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DEPARTMENT OF PLANNING
STAFF REPORT

BOARD OF SUPERVISORS PUBLIC HEARING

DATE OF HEARING: March 8, 2010
SPEX 2009-0037 and SPEX 2009-0038, Discovery Communications
DECISION DEADLINE: March 17, 2010
ELECTION DISTRICT: Dulles PROJECT PLANNER: Sophia Fisher

EXECUTIVE SUMMARY

Discovery Productions Group, Inc, of Silver Spring, Maryland has submitted applications for special exceptions to permit commercial office uses and communication and transmission facilities in the PD-IP (Planned Development-Industrial Park) zoning district. The property is located within the Route 28 Taxing District. The property is also located within the AI (Airport Impact) Overlay District, outside of but within one (1) mile of the Ldn 60 aircraft noise contour. These applications are subject to the 1972 Zoning Ordinance and the proposed uses may be permitted by the Board of Supervisors by Special Exception pursuant to Section 722.3.2. The property is approximately 7.86 acres in size and is located in the northwest quadrant of the intersection of Terminal Drive (Route 1005), International Drive, and Shaw Road (Route 636), at 45580 Terminal Drive and 22746 Shaw Road, Sterling, Virginia in the Dulles Election District. The area is governed by the policies of the Revised General Plan (Suburban Policy Area (Sterling Community)), the Eastern Loudoun Area Management Plan, and the Countywide Transportation Plan, which designate this area for Business uses at a Floor Area Ratio (FAR) of 0.4.

RECOMMENDATION

Planning Commission: This application is subject to the 1972 Zoning Ordinance, and is not reviewed by the Planning Commission.

Staff:

Is generally supportive of the application; however, staff is still working with the applicant to resolve the issue regarding FAR and development potential as outlined in the Zoning Section of this report.

The Conditions of Approval are under review by the County Attorney's office; an update will be provided at the public hearing.

SUGGESTED MOTIONS

1. I move that the Board of Supervisors forward SPEX 2009-0037 and SPEX 2009-0038, Discovery Communications, to the April 6, 2010 Business Meeting for action. ****A timeline extension is required****

OR,

2. I move an alternate motion.

VICINITY MAP



Directions: From Leesburg: Take Route 7 east to Route 28 south. Take the exit for Sterling Boulevard eastbound. Turn right on Shaw Road. Turn left at Terminal Drive. Site will be on the corner.

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APPLICANT: Discovery Productions Group, Inc.
John Honeycutt, Executive Vice President
One Discovery Place
Silver Spring MD 20910

OWNER: Same as Applicant

REPRESENTATIVE: Cooley Godward Kronish LLP
Ben I. Wales, AICP, Senior Land Use Planner
11951 Freedom Drive
Reston VA 20190
703-456-8609
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PROPOSAL: A Special Exception to allow commercial office use of entire property and a special exception to allow positioning of communication and transmission facilities on the property.

PROPERTY ADDRESS: 45580 Terminal Drive, Sterling VA 20166

TAX MAP/PARCEL: Tax Map — /94//10/////1/ PIN — 033-16-5945

PROPOSED ZONING: PD-IP (under the 1972 Zoning Ordinance)

SURROUNDING ZONING/LAND USE:

NORTH	PD-IP	Business Community
SOUTH	PD-IP	Business Community
EAST	PD-IP	Business Community
WEST	PD-IP	Business Community

ELECTION DISTRICT: Dulles

II. SUMMARY OF DISCUSSION

Topic/Issue Area	Issues Examined and Status
Community Planning	<ul style="list-style-type: none"> • Application is in conformance with Plan policies. Commit to maintaining landscaping shown on the plat. Status: Resolved.
Zoning	<ul style="list-style-type: none"> • Make minor changes to the plat. Status: Resolved. • Limit office use on overall site. Status: Unresolved—the applicant wishes to retain the ability to develop the former Lot 1 at the 0.4 FAR that was originally approved with SPEX 1985-0050. Staff is working with the applicant to determine how to accomplish this.
Transportation	<ul style="list-style-type: none"> • Clarify the proposed use and that approval of the application will not result in unanticipated traffic generation. Status: Resolved.
Fire and Rescue	<ul style="list-style-type: none"> • Policy calls for a voluntary contribution to the primary volunteer fire and rescue companies. Status: Resolved—the applicant has agreed to provide the voluntary contribution in accordance with Board policy.

