

Exhibit No. 1
TXT2015-00239
Self-Storage
Public Hearing: 12/15/14

Statement by Kashi Way

Rockville Planning Commission Meeting, December 10, 2014

Good evening. My name is Kashi Way and I live at 1020 Neal Drive. Thank you for giving me the opportunity to speak this evening. I have come tonight to support Councilmember Feinberg's proposed zoning text amendment relating to self-storage buildings near public schools.

I think this is a very important citywide issue. While I have never rented a self-storage unit myself, I am familiar with how they operate. For individual customers, most of the stored items are transported in personal vehicles or U-Haul-style trucks. In this way, it is a similar method of transport to the one many people use to move between small apartments or in and out of college dorm rooms.

Speaking from personal experience with those activities, I can tell you that it is not easy to drive a U-Haul truck if you've never done it before. Backing up a large vehicle using only side mirrors is challenging for those with little or no experience. Similarly, driving an overstuffed sedan or SUV, where the back window is blocked and the rear view mirror obscured is also dangerous.

Placing such vehicles and trucks in close proximity to school children and school buses is a recipe for disaster. Requiring a certain distance between self-storage buildings and schools therefore makes perfect sense.

In addition, the proposed zoning text amendment is similar to at least one other local rule. In general, Montgomery County will not issue a liquor license to any bar or establishment that is less than 300 feet from an elementary or secondary school or government-sponsored youth

center. I can imagine several reasons for this rule, but I suspect that at least one is because of the dangers associated with alcohol-impaired drivers. Of course, I am not suggesting that self-storage users are drunk drivers, only that pedestrian and vehicular safety are particularly important near schools. Once again, I commend Councilmember Feinberg for her proposal and I hope all of you will support it.

Before I conclude my remarks, I want to point out what may be an error, or at least an ambiguity, in the zoning text amendment. The City staff's Attachment 2 illustrates the locations of the Montgomery County Public Schools and the affected zoning areas. However, the text of the amendment itself says simply "public schools," which theoretically could include a post-secondary public school such as Montgomery College. Having used Google Earth's measurement tool, I believe that Montgomery College is within 250 feet of an affected zone. I am not sure whether this was intentional or not, but clarification may be helpful on this point.

Thanks again for giving me this opportunity to express my views.

Exhibit No. 2
TXT2015-00239
Self-Storage
Public Hearing: 12/15/14

December 15, 2014

Rockville City Hall
111 Maryland Avenue
Rockville, MD 20850
Attn: Mayor and City Council

Re: Recusal of Councilmember Thomas Hampson Moore

Good evening, Mayor Newton, City Councilmembers, City Staff, ladies and gentlemen. My name is Drew Powell. I reside at 1035 Carnation Drive, Rockville.

Whereas a motion was made and seconded during the November 10, 2014 Rockville Mayor and Council meeting to place a discussion and possible adoption of a Resolution concerning the recusal of Rockville elected officials on a future agenda,

Whereas such recusals would be required in the event that a sitting City of Rockville elected official accepts any benefit in the form of a gift, compensation or political contribution from a business concern or their representatives, that elected official will be expected to recuse themselves from any and all legislation, which directly influences the outcome of decisions affecting that business concern. These legislative decisions may take the form of zoning text amendments, zoning map amendments, local map amendments and zoning exceptions, as well as program or policy implementation or modification or any other legislation, which may further the interests of a business concern furnishing a gift, providing compensation or making a political contribution to an elected official.

Whereas Councilmember Thomas Hampson Moore has made numerous statements himself concerning the strengthening of ethical standards for City of Rockville elected officials,

Whereas Robert Dalrymple, an attorney with the Bethesda firm of Linowes and Blocher, LLP is actively representing the interests of Siena Corporation,

Whereas Siena Corporation has a substantial financial interest in the outcome of this body's vote concerning Zoning Ordinance Text Amendment TXT2015-00239,

And whereas Robert Dalrymple, an attorney with the Bethesda firm of Linowes and Blocher, LLP contributed the sum of \$100 on May 7, 2014 to the still active County Council campaign account of "The Friends of Tom Moore,"

It is respectfully requested and expected that Councilmember Thomas Hampson Moore formally recuse himself from discussion and subsequent voting activity concerning Zoning Ordinance Text Amendment TXT2015-00239 in order to conform to the aforementioned and to remove any and all perceptions of potential impropriety. Thank you. ■

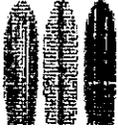
Most sincerely,



Drew Powell

From the desk of Drew Powell
1035 Carnation Drive • Rockville, MD 20850
301-520-2642 • drewpowell@verizon.net

Exhibit No. 3
TXT2015-00239
Self-Storage
Public Hearing: 12/15/14



To:
Cc:
Bcc:
Subject: Fw: ZTA TXT2015-00239
From: Brenda Bean/RKV - Monday 12/15/2014 02:15 PM

From: Seheno Reilly <sehenodan@gmail.com>
To: mayorandcouncil@rockvillemd.gov
Date: 12/15/2014 12:11 PM
Subject: ZTA TXT2015-00239

Dear Mayor,

My Daughter is a 2nd Grade at Maryvale and wanted to share my voice. Please keep self-storage warehouse away from schools by making it a conditional use that it NOT be located within 250 feet of a school.

Thank you for your continuing Support on this.

Happy Holiday!!!

Seheno Reilly

Parent of Maryvale Student

sehenodan@gmail.com

Exhibit No. 4
TXT2015-00239
SELF STORAGE
Public Hearing: 12/15/14
- - - - -



ZTA TXT2015-00239
David Cassidy
to:
mayorandcouncil
12/15/2014 01:12 PM
Hide Details
From: David Cassidy <soc.dec@gmail.com>

To: mayorandcouncil@rockvillemd.gov

History: This message has been replied to.

To whom it may concern,

Speaking as a concerned parent of a student at Maryvale elementary school I am asking that the city council not allow the EZ storage to be allowed to be put there. I know we can't bubblewrap our children to protect them from lifes everyday trials but I, along with a good many other community members, believe that a facility such as the EZ storage potentially puts our children in harms way. There are other places around the city that can accommodate this business, let them go there.

Sincerely,

Dave Cassidy
USN SEAL Retired

Exhibit No. 5
TXT2015-00239
Self-Storage
Public Hearing: 12/15/14



Re: ZTA TXT2015-00239

Susan Adams

to:

mayorandcouncil

12/15/2014 02:09 PM

Hide Details

From: "Susan Adams" <susandawna@comcast.net>

To: <mayorandcouncil@rockvillemd.gov>

Dear Mayor Newton and City Council members,

I am writing to ask for your support to keep self-storage warehouse away from schools by making it a conditional use that it NOT be located within 250 feet of a school. As a parent of a Maryvale student, I am concerned about the safety of students as they walk past the building and for the potentially hazardous and dangerous materials that would be stored there. In addition there would be an increase of traffic to the area with would be detrimental to the students.

Thank you for your support.

Susan Adams

1010 Paul Drive, Rockville, MD

LINOWES
AND | BLOCHER LLP
ATTORNEYS AT LAW

December 9, 2014

Bob Dalrymple
bdalrymple@linowes-law.com
301.961.5208
Yum Yu Cheng
ycheng@linowes-law.com
301.961.5219*Via E-mail & Hand Delivery*Mr. Don Hadley, Chairman
and Members of the Planning Commission
City of Rockville
111 Maryland Avenue
Rockville, Maryland 20850-2364Re: Opposition to the Proposed Zoning Text Amendment TXT2015-00239 for
Self-Storage Facilities ("Proposed Text Amendment"); Impact on the Approval of the
ezStorage Site Plan (STP2014-00208) for 1175 Taft Street (the "Property")

Dear Chairman Hadley and Members of the Planning Commission:

On behalf of Rockville North Land LLLP, the owner of the Property that recently received site plan approval of an ezStorage self-storage facility located in the Light Industrial (I-L) Zone within 210 feet of Maryvale Elementary School, we strongly oppose the Proposed Text Amendment. The Proposed Text Amendment, if adopted, would remove "self-storage warehouse" from the "service industrial" use class and create a separate use class for "self-storage warehouse" to be permitted only as a conditional use in the I-L, I-H, MXE, and MXB Zones with a conditional requirement that such use not be permitted on a lot within 250 feet of a public school. Although the Proposed Text Amendment has been drafted to apply to four different zones that currently permits the self-storage warehouse use in the City, its only impact as intended is to prevent the construction of the ezStorage self-storage facility that this Planning Commission approved at the original public hearing on September 10, 2014 and then re-approved at the reconsideration hearing on November 12, 2014. We urge the Planning Commission not to support the Proposed Text Amendment for the following reasons (discussed in more detail below):

(1) the Proposed Text Amendment (if adopted) would be fundamentally unfair and illegal, violating the prohibition against "special laws" under the Maryland Constitution by removing "self-storage warehouse" from the "service industrial" use class and burdening this particular member of the use class with an arbitrary requirement that does not serve a legitimate public purpose and is not justified by any supporting facts or evidence;

(2) the Proposed Text Amendment (if adopted) would make the approval of the ezStorage Site Plan ineffective and render the lengthy and costly site plan process



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meaningless, thereby undermining the Planning Commission's authority and ability to administer the site plan process intended to help assure the health and welfare of citizens, achieve high quality development that complies with applicable regulations of the City Code, and address the needs of the surrounding community; and

(3) the Proposed Text Amendment (if adopted) would nullify the City's prior series of actions to support the ezStorage self-storage facility through lowering the required parking standard for the use and approving its site plan, and send a signal to the public that the City cannot be trusted or relied upon to uphold its own laws and regulations.

Alternatively, if the Planning Commission decides to support or comment on the Proposed Text Amendment, we respectfully request that you recommend inserting language that would exempt application of the Proposed Text Amendment to approved site plans.

1. The Proposed Text Amendment (if adopted) would be fundamentally unfair and illegal, violating the prohibition against "special laws" under the Maryland Constitution.

Article III, section 33 of the Maryland Constitution prohibits the enactment of "special laws," which have been characterized as legislation that relates to particular persons or things of a class. *Cities Service Co. v. Governor*, 290 Md. 553, 567 (1981). Other relevant considerations include whether the legislation is intended to "burden a particular member or members of a class instead of an entire class," as well as the "substance and 'practical effect' of an enactment." *Id.* at 569. In the instant case, the Proposed Text Amendment (if adopted) would remove "self-storage warehouse" from the "service industrial" use class and burden this member of the use class with an arbitrary conditional requirement that does not serve a legitimate public purpose and is not justified by any supporting facts or evidence. Although the Proposed Text Amendment has been drafted to remove self-storage warehouse use from the class of the "service industrial" use permitted in four different zones in the City, its only impact as intended is to prevent the construction of the ezStorage self-storage facility that this Planning Commission re-approved less than a month ago on November 12, 2014. The Proposed Text Amendment was introduced on November 10, 2014, a week after Councilmember Feinberg introduced a moratorium to specifically stop the ezStorage project in response to concerns raised by citizens who opposed the project, and then withdrew it after receiving advice from the City Attorney.¹ The timing of the introduction of the Proposed Text

¹ The video of the discussion of the moratorium by the Mayor and Council, and the City Attorney can be viewed on the City's website under Agenda 19 of the Mayor and Council meeting held on November 3, 2014.

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AND BLOCHER LLP
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Amendment and the special conditional requirement, which ensure its practical application solely to the ezStorage site, can certainly be characterized as a prohibited special law.

As discussed in more detail in the attached Land Planner Report prepared by Perry Berman, the conditional requirement of 250 feet between a self-storage warehouse use and a public school contained in the Proposed Text Amendment is arbitrary and drafted specifically to stop the ezStorage project. There are no supporting facts or evidence to justify the Proposed Text Amendment. Before the Mayor and Council authorized the filing of the Proposed Text Amendment on November 10, 2014, Councilmember Moore even stated that he had not seen "any hard facts to suggest this kind of step is justified" and that the Proposed Text Amendment "would specifically block a pending application" (referring to the ezStorage Site Plan), which does not serve a legitimate public purpose. As discussed in Mr. Berman's report, there are no local, state, or federal standard for the 250 feet distance between a self-storage warehouse use and a public school. In fact, based on his review of 16 nearby jurisdictions, none has such a standard in equivalent light industrial zones that all permit the "self-storage warehouse" by right. Furthermore, the history of the zoning and the regulation of the "self-storage warehouse" use described in the Staff Report, dated December 3, 2014, shows that the "self-storage warehouse" use has been a permitted use (versus a conditional use) in the City's light industrial zone since 1956 (approximately 58 years) and the City has reconfirmed the permitted nature of the "self-storage warehouse" use during its comprehensive rewrite of the Zoning Ordinance in 2008 and then again during the comprehensive revisions and corrections to the Zoning Ordinance in 2011 and earlier this year. Moreover, the "self-storage warehouse" use does not have a greater impact (i.e., traffic, activities, noise, odor, height, mass, etc.) than other permitted industrial and commercial uses on a nearby school, and therefore, singling out the "self-storage warehouse" member from the "service industrial" use class for a more burdensome treatment would be fundamentally unfair and illegal, violating the prohibition against "special laws" under the Maryland Constitution. Accordingly, the Planning Commission should not support an unfair and illegal Proposed Text Amendment.

2. The Proposed Text Amendment (if adopted) would make the approval of the ezStorage Site Plan ineffective and render the lengthy and costly site plan process meaningless, thereby undermining the Planning Commission's authority and ability to administer the site plan process for its intended purposes.

As discussed in the Land Planner Report, the intended purposes of the development review process are to help assure the health and welfare of citizens, achieve high quality development that complies with applicable regulations of the City Code, and address the needs of the



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surrounding community. The December 3, 2014 Staff Report states that the Proposed Text Amendment was authorized "in response to concerns raised by citizens that development of a proposed self-storage warehouse would create a danger to children attending Maryvale Elementary School." This specific issue was extensively discussed, debated, and addressed throughout the entire site plan process, which allowed citizens to provide input at a pre-application meeting, a post-application meeting, additional community meetings (not required), and at two separate lengthy public hearings before the Planning Commission (the original hearing on September 10, 2014 and the reconsideration hearing on November 12, 2014).

As mentioned in the Land Planner Report, in order to approve a site plan application, Section 25.07.01.a.3 of the Zoning Ordinance requires the Planning Commission to make seven specific findings, including that the application will not (i) adversely affect the health or safety of persons residing or working in the neighborhood of the proposed development; and (ii) be detrimental to the public welfare or injurious to property or improvements in the neighborhood, which deal with the health and safety concerns the citizens raised before the Planning Commission and the Mayor and Council that led to the Proposed Text Amendment. To make all the findings, the Planning Commission must evaluate the impact of a proposed use on the surrounding neighborhood, traffic safety, vehicle and pedestrian circulation, master plan recommendations, zoning ordinance requirements and development standards (including setbacks and buffering requirements), adequate public facilities standards, subdivision regulations, landscaping guidelines, environmental requirements and guidelines, sediment and stormwater management, lighting, and building design. In addition, Section 25.12.03 of the Zoning Ordinance provides that "[u]ses [in the I-L Zone] are subject to applicable conditions of site plan approval", which means that the Planning Commission has the authority to impose conditions of approval to provide the necessary protection from the potential impact of a proposed use, including a self-storage warehouse.

The Planning Commission made all the necessary findings to approve the ezStorage Site Plan each time after consideration of the Planning Staff's analysis and recommendation of approval,² and after two separate lengthy public hearings during which issues, including potential impact on Maryvale Elementary School and students, were extensively and thoroughly vetted. According to the Letters of Approval dated September 17, 2014 and

² See Staff Reports dated September 3, 2014 and November 5, 2014 contained in the public record of the ezStorage Site Plan.

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 and Members of the Planning Commission

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November 20, 2014³ (attached to the Land Planner Report as Exhibit A and Exhibit B, the Planning Commission found that the nearby residential area will neither be negatively affected by the proposed self-storage warehouse use nor affect the health or safety of persons residing or working in the neighborhood, which includes the school and students. Planning Staff also noted in its Staff Report dated September 3, 2014 that the proposed self-storage facility would improve the Property "by removing a building that has been vacant for over a year and is starting to become a blight on the community, as it is beginning to be used as a dumping ground" and by increasing the sidewalk width to allow pedestrians and bicyclists more room to move across the property frontage. In addition, the Planning Commission found that the proposed site improvements will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood by providing additional buffers between the self-storage facility and surrounding residential areas, which include Maryvale Elementary School. To address the potential impact of the proposed self-storage facility, the Planning Commission imposed 19 conditions of approval, which included conditions relating to the safety of pedestrians (particularly students walking to and from Maryvale Elementary School)⁴ during construction and providing a fence along the length of the widened sidewalk on First Street to create a very secure pathway.⁵

The Proposed Text Amendment, if adopted in its current form, would make the approval of the ezStorage Site Plan ineffective and render the lengthy and costly site plan process meaningless, thereby undermining the Planning Commission's authority and ability to administer the site plan process for the intended purposes discussed above. Approval of this Proposed Text Amendment would signal to the citizens that if they are dissatisfied with a decision made by the Planning Commission, they can simply lobby the Mayor and Council to introduce and adopt a law that overturns the decision without going through the established appeal process set out in the City Zoning Ordinance. Accordingly, we urge the Planning Commission not to recommend approval of this Proposed Text Amendment in order to protect the effectiveness of the ezStorage Site Plan approval, the integrity of the site plan process, and the Planning Commission's authority and ability to administer the site plan process for its intended purposes.

³ The November 20, 2014 Letter of Approval superseded the September 17, 2014 Letter of Approval, but both letters essentially have the same findings with the November 20, 2014 Letter of Approval containing clarifications regarding the resident manager unit and providing a fence along the length of First Street.

⁴ See Condition No. 16 of the November 20, 2014 Letter of Approval.

⁵ See Condition No. 13 of the November 20, 2014 Letter of Approval.

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3. The Proposed Amendment (if adopted) would nullify the City's prior series of actions to support the ezStorage self-storage facility through lowering the required parking standard for the use and approving its site plan, and send a signal to the public that the City cannot be trusted or relied upon to uphold its laws and regulations.

As part of the due diligence conducted prior to purchasing the Property, Siena Corporation ("Siena")⁶ came to the City to confirm the self-storage warehouse use was permitted in the I-L Zone and obtain assurances that the proposed project could comply with all applicable City laws and regulations. During the course of discussion with City Staff, it was identified that the applicable parking requirement was too high for the self-storage warehouse use. City Staff advised that this issue could be addressed through the creation of a separate lower parking standard as part of the comprehensive amendment to the Zoning Ordinance in Text Amendment No. TXT2014-00236, but was subsequently advised by the City Attorney to pursue a separate text amendment (TXT2014-00237), which Siena did after receiving support from City Staff, Planning Commission, and Mayor and Council at the public hearing for the comprehensive amendment to the Zoning Ordinance.

Siena appeared before this Planning Commission and then the Mayor and Council at two separate public hearings (December 9, 2013 for TXT2014-00236 and January 27, 2014 for TXT2014-00237), requesting a separate lower parking standard for the self-storage warehouse use in order to facilitate the development of the ezStorage self-storage facility. At each appearance, Siena described the Property, the specific size of the proposed self-storage facility and its components, and the parking needs for such a development. In considering the text amendment for a separate lower parking standard, the Mayor and Council decided the granting of the text amendment "would promote the health, safety, and welfare of the citizens of the City of Rockville."⁷ The ordinance approving the text amendment was adopted by the Mayor and Council with full knowledge that Siena was relying on this change in the parking standard to acquire the Property and pursue the necessary approvals to construct an ezStorage self-storage facility on the Property.

Siena proceeded through the site plan process, including meeting with City Planning Staff as well as meeting with the community in a pre-application meeting, a post-application meeting, and additional community meetings (not required) with PTA representatives and residents to address their concerns. The Planning Commission held two public hearings on the site plan

⁶ Siena Corporation later formed the entity Rockville North Land LLLP to take title to the Property.

⁷ See Ordinance No. 03-14.

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(the original public hearing on September 10, 2014 and the reconsideration hearing on November 12, 2014) when every imaginable issue, including the potential impact on the school and students, was discussed, debated, and vetted. At the conclusion of each hearing, the Planning Commission approved the site plan after considering the City Planning Staff Report and recommendation of approval, and the testimony and evidence presented by Siena and citizens who opposed the project.

Siena relied on the integrity of the City's laws and regulations to acquire the Property and in good faith, proceeded through the site plan process. The Proposed Text Amendment, if adopted, would undo everything Siena invested significant time and resources to achieve and nullify the City's prior series of actions to support the ezStorage self-storage facility (including lowering the required parking standard and approving the site plan). Adoption of the Proposed Text Amendment would send a signal to the public that the City cannot be trusted or relied upon to uphold its own laws and regulations. Accordingly, the Planning Commission should not support or recommend approval of this Proposed Text Amendment.

