

COUNTY OF LOUDOUN
DEPARTMENT OF PLANNING
MEMORANDUM

DATE: January 21, 2010
TO: Loudoun County Planning Commission
FROM: Marchant Schneider, Department of Planning, Project Manager
SUBJECT: **JANUARY 21, 2010 PLANNING COMMISSION PUBLIC HEARING**
SPEX 2009-0006 – DULLES INDUSTRIAL PARK SOUTH, LOT 1

UPDATE

At its December 10, 2009 public hearing briefing, the Planning Commission suggested that an on-site well be made available for the County's well monitoring program. The Applicant has agreed to make the well available for monitoring. The Conditions of Approval have been revised to reflect the commitment (Condition 13) and are included as Attachment 1.

Also, during preparation of the application for public hearing, a question arose as to whether the proposed use would be defined as a "public service corporation". Section 6-1100(A) of the 1993 Revised Zoning Ordinance requires approval of a Commission Permit for a public service corporation. Staff requested a Zoning Determination (ZCOR) on the issue. Zoning Administration has determined that the proposed use will require a Commission Permit (see ZCOR 2009-0013, Attachment 2).

A Commission Permit is required when a proposed public use is not identified as a feature of the adopted Comprehensive Plan or as part of certain development plans authorized by the Zoning Ordinance to include such uses. Commission Permit applications are evaluated to determine whether the general location, character, and extent of the proposed public use is in substantial accord with the Revised General Plan (RGP). Compliance with RGP policies regarding site design and layout, environmental impacts, scale and intensity, and transportation improvements are evaluated during the Special Exception review process. As such, the Planning Commission will be required to evaluate the Commission Permit prior to a recommendation regarding the Special Exception Application.

Given the timing of the Zoning Determination and subsequent requirement for a Commission Permit, staff recommends the Planning Commission forward the SPEX application to worksession in order for the Commission Permit to be scheduled for Planning Commission Public Hearing on February 22, 2010.

SUGGESTED MOTIONS

1. I move that the Planning Commission forward SPEX 2009-0006, Dulles Industrial Park South, Lot 1, to a subsequent worksession for further discussion.

OR,

2. I move an alternate motion

ATTACHMENTS	PAGE NUMBER
1. Conditions of Approval (Revised) (01-21-10)	A-1
2. ZCOR 2010-0028	A-4

SPEX 2009-0006
DULLES INDUSTRIAL PARK SOUTH, LOT 1
CONDITIONS OF APPROVAL
(January 21, 2010)

1. **Substantial Conformance.** The proposed Special Exception use, bulk storage of propane gas, shall be developed in substantial conformance with Sheet 2 and Sheet 3 (together comprising and herein referred to as the "Special Exception Plat") of the plan set entitled Special Exception Plat, Lot 1, Dulles Industrial Park South, SPEX 2009-0006, prepared by William H. Gordon Associates, Inc., dated February 3, 2009, revised through November 16, 2009 (the "Plans") and the Revised 1993 Loudoun County Zoning Ordinance (the "Zoning Ordinance"). Approval of this application for Tax Map 102///1/////1/ (PIN# 097-40-7676) (the "Property"), shall not relieve the applicant or the owners of the Property from the obligation to comply with and conform to any other Zoning Ordinance, Codified Ordinance, or applicable regulatory requirement.
2. **Uses Permitted/Prohibited.** Approval of the Special Exception grants approval under the general use "Storage, bulk gasoline, petroleum products and natural gas, small and large" as set forth in the Revised 1993 Loudoun County Zoning Ordinance, in the MR-HI (Mineral Resource – Heavy Industrial) Zoning District. This Special Exception specifically approves only the installation and use of two 30,000-gallon propane storage tanks as shown on Sheet 3 of the Special Exception Plat and applies only to that area of the Property shown on Sheet 3 as lying within the bold, single-dash lines and labeled as "Limits of Special Exception (42,153 S.F. or 0.97 ac.)" (the "Special Exception Area"). Notwithstanding the provisions of the MR-HI Zoning District use regulations, storage of distribution vehicles shall not be permitted on the Property within the Special Exception Area.
3. **Hours of Operation.** Activities related to the use of the propane tanks and associated equipment shall be limited to the hours from 7:30 a.m. to 5:00 p.m., Monday through Friday, except as required for maintenance and safety inspection.
4. **Storage Tank Design.** The applicant shall utilize precast, reinforced concrete steel piers to support the propane tanks. The propane tanks shall be painted light, reflective colors.
5. **Emergency Response and Evacuation Plan.** Prior to the issuance of the first zoning permit for the special exception use, the applicant will develop and submit an Emergency Response and Evacuation Plan to the Department of Fire, Rescue and Emergency Management for Fire-Rescue preparedness training specific to the propane tanks and associated equipment that are to be installed on the Property.