III. PLANNING COMMISSION REVIEW AND RECOMMENDATION

This application is subject to the 1972 Zoning Ordinance, and was not reviewed by the Planning Commission.

IV. FINDINGS

1. The proposed Special Exception uses comply with the planned Business land use designation for the area and are in keeping with the office and light industrial development surrounding the subject property, and in compliance with the policies of the Revised General Plan.
2. Consistent with CTP policies, the proposed uses will not negatively impact traffic on nearby roadways.
3. As conditioned, the application complies with the 1972 Zoning Ordinance.

V. CONDITIONS OF APPROVAL (February 23, 2010)

1. Substantial Conformance. The proposed use shall be developed in substantial conformance with the Special Exception Plat entitled “Discovery” prepared by The Engineering Groupe, Inc., dated November 10, 2009 and revised through February 23, 2010 (the “Plat”). The Approval of this application for Tax Map /94//10/////1/ (PIN # 033-16-5945) (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. Maximum Number of Transmission Antennas A maximum eight (8) ground-mounted satellite transmission antennas may be located on the Property pursuant to Section 722.3.2. of the 1972 Zoning Ordinance. Each transmission antenna shall have a maximum height of forty-one feet (41’) and a maximum diameter of 37’ 7” (11.5 meters). Receive-only satellite antenna without transmission capabilities may be located on the

Property without amendment to this Special Exception provided the antenna otherwise comply with the requirements of the 1972 Zoning Ordinance.

3. Landscaping. Planting materials shall be maintained in good health. Dead or diseased plant materials will be replaced in consultation with the County's Urban Forester.
4. Equipment Shelters. Up to 4,000 square feet of equipment shelters shall be permitted in the area defined as "development envelope" on Sheet 4 of the Special Exception Plat.
5. Expansion of the existing office building. Expansion of the existing office building structure into the area defined as "Development Envelope" on Sheet 4 of the Special Exception Plat requires additional special exception approval. Notwithstanding the foregoing, the applicant may expand the existing office building up to a total of 72,824 square feet outside the development envelope.

NOTE: The Applicant has agreed to provide a one time fire and rescue contribution to the County in the amount of \$0.10 per square foot of non-residential floor area for equal distribution between the primary volunteer fire and rescue servicing companies. The per square foot contribution shall be made at the time of issuance of zoning permits. This contribution shall escalate annually from the base year of 1988 and change effective each January 1st thereafter, based on the Consumer Price Index (CPI).

VI. PROJECT REVIEW

A. Context

The applicant, Discovery Productions Group, Inc., is requesting two Special Exceptions to allow commercial office (television production) of 57,096 square feet (includes the proposed 2,000 square foot building associated with the new antennas) and communication and transmission uses on the subject property located at 45580 Terminal Drive in Sterling. The subject property is just under 8 acres in size and features an existing 54,846 square foot, single-story building used for television production and ten ground-mounted dish antennas of varying sizes used for the transmission of television content to satellites. The proposed Special Exception applications will permit the continued use of the subject property for commercial uses and would enable the construction of eight additional ground-mounted dish antennas and an associated 2,000 square foot building to provide the needed infrastructure for these additional antennas.

B. Summary of Outstanding Issues

- Staff continues to work with the applicant to determine the best way to address the issue of allowing for the expansion of the existing office building, as is discussed in the Zoning section of this report.
- The Conditions of Approval are under review by the County Attorney's office; an update will be provided at the Public Hearing.

C. Overall Analysis

COMPREHENSIVE PLAN

The property is located in the Sterling Community of the Suburban Policy area and is governed under the policies outlined in the Revised General Plan and Revised Countywide Transportation Plan (CTP) as well as the Eastern Loudoun Area Management Plan (ELAMP). Being the newer of the two plans, the Revised General Plan supersedes the ELAMP when there is a policy conflict between the two. The Revised General Plan designates this area for Business uses. The property is also located within the Route 28 Tax District. The Business land use policies in Chapter 6 of the Revised General Plan were used to evaluate the application.