Alternatively, if the Planning Commission decides to support or comment on the Proposed Text Amendment, we respectfully request that you recommend inserting language that would exempt application of the Proposed Text Amendment to approved site plans.

Thank you for your consideration of our comments. We will be at the December 10th Planning Commission meeting to testify against the Proposed Text Amendment. We will be available to answer any questions you may have.

Sincerely yours,

LINOWES AND BLOCHER LLP

C Robert Dalrymple

C. Robert Dalrymple

yum yu cheng

Yum Yu Cheng

Enclosures

**L&B 4459919v5/08973.0016

LINOWES
AND **BLOCHER LLP**
ATTORNEYS AT LAW

Mr. Don Hadley, Chairman
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cc: Ms. Susan Swift, City of Rockville
Mr. Deane Mellander, City of Rockville
Mr. Andrew Gunning, City of Rockville
Mr. James Wasilak, City of Rockville
Mr. Bobby Ray, City of Rockville
Debra Daniel, Esq., City of Rockville
Marcy Waxman, Esq., City of Rockville
Mr. Craig Pittinger, Siena Corporation
Mr. Perry Berman, Scheer Partners
Ms. Gabrielle M. Duvall, Esq., Linowes and Blocher LLP



City of
Rockville
Get Into It

111 Maryland Avenue | Rockville, Maryland 20850-2364 | 240-314-5000
www.rockvillemd.gov

September 17, 2014

Craig Pittinger
Rockville North Land LLP
c/o Siena Corporation
8221 Snowden River Parkway
Columbia, Maryland 21045

Re: Site Plan Application STP2014-00208, approval for the construction of a 900 unit self-storage warehouse at 1175 Taft Street.

Dear Mr Pittinger,

At its meeting of September 10, 2014, the City of Rockville Planning Commission reviewed and conditionally approved the above-referenced Site Plan, based on the findings contained in this letter. This constitutes Site Plan approval for the construction of a new 109,764 square foot, 4-level, 900-unit self-storage warehouse building, 17 surface parking spaces with 1,100 square feet of office and a conditionally approved residential manager unit, pursuant to Sec.25.20.02.d of the Zoning Ordinance. .

Approval of STP2014-00208 is subject to full compliance with the following conditions:

Planning

This approval is granted conditionally due to the inability to make a determination that public facilities are adequate to support the development, as required by Chapter 20 of the Zoning Ordinance ("Adequate Public Facilities") and the City's Adequate Public Facilities Standards (Resolution 13-13 or as amended). Specifically the capacity of Maryvale Elementary School, located in the Rockville High School cluster, which serves the subject location, exceeds the 110 percent of program capacity within the 2-year period specified by the City's Adequate Public Facilities Standards. Therefore the residential component of the conditionally approved project is placed in the queue until such time as a determination of adequacy with the Adequate Public Facilities Ordinance can be made, or the conditional approval

- a. The approval allows for one Resident Manager Unit to be built within the EZ Storage self-storage warehouse. However, as noted above, this space

Mayor Bridget Donnell Newson | Councilmembers Beryl L. Felhberg, Tom Moore, Virginia D. Onley, Julie Palakovich Carr
City Manager Barbara B. Matthews | Acting City Clerk Sara Taylor-Ferrell | City Attorney Debra Yerg Daniel

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cannot be occupied as a residential unit nor can building permit or occupancy permit be issued for this interior space as a residential unit, until school capacity is determined.

2. Submission, for approval of the Chief of Planning, of twelve (12) copies of the site plan (on sheets no larger than 24 inches by 36 inches) to be submitted prior to submission of a building permit.
3. Submission, for approval of the Chief of Planning, of twelve (12) copies of the landscape, and architectural plans (on sheets no larger than 24 inches by 36 inches) to be submitted prior to submission of a building permit.
4. Submission, for the approval of the Planning Commission, of a Final Record Plat to record the property as a whole record lot prior to issuance of the building permit.

Department of Public Works (DPW)

5. Comply with conditions of the Water and Sewer Authorization Letter dated August 30, 2014.
6. Comply with conditions of the Development SWM Concept Approval Letter dated August 28, 2014.
7. Comply with conditions of the Safe Conveyance Approval Letter dated August 28, 2014.
8. Comply with conditions of the Preliminary Erosion and Sediment Control Letter dated August 28, 2014.
9. Submission, for review, approval, and permit issuance by DPW, of the following detailed engineering plans, studies and computations, appropriate checklists, plan review and permit applications and associated fees. The following plans should be submitted on 24"x36" sheets at a minimum scale of 1"=30' unless otherwise approved by DPW. The Public Works Plan must be submitted on City base sheet, all others may utilize non-City base sheet.
 - a. Stormwater Management (SWM) for on-site stormwater management;
 - b. Sediment Control Plans (SCP) for all disturbed areas;
 - c. Public Improvement (PWK) including all work proposed within the public rights-of-way of Taft Street, First Street and any existing or required storm drain, water and/or sewer easements. Submission must include Maintenance of Traffic, Striping and Signing, and Street Tree and Lighting Plan.

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10. Submission, for review and approval by the City Attorney's office prior to DPW permit issuance, all necessary deeds, easements, dedications, and declarations. Drafts of the required documents, with the exception of SWM easements and agreements which can be included at second submission, must be included with the initial submission of the PWK package and must be recorded prior to issuance of DPW permits, unless otherwise allowed by DPW.
11. Post sureties for all permits based on the approved construction estimate in a format acceptable to the City Attorney. Approval is coordinated through DPW staff.
12. Payment of all required on-site and off-site monetary contributions for Stormwater Management must be paid prior to issuance of SMP.

Traffic/Pedestrian circulation and Traffic Mitigation

13. All internal traffic control devices (i.e. signs, marking and devices placed on, over or adjacent to a roadway or walkway) to regulate, warn or guide pedestrians and/or vehicular traffic shall comply with the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD). The signing and pavement marking plans shall be submitted to DPW and approved by the Chief, Traffic and Transportation Division. (This plan shall be approved and included in the signature set)
14. The applicant shall provide 1 bicycle rack (2 short-term spaces) and 3 bicycle lockers (6 long-term spaces). A locked and covered bicycle room with racks or a bicycle locker is required for long-term storage. Short-term spaces are considered to be an inverted "U" bicycle rack, mounted in-concrete, and must be spaced four feet apart. These spaces shall be provided at a safe and secure location approved by DPW during the detailed engineering stage. Bike lockers and racks must be installed prior to issuance of the occupancy permit.
15. Submit for review and approval by the DPW and school's safety officials, a phasing plan for pedestrian access during the construction period. The pedestrian access plan shall include, but not be limited to, the methods of maintaining pedestrian safety and access on the existing sidewalks and existing routes, the closing of sidewalks for work in the streetscape zone, and pedestrian detours, as well as efforts to minimize closure of sidewalks. During sidewalk closures the applicant will be required to provide shuttle service, additional crossing guard(s), or escorts for students in route to Maryvale Elementary School. Alternatively, the applicant can restrict the closing of the sidewalk to times when school is not session. This plan shall be approved prior to issuance of any DPW permit.
16. The applicant shall pay the County's Development Impact Tax, as applicable, subject to allowable credits allowed by Montgomery County, prior to issuance of the

Craig Pittinger
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building permit. The applicant shall submit a receipt of payment to Inspection Services and Traffic & Transportation Division prior to issuance of the building permit.

Forestry

17. In accordance with the requirements of the Forest and Tree Preservation Ordinance, the applicant shall submit for review and approval a Final Forest Conservation Plan (FCP) and obtain a Forestry Permit (FTP) prior to release of the Building and Sediment Control permits. The Final FCP shall be consistent with the approved Pre FCP and comply with the approval letter dated August 21, 2014.

Recreation and Parks

18. The applicant shall comply with the City's Publicly Accessible Art in Private Development Ordinance. Applicant must provide a concept plan for approval or application, prior to the issuance of building permits and fulfill the art requirement prior to issuance of an occupancy permit. See City website under business section for publicly Accessible Art in Private Development Ordinance manual for details.

FINDINGS

The Planning Commission approved the subject Site Plan pursuant to the required findings as set forth in Section 25.07.01, which allow site plan approval only if the applicable Approving Authority finds that the application will not:

- i. *Adversely affect the health or safety of persons residing or working in the neighborhood of the proposed development;*

Subject to the recommended conditions, this application will not adversely affect the health and safety of persons residing or working in or adjacent to this development. The applicant has shown that the nearby residential area will not be negatively affected by this industrial use, nor will it affect their health or safety. The proposed self-storage facility will replace a vacant building, and will provide an on-site resident manager and 24 hour security. The demolition of the existing building will remove hazardous materials from the area and clean up the site. Pedestrian improvements will also be made along the Taft and First Street frontages of the property and at the corner. The increased sidewalk width will allow pedestrians and bicyclists more room to move across the property frontage.

- ii. *Be detrimental to the public welfare or injurious to property or improvements in the neighborhood;*

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The proposed site improvements will not be detrimental to the public welfare or injurious to property or improvements in the area surrounding the site. The City's Master Plan recommends additional buffers between industrial development and surrounding residential areas. The applicant is addressing this on their property by 10 to 25 feet of landscaping surrounding the building, even though the property is not adjacent to residential properties to really make an impact. The project fulfills this goal, and decreases the industrial impact on surrounding properties by removing a manufacturing use and replacing it with a warehouse use to be used mainly by residents.

iii. Overburden existing and programmed public facilities as set forth in Article 20 of this Chapter and as provided in the adopted Adequate Public Facilities Standards;

The project is in full compliance with the Adequate Public Facility Standards, with the granting of a conditional approval, as detailed above, for a resident manager unit.

iv. Adversely affect the natural resources or environment of the City or surrounding areas;

Based upon the approved Natural Resources Inventory prepared for the site, there are no known sensitive environmental features or resources on the property. The application is in compliance with the Forest and Tree Protection Ordinance (FTPO) and all other requirements for environmental protection. The property, and the surrounding area, are located within an industrially (IL, Light Industrial) zoned area deemed to be compatible with this type of use. Therefore there is nothing associated with this permitted use that would create an adverse impact on surrounding area. Additionally, the landscaping proposed with this project will reduce the heat island effect within the property that is currently almost completely impervious.

v. Be in Conflict with the Plan;

The site is located in Planning Area 16, Southlawn/Redgate, of the 2002 Comprehensive Master Plan. This planning area is largely made up of service industrial facilities. The City's Planned Land Use Map (see Attachment #2) includes the property in the Service Industrial classification, as implemented by the IL (Light Industrial) zoning district. Surrounding properties, with the exception of an adjacent park on the northeast side, share the same Service Industrial use classification, and zoning. As discussed in this report, the East Rockville Neighborhood Plan, adopted in 2004, has several recommendations regarding this industrial area regarding transitioning and buffering between industrial and residential uses. However, the property is not adjacent to

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residential uses. The subject proposal complies with all zoning ordinance development standards, including all buffering requirements.

vi. Constitute a violation of any provision of this Chapter or other applicable law; or

The application complies with the Zoning Ordinance and all other applicable law including the Forest and Tree Preservation Ordinance, Stormwater Management, Public Accessible Art in Private Development Ordinance, and the Adequate Public Facilities Ordinance as detailed in this report. Compliance with all applicable laws has been reviewed as part of this site plan application, and the subject project does not violate any provisions of the Zoning Ordinance nor other applicable Codes and Ordinances.

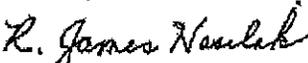
vii. Be incompatible with the surrounding uses or properties.

The site is surrounded by properties that are zoned for light industrial and service industrial uses. The property is separated from residential use to the north and a school and residential to the south by other industrial property and by an existing forested buffer and/or recreation areas. The current uses surrounding the property include service industrial uses including: a brewery, auto repair, auto body, and construction / plumbing contractors. The area is surrounded by industrial uses and is planned for industrial development. Therefore there is nothing associated with the use, or development of the property, that would constitute an incompatibility with surrounding uses or properties.

Section 25.07.07 of the Zoning Ordinance requires that construction or operation must commence within two (2) years of the effective date of the Planning Commission approval original Site Plan decision or application approval shall expire. If the applicant can show just cause, a maximum of two (2) time extensions may be granted by the Planning Commission, each not to exceed six months. However, time extensions are not automatically approved, and sufficient detail and justification will be required in order for the Planning Commission to consider granting an extension.

Per. Sec. 25.04.02.f of the Zoning Ordinance, any person aggrieved by a final decision of the Planning Commission may appeal same to the Circuit Court of Montgomery County, taken according to the Maryland Rules as set forth in Title 7, Chapter 200.

Sincerely,


R. James Wasilak, AICP
Chief of Planning

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Note: A building permit may be issued only when the conditions of approval have been met and a copy of the following acknowledgement, signed and executed by the applicant, has been returned to the Planning Division office. Be advised that Commission approval does not constitute approval by any department or agency having jurisdiction over this development project.

I ACKNOWLEDGE RECEIPT OF THIS SITE PLAN STP2014-00208 AND AGREE TO FULLY COMPLY WITH CONDITIONS UPON WHICH APPROVAL WAS GRANTED. I FURTHER ACKNOWLEDGE THAT FAILURE TO COMPLY WITH THESE CONDITIONS MAY CAUSE APPROVAL TO BE REVOKED BY THE PLANNING COMMISSION.

(Applicant's Signature)

(Applicant's Printed Name)

/jdh

cc: Planning Commission
Susan Swift, Director of CPDS
Craig Simoneau, Director of Public Works
Mark Wessel, Engineering Supervisor
Jeffery Ratteree, Civil Engineer I
Ray O'Brocki, Chief of Inspection Services
Timothy Diehl, Fire Codes Plans Examiner
Emad Elshafei, Chief of Traffic and Transportation
Gregory Lyons, Civil Engineer II
Elise Cary, Assistant City Forester
Susan Straus, Chief Engineer/Environment
Jeremy Hurlbutt, AICP, Planner III
Marcy Waxman, Senior Assistant City Attorney
Kashi Way
Jason McGhee
Mary Caroline Coletti
Peter Witzler
Patrick Schoof
Melissa McKenna

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Christina Ginsburg
C. Robert Dalrymple
Yun Yu Cheng
Susan Potter
Alison Moser
Amanda Roberts
Royal S. Dellinger
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**Land Planner Report¹
 on the Proposed Text Amendment No. TXT2015-00239**

INTRODUCTION

The City of Rockville (the "City") Zoning Ordinance currently includes "self-storage warehouse" in the definition of "Industrial, Service", which is a permitted use by-right in four zones (Light Industrial (I-L), Heavy Industrial (I-H), and Mixed-Use Employment (MXE) Zones) and is a conditional use in the Mixed-Use Business (MXB) Zone with a conditional requirement that the use not adjoin or confront single-unit dwelling units. Text Amendment No. TXT2015-00239 proposes to remove "self-storage warehouse" from the definition of "Industrial, Service" and amend the I-L, I-H, MXE and MXB Zones to create "self-storage warehouse" as a separate use category to be permitted in those zones only as a conditional use with a conditional requirement that the use not be permitted on a lot within 250 feet of a public school.

At the Mayor and Council meeting on November 3, 2014, City Staff was directed to draft the proposed text amendment in response to concerns raised by citizens during the Community Forum at the Mayor and Council meetings over the last several months that the proposed ezStorage self-storage facility on an I-L zoned property (at 1175 Taft Street) located within 210 feet of Maryvale Elementary School "would create a danger to children attending" the school.² These concerns raised by citizens at the Mayor and Council meetings were the same concerns raised at the Planning Commission public hearing for STP2014-00208 (the "ezStorage Site Plan") on September 10, 2014 and the reconsideration hearing on November 12, 2014. The Planning Commission considered the testimony and evidence presented at both hearings, made certain findings discussed in more detailed below, and ultimately approved the site plan for the ezStorage self-storage facility.

At this point in time, there are no written supporting facts to justify the proposed text amendment. Before the Mayor and Council authorized the filing of the proposed text amendment at its meeting on November 10, 2014, Councilmember Moore stated the following:

¹ This report has been prepared by Perry Berman, a land planner with over 40 years of planning experience in Montgomery County (28 years in the public sector and 16 years in the private sector). In the public sector, Mr. Berman was the Chief of Community Planning in the Montgomery County Department of Planning of the Maryland-National Capital Park and Planning Commission. In that capacity, Mr. Berman was in -charge of overseeing all area master plans for Montgomery County. His division was also responsible for evaluating all development applications, reviewing the compatibility of the proposed development to surrounding communities and ensuring that these development applications were in keeping with the goals and site recommendations of the area master plans. In the private sector (with the last five years at Scheer Partners), Mr. Berman has provided land planning consulting services to property owners, developers, businesses, educational institutions, churches, and non-profit organizations.

² See the Staff Report dated December 3, 2014 on the proposed text amendment.

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... we need a lot more facts before we can consider something like this. I haven't seen any hard facts to suggest that this kind of step is justified. We are not doing a moratorium, which is good. But we are doing a text amendment that would specifically block a pending application.³ There's really no question about that. I think that is unwise; that is unwise public policy. It's fundamentally business unfriendly. It does not serve the interest of our residents. So I will not be supporting this tonight.

A map attached to the Staff Report dated December 3, 2014 on the proposed text amendment (referenced as Attachment #2) shows the affected areas in the City, which are only the I-L zoned properties immediately surrounding the Maryvale Elementary School. With the exception of the vacant property at 1175 Taft Street (the "Property") acquired by Rockville North Land LLLP to develop an ezStorage self-storage facility, all other properties are occupied. Accordingly, the practical impact of the proposed text amendment is to prevent the implementation of the ezStorage Site Plan approved by the Planning Commission.

Because Rockville North Land LLLP is only concerned with the impact of the proposed text amendment on its I-L zoned Property, this report will be primarily focused on the proposed text amendment as it relates to the Property and the I-L Zone. For the reasons discussed below, the proposed text amendment should not be recommended for approval or approved as there is no legitimate public purpose that is served by requiring "self-storage warehouse" be a conditional use with the conditional requirement that the use not be permitted on a lot within 250 feet of any lot with a public school.

REASONS TO RECOMMEND DENIAL OR DENY THE PROPOSED TEXT AMENDMENT

1. If the intended purpose of the proposed text amendment is to protect public schools and students from the impact of a self-storage warehouse use, there are many existing City regulations that measure the impact of a proposed use and provide the necessary protection from such impact, and therefore, the proposed text amendment serves no legitimate public purpose.

There are many existing City zoning, subdivision and building code provisions that measure the impact of a proposed use, including a self-storage warehouse, and provide the necessary protection from such impact. The most important mechanism used to measure the impact of a proposed use and provide the necessary protection is the City's development review process. The City of Rockville's website states that the purpose of its development review procedures is to do the following:

Rockville's development review procedures are intended to help assure the health and welfare of citizens and achieve high-quality development that complies with applicable regulations of the city code and addresses the needs of the surrounding community.

³ The pending application referenced is the ezStorage Site Plan discussed above.

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According to Section 25.07.02.b of the Zoning Ordinance, the level of review for each site plan application is based on a point system by evaluating the acreage of the site, the number of dwelling units proposed, the square footage of non-residential space, the residential impact area, and the traffic impact of development proposed. For the ezStorage Site Plan which involved a Level 2 review by the Planning Staff and Planning Commission, Section 25.07.05 of the Zoning Ordinance requires public input throughout the process at a pre-application meeting, a post-application meeting, and a public hearing before the Planning Commission. In order to approve a site plan application, Section 25.07.01.a.3 of the Zoning Ordinance requires the Planning Commission to make specific findings that the application will not:

- (i) adversely affect the health or safety of persons residing or working in the neighborhood of the proposed development;
- (ii) be detrimental to the public welfare or injurious to property or improvements in the neighborhood;
- (iii) overburden existing and programmed public facilities as set forth in Article 20 of the Zoning Ordinance and as provided in the adopted Adequate Public Facilities Standards;
- (iv) adversely affect the natural resources or environment of the City or surrounding areas;
- (v) be in conflict with the Plan;
- (vi) constitute a violation of any provision of the Zoning Ordinance or other applicable law; and
- (vii) be incompatible with the surrounding uses or properties.

To make these findings, the Planning Commission must evaluate the impact of a proposed use on the surrounding neighborhood, traffic safety, vehicle and pedestrian circulation, master plan recommendations, zoning ordinance requirements and development standards (including setbacks and buffering requirements), adequate public facilities standards, subdivision regulations, landscaping guidelines, environmental requirements and guidelines, sediment and stormwater management, lighting, and building design. In addition, Section 25.12.03 of the Zoning Ordinance provides that "uses [in the I-L Zone] are subject to applicable conditions of site plan approval", which means that the Planning Commission has the authority to impose conditions of approval to provide the necessary protection from the impact of a proposed use, including a self-storage warehouse.