6. **Safety Equipment.** The applicant shall install a remote emergency gas shut-off station within the Special Exception Area in accordance with applicable fire prevention code or other applicable regulations, or, if no such code or regulations otherwise require, within two hundred and fifty-five feet (255') of the propane tanks. Stored propane shall contain an odorant for gas leak detection.
7. **Fencing.** Prior to first zoning permit approval for the Special Exception use, the Applicant shall install a chain link fence at least six feet (6') in height along the perimeter of the area of the propane tanks as shown on Special Exception Plat Sheet 3.
8. **Landscaping.** The applicant shall install an Evergreen Tree Buffer / Screen as shown on the Special Exception Plat Sheet 3 prior to or in conjunction with the first zoning permit approval for the Special Exception use. The size, amount, and species of the evergreen plantings shall be determined in consultation with the County Urban Forester. The applicant shall utilize native species for new plant material, as determined in consultation with the County Urban Forester, to the maximum extent possible. All required landscaping shall be depicted upon and bonded with the site plan. Landscaping materials within the Evergreen Tree Buffer / Screen shall be maintained in good condition by the property owner or appropriate owners association for the life of the planted material.
9. **Lighting.** No lighting fixtures shall be installed in conjunction with the Special Exception use except as otherwise required by law, ordinance, or regulation.
10. **Right of Way.** Upon written request by the Virginia Department of Transportation (VDOT) or the County, the Applicant shall dedicate to the County or VDOT, as applicable, five feet (5') of right of way along the Property's frontage to Wade Drive (Route 872) for public street purposes including without limitation the construction of the planned Route 50 North Collector Road. Such dedication shall be provided at no public cost.
11. **Easements.** Upon written request by VDOT or the County, the applicant shall grant construction, drainage, and all other easements necessary for the construction of the public street improvements referenced in Condition 10 above, at no public cost.
12. **Pump and Haul Facilities.** Pump and haul tanks located on the Property shall be abandoned prior to first site plan approval for the Special Exception use.
13. **Well Monitoring Program.** The Applicant shall work with the County to determine if the existing on-site well is suitable for the County's well monitoring program. If the on-site well is suitable for the well monitoring program, the Applicant shall provide access to the County for water quality and water quantity testing. Such access shall be provided through coordination with the Applicant and/or owners of the Property.

SPEX 2009-0006 - DULLES INDUSTRIAL PARK SOUTH, LOT 1
CONDITIONS OF APPROVAL

January 7, 2010

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NOTE: The Applicant has agreed to provide a one time Fire and Rescue contribution to the County in the amount of \$1,000 for equal distribution between the primary volunteer Fire and Rescue servicing companies. This contribution shall be made prior to the issuance of a zoning permit for the installation any propane storage tank on the Property. Applicant has further agreed that the amount of such contribution shall escalate annually from the base year of 2009 and shall change effective each January 1st thereafter, based on the Consumer Price Index (CPI-U) for all urban consumers, 1982-1984=100 (not seasonally adjusted) as reported by the United States Department of Labor, Bureau of Labor Statistics.



Loudoun County, Virginia

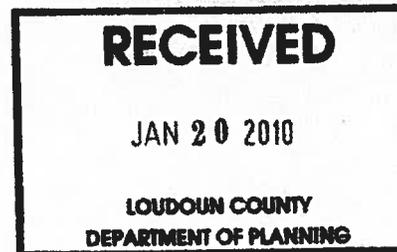
www.loudoun.gov

Department of Building and Development
Zoning Administration / MSC# 60

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January 20, 2010

Marchant Schneider
Senior Planner, Land Use Review
Loudoun County Department of Planning
P.O. Box 7000, MSC #62
Leesburg, VA 20177



RE: Commission Permit – Bulk Propane Storage
Tax Map # 102////1////1/ MCPI 097-40-7676

Dear Marchant:

I am responding to your email dated January 13, 2010 to Dan Schardein, Zoning Administrator, in which you asked if approval of a Commission Permit is required for a use described as “bulk propane storage” to locate at Dulles Industrial Park South, Lot 1. As explained in your email, a special exception application, SPEX-2009-0006, is pending approval to locate the use at the above referenced location.

The Statement of Justification provided with the special exception application indicates that the use is bulk storage and commercial distribution of propane gas. The proposed use is defined in the Revised 1993 Loudoun County Zoning Ordinance (Ordinance) as “Storage, bulk gasoline, petroleum products and natural gas, small and large.” “Propane gas” is not defined in the Ordinance; however, Article 8 states, in part, that any word, term, etc. not defined in the Ordinance shall have the meaning ascribed to such word, term in the most recent edition of Webster’s Unabridged Dictionary. The dictionary indicates that propane gas is used chiefly as a fuel (as in liquefied petroleum gas.) Section 6-1100(A) requires approval of a Commission Permit for a public service corporation facility, whether publicly or privately owned, to locate within Loudoun County. In the Revised 1993 Loudoun County Zoning Ordinance, the definition of a “public utility/facility” includes “all buildings and facilities owned by a public service corporation as defined in Section 56-1 of the Virginia State code. The definition of “public service corporation” in the Code of Virginia, Section 56-, includes gas companies.

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Therefore, it is staff's opinion that a Commission Permit is required for the proposed use to locate on the referenced property.

This determination applies solely to the referenced property and is not binding upon the County, the Zoning Administrator or any other official with respect to any other property. No person may rely upon this determination with respect to any property other than the referenced property.

Please be advised that any person aggrieved, or any officer, department or agency of Loudoun County affected by an order, requirement, decision or determination made by an administrative officer in the administration or enforcement of the provisions of the *Zoning Ordinance* may appeal said decision within thirty days to the Board of Zoning Appeals in strict accordance with Section 15.2-2311 of the *Code of Virginia*. This decision is final and unappealable if not appealed within 30 days.

If I may be of further assistance, please contact me at 571-258-3197 or by email at nita.bearer@loudoun.gov.

Sincerely,



Nita Bearer
Zoning Planner

C: Dan Schardein, Zoning Administrator
Marilee Seigfried, Deputy Zoning Administrator
Ron Brown, Assistant County Attorney
Julie Pastor, Director of Planning
Van Armstrong, Program Manager
Property Owner: Dulles South Properties LLC

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