Planning Commission Meeting
April 15, 2009
Verbatim Excerpt

PCA 1998-LE-064/RZ 2008-LE-015 – SPRINGFIELD PARCEL C, LLC

Decision Only During Commission Matters
(Public Hearing held on March 11, 2009)

Commissioner Lusk: The Planning Commission will recall that we deferred the decision only for Springfield Parcel C LLC to this evening. During this deferral period the applicant has taken the time to sharpen his pencil and has also taken a hard and fresh look at this development plan. As a result of this effort the applicant has come forward with a number of worthwhile changes. For your convenience the changes have been outlined in a staff memo dated April 13th, 2009, with details of these modifications and included are the revised proffers and there are two exhibits, Exhibit A and B, which are now dated April 8th, 2009. Mr. Chairman, if you would indulge me, I'd like to ask if the applicant could come down with regard to a question on Exhibit A and B.

Vice Chairman Alcorn: Of course. Ms. Strobel, if you could come down and identify yourself for the record, please.

Lynne Strobel, Esquire, Walsh, Colucci, Lubeley, Emrich & Walsh, PC: Thank you. Mr. Chairman, members of the Planning Commission, my name is Lynne Strobel. I represent the applicant.

Commissioner Lusk: Ms. Strobel, thank you. Question is: Regarding the loading area, there is a roof that has now been created as a result of the changes to the development plan. We talked about, as an issue with a number of Commissioners here, we've talked about seeing if there was some way we could have a provision in the proffers which would ensure that there would be no mechanical equipment or HVAC equipment placed on that roof. Is that –

Ms. Strobel: Yes. And we're happy to make that change between Planning Commission and Board to clarify that there will be no rooftop equipment on top of that area.

Commissioner Lusk: And then the second question, which I guess it kind of begs itself, is that the changes that you are proposing on these exhibits will also be included in a revised development plan that would be submitted prior to the Board's public hearing as well.

Ms. Strobel: Yes, sir. We thought it was most expeditious in order to distribute the proffers in a timely fashion to staff and the Commission just to attach these as exhibits, but we do intend to revise the development plan and include them in the development plan.

Commissioner Lusk: Okay, thank you. Thank you very much.

Ms. Strobel: Thank you.

Commissioner Lusk: Okay, Mr. Chairman, if I can continue.

Vice Chairman Alcorn: Mr. Lusk.

Commissioner Lusk: Again, what I will do here briefly is to discuss three of the relevant changes that have occurred since the last decision only. The first concerns the screening of the loading dock. There were a number of questions and concerns that were raised with regard to the location and the appearance of this loading dock. And the applicant worked with their architect to look at some possible remedies to develop a way to better screen the loading area, which is again adjacent to the Springfield Center Drive. I can report that the applicant and their architect were quite ingenious. They were able to design a plan to increase the grades adjacent to the loading area so that it is no longer visible. And as we've seen in the exhibits, again both Exhibit A and B, this area has been enhanced to include a covered loading space, and then the roof that we just discussed. And that will serve as an extended plaza with additional open space and seating for tenants of the adjacent office building. The applicant has also agreed between this evening and the Board of Supervisors' public hearing to update the proffers and the development plan to reflect this newly improved loading area. Additionally they will be including a proffer that ensures, as we heard, no HVAC or mechanical equipment is located on this roof. And again the intent for this area is for it to be either a green space or a pavered area for people to actively and passively use. And I would envision that this area would be a great addition to a retail deli or a coffee shop and something that we've heard the applicant talk about as a ancillary use on this property. The second issue that we discussed was relative to the TDMs and transportation. And again there was a concern raised about the monetary penalty for the applicant's failure to meet the 20 percent peak hour vehicle reduction. The applicant has now agreed through their proffer revisions that the $2,500 contribution shall be made each year that the goal of 20 percent peak hour reduction single-occupancy vehicle trips is not reached, or for a period of five years, again following full occupancy of the second office building or until the applicant and VDOT agree – excuse me, Fairfax County DOT, agree to readjust the reduction percentage, or whichever shall come first. So we've adequately addressed this issue of the penalties with this change in language. We also had a concern relative to parking, and that was linked to the cellar space. Well, we have kind of a two-pronged approach here. In the previous iteration of the development, the number of parking spaces was in excess of the Zoning Ordinance requirement. The applicant is now proposing a 70-space reduction and that that parking would be provided, will be the minimum necessary to meet the Ordinance requirement. Additionally, the applicant has provided a definition of the mix of uses that would be included in its cellar space. And these are things such as computer rooms, fitness rooms, battery rooms, employee lounges, and classrooms, and for those who are familiar with government space they use a term called "SCIF" where they're basically doing classified things in the basement. So again, with this language and with this clarification of the parking, we have addressed the issue that was raised at the last meeting. So in conclusion I'll say these applications will permit the redevelopment of a site that is a stone's throw from the GSA warehouse. Again I feel this, I made this point before, while this proposal may not be perfect, I would submit that it offers a unique opportunity for teeing up the future redevelopment of the 68-acre GSA site. This is a site that currently houses more than a million square feet of warehouse and other uses. All of us would agree that based on the GSA's proximity to the Springfield/ Franconia Metro, it is a truly underutilized site that is ripe for