The Planning Commission made all the above findings for the ezStorage Site Plan each time after consideration of the Planning Staff's analysis and recommendation of approval,⁴ and two separate lengthy public hearings during which issues, including impact on Maryvale Elementary School and students, were extensively and thoroughly vetted. According to the Letters of Approval dated September

⁴ See Staff Reports dated September 3, 2014 and November 5, 2014 contained in the public record of the ezStorage Site Plan.

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17, 2014 and November 20, 2014⁵ (attached as Exhibit A and Exhibit B, respectively), the Planning Commission found that the nearby residential area will neither be negatively affected by the proposed self-storage warehouse use nor affect the health or safety of persons residing or working in the neighborhood, which includes the school and students. The Planning Commission noted that daytime on-site management and after-hours gate controlled access will provide adequate security for the facility. Attached as Exhibit C is a security features list describing the extensive security features of the proposed development that the Planning Commission considered in making this finding. Planning Staff also noted in its Staff Report dated September 3, 2014 that the proposed self-storage facility would improve the Property "by removing a building that has been vacant for over a year and is starting to become a blight on the community, as it is beginning to be used as a dumping ground" and by increasing the sidewalk width to allow pedestrians and bicyclists more room to move across the property frontage.

In addition, the Planning Commission found that the proposed site improvements will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood by providing additional buffers between the self-storage facility and surrounding residential areas, which include Maryvale Elementary School. Furthermore, to address the impact of the proposed self-storage facility, the Planning Commission imposed 19 conditions of approval, which included conditions relating to the safety of pedestrians (particularly students walking to and from Maryvale Elementary School)⁶ during construction and providing a fence along the length of the widened sidewalk on First Street to create a very secure pathway.⁷

Furthermore, the Planning Commission found that ezStorage Site Plan is not in conflict with the applicable master plan. The Planning Commission also acknowledged that the East Rockville Neighborhood Plan has several recommendations regarding transitioning and buffering between industrial and residential uses. Attached as Exhibit D are relevant excerpts of the East Rockville Neighborhood. The East Rockville Neighborhood Plan does not recommend the elimination of industrial uses, but encourages the redevelopment of "a mixed-use transitional industrial area in order to reduce the impact of industrial properties on the East Rockville community" by "the diluting of industrial services" while "still retaining elements of its current industrial use." Examples "include service industrial uses with residential lofts". Self-storage use would fall within that example as it is a limited industrial

⁵ The November 20, 2014 Letter of Approval superseded the September 17, 2014 Letter of Approval, but both letters essentially have the same findings with the November 20, 2014 Letter of Approval containing clarifications regarding the resident manager unit and providing a fence along the length of the widened sidewalk on First Street.

⁶ See Condition No. 16 of the November 20, 2014 Letter of Approval.

⁷ See Condition No. 13 of the November 20, 2014 Letter of Approval.

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service use with a residential caretaker unit having little to no impact on the nearby residential properties.

In my professional opinion as a land planner with over 40 years of Montgomery County development experience, the City's development review process is extremely proficient in measuring the impact of a self-storage warehouse use and providing the necessary protection from such impact, and therefore, the proposed text amendment provides no legitimate public purpose.

- 2. No hard facts or evidence have been provided to support that a self-storage warehouse use located on a lot within 250 feet of a lot with a public school will negatively impact public schools or students, and therefore, the proposed text amendment is not justified.**

To date, no hard facts or evidence have been provided to support that a self-storage warehouse use located on a lot within 250 feet of a lot with a public school will negatively impact public schools or students. As mentioned above, at the Mayor and Council meeting on November 10, 2014, Councilmember Moore stated that he had not seen any hard facts to suggest that the proposed text amendment is justified. He also indicated that there was no question the proposed text amendment would specifically block a pending application (referring to the ezStorage Site Plan), which is not a legitimate public purpose.

As discussed above, the Planning Commission held two separate lengthy public hearings for the ezStorage Site Plan during which issues, including impact on Maryvale Elementary School and students, were extensively and thoroughly scrutinized. In considering the testimony and evidence submitted by citizens on the potential negative impact that the proposed self-storage facility would have on the school and students, the Planning Commission still found that the proposed self-storage facility neither adversely affect the neighborhood nor affect the health or safety of persons residing or working in the neighborhood, which includes the school and students.

In my professional opinion as a land planner, with no hard facts or evidence provided to support the proposed text amendment, and considering its purpose to specifically block a pending application and the finding made by the Planning Board in the ezStorage Site Plan involving a nearby school, the proposed text amendment is not justified.

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- 3. There is no local, state, or federal standard that establishes 250 feet is the appropriate distance between a self-storage warehouse and a public school, and therefore, the 250 feet distance requirement between lots containing these uses proposed by the text amendment is arbitrary and inappropriate.**

I found no local, state, or federal standard that establishes 250 feet is the appropriate distance between a self-storage warehouse and a public school. There are currently five (5) self-storage facilities in Montgomery County and an additional nine (9) self-storage facilities in the Baltimore-Washington area that are located within the approximate 250 feet distance from schools for decades without reported incidents (see Exhibit E listing the locations of those 14 self-storage facilities).

When the City evaluated whether to create a separate lower parking standard for the self-storage warehouse use, the City looked to Montgomery County and other nearby jurisdictions for guidance to determine the appropriate parking standard and created one similar to the parking standard in Montgomery County and other nearby jurisdictions. In this instance, for the proposed text amendment, the City should also look to Montgomery County and other nearby jurisdictions for guidance to determine if the proposed text amendment is appropriate. A review of the 16 nearby jurisdictions listed on Exhibit F indicates that none of these jurisdictions requires a 250-foot buffer between a self-storage warehouse and a public school in equivalent light industrial zones that permit self-storage warehouse by right. In fact, the trend in land planning is to mix multiple uses on a single parcel, including self-storage with residential. Since no impact on health, safety and welfare from a self-storage warehouse use has been demonstrated, there is no legal justification for the proposed text amendment.

In my professional opinion as a land planner, the 250 foot distance requirement between a self-storage warehouse and a public school proposed by the text amendment is arbitrary and inappropriate.

- 4. The self-storage warehouse use does not have a greater impact (i.e., traffic, activities, noise, odor, height, mass, etc.) than other permitted industrial and commercial uses on a nearby school, and therefore, the singling out of the self-storage warehouse use for an arbitrary requirement that it not be located on a lot within 250 feet of a public school, is unfair and inequitable.**

The City Zoning Ordinance permits a long list of industrial and commercial uses in the I-L, I-M, MXE and MXB Zones. In my professional opinion as a land planner, the uses listed in the I-L Zone that have greater impact than a self-storage warehouse use are the following:

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- Light manufacturing and industrial services that may involve fabrication and assembly of material⁸
- Moving and storage
- General warehousing and storage
- Lumberyard
- Adult day care
- Ambulance service (cannot abut a residential area)
- Hospital
- Veterinary office and animal hospital
- Temporary building or yard for construction materials or equipment
- Temporary carnival, flea market, or festival
- Alcoholic beverages for consumption on the premises of any restaurant
- Garden supplies
- Repair of household appliances, including home electronic equipment
- Motor vehicle services
- Automobile filling station
- Mechanical car wash
- Motor vehicle towing service
- Tires, batteries, and accessory sales
- Adult oriented establishment
- Kennel
- Private club
- Sport facility, multi-purpose, indoor, commercial

In fact, among all the different light industrial and service industrial uses permitted in the I-L Zone, the self-storage warehouse use was considered by both the Planning Commission and Planning Staff as a use that has the least impact on the surrounding area, including the school, due to the low traffic

⁸ Section 25.03.02 of the City Zoning Ordinance defines light industrial as follows:

Light manufacturing and industrial services that may involve fabrication and assembly of materials. Such uses include, but are not limited to contractor's storage yards; cold storage facility; wholesaling; general warehousing; commercial greenhouses; printing and publishing; outdoor parking and storage; bottling plant; ice plants; dry cleaning plant; manufacture of light sheet metal products; automotive body shop and repairs; manufacturing, compounding or assembly of articles from previously prepared materials; roofing services; blacksmith; manufacture of electrical and electronic equipment and precision instruments; and similar uses.

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generation rates of the use and the low demand on the public infrastructure (i.e., roads, water, sewer, etc.). As shown on the aerial photo of Maryvale Elementary School and adjacent industrial properties (attached as Exhibit G), the school directly abuts several properties that contains a variety of light and heavy manufacturing, general warehousing and storage, and automotive service uses that have greater impact on the school than the self-storage warehouse use.

In addition, any redevelopment of the Property and other surrounding industrial properties would be similar in building height and mass as the ezStorage self-storage facility due to the current development standards, design requirements, and environmental regulations (including lot coverage, parking, stormwater management, reforestation, landscape buffers, etc.) and any economic justification for costs and risks related to a site's redevelopment. The building height of the proposed ezStorage facility is 36 feet, which is below the maximum height of 40 feet allowed in the I-L Zone but close to the 35 feet maximum height allowed in the neighboring residential zoned properties.

In my professional opinion as a land planner, given that the self-storage warehouse use does not have a greater impact (i.e., traffic, activities, noise, odor, height, mass, etc.) than other permitted industrial and commercial uses on a nearby school, the singling out of the self-storage warehouse use for an arbitrary requirement that it cannot be located on a lot within 250 feet of a public school, is unfair and inequitable.

5. **No changes related to the self-storage warehouse use and the surrounding area have occurred since the Mayor and Council adopted the ordinance to approve Text Amendment No. TXT2014-00237 to create a separate lower parking standard for the use that would promote the health, safety and welfare of the citizens of the City of Rockville, and therefore, the proposed text amendment is not justified.**

On February 10, 2014, the Mayor and Council adopted the ordinance to approve Text Amendment No. TXT2014-00237 to create a separate lower parking standard for the self-storage warehouse use. This text amendment was approved after Siena Corporation ("Siena") appeared before the Mayor and Council at two separate public hearings⁹ to request a lower parking standard for the self-storage warehouse use in order to facilitate the development of the ezStorage self-storage facility on the Property. At both public hearings, Siena described the Property, the specific size of the proposed self-storage facility, and the parking needs for such a development. In considering Text Amendment No.

⁹ City Staff had advised Siena that the creation of a separate lower parking standard for the self-storage warehouse use could occur as part of the comprehensive amendment to the Zoning Ordinance in Text Amendment No. TXT2014-00236. However, at the public hearing on December 9, 2013 for Text Amendment No. TXT2014-00236, the City Attorney advised that because of due process issues, Siena had to apply for a separate text amendment, which it did, and the second public hearing was held on January 27, 2014.

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TXT2014-00237, the Mayor and Council decided that the granting of the text amendment "would promote the health, safety and welfare of the citizens of the City of Rockville." At the time when this text amendment was considered and adopted by the Mayor and Council, Maryvale Elementary School existed in the same location, but no concern regarding its proximity to the proposed self-storage warehouse use on the Property was expressed. Neither the proposed self-storage warehouse use nor the surrounding area, including the existence of Maryvale Elementary School, have changed since the Mayor and Council's adoption of the ordinance that enabled Siena to purchase the Property and proceed forward with the site plan application process.

In my professional opinion as a land planner, given no changes related to the self-storage warehouse use and the surrounding area have occurred since the Mayor and Council adopted the ordinance to approve Text Amendment No. TXT2014-00237 to create a separate lower parking standard for the use that would promote the health, safety and welfare of the citizens of the City of Rockville, the proposed text amendment is not justified and is arbitrary in its intent.

- 6. No changes related to the self-storage warehouse use, operations, or surrounding area have occurred since the Mayor and Council's adoption of the comprehensive changes to the Zoning Ordinance in 2008, 2011, and earlier in 2014, and therefore, the proposed text amendment is not justified.**

In 2008, the City comprehensively rewrote its entire Zoning Ordinance. Since then, the City has made comprehensive revisions and corrections to the Zoning Ordinance in 2011 and earlier this year. During each of those occasions, the self-storage warehouse use was considered a permitted use in the I-L Zone without a need to change it to a conditional use with a conditional requirement that it not be located on a lot within 250 feet of a public school. No changes to the proposed self-storage warehouse use, operations, or the surrounding area, including the existence of Maryvale Elementary School, have changed since the Mayor and Council's adoption of the comprehensive changes to the Zoning Ordinance in 2008, 2011, and earlier in 2014.

In my professional opinion as a land planner, given no changes related to the self-storage warehouse use, operations, or the surrounding area have occurred since the Mayor and Council's adoption of the comprehensive changes to the Zoning Ordinance in 2008, 2011, and earlier in 2014, the proposed text amendment is not justified.

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CONCLUSION

For the reasons discussed above, the proposed text amendment should not be recommended for approval or approved as there is no legitimate public purpose that is served by requiring "self-storage warehouse" be a conditional use with the conditional requirement that the use not be permitted on a lot within 250 feet of a public school. There are many existing City regulations, including the development review process, that measure the impact of the self-storage warehouse use and provide the necessary protection from such impact. The Planning Commission's recent approval of the ezStorage self-storage facility located within 210 feet of Maryvale Elementary School demonstrates that the use will not have any adverse impact on the school and students. In addition, no hard facts or evidence have been provided to justify the proposed text amendment. Also, there is no local, state, or federal standard that establishes 250 feet is the appropriate distance between a self-storage warehouse and a public school; no nearby jurisdiction imposes such a standard. Furthermore, the self-storage warehouse use does not have a greater impact than other permitted industrial and commercial uses on a nearby school and should not be singled out for an arbitrary conditional requirement. From a total traffic and pedestrian access to a school, a self-storage operation has much less impact than all other industrial and commercial uses. If the proposed text amendment is adopted, such treatment would be unfair and inequitable. Finally, no changes related to the self-storage use, operations, or surrounding area have occurred since the Mayor and Council's adoption of the text amendment approving the separate lower parking standard for self-storage use and of the comprehensive changes to the Zoning Ordinance that would justify the proposed text amendment.



City of
Rockville
Get Into It

111 Maryland Avenue | Rockville, Maryland 20850-2364 | 240-314-5000
www.rockvillemd.gov

November 20, 2014

Craig Pittinger
Rockville North Land LLP
c/o Siena Corporation
8221 Snowden River Parkway
Columbia, Maryland 21045

Re: Site Plan Application STP2014-00208, approval for the construction of a 900 unit self-storage warehouse at 1175 Taft Street.

Dear Mr Pittinger,

At its meeting of November 12, 2014, the City of Rockville Planning Commission reviewed and conditionally approved the above-referenced Site Plan, based on the findings contained in this letter. This constitutes Site Plan approval for the construction of a new 109,764 square foot, 4-level, 900-unit self-storage warehouse building, 17 surface parking spaces with 1,100 square feet of office and a conditionally approved residential manager unit, pursuant to Sec.25.20.02.d of the Zoning Ordinance.

Approval of STP2014-00208 is subject to full compliance with the following conditions:

Planning

1. This approval is granted conditionally due to the inability to make a determination that public facilities are adequate to support the development, as required by Chapter 20 of the Zoning Ordinance ("Adequate Public Facilities") and the City's Adequate Public Facilities Standards (Resolution No. 13-13 or as amended). Specifically the capacity of Maryvale Elementary School, located in the Rockville High School cluster, which serves the subject location, exceeds the 110 percent of program capacity within the 2-year period specified by the City's Adequate Public Facilities Standards. Therefore the residential component of the conditionally approved project is placed in the queue until such time as a determination of adequacy with the Adequate Public Facilities Ordinance can be made.

Craig Pittinger

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November 20, 2014

- a. The approval allows for one Resident Manager Unit to be built within the EZ Storage self-storage warehouse. However, as noted above, this space cannot be occupied as a residential unit nor can building permits or occupancy permits be issued for this interior space to be used as a residential unit, until school capacity is determined.
2. Submission, for approval of the Chief of Planning, of twelve (12) copies of the site plan (on sheets no larger than 24 inches by 36 inches) to be submitted prior to submission of a building permit.
3. Submission, for approval of the Chief of Planning, of twelve (12) copies of the landscape, and architectural plans (on sheets no larger than 24 inches by 36 inches) to be submitted prior to submission of a building permit.
4. Submission, for the approval of the Planning Commission, of a Final Record Plat to record the property as a whole record lot prior to issuance of the building permit.

Department of Public Works (DPW)

5. Comply with conditions of the Water and Sewer Authorization Letter dated August 30, 2014.
6. Comply with conditions of the Development SWM Concept Approval Letter dated August 28, 2014.
7. Comply with conditions of the Safe Conveyance Approval Letter dated August 28, 2014.
8. Comply with conditions of the Preliminary Erosion and Sediment Control Letter dated August 28, 2014.
9. Submission, for review, approval, and permit issuance by DPW, of the following detailed engineering plans, studies and computations, appropriate checklists, plan review and permit applications and associated fees. The following plans should be submitted on 24"x36" sheets at a minimum scale of 1"=30' unless otherwise approved by DPW. The Public Works Plan must be submitted on City base sheet, all others may utilize non-City base sheet.
 - a. Stormwater Management (SWM) for on-site stormwater management;
 - b. Sediment Control Plans (SCP) for all disturbed areas;
 - c. Public Improvement (PWIC) including all work proposed within the public rights-of-way of Taft Street, First Street and any existing or required storm

Craig Pittinger
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drain, water and/or sewer easements. Submission must include Maintenance of Traffic, Striping and Signing, and Street Tree and Lighting Plan.

10. Submission, for review and approval by the City Attorney's office prior to DPW permit issuance, all necessary deeds, easements, dedications, and declarations. Drafts of the required documents, with the exception of SWM easements and agreements which can be included at second submission, must be included with the initial submission of the PWK package and must be recorded prior to issuance of DPW permits, unless otherwise allowed by DPW.
11. Post sureties for all permits based on the approved construction estimate in a format acceptable to the City Attorney. Approval is coordinated through DPW staff.
12. Payment of all required on-site and off-site monetary contributions for Stormwater Management must be paid prior to issuance of SMP.
13. Prior to the issuance of a building permit, the applicant must apply and obtain a Public Improvement Plan (PWK) permit to replace the existing 4-foot wide sidewalks along the property frontage of Taft Street and First Street with 5-foot wide sidewalks. A 6-foot tall "spec-rail" fence shall be provided on the applicant's property along the First Street frontage adjacent to the new 5-foot wide sidewalk. The final design of the fence is subject to the review and approval of the Chief of Planning.

Traffic/Pedestrian circulation and Traffic Mitigation

14. All internal traffic control devices (i.e. signs, marking and devices placed on, over or adjacent to a roadway or walkway) to regulate, warn or guide pedestrians and/or vehicular traffic shall comply with the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD). The signing and pavement marking plans shall be submitted to DPW and approved by the Chief, Traffic and Transportation Division. (This plan shall be approved and included in the signature set.)
15. The applicant shall provide 1 bicycle rack (2 short-term spaces) and 3 bicycle lockers (6 long-term spaces). A locked and covered bicycle room with racks or a bicycle locker is required for long-term storage. Short-term spaces are considered to be an inverted "U" bicycle rack, mounted in-concrete, and must be spaced four feet apart. These spaces shall be provided at a safe and secure location approved by DPW during the detailed engineering stage. Bike lockers and racks must be installed prior to issuance of the occupancy permit.

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16. Submit for review and approval by the DPW and school's safety officials, a phasing plan for pedestrian access during the construction period. The pedestrian access plan shall include, but not be limited to, the methods of maintaining pedestrian safety and access on the existing sidewalks and existing routes, the closing of sidewalks for work in the streetscape zone, and pedestrian detours, as well as efforts to minimize closure of sidewalks. During sidewalk closures the applicant will be required to provide shuttle service, additional crossing guard(s), or escorts for students in route to Maryvale Elementary School. Alternatively, the applicant can restrict the closing of the sidewalk to times when school is not session. This plan shall be approved prior to issuance of any DPW permit.
17. The applicant shall pay the County's Development Impact Tax, as applicable, subject to allowable credits allowed by Montgomery County, prior to issuance of the building permit. The applicant shall submit a receipt of payment to Inspection Services and Traffic & Transportation Division prior to issuance of the building permit.

Forestry

18. In accordance with the requirements of the Forest and Tree Preservation Ordinance, the applicant shall submit for review and approval a Final Forest Conservation Plan (FCP) and obtain a Forestry Permit (FTP) prior to release of the Building and Sediment Control permits. The Final FCP shall be consistent with the approved Pre FCP and comply with the approval letter dated August 21, 2014.

