

DISCOVERY PRODUCTIONS GROUP, INC.

STATEMENT OF JUSTIFICATION

I. APPLICATION OVERVIEW

Discovery Productions Group, Inc. (“Discovery” or the “Applicant”) is the owner of approximately 7.86 acres at the intersection of Shaw Road and Terminal Drive (the “Property”). The Applicant is seeking Special Exception (“SPEX”) approval to allow the positioning of ground-mounted satellite antennas and associated infrastructure on the Property, which are associated with the existing Discovery office building at 45580 Terminal Drive. This building accommodates a television production facility and data storage and computer operations center.

Discovery is the world’s number one nonfiction media company, reaching more than 1.5 billion cumulative subscribers in over 170 countries. Discovery currently originates all of its domestic network out of the Sterling facility, which has a full-time staff of over 100 employees.

II. PROPERTY LOCATION

The Property lies within an area developed with flex-industrial and office uses to the east of Route 28 in the Dulles district. It is bounded to the south and west by Shaw Road and to the east by Terminal Drive. To the north lies the Loudoun Station Business Center, which is developed with flex-industrial units. The Property is zoned PD-IP (“Planned Development-Industrial Park”) under the 1972 Loudoun County Zoning Ordinance and is more particularly identified as Tax Map 94((10)), Parcel 1 (MCPI# 033-16-5945). All parcels surrounding the Property are also zoned PD-IP and planned for Business uses in the Loudoun County Revised General Plan.

III. BACKGROUND

Discovery seeks SPEX approval under Section 722.3.2 of the Zoning Ordinance to enable the use of a portion of the Property (previously known as Lot 56) for commercial office uses. Further Discovery also seeks SPEX approval for communications and transmission facilities (also under Section 722.3.2 of the Ordinance) to allow the provision of transmitting ground-mounted satellite antennas on this portion of the Property. The specific SPEX use being requested falls under the category of ‘Public utility, communications and transmission facilities’, however, Discovery is only proposing communications and transmission facilities.

Until May 2007, the Property consisted of two separate parcels; Lot 1, which accommodated Discovery’s building at 45580 Terminal Drive and Lot 56, which was the area currently developed with ground-mounted satellite antennas immediately west of the office building. In May 2007 a boundary line adjustment was granted allowing the consolidation of Lots 1 and 56 to form the area defined above as the Property. However, the consolidation of the two Lots combined parcels that were covered by different legislative approvals.

In 1986, SPEX approval was granted by the Board of Supervisors permitting the use of Lot 1 for commercial offices use (SPEX 1985-00500 Commonwealth Center). This approval did not extend to Lot 56, which was at that time under separate ownership. The special exception use was implemented on Lot 1 and the land used to accommodate Discovery's Sterling facility. Confirmation was subsequently provided by the Zoning Administrator that the Discovery facility constituted a commercial office use and receive-only satellite antennas could be erected on the Property as a use accessory to the approved office use.

As Discovery's operations in Sterling expanded, it acquired the adjacent Lot 56 and consolidated Lots 1 and 56 into one parcel through approval of a boundary line adjustment, (as discussed above). This consolidation was followed by approval of a Site Plan Revision (STPR 2007-0022) in September 2007, permitting the erection of several receive-only, ground-mounted satellite antennas, on the portion of the Property previously known as Lot 56. As discussed above these antennas are considered an accessory use to a commercial office SPEX use. However, as this portion of the Property was not subject to the Commonwealth Center SPEX approval, the antennas should not have been granted STPR approval. Discovery was made aware of this by Zoning Administration Staff in August 2009.

IV. SPECIAL EXCEPTION PROPOSAL

The Applicant is now seeking to bring the Property into conformance with the Zoning Ordinance by requesting a commercial office SPEX use across the portion of the Property not covered by the Commonwealth Center approval (the area previously known as Lot 56). Further, the Applicant seeks SPEX approval to allow the positioning of satellite antennas on the Property that can transmit information, rather than only being able to receive it. As discussed above, these types of antennas are not considered as accessory to a commercial office use and therefore, require SPEX approval under Section 722.3.2 of the Zoning Ordinance. Discovery seeks to provide eight transmitting satellite antennas under this SPEX request (that is, eight antennas in addition to the by-right receive-only antennas permitted on the Property). The sizes of both the by-right and proposed antennas are shown on Exhibit A. To serve these transmitting antennas, the Applicant must also provide a 2,000 square foot building. This structure will be approximately 13 feet in height (please anticipated elevation shown on Exhibit A).

The Applicant anticipates that the proposed antennas and associated building will ultimately be positioned as generally shown on Exhibit B. However, the Applicant requires the flexibility to be able to change the locations of approved and by-right antennas as it develops this layout over the coming years. To enable this, to allow Discovery to continue to meet the demand of its successful operations and to benefit from changes in technology, this application seeks flexibility in the location of satellite antennas erected on the Property. As discussed with Staff at the pre-application conference, the Applicant is, therefore, proposing that all antennas (both the existing by-right antennas and the eight transmitting antennas) and supporting infrastructure, will be positioned within a defined envelope. This defined area is identified on Sheet 4 of the SPEX Plat. Sheet 2 of Exhibit B shows that the required Type 4 Buffer Yard plantings along the Shaw Road property boundary will prevent views of the proposed antennas and building – it is important to note that the antennas and building, as shown on Sheet 1 of Exhibit B, have been included on this graphic behind the required vegetation.