redevelopment. I will also note, and I'm sure if Supervisor Kaufmann – former Supervisor Kaufmann were here, he would say he'd spent 20 years of his life trying to address this property and – to no avail – and I believe very critically that this is a opportunity for not only Lee District but for the County, this is a economic development opportunity and clearly something needs to be done. And I am again delighted that Boston Properties has taken a look at a property immediately adjacent, and I do believe that the future for this property will be brighter as a result of this particular development. These applications provide a nine percent increase in open space versus the 1998 approval. The TDM goal has been increased from 10 percent to 20 percent. The proposal provides a dedicated shuttle. And this shuttle will ferry employees of these buildings from this site to the Metro and it will also ferry them over to the Springfield Mall. And all of you here will recall that we just recently made a very significant decision at this Planning Commission with regard to the redevelopment of that mall. That mall will provide critical services, I think, not only to the employees in this area but also within the region and I would imagine that many of the employees of these office buildings will seek the opportunity to go over to the mall for both lunchtime activities and other shopping needs. This proposal also allows for green building practices and as we know there's a LEED certification for a Silver Core and Shell in this development and wealth related to the office uses. So the application has the support of the Lee District Land Use Committee. And I will now, Mr. Chairman, make a series of motions.

Vice Chairman Alcorn: Mr. Lusk.

Commissioner Lusk: First, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PCA-1998-LE-064, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED APRIL 8TH, 2009.

Commissioner Sargeant: Second.

Vice Chairman Alcorn: Seconded by Mr. Sargeant. Any discussion?

Commissioners Flanagan, Harsel, Hart, and Lawrence: Mr. Chairman?

Vice Chairman Alcorn: Mr. Hart, followed by Mr. Flanagan, and then Ms. Harsel, and then Mr. Lawrence.

Commissioner Hart: Thank you, Mr. Chairman. This is a difficult case. I voted no the last time when the motion failed, but I also made the motion to take it up again tonight. I was willing to give the applicant another chance. And I've appreciated in the meantime Ms. Strobel's continued dialogue as well as the changes by the applicant. Notwithstanding the changes, I still largely agree with staff's analysis and I have concerns that this application doesn't really embody transit-oriented development in accordance with our expectations both as to the mix of uses and the configuration of the buildings. To some extent I recognize that is a function of these security setbacks. I don't think this is really – this type of development is really where we're going with TOD for Tysons Corner, but I recognize also this may not be the same kind of situation as

Tysons Corner also. In the past few days I've tried to reconcile those conflicts and I think that maybe our Comprehensive Plan expectations need refinement in light of the apparent conflict between security setbacks and transit-oriented development and to some extent the economy in this area. Ordinarily I would prefer that conflicts with Comprehensive Plan issues be sorted out first rather than trying to rationalize differences in an application from what the Plan seems to contemplate. I recognize also that the Comprehensive Plan is a guide and that the Board of Supervisors retains flexibility in its judgment to do something else. I still can't conclude that this package, even with the changes, is the type of transit-oriented development that the Plan contemplated, but I can see also that this may be the best alternative for this site and Lee District and the idea of encouraging investment in this area to be a catalyst for other changes. I'm therefore going to abstain this time around. I hope, however, that we will have the opportunity among other things to address issues such as whether and how security setbacks could work with transit-oriented development. Because I think that issue perhaps with BRAC and perhaps with other cases may come before us again and we'll be faced with the same dilemma where the Comprehensive Plan seems to suggest one thing and yet we have an applicant that has to do something different. I can't support it, but I'm going to abstain this time. Thank you.