Recreation and Parks

19. The applicant shall comply with the City's Publicly Accessible Art in Private Development Ordinance. Applicant must provide a concept plan for approval or application, prior to the issuance of building permits and fulfill the art requirement prior to issuance of an occupancy permit. See City website under business section for publicly Accessible Art in Private Development Ordinance manual for details.

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FINDINGS

The Planning Commission approved the subject Site Plan pursuant to the required findings as set forth in Section 25.07.01, which allow site plan approval only if the applicable Approving Authority finds that the application will not:

- i. *Adversely affect the health or safety of persons residing or working in the neighborhood of the proposed development;*

Subject to the recommended conditions, this application will not adversely affect the health and safety of persons residing or working in or adjacent to this development. The applicant has shown that the nearby residential area will not be negatively affected by this industrial use, nor will it affect their health or safety. The proposed self-storage facility will replace a vacant building, the demolition of which will remove hazardous materials from the area and clean up the vacant site. Daytime on-site management, and after-hours gate controlled access, will provide adequate security for the facility. Pedestrian improvements will also be made along the Taft and First Street frontages of the property and at the corner. The increased sidewalk width will allow pedestrians and bicyclists more room to move across the property frontage.

- ii. *Be detrimental to the public welfare or injurious to property or improvements in the neighborhood;*

The proposed site improvements will not be detrimental to the public welfare or injurious to property or improvements in the area surrounding the site. The City's Master Plan recommends additional buffers between industrial development and surrounding residential areas. The applicant is addressing this on their property by 10 to 25 feet of landscaping surrounding the building, even though the property is not adjacent to residential properties to really make an impact. The project fulfills this goal, and decreases the industrial impact on surrounding properties by removing a manufacturing use and replacing it with a warehouse use to be used mainly by residents.

- iii. *Overburden existing and programmed public facilities as set forth in Article 20 of this Chapter and as provided in the adopted Adequate Public Facilities Standards;*

The project is in full compliance with the Adequate Public Facility Standards, with the granting of a conditional approval, as detailed above, for a resident manager unit.

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iv. Adversely affect the natural resources or environment of the City or surrounding areas;

Based upon the approved Natural Resources Inventory prepared for the site, there are no known sensitive environmental features or resources on the property. The application is in compliance with the Forest and Tree Protection Ordinance (FTPO) and all other requirements for environmental protection. The property, and the surrounding area, are located within an industrially (IL, Light Industrial) zoned area deemed to be compatible with this type of use. Therefore there is nothing associated with this permitted use that would create an adverse impact on surrounding area. Additionally, the landscaping proposed with this project will reduce the heat island effect within the property that is currently almost completely impervious.

v. Be in Conflict with the Plan;

The site is located in Planning Area 16, Southlawn/Redgate, of the 2002 Comprehensive Master Plan. This planning area is largely made up of service industrial facilities. The City's Planned Land Use Map includes the property in the Service Industrial classification, as implemented by the IL (Light Industrial) zoning district. Surrounding properties, with the exception of an adjacent park on the northeast side, share the same Service Industrial use classification, and zoning. As discussed in the Planning Commission staff report, the East Rockville Neighborhood Plan, adopted in 2004, has several recommendations regarding this industrial area regarding transitioning and buffering between industrial and residential uses. However, the property is not adjacent to residential uses. The subject proposal complies with all zoning ordinance development standards, including all buffering requirements.

vi. Constitute a violation of any provision of this Chapter or other applicable law; or

The application complies with the Zoning Ordinance and all other applicable law including the Forest and Tree Preservation Ordinance, Stormwater Management, Publicly Accessible Art in Private Development Ordinance, and as detailed in Condition No. 1 above, the Adequate Public Facilities Ordinance. Compliance with all applicable laws has been reviewed as part of this site plan application, and the subject project does not violate any provisions of the Zoning Ordinance nor other applicable Codes and Ordinances.

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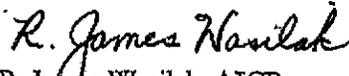
vii. *Be incompatible with the surrounding uses or properties.*

The site is surrounded by properties that are zoned for light industrial and service industrial uses. The property is separated from residential use to the north and a school and residential to the south by other industrial property and by an existing forested buffer and/or recreation areas. The current uses surrounding the property are service industrial uses including: a brewery, auto repair, auto body, and construction / plumbing contractors. The area is surrounded by industrial uses and is planned for industrial development. Therefore there is nothing associated with the use, or development of the property, that would constitute an incompatibility with surrounding uses or properties.

Section 25.07.07 of the Zoning Ordinance requires that construction or operation must commence within two (2) years of the effective date of the Planning Commission approval original Site Plan decision or application approval shall expire. If the applicant can show just cause, a maximum of two (2) time extensions may be granted by the Planning Commission, each not to exceed six months. However, time extensions are not automatically approved, and sufficient detail and justification will be required in order for the Planning Commission to consider granting an extension.

Per. Sec. 25.04.02.f of the Zoning Ordinance, any person aggrieved by a final decision of the Planning Commission may appeal same to the Circuit Court of Montgomery County, taken according to the Maryland Rules as set forth in Title 7, Chapter 200.

Sincerely,



R. James Wasilak, AICP
Chief of Planning

Note: A building permit may be issued only when the conditions of approval have been met and a copy of the following acknowledgement, signed and executed by the applicant, has been returned to the Planning Division office. Be advised that Commission approval does not constitute approval by any department or agency having jurisdiction over this development project.

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I ACKNOWLEDGE RECEIPT OF THIS SITE PLAN STP2014-00208 AND AGREE TO FULLY COMPLY WITH CONDITIONS UPON WHICH APPROVAL WAS GRANTED. I FURTHER ACKNOWLEDGE THAT FAILURE TO COMPLY WITH THESE CONDITIONS MAY CAUSE APPROVAL TO BE REVOKED BY THE PLANNING COMMISSION.

(Applicant's Signature)

(Applicant's Printed Name)

/jdh

cc: Planning Commission
Susan Swift, Director of CPDS
Andrew Gunning, Assistant Director of CPDS
Craig Simoneau, Director of Public Works
Bobby Ray, Principal Planner
Mark Wessel, Engineering Supervisor
Jeffery Ratteree, Civil Engineer I
Ray O'Brocki, Chief of Inspection Services
Timothy Diehl, Fire Marshal
Emad Elshafei, Chief of Traffic and Transportation
Gregory Lyons, Civil Engineer II
Elise Cary, Assistant City Forester
Susan Straus, Chief Engineer/Environment
Marcy Waxman, Senior Assistant City Attorney
Sade'le Belliel
Diane Ferguson
Kashi Way
Jason McGhee
Mary Caroline Coletti
Peter Witzler
Patrick Schoof
Melissa McKenna
Christina Ginsberg
C. Robert Dalrymple, Esq., Linowes & Blocher LLP
Yum Yu Cheng, Esq., Linowes & Blocher, LLP
Susan Potter
Amanda Roberts

Craig Pittinger

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Royal S. Dellinger
Richard Gottfried
Marco Spaulding
Brendan Broderick
Randy Isenberg
Cheryl Johnson
Norma Cooper
Ajay Bhatt
Robert Rivers
Anna Colandreo
Henrietta Gomez
Alison Moser
Shalia Dimes
Perry Berman, Scheer Partners
Michele Carter
Carolyn Crum
Karim Hicks
Sia Turnee
Barbara A. Frazier
Khalia Frazier
Eyerusalem Ghebretensae
Dedra Jackson
Jaquita Frazier
Andrew Belliel
Samantha Wade

ezStorage Security, Safety and Fire Protection Systems Features

- **Secure Gate Access** - ezStorage uses a computer-controlled industrial gate system that controls access into the site and building. The tenant's unique personal key code (2 sets of 4 numbers; XXXX# - XXXX*) must be entered at the **video monitored** gate security kiosk to open the computer controlled gate system. The gate will not open without the unique personal key code. Gated access provides a very high level of security. When an improper personal key code is entered a pop-up alert will immediately appear on the point-of-sale computer monitor located in the office to alert the store manager
- **Secure Building Access** – After gaining access through the computer-controlled gate system, building access requires that the tenant enter again the unique personal key code at the **camera recorded** building entry door. Once the code is successfully entered on a keypad adjacent to the door, entry into the building is granted and a tenant may proceed to their storage unit. Same as the security gate kiosk, when an improper personal key code is entered a pop-up alert will immediately appear on the point-of-sale computer monitor located in the office to alert the store manager
- **Secure Storage Unit Access** – Independent of the building-wide security alarm system (described below), each of our self storage units is **individually alarmed** for an added degree of security. The tenant alone controls access to the storage unit by choosing a unique personal key code, which also grants access through the gate and into the building. If the individual storage unit is opened without having the unique personal key code entered at the gate and at the building entry door, an alarm will sound and a pop-up alert will immediately appear on the point-of-sale computer monitor located in the office to alert the store manager of the storage unit number. The manager knows immediately which storage unit was accessed and can view the video surveillance cameras that are installed on each main aisles of each floor to assess the situation.
- **Limited Hours of Access** – Tenants may only enter the site and building to access their storage units from 6 a.m. to 9 p.m. Outside of these hours, the gate security kiosk and building security keypad will not allow access (except for emergency personnel).
- **Security Cameras** - ezStorage facilities are equipped with **24-hour video surveillance cameras** (ranging from 12 to 16 cameras) located at all access kiosks and keypads, office, the loading compound, elevator lobbies and main aisles of each floor in the building. The latest in High Definition (HD) technology is used for cameras and digital video recording (DVR) equipment. All activity is recorded in HD to a DVR from the motion-activated HD cameras to significantly increase the recorded duration time (approximately 6 -12 months depending on the number of cameras and activity at each facility). Management can access video footage of any of the cameras on-site or wirelessly via an internet connection. Site activity can also be monitored in real time by personnel at the corporate office or by District Managers via a remote site with an internet connection.
- **Building-wide Security Alarm and Fire Protection Systems** – ezStorage's security alarm and fire protection systems are **continuously monitored 24 hours a day, 7 days a week**. Both computer-controlled systems monitor and report activity for the entire building to an off-site third party monitoring service. The security alarm system monitors all of the building's perimeter penetrations for unauthorized entry into the building (i.e. office, storage areas and onsite residence). The fire alarm panel monitors the building's fully sprinklered fire protection system including all miscellaneous devices (i.e. valve, tamper and supervisory switches and sensors, smoke and heat detectors, pull stations, etc.).
 - Depending upon the nature of the alarm, the monitoring service will dispatch the police and/or the fire department.
 - When an alarm is activated, the monitoring service places continuous calls to an ezStorage personnel call list until someone is reached. This list includes the store manager, 5 District Managers, Vice-President of Operations and Chief Financial Officer.

- The recipient of the monitoring service's call can quickly log-on to the facility's DVR with an internet connection and view the current and recorded camera activity.
 - Alarm signals from the on-site residence are also directed to the District Manager. In these cases, the District Manager will call the resident manager's cell phone(s) to determine if the Resident Manager caused the alarm to activate. If the Resident Manager cannot be reached, the District Manager will have the police dispatched immediately.
 - District Managers also receive notifications for miscellaneous events (i.e., late to open, late to close, or power failures). In these scenarios, the District Manager will immediately, either call and make contact with the Resident Manager or make a site visit to inspect the facility.
- **Daily Property Inspections** - ezStorage store managers perform an extensive property inspection twice each day;
 - Upon their arrival each morning, the ezStorage store managers inspect the building's perimeter to ensure that the grounds comply with company standards. Store managers inspect the property, building and mechanical systems (i.e., elevators, lighting, security systems and fire protection systems) to ensure they are fully operational. The video security panel in the office is inspected to confirm that all security cameras are fully functional.
 - ezStorage store managers perform a lock check during the day which entails an inspection of every storage unit on each floor to determine that each storage unit is secured by either a tenant lock or a company lock. Any storage unit that is found improperly secured is immediately addressed.
 - **All-Unit Inspections** -
 - **Twice Each Month** - Each mid-month and month end, the managers perform an extensive, all-units inspection by comparing the physical storage unit's status to the Point-Of-Sale system's status (i.e. occupied, vacant, or locked-out/in default). One of these inspections includes opening every vacant storage unit to inspect its readiness and cleanliness for immediate rental. Managers are instructed to make note of any suspicious contents that may be prohibited items and to confer with the District Manager for direction.
 - **Monthly** - Each month's end, the store managers are required to perform an extensive, after-hours, all-units inspection. Part of the inspection requires that store managers view over the top of each storage unit to confirm that storage units with tenant locks contain contents. The top of each storage unit in the building is open to view and examination through a heavy-duty wire screening. ezStorage personnel use either a mirror on an extended pole or a pole camera to check the contents of a storage unit. Store managers are instructed to make note of any suspicious contents that may be prohibited items and to confer with the District Manager for direction.
 - **Lighting** - ezStorage facilities are well lit, both inside and outside. The building's exteriors are well lit using a variety of lighting, which is both pleasing and effective. Full cut-off fixtures are designed to minimize light pollution and yet provide adequate light for safety and security. Interior lighting is connected to motion sensors to reduce waste and lighting is strategically placed in loading lobbies, elevators and in every storage aisle. In addition, the store manager is required to ensure that all exterior lighting is operational by performing an after-dark lighting inspection monthly. All deficiencies found during this or any other inspection are reported through the Facility Maintenance Management system.

Other ezStorage Security Measures

- **Photo Identification of Tenant and Lease Agreement** – At the time of rental, we require one form of federal or state identification with a photograph and signature on it. The photograph must match the individual renting the storage unit. We maintain a copy of the appropriate identification in our files for a period of three years after the tenant vacates the storage unit. We will not rent a storage unit without proper photo identification.
- **Prohibition of Hazardous/Toxic Materials and Unlawful Substances** – The lease agreement, which is reviewed in detail with and signed by every tenant, contains provisions that prohibit the storage of hazardous/toxic materials and unlawful substances, and authorize ezStorage to immediately remove any such items from the site. Attached is a copy of the ezStorage lease agreement and below are excerpts of the relevant sections from the lease agreement (paragraphs 10, 12, and 13):
 - "10. USE OF STORAGE UNIT. Occupant shall not store any personal property in the Unit which would result in the violation of any law or regulation of any governmental authority, including without limitation all laws and regulations relating to Hazardous Materials (as defined in Paragraph 12), waste disposal and other environmental matters, and Occupant shall comply with all laws, rules, regulations and ordinances of any and all governmental authorities concerning the Unit and its use. Occupant shall not use the Unit in any manner that will constitute waste, nuisance, or unreasonable annoyance to other occupants on the property. Occupant acknowledges that the Unit may be used for storage only, and that it is specifically prohibited to use the Unit for the conduct of business or for human or animal habitation. Owner reserves the right, without prior notice to Occupant, to temporarily deny Occupant access to the property without reduction of rent for any reason including but not limited to unsafe weather conditions as determined solely by the Owner."
 - "12. HAZARDOUS OR TOXIC MATERIALS PROHIBITED. Occupant is strictly prohibited from storing or using materials in the storage unit or at the self-storage facility classified as hazardous or toxic under any law, ordinance or regulation, or from engaging in any activity which produces such materials. Owner, at Occupant's sole expense, may enter the storage unit at any time to remove and dispose of prohibited items."
 - "13. OWNER'S RIGHT TO ENTER. Occupant grants to Owner or Owner's agents and representatives of any governmental authority access to the storage unit upon 48 hours advanced written notice to Occupant. In the event of an emergency or nuisance, Owner, Owner's agents and representatives of any government authority shall have the right to enter the storage unit without notice to Occupant, and take such action as may be necessary or appropriate to preserve the premises, to comply with applicable law or to enforce Owner's rights."

ezStorage
www.ezstorage.com

ezStorage Annapolis Rental Agreement
2729 Solomon Island Rd., Edgewater, Maryland 21037
410-224-2235

LEASE #
Date

NOTICE OF LIEN. Pursuant to the Maryland self-storage lien law Occupant's stored property is subject to a claim of lien for unpaid rent and other charges. Occupant's stored property may be sold to satisfy the lien if rent and other charges remain due and unpaid for a minimum of 60 days. If the property in the leased unit is a vehicle or boat, the Owner has the right to tow the vehicle or boat from the self-storage facility when rent and other charges have not been paid for 60 days.

THIS RENTAL AGREEMENT ("Agreement") is executed in duplicate by Annapolis Land LLLP, 2729 Solomon Island Rd., Edgewater, Maryland 21037 ("Owner") and ("Occupant"), whose address is as follows:

Occupant Address	
Cell Phone:	Residence Phone:
By initialing here _____, Occupant acknowledges that the information above is complete and correct.	
You have provided the electronic mailing address (email address) indicated below to which you want us to send lien notices. Since you provided an electronic mail address, the Owner may send statutory lien notices exclusively to the electronic mail address provided, or to subsequent written change, to that email address that you provide.	
Email Address:	
By initialing here _____, Occupant acknowledges that the Email Address above is complete and correct.	

Addendums	Is a vehicle requiring state registration being stored? If yes, Vehicle Addendum is required. Yes _____ No _____ Initial One Above	Is Occupant or Occupant's spouse a service member in the US military? If yes, Military Addendum is required. Yes _____ No _____ Initial One Above	Is Occupant a business? If yes, Business Addendum is required. Yes _____ No _____ Initial One Above
------------------	--	---	---

Owner and Occupant agree to the following terms and conditions:

1. **UNIT.** Owner hereby rents to Occupant unit number ("Unit") _____ in the self-storage facility located at the above address. Occupant has inspected the Unit and acknowledges that the Unit and surrounding public access areas are satisfactory for all purposes for which Occupant intends to use the self-storage facility, including the safety and security thereof.

2. **TERM.** The term of this Agreement shall begin as of the above date, shall continue from the first day of the month immediately following, and shall be automatically renewed, on the same terms, on a month-to-month basis, unless, at least 15 days before the end of a month, written notice is given by either party to the other of its intention to terminate. If Occupant vacates before the expiration of this Agreement, or any extension hereof, Owner shall retain that part of the Rent paid in advance as liquidated damages. There will be no refund of Rent whether or not the Unit has been occupied for the period from the vacancy date to the end of the month in which the vacancy occurred. If there is no lock on the Unit on the last day for which Occupant has paid Rent, Owner may, in its sole discretion and without prior notice to Occupant, terminate this Agreement as of such day and any property of Occupant remaining in the Unit thereafter will be considered abandoned property pursuant to Paragraph 17. At any time during the term of this Agreement, Owner reserves the right to refuse payment of Occupant's Rent by check including, but not limited to, the last month's Rent.

3. **RENT.** The rent shall be \$ _____ per month ("Rent") except that such Rent shall be subject to change on 30 days prior written notice to Occupant sent pursuant to Paragraph 21. Rent shall be paid monthly prior to the first day of each month, without deduction, prior notice or demand. The failure of Occupant to pay Rent when due shall constitute a Default on the part of Occupant as provided in Paragraph 6. The first payment of Rent shall be for any prorated portion of a month remaining so as to make succeeding full month Rent payments due before the first day of each month; however, if the rental occurs after the 25th day of any given month, the first payment of Rent shall also include the Rent for the following full month. It is expressly agreed that Owner shall not be required to give notice of Rent due dates or send Occupant any reminder statements. Advertisized space sizes are approximate and for comparison purposes only. Spaces may be smaller or larger than advertised. Spaces are not rented by the square foot and rent is not based on square foot measurements. If Occupant does not vacate the Unit and remove Occupant's lock specified in Paragraph 18 on the last day for which Occupant has paid Rent, Occupant shall be required to pay Rent for the entire succeeding month.

4. FEES AND DEPOSITS.

(a) Concurrently with the execution of this Agreement, Occupant will pay \$ _____ to Owner as a nonrefundable new account administration fee.

(b) If Rent is not paid within 15 days after the due date, a LATE FEE equaling the greater of \$20.00 per month or twenty percent (20%) of the monthly Rent due will be paid by Occupant to Owner, in addition to any other amounts due. Such fee shall be assessed for Occupant's failure to pay Rent when due.

(c) If Occupant's check is returned unpaid, a DISHONORED CHECK FEE OF \$30.00 will be paid by Occupant to Owner, in addition to any other amounts due. Such fee is intended to compensate Owner for the additional bookkeeping costs and bank charges incurred by Owner on account of such dishonored check. In such event, Owner reserves the right thereafter to refuse payment of Occupant's Rent by check.

Payments Made On	Merchandise
Rent	Tax
Discount	Total Paid By Cash
Administration Fee	Total Paid By Check
Limited Liability Provision	Total Paid By Card
Rent Paid Thru Date	
Next Payment Of	Due on or before

5. **CROSS-COLLATERALIZATION OF STORAGE UNITS.** When Occupant rents more than one unit at this facility, the rent is secured by the property in all the units rented. A default by Occupant on any unit shall be considered a default on all units rented. Owner may exercise all remedies available to it including denial of access to the facility and sale of the stored property if all rent and other charges on all units are not paid when due.

