COUNTY OF LOUDOUN

DEPARTMENT OF PLANNING

MEMORANDUM

DATE: January 7, 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**

BACKGROUND

The above-mentioned application was deferred to the January 21, 2010 Planning Commission public hearing at the request of the Applicant. The application had previously been scheduled for the December 17, 2009 Planning Commission public hearing. Please refer to the application materials included with the December 2009 Planning Commission Packet in preparation for the January public hearing. If those materials are no longer available, please contact the Project Manager to request a duplicate copy.

Staff has received additional comments from Building and Development (Zoning) and the County Attorney's office regarding the language of the Conditions of Approval listed in the December 17, 2009 Staff Report. The Conditions of Approval have been revised to reflect the suggested text revisions and the Applicant has agreed to the language of the Conditions as proposed. A copy of the revised Conditions and noted Staff comments have been included as Attachments 1 and 2.

Staff continues to recommend approval of the application with development conditions.

SUGGESTED MOTIONS

1. I move that the Planning Commission forward SPEX 2009-0006, Dulles Industrial Park South, Lot 1, to the Board of Supervisors with a recommendation of approval, subject to the Conditions of Approval dated January 7, 2010, and based on the Findings contained in the December 17, 2009, Planning Commission Public Hearing Staff Report.

OR,

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

OR,

3. I move that the Planning Commission forward SPEX 2009-0006, Dulles Industrial Park South, Lot 1, to the Board of Supervisors with a recommendation of denial.

ATTACHMENTS	PAGE NUMBER
1. Conditions of Approval (Revised) (01-07-10)	A-1
2. Staff Comments	
a. County Attorney (01-05-10)	A-5
b. Building and Development, Zoning (12-17-10)	A-11

SPEX 2009-0006
DULLES INDUSTRIAL PARK SOUTH, LOT 1
CONDITIONS OF APPROVAL
(January 7, 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.

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.*

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schneider, marchant

From: Brown, Ron
Sent: Tuesday, January 05, 2010 11:44 AM
To: schneider, marchant
Subject: Draft Conditions - Dulles Ind Pk S L-1 SPEX09-06
Attachments: Dulles Ind Pk S L-1 SPEX09-06 120909rb.docx

Marchant – Here are the Draft Conditions with my suggested edits. Please call if you have any questions or comments.

Ron x0511

ATTACHMENT 2a

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SPEX 2009-0006
DULLES INDUSTRIAL PARK SOUTH, LOT 1
CONDITIONS OF APPROVAL
(~~December 9~~January 5, ~~2009~~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 ~~for the~~ Sstorage, ~~of~~ bulk gasoline, petroleum products and natural gas, small and large", as ~~defined by~~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, sStorage of distribution vehicles shall not be permitted on the Property within the Special Exception Area.

3. **Hours of Operation.** Activities related to the Uuse 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 ~~permitted~~ 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 ~~or in conjunction with site plan~~ first zoning permit approval for the ~~Property~~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 ~~a Type 2 buffer with supplemental evergreen plantings within the~~ 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 ~~permitted~~ Special Exception use. The size, amount, and species of the ~~supplemental~~ 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 ~~permitted~~ Special Exception use ~~unless~~ 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~~sion shall be made~~ at no public cost ~~to VDOT or the County~~.

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 ~~Route 50 North Collector Road described~~ public street improvements referenced in Condition ~~4~~ 10 above, at no public cost ~~to VDOT or the County~~.

12. **Pump and Haul Facilities.** Pump and haul tanks located on the Property shall be abandoned prior to ~~or in conjunction with~~ first site plan approval for the ~~permitted~~ Special Exception use.

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*

DRAFT

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. ~~or in conjunction with site plan approval for the empty solid waste vehicle and container storage area.~~ 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.