The Revised General Plan designates the subject site as suitable for Business uses and ELAMP designates the site as suitable for industrial/office uses. The Plan envisions that areas planned for Business land uses will develop as either a Regional Office or Light Industrial community. Because the subject property is surrounded by existing flex-industrial developments, Sterling Industrial Park, Dulles North Corporate Park and Commonwealth Center, which also have an underlying PD-IP zoning, this application is considered under the Light Industrial policies of the Revised General Plan. The intent of the Light Industrial policies, as set forth in the Plan, is to develop a community in which light industrial/flex uses are the predominant component. The policies also call for a maximum of 40% office, as a percentage of the total land area, in any one light industrial development.

The proposed Special Exception uses, commercial office (television production) and communication and transmission uses, comply with the planned Business land use designation for the area and are in keeping with the office and light industrial development surrounding the subject property. The proposed expansion of the communication and transmission facilities on the subject property while increasing the overall number of dish antennas will not significantly alter the character or design of the site. The applicant has provided an exhibit depicting the proposed landscaping, which appears to sufficiently buffer and screen the proposed dish antennas from the adjoining properties. Staff recommends that the applicant commit to the proposed landscaping as shown and commit to the long-term maintenance and care of the proposed vegetated buffers to ensure the facility is adequately screened.

ZONING

The property was originally two parcels: Lot 1, which accommodated Discovery's office building and fronts on Terminal Drive, and Lot 56, which fronts on Shaw Road and is where the existing (and proposed) satellites are located. The two parcels were combined through a boundary line adjustment in May 2007. The consolidation of the two lots combined parcels that were covered by different legislative approvals. Prior to the boundary line adjustment, the applicant received a zoning determination that receive-only satellite antennas would be considered an accessory use to the commercial office use on Lot 1. In 2007, after the two lots were consolidated, the applicant applied for and received site plan approval to construct

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ground-mounted receive-only antennas on what had been Lot 56. However, that portion of the property was not subject to the previous SPEX approval for commercial office. It was not included in the 1986 approval of the SPEX 1985-0050; therefore, the site plan was approved in error.

In August 2009, the County informed the applicant that the site plan had been approved in error, and that two new special exception approvals would be necessary pursuant to Section 722.3.2. of the 1972 Zoning Ordinance: one to expand the existing approval for commercial office to cover the entire property, and the other to permit the newly proposed ground-mounted transmission antennas. The applicant responded by filing the current application. During staff review of the application, minor plat changes were identified and the applicant has made those changes. The subject site currently is developed with 54,846 square feet of commercial office and 250 square feet of equipment shed, for an overall FAR of 0.16. The current proposal would add an additional 4,000 square foot building to support the new antennas, and bring the FAR to 0.22. The PD-IP zoning district allows for a FAR of up to 0.4. Staff was initially concerned that approving the application would allow the site to be developed in the future to the maximum FAR permitted for office. Although office is an appropriate use in the location, staff recommends limiting the office permitted to what was originally approved with SPEX 1985-0050, which permitted up to 0.4 FAR on what the former Lot 1. This approval allowed the development of an office building up to 72,824 square feet, or approximately 18,000 square feet of office in addition to the existing building. Staff does not object to allowing the additional office approved with the original SPEX, and is currently working with the applicant to determine the best method of ensuring that the applicant can expand the office use, but is restricted from constructing an office building on the portion of the property that is currently being used for satellites. Conditions 4 and 5 were drafted to address this issue.

TRANSPORTATION

The subject site is served by Shaw Road (Route 636) and Terminal Drive (Route 1005). The section of Shaw Road that runs along the west boundary of the property is currently built as a variable two- to four-lane section (R2/U4) within a variable right-of-way (ROW). The Countywide Transportation Plan calls for Shaw Road to be widened to a four-lane roadway (U4) with left and right turn lanes at major intersections. According to the most recent data provided by VDOT, Shaw Road carries 14,000 vehicles per day. Terminal Drive is a two lane (U2) local secondary road that serves six existing properties and terminates in a cul-de-sac. Staff notes that the segment of Shaw Road between the existing site entrance and the northern property line has not been constructed to its ultimate planned four-lane (U4) section (ROW dedication consistent with the ultimate section (35 feet from the ultimate centerline) has been provided as part of a previous site plan). Currently, there are no funds available for completion of this improvement.