6. **DEFAULT.**

(a) Occupant shall be in default if Occupant breaches any term of this Agreement. At any time Occupant is in default, Owner shall be entitled to deny Occupant access to the Unit by: (i) over locking; (ii) removing Occupant's lock and replacing it with an Owner lock; (iii) removing Occupant's property to another Unit; (iv) removing Occupant's property from the self-storage facility; and/or (v) denying gate access to the facility. In addition, Owner shall be entitled to refuse partial payments and payments made by check or credit card.

(b) In addition to any other rights or remedies of Owner under this Agreement or applicable law, Owner shall have the following rights:

(i) An OVERLOCK CHARGE of \$10.00 will be paid by Occupant to Owner to have the unit removed from overlock status, in addition to any other amounts due. Such charge occurs if Occupant has defaulted on the unit for more than 5 days and is intended to compensate Owner for part of the cost incurred by Owner in order to protect Owner's lien rights under the Maryland Self-Storage lien law, including but not limited to installing Owner's own lock on the Unit.

(ii) A DEFAULT CHARGE of \$50.00 will be paid by Occupant to Owner, in addition to any other amounts due. Such charge is intended to compensate Owner for part of the cost incurred by Owner in preparing to enforce, and/or in enforcing, Owner's lien rights under the Maryland Self-Storage lien law, including but not limited to preparing and mailing notices to Occupant which occurs if Occupant is more than 30 days in default.

(iii) A LIEN SALE CHARGE of \$25.00 will be paid by Occupant to Owner, in addition to any other amounts due. Such charge is intended to compensate Owner for part of the cost incurred by Owner in preparing to enforce, and/or in enforcing, Owner's lien rights under the Maryland Self-Storage lien law, including but not limited to preparing and mailing notices to Occupant and expenses incurred in advertising and conducting the sale which occurs if Occupant is more than 40 days in default.

7. **INSURANCE.** Occupant, at Occupant's expense, shall maintain a policy of fire, extended coverage endorsement, burglary, vandalism and malicious mischief insurance for the actual cash value of stored property. Insurance on Occupant's property is a material condition of this agreement and is for the benefit of both Occupant and Owner. Failure to carry the required insurance or be self-insured is a breach of this agreement and Occupant assumes all risk of loss to stored property that would be covered by such insurance. Occupant expressly agrees that the insurance company providing such insurance shall not be subrogated to any claim of Occupant against Owner, Owner's agents or employees for loss of or damage to stored property. The limited increase in the Owner's Limitation of Liability as described in Exhibit "A" satisfies this requirement.

8. **LIMITATION OF OWNER'S LIABILITY FOR PROPERTY DAMAGE.** Occupant understands that this self-storage facility:

- (a) Is an owner/operator renting space, is not a warehouseman, and does not take custody of Occupant's property.
- (b) Is not responsible for loss or damage to Occupant's property.
- (c) Does not provide insurance on Occupant's property for Occupant.
- (d) Requires that Occupant provide Occupant's own insurance coverage or be "self-insured"(personally assumes risk of loss or damage).

Accordingly, Owner shall have no liability to Occupant for loss or damage to Occupant's property, whether due to negligence, breach of contract or otherwise. In the event that Occupant desires a limited increase in the Owner's Limitation of Liability as described in Exhibit A attached hereto, Occupant may choose from the list below. Occupant acknowledges that he or she has read, understands and agrees to the terms of Paragraph 8 and Occupant elects to (please initial only one):

_____ ACCEPT A LIMITED INCREASE IN LIMITATION OF LIABILITY (initial)	_____ DECLINE A LIMITED INCREASE IN LIMITATION OF LIABILITY (initial)
---	--

REQUEST FOR LIMITED INCREASE IN LIMITATION OF LIABILITY (please initial only one):

\$3,000 limit of liability _____ (initial) monthly cost	\$4,000 limit of liability _____ (initial) monthly cost	\$5,000 limit of liability _____ (initial) monthly cost
--	--	--

Occupant will pay the monthly cost as shown above.

- 9. **RELEASE OF OWNER'S LIABILITY FOR BODILY INJURY.** Owner, Owner's agents and employees shall not be liable to Occupant or Occupant's agents for injury or death as a result of Occupant's use of the storage unit or the self-storage facility, even if such injury is caused by the active or passive acts or omissions or negligence of the Owner, Owner's agents or employees.
- 10. **USE OF STORAGE UNIT.** Owner is not engaged in the business of storing goods for hire and no bailment is created under this agreement. Owner exercises neither care, custody nor control over Occupant's stored property. Occupant agrees to use the storage space only for the storage of property wholly owned by Occupant. Occupant shall not store food or any perishable items in the unit. Occupant agrees not to store collectibles, heirlooms, jewelry, works of art or any property having special or sentimental value to Occupant. Occupant waives any claim for emotional or sentimental attachment to the stored property. Occupant shall not store any type of motor vehicles, or watercraft without the Owner's written permission. Occupant shall not store any personal property in the Unit which would result in the violation of any law or regulation of any governmental authority, including without limitation all laws and regulations relating to Hazardous Materials (as defined in Paragraph 12), waste disposal and other environmental matters, and Occupant shall comply with all laws, rules, regulations and ordinances of any and all governmental authorities concerning the Unit and its use. Occupant shall not use the Unit in any manner that will constitute waste, nuisance, or unreasonable annoyance to other occupants on the property. Occupant acknowledges that the Unit may be used for storage only, and that it is specifically prohibited to use the Unit for the conduct of business or for human or animal habitation. Owner reserves the right, without prior notice to Occupant, to temporarily deny Occupant access to the property without reduction of rent for any reason including but not limited to unsafe weather conditions as determined solely by the Owner.
- 11. **LIMITATION OF VALUE OF STORED PROPERTY.** Occupant agrees not store property with a total value in excess of \$5,000 without the written permission of the Owner. If such written permission is not obtained, the value of Occupant's property shall be deemed not to exceed \$5,000. Nothing herein shall constitute any agreement or admission by Owner that Occupant's stored property has any value, nor shall anything alter the release of Owner's liability set forth above.
- 12. **HAZARDOUS OR TOXIC MATERIALS PROHIBITED.** Occupant is strictly prohibited from storing or using materials in the storage unit or at the self-storage facility classified as hazardous or toxic under any law, ordinance or regulation, or from engaging in any activity which produces such materials. Owner, at Occupant's sole expense, may enter the storage unit at any time to remove and dispose of prohibited items.

13. **OWNER'S RIGHT TO ENTER.** Occupant grants to Owner or Owner's agents and representatives of any governmental authority access to the storage unit upon 48 hours advanced written notice to Occupant. In the event of an emergency or nuisance, Owner, Owner's agents and representatives of any government authority shall have the right to enter the storage unit without notice to Occupant, and take such action as may be necessary or appropriate to preserve the premises, to comply with applicable law or to enforce Owner's rights.
14. **CHANGE OF ADDRESS.** Occupant agrees to promptly advise Owner in writing of any changes in Occupant's mailing address or telephone number or email address. Unless sent by registered or certified mail, said changes shall not become effective until acknowledged by Owner in writing.
15. **RULES AND REGULATIONS.** Occupant agrees to abide by all rules and regulations pertaining to Unit which shall from time to time be made by Owner and posted in the office, loading lobby, or other areas as deemed appropriate by Owner.
16. **SURRENDER.** On termination of this Agreement, Occupant shall surrender Unit in broom-clean condition and undamaged.
17. **ABANDONMENT.** Any property remaining in the Unit or on the facility after expiration or termination of this Agreement shall be conclusively deemed to have been abandoned and may be disposed of in such manner as Owner sees fit. Owner shall have no liability to Occupant for abandoned property or for the proceeds of sale thereof (if any), except as specifically provided by statute. Occupant shall be liable for any and all costs associated with the disposal of Occupant's abandoned property by Owner.
18. **LOCK.** Occupant shall provide, at Occupant's expense, ONE lock for the Unit which Occupant, in Occupant's sole discretion, deems sufficient to secure the Unit. Occupant shall not provide Owner or Owner's agents with a key and/or combination to Occupant's lock.
19. **NO WARRANTIES.** Owner hereby disclaims any implied or express warranties, guarantees, or representations of the nature, condition, safety or security of the self-storage facility and the Unit. Occupant hereby acknowledges, as provided in Paragraph 1 above, that Occupant has inspected the self-storage facility and the Unit and hereby acknowledges and agrees that Owner does not represent or guarantee the safety or security of the self-storage facility or the Unit, and this Agreement does not create any contractual duty for Owner to increase or maintain such safety or security.
20. **CLIMATE CONTROLLED UNITS.** Climate controlled space are heated or cooled depending on outside temperature. These spaces do not provide constant internal temperature or humidity control. Owner does not warrant or guarantee temperature or humidity ranges inside the space due to changes in outside temperature or humidity.
21. **NOTICES.** All notices required by this rental agreement shall be sent by first class mail postage prepaid to Occupant's last known postal address or to the electronic mail address provided by Occupant. Notices shall be deemed given when deposited in the United States mail or sent to the electronic mail address provided, Lien notices shall be sent as required by law, which includes sending such notices exclusively by electronic mail.
22. **SEVERABLE.** If any part of this Agreement is declared invalid, it shall not affect the validity of any of the rest of this Agreement, which shall remain in full force and effect as if this Agreement had been executed without the invalid part.
23. **RELEASE OF OCCUPANT INFORMATION.** Occupant hereby authorizes Owner to release any information regarding Occupant and his or her occupancy as may be required by law or requested by governmental authorities or agencies, law enforcement agencies, or courts.
24. **SUCCESSION; ASSIGNMENT; ACKNOWLEDGMENT.** All terms of this Agreement shall apply to, bind and be obligatory upon the heirs, executors, administrators, representatives, successors and assigns of the parties hereto. Occupant shall not assign or sublease any or the entire Unit without obtaining Owner's prior written consent. If occupant is not an individual, the individual executing this Agreement affirms he/she is duly authorized as an officer or principal to act on behalf of the Occupant. In the absence of being duly authorized to act on behalf of the Occupant, the undersigned agrees to be personally liable for any and all amounts due or which become due under this Agreement.
25. **GOVERNING LAW.** This Agreement shall be governed and construed in accordance with the laws of the State of Maryland.
26. **TIME.** Time is of the essence of this Agreement.
27. **APPLICATION OF PAYMENTS.** Nothing in this Agreement shall be deemed to require Occupant to pay any fee or other sum if and to the extent that such fee or sum would exceed the maximum allowed by law. In such event, all such excess shall be and is hereby waived by Owner, and any such excess paid shall be automatically credited against and in reduction of the remaining Rent due from time to time under this Agreement (beginning with the Rent for the last month of the term of this Agreement, and then to the Rent for the preceding month or months, until such excess is credited in full), and the portion of said excess which exceeds the remaining unpaid Rent for the balance of such term shall be refunded by Owner to Occupant.
28. **WAIVER OF TRIAL BY JURY.** OWNER AND OCCUPANT DO HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING AND/OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTERS WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, THE RELATIONSHIP OF OWNER AND OCCUPANT, OCCUPANT'S USE OR OCCUPANCY OF THE UNIT, ANY CLAIM OF INJURY OR DAMAGE AND/OR ANY STATUTORY REMEDY.
29. **TIME TO BRING SUIT.** Occupant must bring any claim or file any lawsuit that arises out of this Agreement, the negotiations that proceeded this tenancy, or for loss of or damage to stored property within twelve (12) months after the date of the acts, omissions, or inactions that gave rise to such claim or suit or twelve (12) months after the termination of this Agreement, whichever occurs first.
30. **INDEMNITY.** If either Owner or Occupant is made a party to any litigation instituted by or against the other, the losing party will indemnify the prevailing party against all loss, liability and expense including reasonable attorneys' fees and court costs incurred by it in connection with such litigation.
31. **ENTIRE AGREEMENT.** This Agreement including Exhibits and the attached Information Sheet contain the entire agreement of the parties hereto and neither they nor their agents shall be bound by any terms, conditions, statements, warranties, representations, or advertisements, oral or written, not contained herein.
32. **UNIT SIZE APPROXIMATE.** Unit sizes are approximate and for comparison purposes only. Units may be smaller than indicated in advertising or other size indicators.

Do not sign this agreement until you have read the entire agreement and fully understand it. This agreement releases the Owner from liability for loss of or damage to your stored property. If you have any questions concerning its legal effect, consult your legal advisor.

OCCUPANT'S SIGNATURE _____

Annapolis Land LLLP

2729 Solomon Island Rd., Edgewater, Maryland 21037

By _____

(Agent)

Signature

EXHIBIT A TO RENTAL AGREEMENT
LIMITED INCREASE IN LIMITATION OF LIABILITY

PROVIDER OF LIMITED INCREASE IN LIMITATION OF LIABILITY: Owner

Owner's limitation of liability is increased as described below in accordance with Occupant's election on Page 2 of the Rental Agreement.

Certain words and phrases are defined as follows:

Owner - shall mean the owner, landlord or operator of the self-storage facility.

Rental Agreement - means the Rental Agreement executed and in effect between Occupant and the Owner.

Limit of Liability - means the amount designated by your initials in the Rental Agreement.

Monthly Cost - means the amount shown in the Rental Agreement as the cost for this increase in liability.

AGREEMENT: Owner will provide this limited increase in limitation of liability on behalf of Owner in consideration of your payment of the monthly cost shown in the Rental Agreement and compliance with all other applicable provisions.

EFFECTIVE DATE: This limited increase in limitation of liability attaches on the date shown in the Rental Agreement. Upon timely payment of the monthly cost this increase shall remain in effect until termination or cancellation as provided below.

LIMITED INCREASE IN LIMITATION OF LIABILITY: This limited increase in limitation of liability covers direct loss to property caused by the following perils as to which Owner's negligence contributed to your loss, except as otherwise excluded:

- (a) Fire or Lightning
- (b) Windstorm or Hail
- (c) Cyclone, Tornado or Hurricane
- (d) Explosion or Sonic Boom
- (e) Strikes, Riot, or Civil Commotion
- (f) Aircraft, Self-propelled Missiles or Spacecraft
- (g) Vehicles
- (h) Smoke
- (i) Vandalism or Malicious Mischief
- (j) Falling objects provided the building is first damaged by such falling objects
- (k) Weight of Ice, Snow or Sleet
- (l) Collapse of Buildings, other than by earthquake
- (m) Landslide, including sinkhole collapse
- (n) Burglary -see Exclusion (d) below

EXCLUSIONS: This limited increase in limitation of liability does not cover:

- (a) Accounts, bills, currency, deeds, evidences of debt, securities, money, notes, animals, jewelry, watches, precious or semi-precious stones or metals, furs or garments trimmed with fur, fine art or antiques, vehicles and watercraft of any kind including but not limited to automobiles, trucks, motorcycles, all-terrain vehicles or boats.
- (b) Loss or damage caused by or resulting from wear and tear, gradual deterioration, inherent vice, latent defect, moths, insects, rodents, vermin, mildew, wet or dry rot, atmospheric condition and or changes in temperature, breakage of glass or similar fragile articles; delay, loss of use or market or any consequential loss.
- (c) Loss or damage caused by, resulting from, contributed to or aggravated by (1) flood, surface water, waves, tidal water or tidal wave, or overflow of streams or other bodies of water; or (2) earthquake, unless fire or explosion ensues, and then ensuing loss will be covered.
- (d) Burglary requires evidence of forcible entry.

ADDITIONAL CONDITIONS:

TERMINATION OF LIMITED INCREASE IN LIMITATION OF LIABILITY: Automatic termination without notice to you shall occur (a) on the date your Rental Agreement is terminated.

VALUATION: The value of property will be determined at the time of loss and will be the least of the following amounts: (a) the actual cash value of that property; (b) the cost of reasonably restoring the property to its condition immediately before loss, or (c) the cost of replacing that property with substantially identical property.

DUTIES YOU HAVE AFTER A LOSS: You will give prompt notice of loss to us or our authorized representatives and in case of burglary also to the police. The notice should include: (a) how, when and where the loss occurred; (b) the property involved and your interest in it; and (c) the name and addresses of any witnesses.

CONCEALMENT, MISREPRESENTATION AND FRAUD: This Exhibit A is void in any case of fraud by you relating to it. It is also void if you intentionally conceal or misrepresent any material fact concerning: (a) the covered property; or (b) your interest in the covered property.

APPRAISAL: If the parties do not agree as to the amount of loss, the parties will each select a competent appraiser upon receiving a written request from the other. The appraiser will select an umpire. If they do not agree on an umpire, the appraisers will ask a judge of a court of record of the state in which the appraisal is pending to make the selection. The written agreement of any two will be binding and set the amount of loss. You will pay the expense of your appraiser and we will pay ours. The parties will share equally the expense of the umpire and other expense of the appraisal.

LEGAL ACTION AGAINST US: No one may bring legal action against us unless: (a) there has been full compliance with all the terms of this Exhibit A; and (b) such action is brought within one year after you first have knowledge of a loss.

TRANSFER OF YOUR RIGHTS OF RECOVERY AGAINST OTHERS TO US: If any person or organization to or for whom we make payments under this Exhibit A has a right to recover damages from another that right must be transferred to us. That person or organization must do everything necessary to assist us, and must do nothing after the loss to hinder us in our recovery.

OPTIONAL ARBITRATION: In case the parties fail to agree as to the interpretation or applicability of any of the terms of this Exhibit A, you may elect to resolve the disagreement by binding arbitration in accordance with the statutory rules and procedures of the state in which the property is located or in accordance with the Commercial Arbitration Rules of the American Arbitration Association. This option is granted to you subject to the following terms and conditions:

1. Any arbitration must be started within one year after the occurrence causing the loss or damage.
2. This optional arbitration clause is intended to grant an additional right to you. All other terms and conditions of this Exhibit A remain the same and no rights or duties of your or ours shall be diminished or negated by reason of this clause or exercise of this option.
3. In the event of any issue arbitrated under the terms of this optional arbitration clause and the arbitration results in a determination in favor of you, we shall reimburse expenses actually incurred by you, with respect to the arbitration, including reasonable attorney fees, in a sum not in excess of \$1,000 to be determined by the arbitrator(s).

CANCELLATION: This Exhibit A may be cancelled at any time by you upon advance notice in writing to us. This Exhibit A may be cancelled at any time by us upon giving you thirty (30) days advance written notice of cancellation. Notice mailed to your address shown on the Rental Agreement shall be sufficient notice to you. Monthly cost is due on a prorated basis up to the date of the cancellation.

CHANGES: This Exhibit A contains all the understandings between you and us. Its terms can be amended or waived only by written change authorized by us.

By initialing here _____, Occupant acknowledges that he or she has read, understands and agrees to the terms of this Exhibit A.

Excerpts from the East Rockville Neighborhood Plan

(Page 36)

Although the neighborhood is well-defined by boundaries, these do not always provide appropriate transition areas between residential and nonresidential uses and other features such as highways. An opportunity exists with this Plan to provide buffers and transition areas to reinforce the residential quality of life in the community. The introduction of green space can be used not only to limit sight and sound of nearby buildings and uses, but also can contribute to the social and environmental health of the neighborhood. The Mayor and Council have enacted development standards that apply when nonresidential properties and residential properties abut. The new setback and building height standards will limit the height of new construction on nonresidential properties in the neighborhood that abut residential properties, such as along Lincoln Street east of North Horners Lane, and the residential properties adjacent to nonresidential properties on North Stonestreet Avenue. New buffer standards and landscape screening requirements should be added into the Zoning Ordinance to ensure that these buffers are achieved in the redevelopment occurring in the Stonestreet corridor.

In the longer term, the arrangement and order of permitted uses, services, and activities both in and around East Rockville have been identified as essential to promoting a cohesive mixture of development that balances the need to promote and preserve a suitable residential environment with the organization of adjacent commercial, retail, and industrial districts. As a result, a portion of the Southlawn industrial area that abuts the neighborhood should be examined for possible land use and transportation patterns that would be encouraged in order to create a more appropriate transition between industrial and residential areas.