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schneider, marchant

From: Bearer, Nita
Sent: Thursday, December 17, 2009 4:47 PM
To: schneider, marchant
Cc: Seigfried, Marilee; Ferrall, Diane
Subject: SPEX-2006-0006 Dulles Industrial Park South, Lot 1
Attachments: SPEX-2009-0006 COA recommended revisions.doc

Attached are the revisions recommended after review of the draft Special Exception Conditions by Marilee Seigfried, Diane Ferrell and me. Also, please see the following comments:

- The legal advertisement for the Board public hearing should be corrected to remove the Rt.28 Tax District since this site is not located within that taxing district.
- Ensure that the property taxes due are paid prior to Board action since they are identified as unpaid to date.
- As a reminder, Section 6-601(A)(1)(b) requires notification to adjoining counties (Fairfax County) if the subject property is located within ½ mile of the subject property.

Is it the intention of the applicant to provide a type 2 buffer/screen in addition to the evergreen trees? Please note that the type 2 buffer is not required. If it is the applicants intention to provide the type 2 buffer also, Condition 8 should be revised to include it.

Nita Bearer
Planner, Zoning Division
nita.bearer@loudoun.gov
Phone: 571-258-3197
Fax: 703-771-5215

ATTACHMENT 2b

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COUNTY OF LOUDOUN

DEPARTMENT OF BUILDING AND DEVELOPMENT

ZONING ADMINISTRATION REFERRAL

DATE: December 17, 2009

FROM: Nita Bearer, Zoning Planner

THRU: Marilee Seigfried, Deputy Zoning Administrator

RE: Draft SPEX Conditions of Approval
Dulles Industrial Park South, Lot 1 – SPEX-2006-0006

Following are recommended revisions after review by Marilee Seigfried, Diane Ferrell, and me.

(Deleted text is shown crossed out and revised text is shown underlined)

1. Throughout the text, change "permitted use" to "special exception use."

2. Revise Condition #1 as follows:
The proposed 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, dated February 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 ~~Property~~ applicant from the obligation to comply with and conform to any other Zoning Ordinance, Codified Ordinance, or applicable regulatory requirement.

3. Revise Condition #2 as follows:
   (a) Approval of the Special Exception grants approval for the bulk gasoline, petroleum products and natural propane gas, as defined by the Revised 1993 Loudoun County Zoning Ordinance, in the MR-HI (Mineral Resource – Heavy Industrial) Zoning District.

   (b) This Special Exception is limited to permit two 30,000-gallon propane storage tanks as shown on the Special Exception plat.

   (c) Storage of distribution vehicles shall not be permitted on the Property.

4. In the first sentence of Condition #5, delete "permitted" and replace with "proposed".

5. Add "within the special exception area" to the end of the first sentence of Condition #6.

6. Removed "or in conjunction with" from the first sentence of Condition 7.

7. Revise Condition #8 as follows:
The applicant shall install an evergreen screen in the location shown on the special exception plat. 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 to the maximum extent possible. Landscaping materials within the evergreen screen shall be maintained in good condition by the property owner or appropriate owners association for the life of the planted materials. The landscaping described herein shall be bonded prior to site plan approval.

8. Revise Condition #10 as follows:
Upon written request by the Virginia Department of Transportation (CDOT) or the County, the applicant shall dedicate <u>to the County</u> five feet (5') of right of way along the Property's frontage to Wade Drive (Route 872) for construction of the planned Route 50 North Collector Road. Such ~~provision~~ <u>dedication</u> shall be made at no cost to VDOT or the County.

9. Condition 11 should be revised to reference "Condition 10" instead of "Condition 4."

10. Revise Condition 12 as follows:
Pump and haul tanks located on the Property shall be abandoned prior to ~~or in conjunction with~~ <u>the</u> first site plan approval for the special exception use.

11. Revise the second sentence in the Note as follows:
This contribution shall be made prior to ~~or in conjunction with site plan~~ the first zoning permit ~~approval~~ <u>issuance</u> for the ~~empty solid waste vehicle and container~~ <u>propane</u> storage <u>tank(s)</u>.