Commissioner Lusk: Mr. Chairman?

Vice Chairman Alcorn: Go ahead, Mr. Lusk.

Commissioner Lusk: Thank you, Mr. Chairman. I just wanted to make one comment. I certainly appreciate and hear the comments that Commissioner Hart has made. I will make this one point though, and that is when we looked at this question we were trying to think through an option assuming that if the tenant base was not an agency or government contractor we allowed for flexibility in the proffer language so that the ability would be for the setback to be reduced. So assuming that the applicant is able to secure firms that are non-contract or non-agency, then we would expect that they would come back and look at a reduction in that particular setback. So we might at the end of the day get buildings that are closer to the street, one; and then, two, I'll make the point – and I'm not sure of this – but, there is some thought that maybe the government might reconsider the 82-foot setback as it relates to agencies and contractors. So assuming that there's some reduction made by the federal government relative to a setback then I would imagine, and I'm sure Boston Properties would do this, they would look at those new requirements as they relate to force protection and the setback would then be reduced as well. So there's a potential on either side that we might end up getting buildings that are actually closer to the road.

Vice Chairman Alcorn: Mr. Flanagan.

Commissioner Flanagan: And I'm glad for that explanation from Commissioner Lusk because it brings up the fact that there isn't – this project doesn't seem to be "shovel-ready," as they say, and/or time sensitive. And so I'm a little reluctant to give up on the policies for the transit areas given the fact that taking some time might get us closer to what we're expecting at such locations, at transit centers. I know that the urban design guidelines for transit-oriented centers call upon us to encourage excellence in urban design, including site planning, streetscape, and

building design, which creates a pedestrian focus sense of place. My understanding is that staff's recommendation of denial is based somewhat upon the fact that this project doesn't really provide a clear design in that regard. One of the more troubling things to me is the fact that it also calls one other – guideline calls upon us to promote a mix of uses to ensure the efficient use of transit, to promote increased ridership during peak and off-peak travel periods in all directions, and to encourage different types of activity throughout the day. I don't think that this does that in any way. This is 100 percent office and I think it's one-directional rather than two-directional. I voted no last time, and so I'm going to – I don't see any urgency here, so I think I'm going to continue to vote no.

Vice Chairman Alcorn: Okay. Ms. Harsel.

Commissioner Harsel: I'm going to abstain since I wasn't here for the public hearing. No fancy speeches, I'm just abstaining.

Vice Chairman Alcorn: Thank you, Ms. Harsel. Mr. Lawrence and then Ms. Hall.

Commissioner Lawrence: Thank you, Mr. Chairman. Rather than take up the Commission's time, I'll simply say that I align myself with Commissioner Hart. Thank you.

Vice Chairman Alcorn: All right. Commissioner Hall, please.

Commissioner Hall: Well, I was only going to say ditto, I wasn't here for the public hearing, and I abstain from voting.

Vice Chairman Alcorn: Commissioner Sargeant.

Commissioner Sargeant: Is there anyone left? Thank you, Mr. Chairman. Echoing some comments that we've heard through this process and seeing the trend that we have seen with the recent BRAC process and the BRAC Committee, what you are seeing is a trend toward defense related businesses in this particular area, and not all of them are suitable nor will they find themselves willing to be suited for transit-oriented development. They have very specific requirements from defense contracted related campuses to other types of uses, not only involved with requiring setbacks. I think this area and the trend that we will see in terms of development given its proximity to the Engineering Proving Ground and relative vehicular proximity by shuttle or auto to Fort Belvoir really lends itself to those types of BRAC related uses that may not fit specifically with the definition of transit-oriented development but will certainly use and maximize as much as possible the nearby Metro station coupled with shuttles, coupled with the need for very strong security. So I think this is an appropriate use for this site.

Commissioner Donahue: Mr. Chairman?