(Page 37)

The neighborhood plan therefore recommends further study of the potential redevelopment of the portion of the Southlawn industrial area impacting the neighborhood, in order to achieve more a compatible land use pattern. One favorable option could be the diluting of industrial services by encouraging residential, retail, and office uses within this area in order to create a more mixed-use area that expands residential services and activities while still retaining elements of its current industrial use. These might include various types of dwelling units that combine space for work and space for living in both individual and group settings. Examples include service industrial uses with residential lofts as well as both attached and detached dwelling units. The retailing of convenience goods as well as those produced from artisan and craftsman trades would complement such rearrangements. Small-scale office space could be incorporated into the layout of any number of uses. Recreational facilities along with public space could further enhance the area's relationship with neighboring residential areas. Industrial uses geared toward automotive repair as well as manufacturing and processing might be eliminated in favor of those seen as more compatible with new residential conditions. A transportation network would have to serve the purpose of creating both internal and external circulation patterns in order to support these uses while filtering existing nonresidential traffic away from East Rockville streets, especially North Horners Lane and First Street. Regardless of what the exact details will be, the idea that compatibility between East Rockville and the neighboring Southlawn area can be further enhanced through the redistribution of land uses and transportation system makes the compelling argument for a detailed study of this area.

(Page 39)

Conduct a detailed study of the Southlawn industrial area to assess the feasibility of implementing a mixed-use, transitional industrial area in order to reduce the impacts of industrial properties on the East Rockville community. This area would be limited in industrial activity, and include a compliment of residential, retail, and office space to be used by residents.

SELF-STORAGE FACILITIES - PROXIMITY TO RESIDENCES AND SCHOOLS

SELF-STORAGE FACILITY	ADDRESS	CITY	COUNTY/CITY	STATE	ZIP	YEAR BUILT	GROSS FLOOR AREA (SF)	NET RENTABLE AREA (SF)	# OF UNITS	SCHOOL NAME	DISTANCE IN FEET	
											PROPERTY TO PROPERTY	BUILDING TO BUILDING
Rockville Self Storage	1125 Teb Street	Rockville	Montgomery-Rockville	MD	20850	-	109,764	76,600	780	Maryvale Elementary	210	580
Extra Space Storage	7722 Fenton Street	Silver Spring	Montgomery	MD	20930	1989	110,113		980	MCC Comm College (Parking Garage)	Adjoining	160
Extra Space Storage	7722 Fenton Street	Silver Spring	Montgomery	MD	20930	1989	110,113		980	MCC Comm College (Parking Garage)	Adjoining	109
Public Storage	500 East Diamond Avenue	Gaithersburg	Montgomery	MD	20877	1988	68,250		517	Gaithersburg Middle	Adjoining	102
Security Public Storage	5223 River Road	Bethesda	Montgomery	MD	20835	2008	196,562			Washington Episcopal (K-8)	110	600
Extra Space Storage	1352 Holton Lane	Takoma Park	Montgomery	MD	20912	2005	145,258	98,875	1,160	Cardie Highlands Elementary	258	500
CitySmart Self Storage	7805 Old Alexandria Ferry Road	Clinton	Prince George's	MD	20735	2008				Tonguewood Elementary	Adjoining	265
Self Storage One - Westview	5559 Baltimore National Pike	Baltimore	Baltimore	MD	21229	Pre-1980				Weston Elementary	Adjoining	290
Extra Space Storage	2700 Whitney Place	Oxfort Heights	Prince George's	MD	20747	2005	81,431			Bishop McManis High	81	500
Extra Space Storage	8401 Conroe Road	Lauri	Prince George's	MD	20708	1999	106,392			Jamnis H Hardson Elementary	101	230
CitySmart Self Storage	1200 Upshur Street NW	Washington	Washington, DC	DC	20031	2002		62,895	734	Roosevelt High	113	360
CitySmart Self Storage	1752 West Street	Washington	Washington, DC	DC	20002	1998				McInley Technology High	116	355
Public Storage	6011 Blair Road, NW	Annapolis	Anne Arundel-Annapolis	MD	21401	1998	77,576		383	Gerantown Elementary	160	490
Extra Space Storage	545 Taylor Street, NE	Washington	Washington, DC	DC	20011	1992				Capital City Public Charter (K-12)	247	350
Self Storage Zone		Washington	Washington, DC	DC	20017	2014				Catholic University	254	385

* All Distances are Approximate Using Satellite Imagery and GIS Data.
 (Google Earth Professional and Municipality GIS Data on ArcGIS)
 ** Table does not include Day-Care, Early Learning Centers and Smaller Private Schools.

12/9/2014

EXHIBIT E

A Partial Survey of Surrounding Jurisdictional Treatment of Self Storage Uses

(3 Maryland Cities, 5 Maryland Counties, 4 Virginia Cities, 4 Virginia Counties and Wash DC)

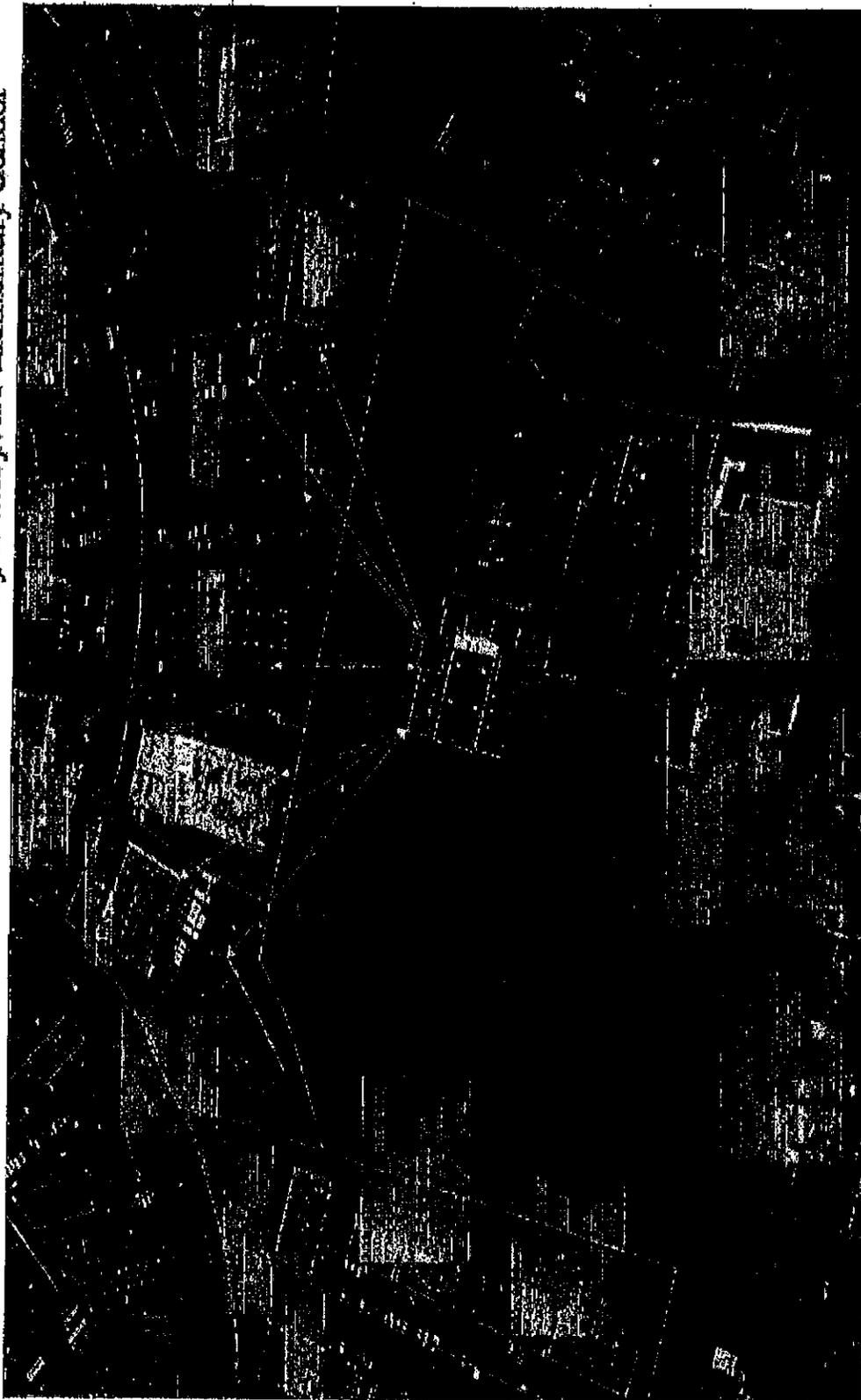
Jurisdiction	Zoning Code	Description	Permitted
MARYLAND			
Baltimore City	M1	Industrial District	By-Right
	M2	Industrial District	By-Right
	M3	Industrial District	By-Right
Baltimore County	MR	Manufacturing, Restricted	By-Right
	MLR	Manufacturing, Light, Restricted	By-Right
	ML	Manufacturing, Light	By-Right
	MH	Manufacturing, Heavy	By-Right
City of Gaithersburg	I-1	Light Industrial	By-Right
	I-3	Industrial and Office Park	By-Right
	I-4	General Industrial	By-Right
City of Rockville	I-L	Light Industrial	By-Right
	I-H	Heavy Industrial	By-Right
City of Frederick	M1	Light Industrial	By-Right
	M2	Heavy Industrial	By-Right
Frederick County	GI	General Industrial District	By-Right
	LI	Limited Industrial District	By-Right
Howard County	M1	Manufacturing, Light	By-Right
	M2	Manufacturing, Heavy	By-Right
Montgomery County	I-1	Industrial, Light	By-Right
	I-4	Light Industrial, Low intensity	By-Right
	New Zoning IL	Light Industrial	By-Right
	IM	Moderate Industrial	By-Right
Prince Georges County	I-1	Industrial, Light	By-Right
	I-2	Industrial, Heavy	By-Right
	I-4	Industrial, Light, Low Intensity	By-Right

A Partial Survey of Surrounding Jurisdictional Treatment of Self Storage Uses

(3 Maryland Cities, 5 Maryland Counties, 4 Virginia Cities, 4 Virginia Counties and Wash DC)

Jurisdiction	Zoning Code	Description	Permitted
VIRGINIA			
Arlington County	M-1	Light Industrial	By-Right
	M-2	Service Industrial	By-Right
	CM	Limited Industrial	By-Right
City of Alexandria	I	Industrial	By-Right
City of Fairfax	I-2	Industrial District	By-Right
City of Manassas	I-1	Light Industrial	By-Right
	I-2	Heavy Industrial	By-Right
City of Manassas Park	I-1	Light Industrial	By-Right
Fairfax County	I-4	Industrial, Medium Intensity	By-Right
	I-5	General Industrial	By-Right
	I-6	Industrial, High Intensity	By-Right
Loudoun County	PDGI	Planned Development - Gen. Industry	By-Right
	PD - IP	Planned Development - Industrial Park	By-Right
Prince William County	M-1	Heavy Industrial District	By-Right
	M-2	Light Industrial District	By-Right
	M/T	Industrial/Transportation	By-Right
WASHINGTON D.C.	CM	Commercial - Light Manufacturing	By-Right

Industrial Properties and Businesses in Proximity to Maryvale Elementary School



-I Industrial buildings on properties that are adjacent to school property
 -II Industrial buildings on properties closer to the school property than the subject property
 -7 Industrial buildings that are closer to the school building than the proposed building
 -S businesses within these buildings
 -Business types include laboratory drug and disease research; environmental and asbestos remediation; auto repair and painting; furniture stripping and repair; electrical, mechanical, and HVAC contractors; electronics manufacturing; metals and glass fabrication; commercial and home improvement; warehousing; etc.

2017
 Property File
 Distance from industrial and school property file
 Distance between industrial and school buildings
 Distance from proposed facility
 Calculations performed: Team Energy, Inc., Chicago, VA, and associated website.
 Distances are approximate.

Exhibit No. 7
 TXT2015-00239
 Self-Storage
 Public Hearing: 12/15/14



RE: Adequate public facilities ordinance
 Don Hadley
 to:
 Kashi Way, City Council!, planning.commission@rockvillemd.gov
 12/15/2014 04:01 PM
 Cc:
 Andrew Gunning, "mwaxman@rockvillemd.gov", "ddaniel@rockvillemd.gov"
 Hide Details
 From: Don Hadley <Don@hadleylaw.com>

To: Kashi Way <kashi_way@yahoo.com>, City Council! <mayorandcouncil@rockvillemd.gov>, "planning.commission@rockvillemd.gov" <planning.commission@rockvillemd.gov>

Cc: Andrew Gunning <agunning@rockvillemd.gov>, "mwaxman@rockvillemd.gov" <mwaxman@rockvillemd.gov>, "ddaniel@rockvillemd.gov" <ddaniel@rockvillemd.gov>

Dear Mr. Way and All,

Further discussion of the issue(s) raised in Mr. Way's letter of December 12, 2014 is healthy and appreciated. I am responding to Mr. Way's letter as an individual, since the Planning Commissioners does not have a meeting scheduled until January 14, 2015.

It seems to me several matters influence the weight to be given to Mr. Way's comments and conclusions, including:

- The Commission letter of November 19th was written without the benefit of receiving or reading the Attorney General's Opinion of November 18th.
- Mr. Way fails to take into consideration the matters more clearly presented in the View From the Chairman of the Planning Commission which was presented to the Mayor and Council on December 8, 2014.
- Mr. Way fails to note the technicality that the change proposed by the Mayor and Council is to the Adequate Public Facilities Standards. If the proposed change was to an ordinance, the matter would have to pass before the Planning Commission for consideration and recommendation.
- Section 3-112 of the Land use Article requires that a local jurisdiction's comprehensive plan must include: **"(7) public services and infrastructure needed to accommodate growth within the proposed municipal growth areas, including those necessary for: . . . (vi) public schools sufficient to accommodate student population consistent with State rated capacity standards established by the interagency committee on school construction; . . ." (Bold Added).**
- For the reasons stated therein, the Attorney General's Opinion of November 18th advises that comprehensive plan elements must be formulated by the Planning Commission, with the action by the local legislative body limited to voting within the prescribed 60-day period, and without authority even to hold hearings.
- Old Section 10.01 of Article 66B was captioned "Adequate Public Facilities" and gave the impression (prior to General Assembly legislation in 2009) that a local legislature had authority to act alone to develop and adopt adequate public facilities legislation.
- The caption of new Section 7-101 (2012) now is changed to, "Local Authority." The section does not speak to the local legislative body, but to a "local jurisdiction that exercises authority granted by this division . . ." And that authority per Title 3 of the Land Use Article and as amplified the Attorney General's Opinion of November 18th is that the Planning Commission develops comprehensive plan content and the legislative body either adopts or rejects it with the 60-day period. In short, Section 7-101 must be read to be consistent with the Attorney general's Opinion of November 18th and the controlling statutes regarding comprehensive plans.
- We learn from the Attorney General's Opinion of November 18th that The Smart and Sustainable Growth Act of 2009

implemented the following additional requirements regarding comprehensive plans: (i) it is mandatory that a municipal corporation have one, (ii) the provisions of a comprehensive plan are mandatory, not advisory and (iii) local zoning laws and development regulations . . . must "further and not be contrary to" the comprehensive plan (page 15).

- The Adequate Public Facilities Standards are pre-2009 regulations that purport to give the legislative body power contrary to the mandatory nature of comprehensive plan development by the Planning Commission, and the currently proposed liberalization of the school capacity standard is contrary to Section 3-112 of the Land use Article and of the Land Use element of the Rockville Comprehensive Master Plan.

Mr. Way's chagrin with a matter recently before the Planning Commission is understandable, but it unfortunately colors his view as to Planning Commission functioning in that matter and in this.

Accordingly, absent an opinion of the Attorney General sustaining the ability of the legislative body to unilaterally modify the Adequate Public Facilities Standard, and school capacity standard in particular, the Mayor and Council are without authority to do so proceed; and any such action will be of questionable effect and may be subject to challenge.

I wish this also to be included in the record of the hearing on January 5, 2015.

Donald H. Hadley

215 Harrison Street
Rockville, MD 20850

From: Kashi Way [mailto:kashi_way@yahoo.com]
Sent: Saturday, December 13, 2014 11:11 PM
To: City Council; planning.commission@rockvillemd.gov
Cc: Andrew Gunning; mwaxman@rockvillemd.gov; ddaniel@rockvillemd.gov
Subject: Adequate public facilities ordinance

Subject: Adequate public facilities ordinance

Date: December 13, 2014

Dear Madam Mayor, Council Members, and Planning Commissioners,

On November 19, 2014, Planning Commission Chairman Don Hadley and Commissioner David Hill wrote a letter asserting that the Mayor and Council lack authority to change unilaterally the Adequate Public Facilities Ordinance (APFO). As support for this position, the Commissioners cite the fact that section 10.01 of Article 66.B of the Maryland Code was repealed in 2012 and that "no comparable provision for general origination of adequate public facilities ordinances by local legislative bodies is provided in the new Land Use Article."

The above quotation is simply not accurate. Maryland House Bill 1290 from the 2012 Regular Session was signed by the Governor on May 2, 2012, and thereby enacted as Chapter 426 of the Acts of the General Assembly of 2012 (the Act). (See <http://mgaleg.maryland.gov/webmga/frmMain.aspx?ys=2012rs%2fbillfile%2fhb1290.htm>). Section 1 of the Act repealed a long list of sections from the Maryland Code, including section 10.01 of Article 66.B. However, section 2 of the Act created a new Land Use Article, section 7-101 of which reads as follows:

"To encourage the preservation of natural resources or the provision of affordable housing and to facilitate orderly development and growth, a local jurisdiction that exercises authority granted by this division may enact, and is encouraged to enact, local

laws providing for or requiring:

- (1) the planning, staging, or provision of adequate public facilities and affordable housing;
- (2) off-site improvements or the dedication of land for public facilities essential for a development;
- (3) moderately priced dwelling unit programs;
- (4) mixed use developments;
- (5) cluster developments;
- (6) planned unit developments;
- (7) alternative subdivision requirements that:
 - (i) meet minimum performance standards set by the local jurisdiction; and
 - (ii) reduce infrastructure costs;
- (8) floating zones;
- (9) incentive zoning; and
- (10) performance zoning."

(Highlight added; see <http://mgaleg.maryland.gov/Pubs/LegislLegal/2012rs-laws-maryland-Vol-004.pdf>).

The above language is **IDENTICAL** to section 10.01 of Article 66.B prior to its repeal. (See http://www.mdp.state.md.us/PDF/OurProducts/Publications/OtherPublications/article_66B.pdf).

At least with respect to this provision, all that occurred was a renumbering/recodification of existing law. The City Attorney states as much in the guidance she provided to the Mayor and Council on November 20, 2014, which was made public this past Monday. The legal opinion of the Maryland Attorney General from November 18, 2014, cited by Chairman Hadley at the December 8th Mayor and Council meeting concerned the rules for creating and modifying comprehensive master plans, not adequate public facilities ordinances. Thus, the Mayor and Council continue to have specific State-granted authority to enact or modify adequate public facilities ordinances. To suggest otherwise requires ignoring the plain meaning of Land Use Article section 7-101.

During his testimony before the Mayor and Council, Chairman Hadley noted that one of the Comprehensive Master Plan's policy goals was to "ensure new growth does not occur without adequate public facilities, especially schools." While this is a worthy goal, I am reminded of my recent experience before the Planning Commission when that body chose to deliberately ignore Master Plan policy goal number 3, which promotes continuing "to protect residential areas adjoining growth areas by providing buffer and transition areas," as well as a number of much more specific recommendations and goals in the East Rockville Neighborhood Plan. When made aware of those elements of the Master and Neighborhood Plans, the Planning Commission dismissed them as too vague to be actionable and proceeded to reach its own conclusions about a particular site application near Maryvale Elementary School. For this reason, I find it troubling that the Planning Commission is seeking selectively and arbitrarily to use Master Plan policy goals as leverage to take power away from the Mayor and Council.

In reaching this conclusion, I don't want to suggest that the Planning Commission has no role in

the APFO/APFS process. The Planning Commission can always add specific recommendations concerning adequate public facilities as it rewrites the Comprehensive Master Plan. The Commission may go so far as to recommend a specific standard, be that 110 percent or some other number. However, the current Plan imposes no such requirement. Chapter Seven of the current Plan makes eight separate recommendations concerning schools; none of them would appear to preclude adopting the County standards regarding adequate public school facilities.

Although there is no doubt that the Mayor and Council have authority to modify the APFO, I am concerned about the amendment process currently taking place. I have heard allegations that at least one Councilmember has publicly stated that he "has the votes" to change the APFO, even though the public hearing is not scheduled to take place until January 5, 2015. I am also confused as to why no one was willing to second Councilmember Onley's motion last month to add a second hearing date. Given the strong public interest in this issue, I think a second hearing date would be useful, particularly since the first hearing is scheduled for January 5, 2015, which is an inconvenient date for many families with school-age children (it is the first day back to school after winter break).

Thank you for considering my views on this matter. Please include them in the public record for the January 5, 2015, hearing on the APFO standard, as well as in any relevant upcoming Planning Commission records of public testimony on the APFO.

