

LINOWES
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December 24, 2013

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via Hand Delivery

Ms. Bridget Donnell Newton, Mayor
& Members of the City Council
City of Rockville
111 Maryland Avenue
Rockville, Maryland 20850

Re: Text Amendment Application – Amendment to Article 16, Section 25.16.03.d of the Zoning Ordinance to Add a Separate Parking Standard for Self-Storage Warehouse Use

Dear Mayor Newton and Members of the City Council:

On behalf of Siena Corporation (“Siena”), owners and developers of multiple ezStorage self-storage facilities in the region, and at the recommendation of the City Attorney, we are submitting the attached Text Amendment Application (the “Application”) to amend Article 16, Section 25.16.03.d of the Zoning Ordinance to add a separate parking standard for the self-storage warehouse use (the “Proposed Amendment”) pursuant to Section 25.06.02.b.1 of the Zoning Ordinance. Also attached is a check in the amount of \$3,000.00 for the Application filing fee. As you are aware from the December 9th public hearing on Text Amendment Application TXT2014-00236 (the “Comprehensive Amendment of the Zoning Ordinance”), the City Attorney raised due process issues with adding the Proposed Amendment to the Comprehensive Amendment of the Zoning Ordinance. Accordingly, this separate Application is being submitted to resolve the due process issues raised.

By way of background, Siena is the contract purchaser of a property located in the southwest quadrant of the intersection of Taft Street and First Street (at 1175 1st Street) in the Southlawn Office and Industrial Center (the “Property”). The Property consists of approximately 1.39 acres of land that is zoned Light Industrial (IL), and it is currently improved with a vacant warehouse that was previously used for the distribution of baked goods. Having agreed to acquire the Property out of bankruptcy proceedings (which proceedings involve other properties outside of the City as well), Siena has a limited period of time before determining whether to proceed to closing. At this point, the decision will largely hinge on whether the Proposed Amendment will be approved and adopted by the Mayor & Council.

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In October, we met with Planning Staff as part of Siena's due diligence efforts to identify potential land use and zoning issues related to the potential location of a 109,808-square-foot ezStorage self-storage facility (with 900 storage units, a 1,100 square foot office, and a dwelling unit for a 24/7 resident manager) on the Property. Upon discovering that the required parking for this use (based on general warehouse use) was far in excess of actual demand or need (110 spaces required versus 15 spaces needed) and that there was no ability to seek a waiver, and with the Comprehensive Amendment of the Zoning Ordinance already underway, Planning Staff suggested that we ask the Planning Commission and Mayor & Council to add a separate parking standard for the self-storage warehouse use. Siena then sought and received a short extension from the seller on the purchase contract in order to pursue adding the Proposed Amendment to the Comprehensive Amendment of the Zoning Ordinance as suggested by Planning Staff.

On November 13, 2013, at the Planning Commission public hearing on the Comprehensive Amendment of the Zoning Ordinance, Siena requested the Proposed Amendment and recommended using the standard used by Montgomery County (3 spaces per 1,000 square feet of gross floor area of office space, 1 space per employee and 2 spaces for the resident manager) or creating its own standard. (Our written request to the Planning Commission, which is contained in the public record for the Comprehensive Amendment of the Zoning Ordinance, is attached for your reference.) The Planning Commission agreed a separate parking standard for the self-storage warehouse use should be created and directed Staff to recommend an appropriate parking standard for the self-storage warehouse use. In response, Staff examined the self-storage warehouse parking standards of several jurisdictions (including Montgomery County and City of Gaithersburg) and recommended the following parking standard: "3 spaces per 1,000 square feet of area devoted to office uses, plus 2 spaces for a resident manager, plus 1 space per 2 employees beyond the resident manager." On November 20, 2013, the Planning Commission transmitted their recommendation to the Mayor & Council to approve the Comprehensive Amendment to the Zoning Ordinance with two recommended revisions, which included the Proposed Amendment. The Proposed Amendment in the attached Application reflects Staff's recommended parking standard for the self-storage warehouse use.

Then, on December 9, 2013, at the public hearing before the Mayor & Council, the City Attorney raised due process issues regarding adding the Proposed Amendment to the Comprehensive Amendment of Zoning Ordinance, which was totally unexpected as there were no objections by the City Attorney prior to this time. In order to sort out and understand the issues raised, Siena had to request another short extension from the seller. Based on discussions with the City Attorney and Staff, we understand that the due process issues raised will be resolved through submission of this separate Application.

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In order to pursue this current Application, Siena had to request yet another short extension from the seller and will run out of extensions. Accordingly, we respectfully request that you schedule the public hearing at the earliest possible date (which we understand is January 27th), and approve and adopt the Proposed Amendment as soon as possible after the public hearing.

Thank you for your consideration of our request. Should you have any questions or need anything else, please do not hesitate to contact us.

Sincerely yours,

LINOWES AND BLOCHER LLP

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Attachments

cc: Mr. Craig B. Pittinger (Siena Corporation)
Mr. Douglass A. Barber (City Clerk)
Ms. Susan Swift (Planning Director)
Mr. James Wasilak (Chief of Planning)
Mr. Deane Mellander (Zoning Administrator)
Mr. Bobby Ray (Planner)
Mr. Jeremy Hurlbutt (Planner)
Ms. Barbara B. Matthews (City Manager)
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