Vice Chairman Alcorn: Yes, Commissioner Donahue.

Commissioner Donahue: I have a quick additional comment. Hopefully it's quick, but I have a question of staff: How do we determine – I think I know the answer to it, but I want to get it out a little bit – how do we determine what is and what is not transit-oriented development?

Suzanne Lin, Zoning Evaluation Division, Department of Planning and Zoning: Suzanne Lin, Department of Planning and Zoning. If you're asking how we determine what we think should use the TOD guidelines, it's distance from the Metro. This is between the half and the quarter mile to the Metro. It's the closest parcel, really, to that Metro station, which is why we asked for the high TDM goal, which the applicant is providing.

Commissioner Donahue: Right. So is it fair to say it's pretty cut and dry if you're quarter to a half, you're in. If you're not a quarter to a half, you're out. Is it that?

Ms. Lin: It's pretty cut and dried, yes.

Commissioner Donahue: And what I'm concerned about – one I shared with Commissioner Lusk, and to some degree I think maybe I'm associating myself with Commissioner Hart's remarks. I hate to see, I guess, what could become the strait jacket of transit-oriented development because this is a perfect case, it seems to me, that we should have been able, and maybe staff should have been able – you probably are in that strait jacket, I don't know – but we should be looking at some additional elements when we run up against those cases, which this one was, I think, where it's responsible to look at different elements. So I also voted no last time. I'm also going to abstain largely on that reasoning. In addition to that I was primarily concerned about some of the transportation aspects and it seems to me that the applicant has done just about all it can to correct those transportation problems, as I say, as much as it can. So I'm going to abstain this time. Thank you, Mr. Chairman.

Vice Chairman Alcorn: Okay, anyone else? All right. Let the record show this Commission really does care about transit-oriented development, so – and that makes me happy. All those in favor of recommending that the Board of Supervisors approve PCA 1998-LE-064, consistent with the proffers dated April 8th, 2009, please say aye.

Commissioners de la Fe, Litzenberger, Lusk, and Sargeant: Aye.

Vice Chairman Alcorn: All those opposed?

Commissioner Flanagan: No.

Commissioners Donahue, Hall, Harsel, Hart, and Lawrence: Abstain.

Vice Chairman Alcorn: Okay, that motion passes, with Commissioner Flanagan voting no; Commissioners Hart, Donahue, Lawrence, and the Chair abstaining, and Commissioners Harsel and Hall abstaining, not in attendance for the public hearing. Commissioner Lusk.

Commissioner Lusk: Thank you, Mr. Chairman. I have three more motions. Second, I MOVE THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2008-LE-015, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED APRIL 8TH, 2009.

Commissioner Sargeant: Second.

Vice Chairman Alcorn: Seconded by Commissioner Sargeant. Any discussion? All those in favor of recommending that the Board of Supervisors adopt RZ 2008-LE-015, consistent with the proffers dated April 8th, 2009, please say aye.

Commissioners de la Fe, Donahue, Litzenberger, Lusk, and Sargeant: Aye.

Vice Chairman Alcorn: All those opposed?

Commissioner Flanagan: No.

Commissioners Hall, Harsel, Hart, and Lawrence: Abstain.

Vice Chairman Alcorn: Same division (*sic*). Commissioner Lusk.

Commissioner Donahue: Aye. Mr. Chairman, I'm actually voting aye on this.

Vice Chairman Alcorn: Okay. Commissioner Donahue votes aye on this motion. Commissioner Lusk.

Commissioner Lusk: Thank you, Mr. Chairman. I MOVE THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS MODIFY THE TRANSITIONAL SCREENING ALONG THE PROPERTY BOUNDARY OF THIS SITE WHERE IT ABUTS MULTIFAMILY DWELLINGS IN FAVOR OF THAT WHICH IS SHOWN ON THE GDP.

Commissioner Sargeant: Second.

Vice Chairman Alcorn: Seconded by Commissioner Sargeant. Any discussion? All those in favor of the motion, say aye.

Commissioners de la Fe, Donahue, Litzenberger, Lusk, and Sargeant: Aye.

Vice Chairman Alcorn: All those opposed?

Commissioner Flanagan: No.