Sincerely,
Kashi Way
1020 Neal Dr., Rockville, MD

Exhibit No. 8
TXT2015-00239
Self-Storage
Public Hearing: 12/15/14



Proposed Zoning Ordinance Text Amendment TXT2015-

Diane Ferguson

to:

mayorandcouncil

12/15/2014 04:26 PM

Hide Details

From: Diane Ferguson <dianeferguson@mindspring.com>

To: mayorandcouncil@rockvillemd.gov

Please respond to Diane Ferguson <dianeferguson@mindspring.com>

Dear Madam Mayor and Councilmembers,

I strongly support the above-referenced ZTA, and I appreciate your efforts on this important issue. I hope the ZTA will pass so that no other family in the City of Rockville will have to undergo the kind of struggle that we are experiencing right now to stop an unwanted use that we perceive as dangerous to our children and detrimental to the character of our school neighborhoods citywide. We have expended enormous time resources on this effort over many months, and we have made many personal sacrifices to be present at meetings and keep up the pressure to act. I would not wish anyone else to have to go through this, no matter which school, childcare center, or other facility their children attend.

I will be at the first part of the meeting tonight, and watching the rest on Rockville Channel 11. I look forward to a positive outcome.

Please include this email in the public record on the above-referenced ZTA (Item 12 on the agenda for tonight's Mayor and Council meeting).

Thank you,

Diane Ferguson

1020 Neal Dr
Rockville MD 20850



Proposed Zoning Ordinance Text Amendment TXT2015-00239

Diane Ferguson

to:

mayorandcouncil

12/15/2014 04:26 PM

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I will be at the first part of the meeting tonight, and watching the rest on Rockville Channel 11. I look forward to a positive outcome.

Please include this email in the public record on the above-referenced ZTA (Item 12 on the agenda for tonight's Mayor and Council meeting).

Thank you,

Diane Ferguson

1020 Neal Dr
Rockville MD 20850

Statement by Kashi Way**Zoning Text Amendment TXT2015-00239****December 15, 2014**

Good evening. My name is Kashi Way and I live at 1020 Neal Drive. I have come tonight to support Councilmember Feinberg's proposed zoning text amendment relating to self-storage buildings near public schools.

I have spoken here before about the vehicular safety issues associated with self-storage buildings and the dangers to school children. Tonight I want to focus on the bigger picture. Rockville's Master Plan opens with a vision for the City's future that emphasizes maintaining the characteristics of a small town community that offers an excellent quality of life and provides a responsive government serving its citizens. This proposed zoning text amendment is a perfect example of that vision. Communities from across the City have come together to support a proposal that aims to protect schools and students. Last month, the West End Citizen's Association passed a motion in support of this text amendment, even though none of the schools in that area are within 250 feet of one of an affected zone. The reason for this is clear: This zoning text amendment is about the future of Rockville.

Tonight you will hear complaints from Siena Corporation that this proposal targets their property in the South Lawn industrial area. Siena Corporation is obviously trying to protect its investment rather than look out for the future of the City. When this Council deliberates you may also hear objections from Councilmember Moore, who received campaign funds from Siena Corporation's lawyers.

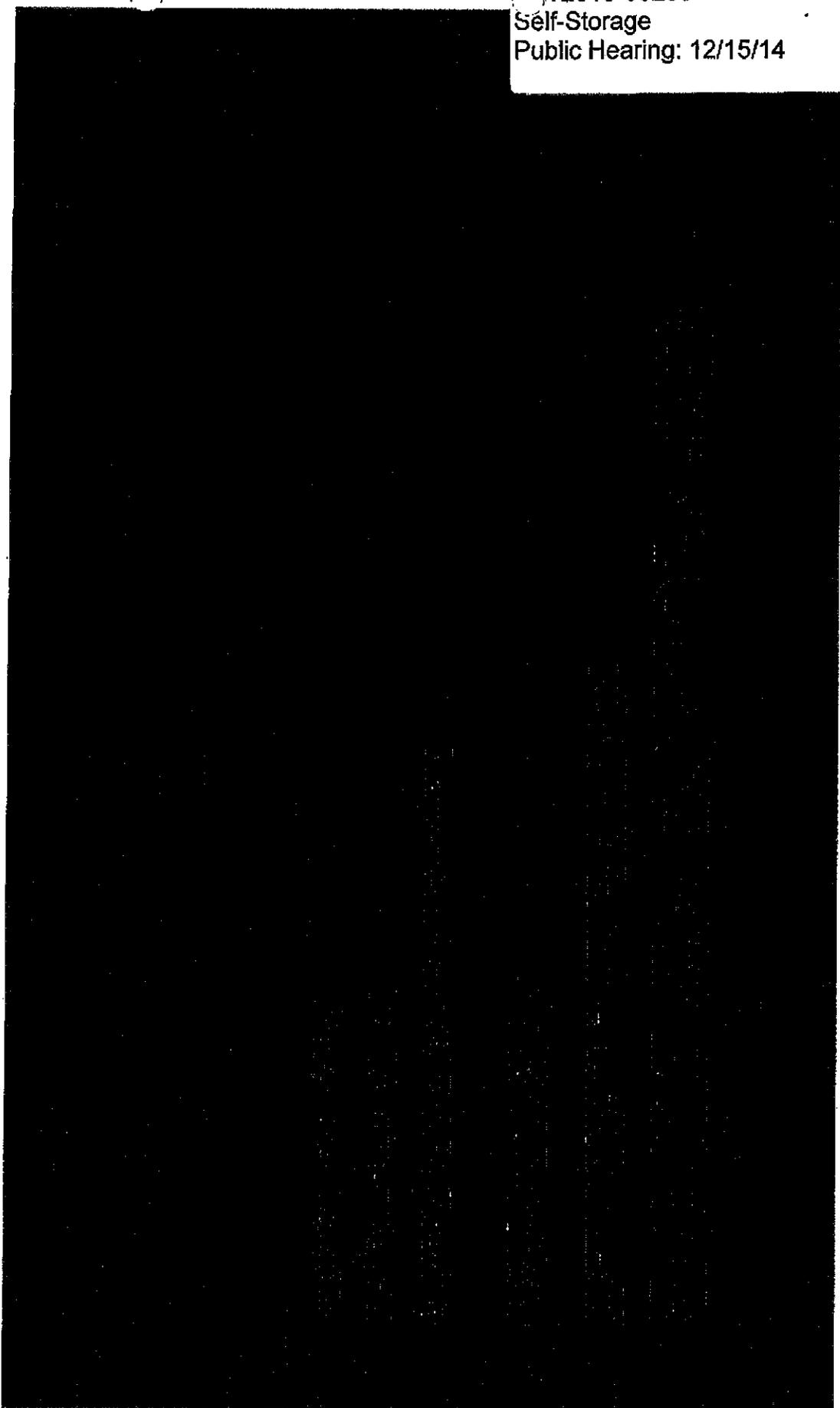
Contrary to those views, this proposal is not about a single development project. It affects numerous properties surrounding Maryvale Elementary School, as well as numerous zones throughout the City. It even affects

Exhibit No. 10

NYT2015-00239

Self-Storage

Public Hearing: 12/15/14



There are already many existing City regulations that review and address the impact of a self-storage warehouse

- ✓ zoning ordinance requirements
 - development standards
 - setbacks and buffering requirements
- ✓ adequate public facilities standards
- ✓ subdivision regulations
- ✓ landscaping guidelines
- ✓ environmental requirements and guidelines
- ✓ sediment and stormwater management
- ✓ lighting and building design
- ✓ building and fire codes

A list of Maryland Counties and Cities which permit self-storage in industrial zones

A Partial Survey of Surrounding Jurisdictional Treatment of Self Storage Uses (3 Maryland Cities, 5 Maryland Counties, 4 Virginia Cities, 4 Virginia Counties and Wash, DC)

Jurisdiction	Zoning Code	Description	Permitted
MARYLAND			
Baltimore City	M1	Industrial District	By-Right
	M2	Industrial District	By-Right
	M3	Industrial District	By-Right
Baltimore County	MR	Manufacturing, Restricted	By-Right
	MLR	Manufacturing, Light, Restricted	By-Right
	ML	Manufacturing, Light	By-Right
	MH	Manufacturing, Heavy	By-Right
City of Gaithersburg	I-1	Light Industrial	By-Right
	I-3	Industrial and Office Park	By-Right
	I-4	General Industrial	By-Right
City of Rockville	I-L	Light Industrial	By-Right
	I-H	Heavy Industrial	By-Right
City of Frederick	M1	Light Industrial	By-Right
	M2	Heavy Industrial	By-Right
Frederick County	G1	General Industrial District	By-Right
	L1	Limited Industrial District	By-Right
Howard County	M1	Manufacturing, Light	By-Right
	M2	Manufacturing, Heavy	By-Right
Montgomery County	I-1	Industrial, Light	By-Right
	I-4	Light Industrial, Low Intensity	By-Right
	New Zoning 1L	Light Industrial	By-Right
	IM	Moderate Industrial	By-Right
Prince Georges County	I-1	Industrial, Light	By-Right
	I-2	Industrial, Heavy	By-Right
	I-4	Industrial, Light, Low Intensity	By-Right

12/8/2014

1 of 2



Scheer Partners
A Representative for Zoning

Exhibit B

Other Jurisdictions

A Partial Survey of Surrounding Jurisdictional Treatment of Self Storage Uses

(3 Maryland Cities, 5 Maryland Counties, 4 Virginia Cities, 4 Virginia Counties and Wash DC)

Jurisdiction	Zoning Code	Description	Permitted
VIRGINIA			
Arlington County	M-1	Light Industrial	By-Right
	M-2	Service Industrial	By-Right
	CM	Limited Industrial	By-Right
City of Alexandria	I	Industrial	By-Right
City of Fairfax	I-2	Industrial District	By-Right
City of Manassas	I-1	Light Industrial	By-Right
	I-2	Heavy Industrial	By-Right
City of Manassas Park	I-1	Light Industrial	By-Right
Fairfax County	I-4	Industrial, Medium Intensity	By-Right
	I-5	General Industrial	By-Right
	I-6	Industrial, High Intensity	By-Right
Loudoun County	PDGI	Planned Development - Gen. Industry	By-Right
	PD - IP	Planned Development - Industrial Park	By-Right
Prince William County	M-1	Heavy Industrial District	By-Right
	M-2	Light Industrial District	By-Right
	MT	Industrial/Transportation	By-Right
WASHINGTON D.C.	CM	Commercial - Light Manufacturing	By-Right

12/8/2014



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A Division of KPMG

There is no rational basis for the use of 250 feet

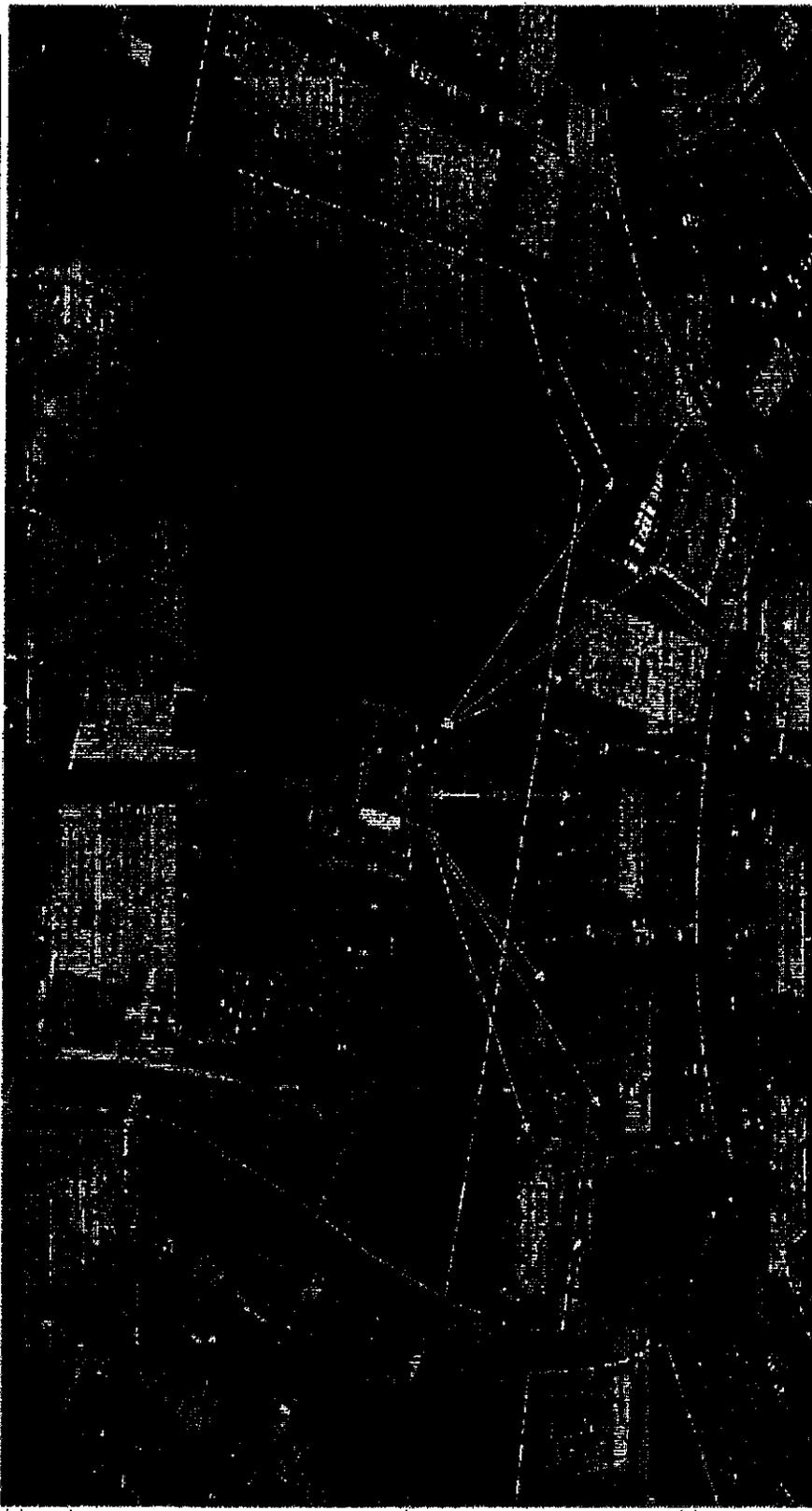
- There is no local, state, or federal standard that establishes 250 feet as the appropriate distance between a self-storage warehouse and a public school
- No jurisdiction surveyed has found that a school and self-storage building need to be separated
- What is the impact of a self-storage operation on a public school? (dust, traffic, noise, odor, etc.)

Uses permitted in the City of Rockville I-L Zone

- ✓ Light manufacturing and industrial services
 - contractor's storage yards
 - cold storage facility
 - wholesaling
 - general warehousing
 - commercial greenhouses
 - printing and publishing
 - bottling plant
 - ice plants
 - dry cleaning plant
 - manufacture of light sheet metal products
 - automotive body shop and repairs
 - blacksmith
 - manufacture of electrical and electronic equipment and precision instruments; and similar uses

Industrial properties and uses that abut Maryvale Elementary School

Industrial Properties and Businesses in Proximity to Maryvale Elementary School



- 8-Industrial buildings on properties that are adjacent to school property
- 11 Industrial buildings on properties closer to the school property than the subject property
- 7 Industrial buildings that are closer to the school building than the proposed building
- 43 Businesses within three blocks
- Business types include laboratory drug and disease research, environmental and materials research and testing, furniture stripping and repair, electrical, mechanical, and HVAC contractors, mechanical and steel fabricators, commercial and home improvement, wholesaling, etc.

Key:

Property that is adjacent to school property that is closer to school than the proposed building.

Distance between industrial and school property that is closer to school than proposed building.

Distance from proposed building.

Map prepared by the City of Phoenix, 1998 and 1999.

ServPro of Rockville and Olney

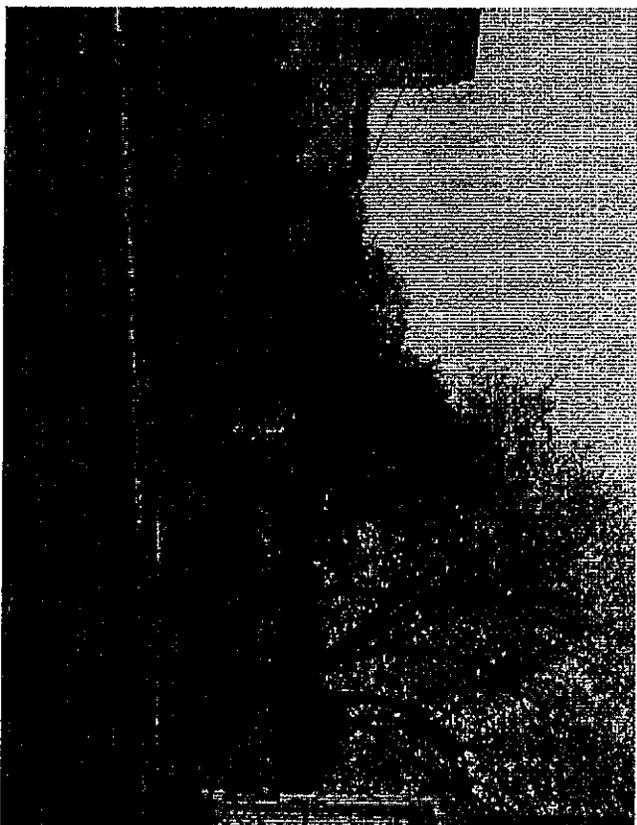
- Biohazard Remediation
- Water Damage
- Fire Damage
- Disaster, storm and flood damage
- Mold Damage
- Water Damage Restoration
- Sewage backup
- Fire Damage Restoration
- Fire damage cleanup
- Crime scene cleanup

Existing industrial conditions that border the school

View of school playground from abutting industrial property

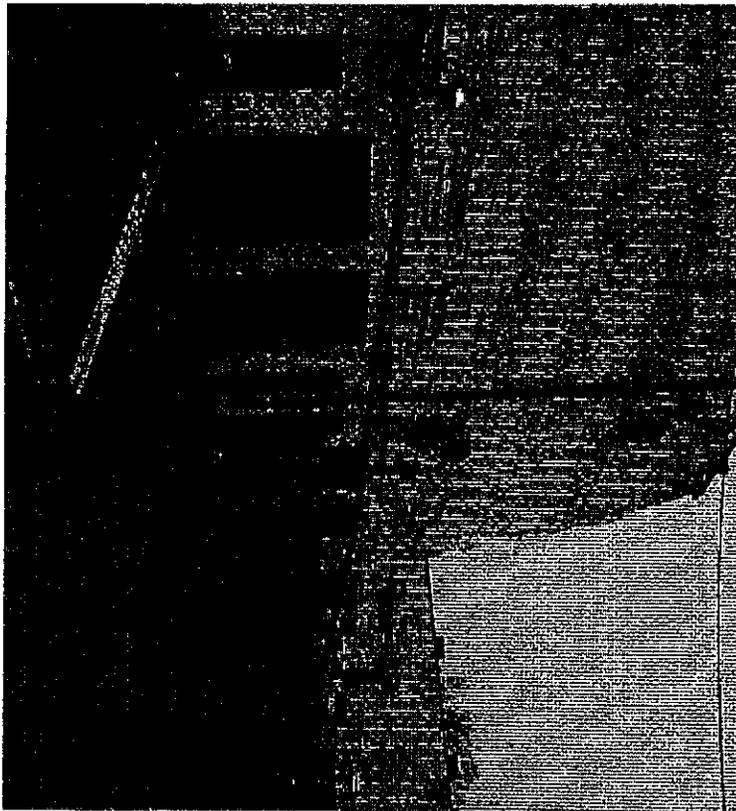
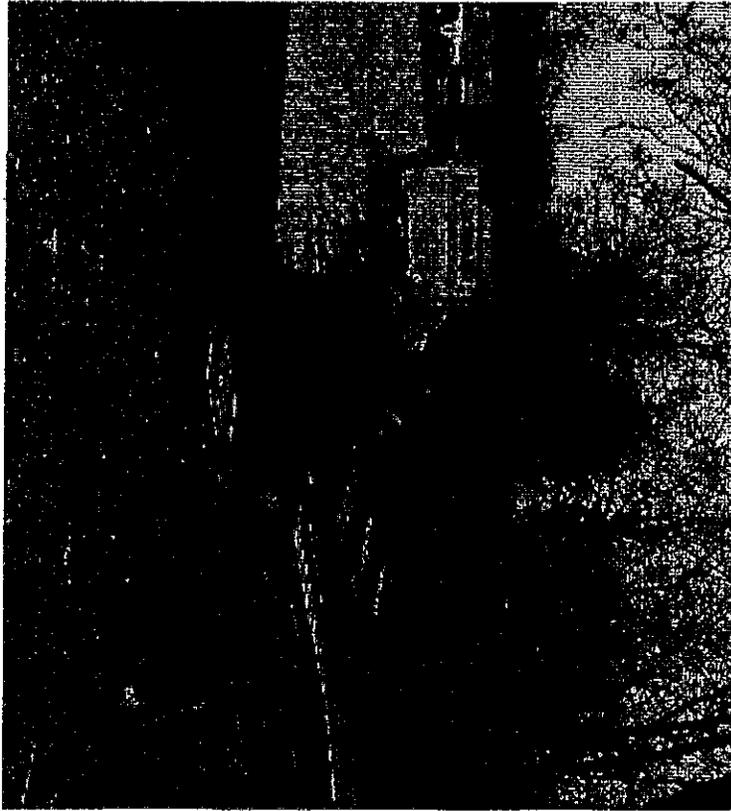