As part of the proposal the Applicant reserves the right to request, at the time of site plan revision, the modification of a portion of the Type 4 Buffer Yard required along the northern Property boundary. As part of the approval of STPR 2007-0022, the Zoning Administrator approved a reduction of the width of a section of the required buffer yard from 20 ft. to 10 ft. (across 270 feet of the 528 foot length of the property boundary). The Zoning Administrator also approved the modification of planting standards within the modified portion of the buffer yard to remove the requirement for the planting of deciduous trees. These modifications were requested to:

- Ensure that obstructions from trees and buildings on adjacent lots are avoided - the antenna erected along the northern Property boundary require very low look angles towards western and eastern satellites (approximately 7-degrees above the horizon) and need to be as close to the northern Property line as possible.
- Provide space to the rear of the antennas to allow for the maneuvering of a lift to allow for maintenance and repairs of the facilities.
- Ensure that branches and falling limbs from deciduous trees do not damage the satellite antennas.

To mitigate the buffer yard modification the Applicant provided approximately 4 evergreen trees and 12 shrubs per 100 linear feet and an 8 foot high stockade fence along the northern Property line. It is also important to note that the Loudoun Station Business Park, to the north of this Property boundary, lies at a much lower elevation. Therefore, the higher elevation of the Property, together with the existing and proposed planting and stockade fence will prevent views into the Property from the north.

The Applicant seeks to reserve the right to request the same modification of the Ordinance requirements at the STPR stage of this project as has already been approved. A copy of the waiver approval letter issued by the Zoning Administrator is attached as Exhibit C.

V. COMPLIANCE WITH THE REVISED GENERAL PLAN

The Loudoun County Revised General Plan (“RGP”) identifies the Property as being planned for Business uses and being within the Suburban Policy Area. The proposal complies with the policies of the RGP, which encourages office uses and light industrial uses in areas designated for Business uses. The proposed use is also governed by the policies of the Strategic Land Use Plan for Telecommunications Facilities (the “Telecommunications Plan”). However, the policies of the Telecommunications Plan do not specifically address the types of ground-mounted satellite antennas proposed by the Applicant and instead focus on communication towers or monopoles and antennas attached to these types of facilities. Notwithstanding the above, the proposal does comply with the underlying intent of the policies included in the Plan.

The Telecommunications Plan discusses the County’s preference for the co-location of telecommunication facilities or their location within area planned and zoned for industrial uses and employment areas. This application seeks to allow antennas to be provided on a property already developed with similar facilities. Further, the Property lies within an area planned for Business uses in the RGP and zoned PD-IP. We, therefore, believe the Property is an ideal location for the proposed antennas.

Another requirement of the Telecommunications Plan is for visual impacts of proposed antennas to be mitigated with screening and design. As confirmed on Sheet 4 of the SPEX Plat, Type 4 buffer planting is required along the Shaw Road Property boundary. As shown on the graphics included as Exhibit B, this planting will provide substantial screening of the proposed antennas. As discussed above, an 8 ft. stockade fence and buffer planting provides screening from properties to the north.

VI. SUMMARY

A portion of the Property is already covered by SPEX approval permitting commercial office and accessory uses. The Applicant seeks to allow these uses across the remainder of the Property. Further, the Applicant seeks the ability to provide ground-mounted satellite antennas on the Property capable of transmitting information (and that are not “receive-only”). Both of these SPEX requests seek uses identified in Section 722.3.2 of the Zoning Ordinance. The proposal is consistent with the land use policies of the RGP and Telecommunications Plan and is in conformance with the requirements of the Zoning Ordinance. Based on the foregoing, the Applicant respectfully requests favorable consideration of the application by Staff and the Board of Supervisors.

MATTERS FOR CONSIDERATION

In response to Section 1211.5 of the 1972 Zoning Ordinance, the following information is offered to address the guiding standards by which the Board of Supervisors will consider this application. The applicable standard is first provided, followed by the relevant information:

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

This application will not adversely impact the agricultural character of the County, nor will it inappropriately locate a non-farm use in an agricultural area. The Property is located in an area long designated for Business uses.

2. *To conserve the ground water supply in the areas of the County where it is limited.*

Any development of the Property will be accompanied by connection to public water and sewer. We therefore anticipate no negative impact to the County's ground water supply.

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

Residential development would not be appropriate on the Property and this application does not include a residential element. The proposed use will not generate a requirement for additional sewage disposal facilities.

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

This application does not include any residential element and will therefore pose no additional burden to local community facilities.

5. *To facilitate orderly highway development and transportation, and lessen traffic hazards and congestion.*

This proposal will not generate a significant number of additional vehicle trips or impact the existing road network.

6. *To protect residential sections from unnecessary traffic, fire hazards, noise, noxious fumes, or offensive odors and other unwholesome conditions and influences.*

The Property is located in an area of the County designated for Business uses and will not generate unnecessary traffic, fire hazards, noise, noxious fumes, or offensive odors and other unwholesome conditions and influences. The Property is not proximate to any residential development.

7. *The proposed use at the specified location shall be in harmony with the policies embodied in the adopted comprehensive plan.*

As stated above, the Property is planned for Business uses in which office and light industrial uses are encouraged. The proposal is also subject to the policies of the Telecommunications Plan, which encourage the co-location of communications facilities and appropriate screening of facilities.

8. *The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.*

The Property is zoned PD-IP under the 1972 Zoning Ordinance. PD-IP districts are intended to contain light and medium industrial uses. Section 722.3.2 of the 1972 Zoning Ordinance also permits commercial office uses and public utility, communications and transmission facilities subject to approval by the Board of Supervisors.

9. *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.*

The proposed uses are entirely consistent with existing development in the surrounding area. The surrounding parcels have been developed with office and flex-industrial uses, which will not be detrimentally affected by the proposed use. Existing and proposed landscaping and fencing will help screen the proposed satellite antennas.

EXHIBIT A

EXHIBIT B

EXHIBIT C