Vice Chairman Alcorn: Abstentions?

Commissioners Hall, Harsel, Hart, and Lawrence: Abstain.

Vice Chairman Alcorn: Okay, same division as the previous motion. Okay.

Commissioner Harsel: Did Donahue vote aye?

Commissioner Donahue: Yes.

Commissioner Lusk: And then the final motion, Mr. Chairman. I MOVE THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS WAIVE THE BARRIER REQUIREMENT ALONG THE PROPERTY BOUNDARY OF THE SITE WHERE IT ABUTS MULTIFAMILY DWELLINGS IN FAVOR OF THAT SHOWN ON THE GENERALIZED DEVELOPMENT PLAN.

Commissioner Sargeant: Second.

Vice Chairman Alcorn: Seconded by Commissioner Sargeant. Any discussion? All those in favor of the motion, say aye.

Commissioners de la Fe, Donahue, Litzenberger, Lusk, and Sargeant: Aye.

Vice Chairman Alcorn: All opposed?

Commissioner Flanagan: Nay.

Vice Chairman Alcorn: Abstentions? That motion –

Commissioners Hall, Harsel, Hart, and Lawrence: Abstain.

Vice Chairman Alcorn: That motion carries; same division as the previous motion.

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(The first motion carried by a vote of 4-1-6 with Commissioners de la Fe, Litzenberger, Lusk, and Sargeant in favor; Commissioner Flanagan opposed; Commissioners Alcorn, Donahue, Hall, Harsel, Hart, and Lawrence abstaining; Commissioner Murphy absent from the meeting.)

(The second, third, and fourth motions carried by a vote of 5-1-5 with Commissioners de la Fe, Donahue, Litzenberger, Lusk, and Sargeant in favor; Commissioner Flanagan opposed; Commissioners Alcorn, Hall, Harsel, Hart, and Lawrence abstaining; Commissioner Murphy absent from the meeting.)

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Planning Commission Meeting
March 26, 2009
Verbatim Excerpt

PCA 1998-LE-064 – SPRINGFIELD PARCEL C, LLC
RZ 2008-LE-015 – SPRINGFIELD PARCEL C, LLC

Decision Only During Commission Matters
(Public Hearing on March 11, 2009)

Commissioner Lusk: Thank you, Mr. Chairman. The Planning Commission will recall that we deferred decision only for Springfield Parcel C, LLC, to this evening. There were a number of proffer revisions that were discussed at the public hearing and the language has been finalized and now available for your review in the proffers that are now dated March 23, 2009. The first issue concerned the 82-foot setback. The applicant is proposing to develop its office buildings with an 82-foot setback to accommodate potential BRAC agencies or government contract users. The setback is a requirement of the Department of Defense to address Force Protection guidelines set by then Secretary Rumsfeld in 2005 for DOD facilities. Since this developer, Boston Properties, is proposing to market these buildings to DOD contractors in hopes to secure leases from these entities, I agree with their need for flexibility to ensure that these buildings can be developed with the required 82-foot setback. With this in mind, I also recognize that these setback requirements could be reduced and the applicant could ultimately pre-lease these buildings to a user or series of users that are neither DOD agency or contract entities. In the event that either of these things happen, the applicant will have the ability to reduce the setback and per the change to Proffer Number 1(b), "should tenant requirements not include a minimum setback, the applicant shall consider a reduction in those setbacks as shown on the GDP." If the setback is reduced, then these proposed buildings could be located closer to the street and would become more urban in both their look and feel. Issue two concerns the TDM and transportation-related concerns. Staff has been very clear in their request that the applicant increase the goal of reducing the percentage of single-occupancy vehicle trips from 15 to 20 percent. The staff position is based on the proximity of this site to the Franconia-Springfield Metro Center. And per Proffer 4(a), the applicant has agreed to this 20 percent reduction. Additionally, the applicant has agreed to provide 200 SmarTrip cards, with a value of $25, for employees of each of these buildings to promote the use of mass transit. We selected this number of SmarTrip cards because it represents approximately 20 percent of the total number of employees that will be working in each of these buildings. And this dissemination of SmarTrip cards will help create and encourage the use of mass transit in the area. Shuttle bus service. Per Proffer 4(f)(i) [sic], the applicant has agreed to participate in the regional bus circulator system that would provide the employees of this development with access to the Metro and Springfield Mall. Using this circulator will help reduce the number of vehicular trips taken by employees wishing to dine or shop at the mall. Issue three concerns design. The applicant has agreed to refine the language in Proffer 9(e) that addresses the low-level security wall, to change it from what was originally stated as "poured-in-place concrete" to "concrete that is similar to pre-cast as utilized on the office buildings." This change will ensure that the appearance of this wall does not end of being too institutional or akin to a Jersey barrier. Additionally, the applicant will be bringing the final architectural drawings to the Lee District Supervisor and Planning Commissioner for review. We also discussed the loading dock, and in Proffer Number 9(h), the applicant is proposing to