The Applicant's December 15, 2009 letter regarding trip generation indicates that the proposed transmission antennas and support facilities will result in a maximum of six (6) additional employees on site, which equates to an additional 12-18 vehicle trips per 24-hour period. This trip total includes approximately four (4) vehicle trips in both the AM and PM peak hour.

Staff sought clarification about the Applicant's future plans for the area containing the satellite antennas due to concerns about the possible implications (i.e. development potential) associated with the first application (SPEX 2009-0037) that has the potential to allow for office uses to be developed. Should uses other than the antennas and support facility proposed in SPEX 2009-0038 be contemplated on the site, a revised traffic statement/study would need to be provided to assess the potential need for road improvements in the area. In response to staff's concern, the applicant has agreed to a condition of approval specifying that no more than eight ground-mounted transmission antennas will be constructed on the property. That condition, combined with the condition requiring substantial conformance to the plat (which only allows for the additional 4,000 SF equipment shelter to be built in addition to the potential for 18,000 square feet of office) means that any future desire to expand the facility and include other uses would require a subsequent legislative approval, at which time the impacts to the road network would be analyzed and solutions to any traffic impacts would be proposed. This issue is resolved.

D. ZONING ORDINANCE CRITERIA FOR APPROVAL

Section 1211.5 of the 1972 Zoning Ordinance states that: In fulfilling the purposes and intent of this ordinance as set forth in Article 1, the Board of Supervisors, in exercising the powers and duties granted and imposed by the ordinance, shall act in accordance with and shall be guided by the following standards:

Standard: To preserve the agricultural character of the County, and to discourage the inappropriate location of non-farm uses in agricultural areas.

Analysis: The proposed commercial office and transmission satellites are in an appropriate location as the property subject to this application is located in a commercial/light industrial area. The property is not in close proximity to any agricultural uses.

Standard: To conserve the ground water supply in the areas of the County where it is limited.

Analysis: The property is currently served by public sewer and water.

Standard: To prevent high population density on soils that are incapable of providing adequate water supply, or of meeting proper sanitary requirements for sewage disposal.

Analysis: The property is currently served by public sewer and water.

Standard: To protect against the overcrowding of land and undue density of population in relation to the community facilities existing or available.

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- Analysis: The proposal will allow Discovery Communications to expand their operations at an existing facility, which is located in the midst of industrial and commercial facilities. Allowing the expansion of the facility at its current location will protect less developed areas from encroachment.
- Standard: To facilitate orderly highway development and transportation, and lessen traffic hazards and congestion.*
- Analysis: The proposal will not significantly increase the number of vehicular trips currently found on the local road network.
- Standard: To protect residential sections from unnecessary traffic, fire hazards, noise, noxious fumes, or offensive odors and other unwholesome conditions and influences.*
- Analysis: There are no residential areas in close proximity to the property subject to this application.
- Standard: The proposed use at the specified location shall be in harmony with the policies embodied in the adopted comprehensive plan.*
- Analysis: The use complies with the policies in the adopted comprehensive plan, which encourages collocation of telecommunications facilities.
- Standard: The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.*
- Analysis: The use is compatible with the surrounding area, which is zoned PD-IP and has generally developed with industrial and other commercial uses.
- Standard: The proposed use shall be such that it will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the applicable provisions of the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.*
- Analysis: The proposal will be an expansion of the use currently on the site. It is compatible with both the surrounding area and the applicable Plan policies and Ordinance requirements.

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VII. ATTACHMENTS (Unless noted otherwise, attachments are not available electronically but may be obtained from the Department of Planning)	PAGE NUMBER
1. Review Agency Comments	
a. Planning, Comprehensive Planning	A-1
b. Building and Development, Zoning Administration	A-4
c. Office of Transportation Services	A-6
d. Virginia Department of Transportation	A-12
2. Disclosure of Real Parties in Interest	A-13
3. Applicant's Statement of Justification	A-33
4. Applicant's Response to Referral Comments	A-42
5. Statement of Justification Exhibits A-C	Follows A-43
6. Special Exception Plat	