but all of which, when considered together, tip the balance in favor of approval. First, I feel that there is a need to provide a full point of access to this site from Lee Road. I note that the Westfields rezoning application was approved in 1985, subject to proffers that included a commitment to EQC protection without ever defining what the EQC boundaries were. It is possible that the boundaries that we have appropriately recognized here are more extensive than what we may have identified in 1985, and the 1985 rezoning did not anticipate the need for any road crossings of the EQC. Because there is a need to keep this point of access sufficient – a sufficient distance away from other points of access and intersections nearby, this access point will require impacts to the EQC. This is unavoidable and it is likely that this was not anticipated during the original rezoning review even though the original approval established the development intensity that is now being pursued. While I do not believe that this factor in and of itself is sufficient grounds to support the extent of EQC disturbance, it needs to be considered. Second, the applicant is proposing a long term, environmentally sensitive solution to a significant erosion problem associated with the head cut erosion that is progressing upstream from Flatlick Branch along the stream that bisects this site. The proposed stream restoration project would address other erosion issues on the site as well, including another head cut erosion area farther downstream along Flatlick Branch located just east of Stonecroft Boulevard. It can be anticipated that without any intervention the head cut located in the center of the site will progress further upstream, potentially jeopardizing the existing water and sewer line infrastructure as well as existing wetland. If we were to deny this application, there will be no foreseeable solution to this erosion problem. Third, if we deny this application, development would still occur at some time in the future on upland areas of this site and there would still be a need to convey stormwater runoff from these development areas into Flatlick Branch. It is quite possible that the approach that would be pursued would require the creation of a new outfall channel from the upland area through the broad floodplain of the Flatlick Branch. Therefore, we should not proceed under the assumption that denial of this application would result in full protection of the EQC. Indeed, considerable intrusions would be needed at some point in the future. In the end this application comes to two simple questions: Has the applicant minimized the intrusions into the EQC to the extent reasonably possible given the federal security requirements and the unique challenges presented by this site? And secondly, have they sufficiently mitigated the proposed EQC intrusions? I am satisfied that the answer to both of these questions is yes. I feel that when all of the proposed environmental factors and mitigation measures are considered together within the context of the approved Westfields rezoning, support of the applicant's proposal is justified. Further, I do not feel that it is likely that the unique circumstances of this particular case would be replicated elsewhere. On balance, this is an environmentally beneficial proposal that merits our support. Therefore, Mr. Chairman, I MOVE

THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF PCA 78-S-063-06, SUBJECT TO THE EXECUTION OF THE PROFFERS CONSISTENT WITH THOSE DATED JANUARY 13TH, 2009.

Commissioners Flanagan and Lusk : Second.

Chairman Murphy: Seconded by Mr. Flanagan 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 PCA 78-S-063-06, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners Alcorn, Hart and Lawrence: Nay.

Chairman Murphy: Motion carries. Mr. Lawrence, Mr. Alcorn, and Mr. Sargeant (*sic*) vote no.

Commissioner Sargeant: No. I voted yes.

Commissioner Hart: I voted no.

Chairman Murphy: Vote no, Hart. Sorry

Commissioner Hall: Yeah. It was Mr. Hart.

Chairman Murphy: Hart, Lawrence –

Commissioner Hart: Hart, Lawrence, Alcorn.

Chairman Murphy: – and Alcorn. Sorry about that.

Commissioner Litzenberger: Secondly, I move the Planning –

Chairman Murphy: Motion carries.

Commissioner Litzenberger: What was the vote, sir? Was it seven to three?

Commissioner Flanagan: Seven – three. (*sic*)

Commissioner Litzenberger: Seven – four? (*sic*) Any abstentions?

Chairman Murphy: Mr. Lawrence, Mr. Alcorn, and Mr. Hart voted no.

Commissioner Litzenberger: Okay. Thank you. Secondly, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF SE 2008-SU-026, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED DECEMBER 31ST, 2008, AND TO THE BOARD'S APPROVAL OF THE ASSOCIATED PCA.

Commissioners Flanagan and Lusk: Second.

Chairman Murphy: Seconded by Mr. – I'm going to get this straight now – Mr. Flanagan and Mr. Lusk. Is there a discussion of that motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2008-SU-026, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners Alcorn, Hart and Lawrence: Nay.

Chairman Murphy: Motion carries; same division.

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(The motions carried by a vote of 8-3 with Commissioners Alcorn, Hart, and Lawrence opposed; Commissioner Harsel absent from the meeting.)

JN