lower by four feet, the loading dock area and this will help minimize its appearance and to address a number of concerns that we heard at the public hearing. In conclusion, these applications will permit the redevelopment of the site that is a stone's throw from the GSA Warehouse. While this proposal may not be perfect, I would submit that it offers the best chance for teeing up the future development on the 68-acre site that currently houses almost one million square feet of warehouse and other uses. And we all would agree that based on the GSA proximity to the Springfield-Franconia Metro, it is a truly underutilized site that is ripe for redevelopment. Just as importantly, I believe, the proposal before us this evening offers us a glimpse into how this property might redevelop. The applications that we have before us are supported by the staff [sic] and they're also supported by the Lee District Land Use Committee. They're in harmony with the Comprehensive Plan and also the Zoning Ordinance. So with that, Mr. Chairman, I will now make a series of motions. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PCA 1998-LE-064, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED MARCH 23, 2009.

Commissioners Sargeant and de la Fe: Second.

Chairman Murphy: Seconded by Mr. Sargeant and Mr. Hart [sic]. Is there a discussion of the motion?

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Hart. I'm sorry - - it was Mr. de la Fe, not Mr. Hart.

Commissioner Hart: Yes, I didn't second it.

Chairman Murphy: Okay.

Commissioner Hart: I had a question for staff. I thought staff was still recommending denial. Has that changed?

Suzanne Lin: No, that's correct, still recommending denial.

Commissioner Hart: Okay, thank you.

Commissioner Lawrence: Mr. Chairman?

Chairman Murphy: Yes.

Commissioner Lawrence: I, too, have a question for staff. Has the applicant done anything about the parking? Has there been any reduction in the number of parking spaces?

Ms. Lin: No, there has not.

Commissioner Lawrence: Thank you.

Commissioner Flanagan: Mr. Chairman?

Chairman Murphy: Mr. Flanagan.

Commissioner Flanagan: Yes, I have a question for staff as well. The request of - - the staff is recommending denial based upon the fact that the Plan's goal for creating a transit-oriented development has not been met. Was there any suggestion on the staff as to how the adjacent parcel could be developed in the future in such a way as to create what would comply with the transit-oriented development?

Ms. Lin: By the adjacent parcel, do you mean the GSA building, that whole - -

Commissioner Flanagan: No, no. Going in the other direction toward the - -

Ms. Lin: The rest of the Boston Properties.

Commissioner Flanagan: Right, the rest of the Boston Property.

Ms. Lin: We didn't really address that portion. It wasn't part of the application property. The only thing we saw was the same photo that - - or diagram that was shown at the public hearing that showed the parking garage - - garages in the middle, but we didn't really address that as part of staff's review.

Commissioner Flanagan: I think at the public hearing, I think the applicant indicated that there was no way that they could incorporate such a commitment, you know, in the present proffers. Is that correct?

Ms. Lin: They - - my understanding, and if we have to ask the applicant, my understanding was that the proffer commitments would only apply to the case before us and that the only thing I really understood was that they couldn't affect the setbacks due to their requirements for the DOD security. I'm not sure if that answers.

Commissioner Flanagan: My other concern was the fact that the loading dock was such a feature, and I see that the proffers have been amended to lower the loading dock by four feet. Does - - do you think that that adequately addresses the problem with the loading dock at that location?

Ms. Lin: We do not. The - - the ultimate - - or the discussion in the staff report basically indicated that by having a loading dock on that side of - - next to Springfield Center Drive Extended, you were losing the activation of that - - of that wall on that side of building. And we always have wanted something better for that side than a loading dock. Reducing the - - the

elevation of it was a step, but that wasn't what we had suggested. We had just suggested that in some way moving the loading dock, perhaps to the rear of the building or somewhere else.

Commissioner Flanagan: Mr. Chairman, my hopes were that those issues, you know, would have been better addressed, so I will be not supporting this application.

Chairman Murphy: Further discussion of the motion? All those in favor - -

Commissioner Harsel: Mr. Chairman, I will - -

Chairman Murphy: Ms. Harsel.

Commissioner Harsel: I will abstain. I was not here for the public hearing.

Chairman Murphy: Further discussion of the motion? All those in favor of the motion to approve - - recommend to the Board of Supervisors to approve PCA 1998-LE-064, say aye.

Commissioners de la Fe, Lusk, Murphy, and Sargeant: Aye.

Chairman Murphy: Opposed?

Commissioners Donahue, Flanagan, Hart, and Lawrence: Nay.

Commissioner Alcorn: Abstain.

Commissioner Harsel: Abstain.

Chairman Murphy: All right, the motion - - let's have division. Mr. Donahue.

Commissioner Donahue: No.

Chairman Murphy: Mr. Sargeant.

Commissioner Sargeant: Aye.

Chairman Murphy: Mr. Lawrence.

Commissioner Lawrence: No.

Chairman Murphy: Mr. Lusk.

Commissioner Lusk: Aye.

Chairman Murphy: Mr. Alcorn.

Commissioner Alcorn: Abstain.

Chairman Murphy: Ms. Harsel.

Commissioner Harsel: Abstain.

Chairman Murphy: Mr. de la Fe.

Commissioner de la Fe: Aye.

Chairman Murphy: Mr. Hart.

Commissioner Hart: No.

Chairman Murphy: Mr. Flanagan.

Commissioner Flanagan: No.

Chairman Murphy: And the Chair votes "aye." And the motion fails, four to four.

Commissioner Lusk: Oh, you're right.

Commissioner Alcorn: Mr. Chairman?

Chairman Murphy: Mr. Alcorn.

Commissioner Alcorn: Can we defer the motion?

Chairman Murphy: Go ahead.

Commissioner Alcorn: Actually, it has to be someone on the prevailing side.

Chairman Murphy: Yes, who was on the - -

Commissioner Harsel: But there's no prevailing side.

Chairman Murphy: Well, there's no - - go ahead and you can do it. Well, yes, the no's would be the prevailing side. Does anyone make a motion to table the motion?

Commissioner Hart: And defer it again?

Chairman Murphy: And defer it again. Yes.

Commissioner Hart: All right. Mr. Chairman?

Chairman Murphy: Yes.

Commissioner Hart: I was on the - - I was a "no," so I guess I - -

Chairman Murphy: Okay, go ahead.

Commissioner Hart: I make the MOTION THAT WE TABLE THIS MATTER AND DEFER THE DECISION AGAIN TO - - whatever the next available date is going to be for - - Ms. Lin, is that APRIL 15?

Ms. Lin: That would be the next date that the Planning Commission is having a hearing.

Commissioner Hart: And does Ms. Strobel need to be here for that?

Commissioner Alcorn: Is there a Board date?

Commissioner Hart: I don't think so. All right, that's my motion.

Commissioners Lawrence and Donahue: Second.

Chairman Murphy: Seconded by Mr. Lawrence and Mr. Donahue. Is there a discussion of the motion? All those in favor of the motion to table this application to a date certain of April 15th, with the record remaining open for comment, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioner Harsel: Abstain.

Chairman Murphy: Motion carries. Ms. Harsel abstains.

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(The first motion failed by a vote of 4-4-2 with Commissioners de la Fe, Lusk, Murphy, and Sargeant in favor; Commissioners Donahue, Flanagan, Hart, and Lawrence opposed; Commissioners Alcorn and Harsel abstaining; Commissioners Hall and Litzenberger absent from the meeting.)

(The second motion carried by a vote of 9-0-1 with Commissioner Harsel abstaining; Commissioners Hall and Litzenberger absent from the meeting.)

KAD