View of abutting industrial area

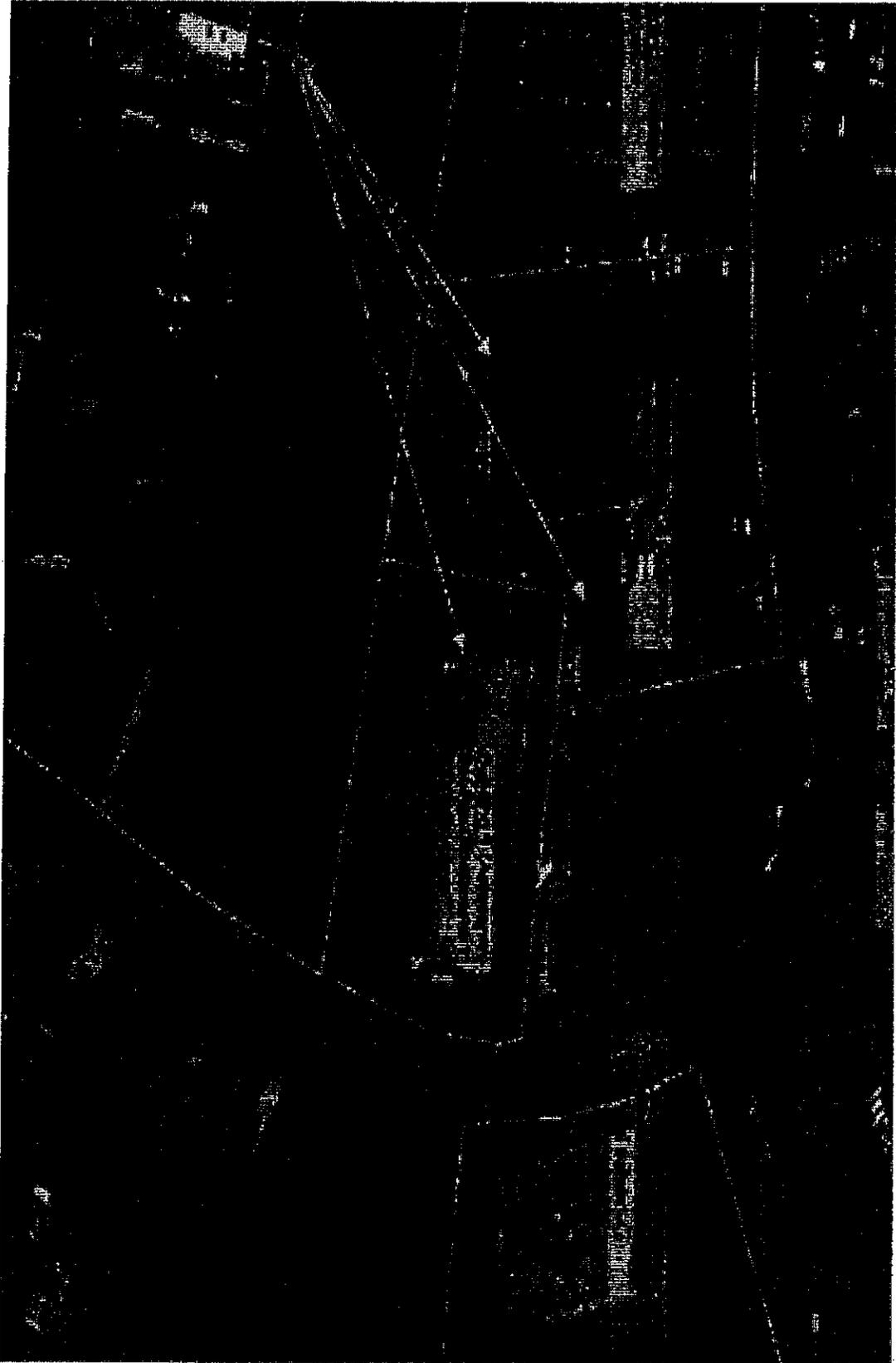




**Industrial outdoor activity and storage along
school boundary**

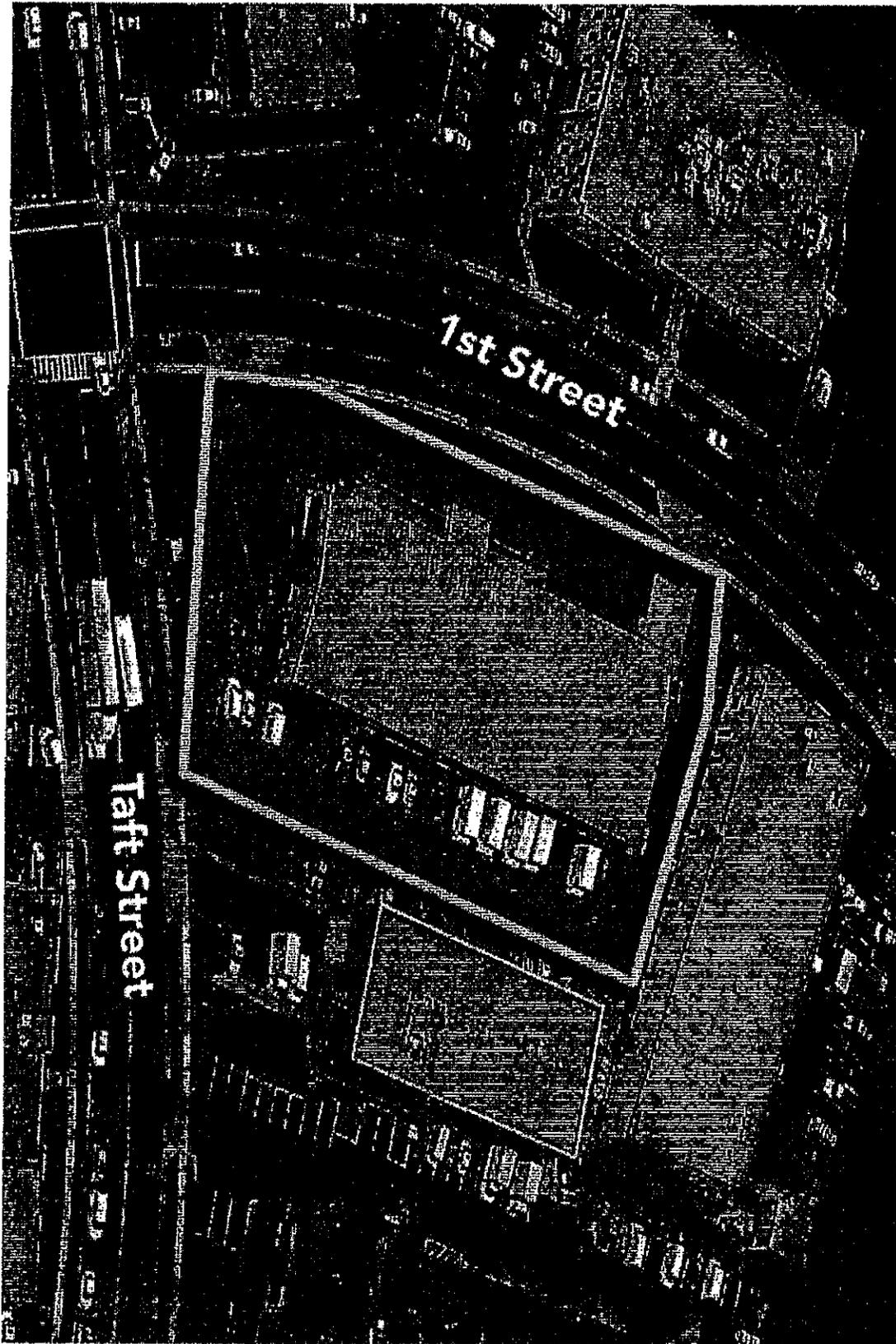


Industrial existing conditions



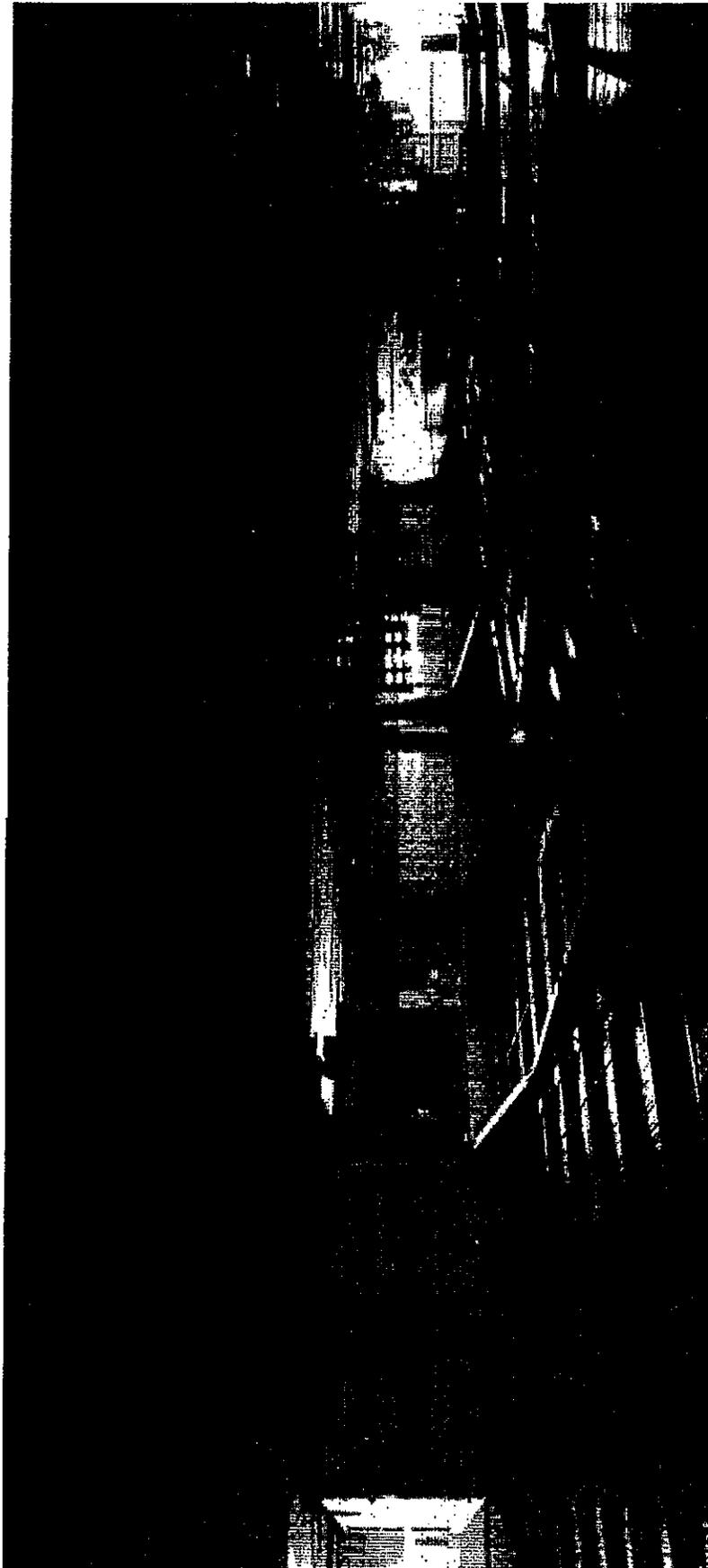
ezStorage proposal does not affect the school

1175 Taft Existing Conditions



Scheer Partners
A Reputation For Results

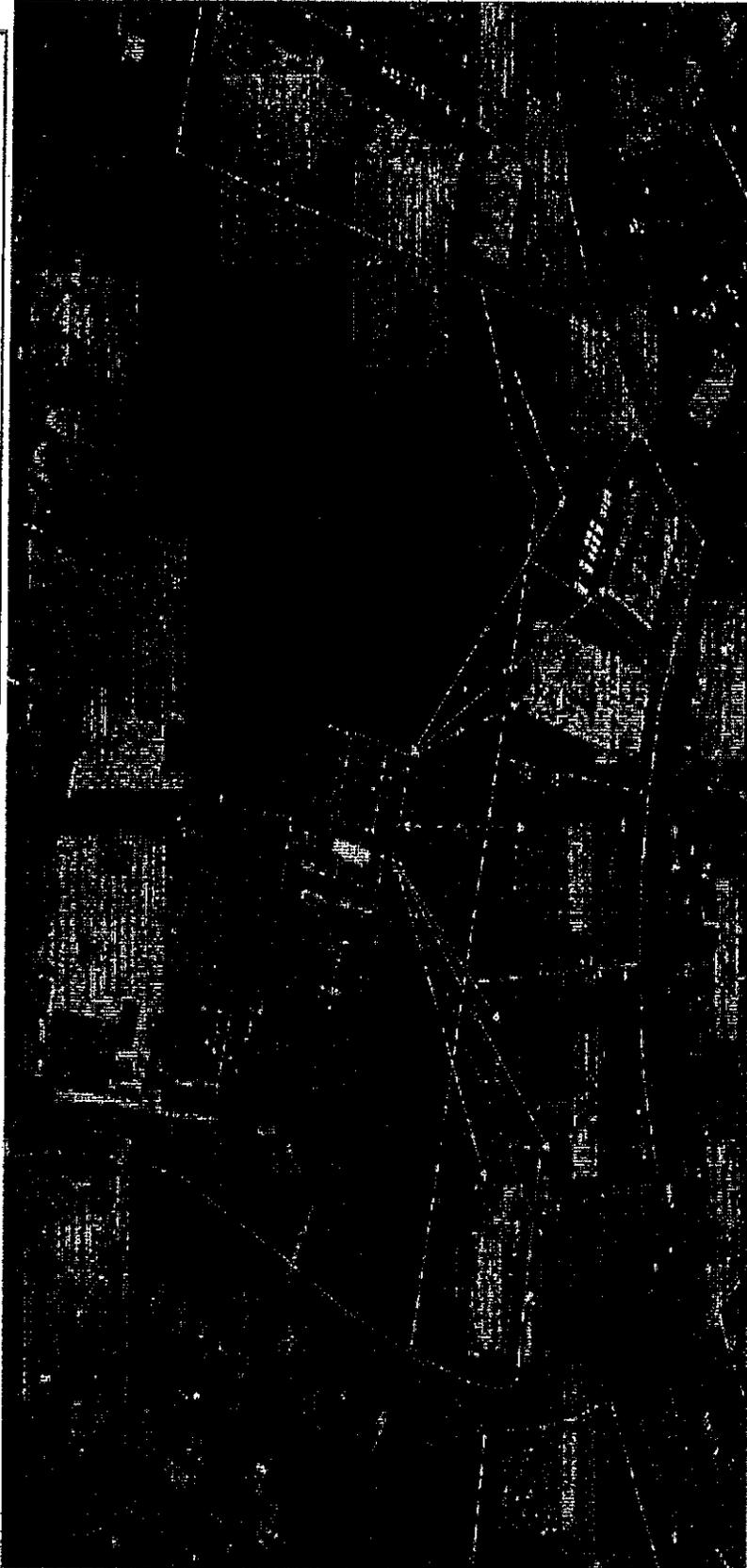
1175 Taft Street Existing Conditions



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A Division of Parsons

The Size and Scale of Industrial Buildings which abut Maryvale School

Industrial Properties and Businesses in Proximity to Maryvale Elementary School

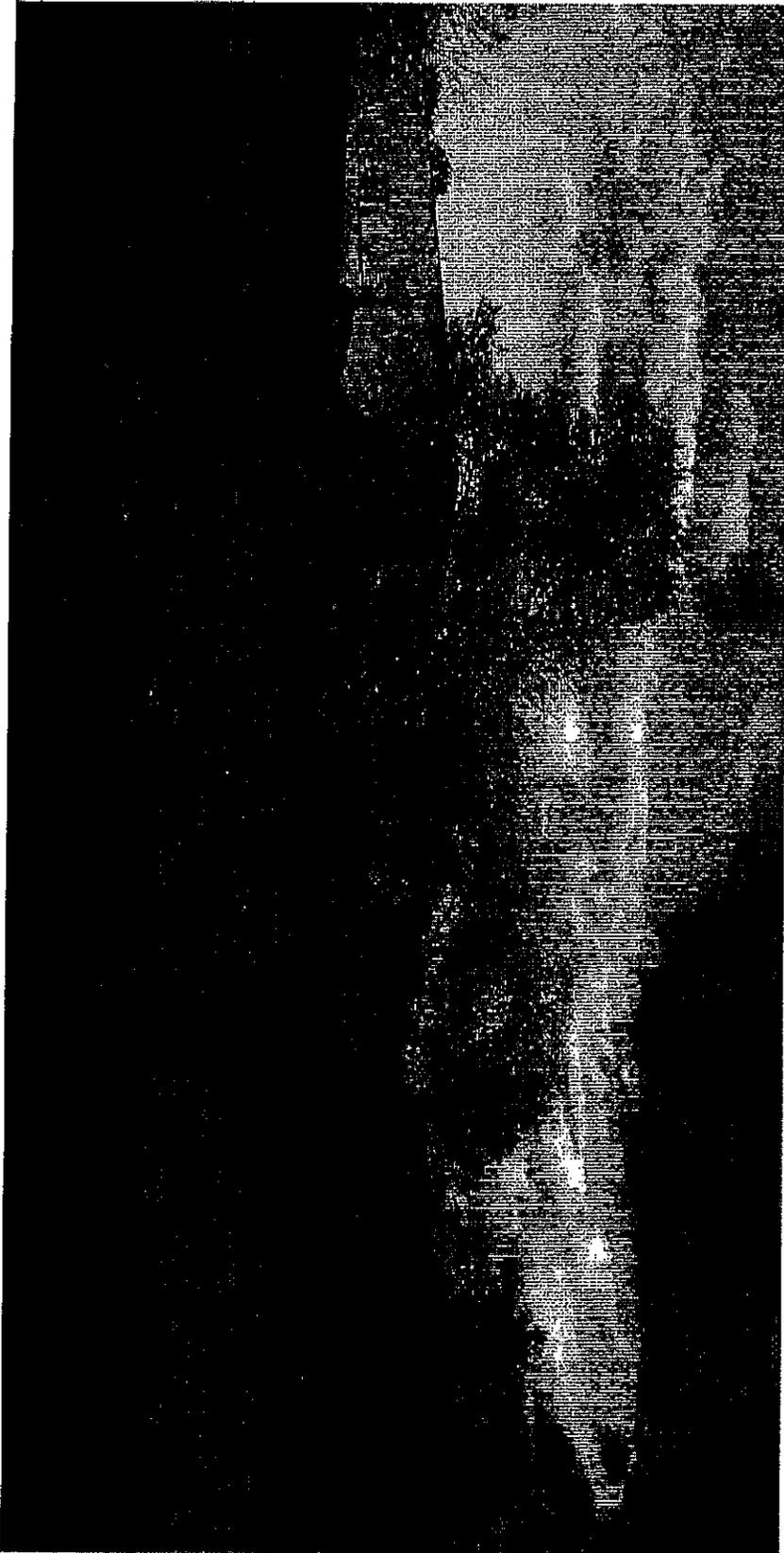


- 48 Industrial buildings on properties that are adjacent to school property
- 49 Industrial buildings and properties closer to the school property than the subject property
- 7 Industrial buildings that are closer to the school building than the proposed building
- 48 businesses within these buildings
- Business types include laboratory, drug and disease, tobacco, environmental and aerospace, restaurant, auto repair and painting, furniture, electrical and repair, electrical, mechanical, and HVAC contractors, appliance manufacturing, metal and glass workers, commercial and home improvement, manufacturing, etc.

Notes:
 -Distance between industrial and school property. This distance is measured between industrial and school buildings.
 -Distance from proposed facility.
 -Distance from property.

Scheer Partners
A Kryptonium Per Kryptonium

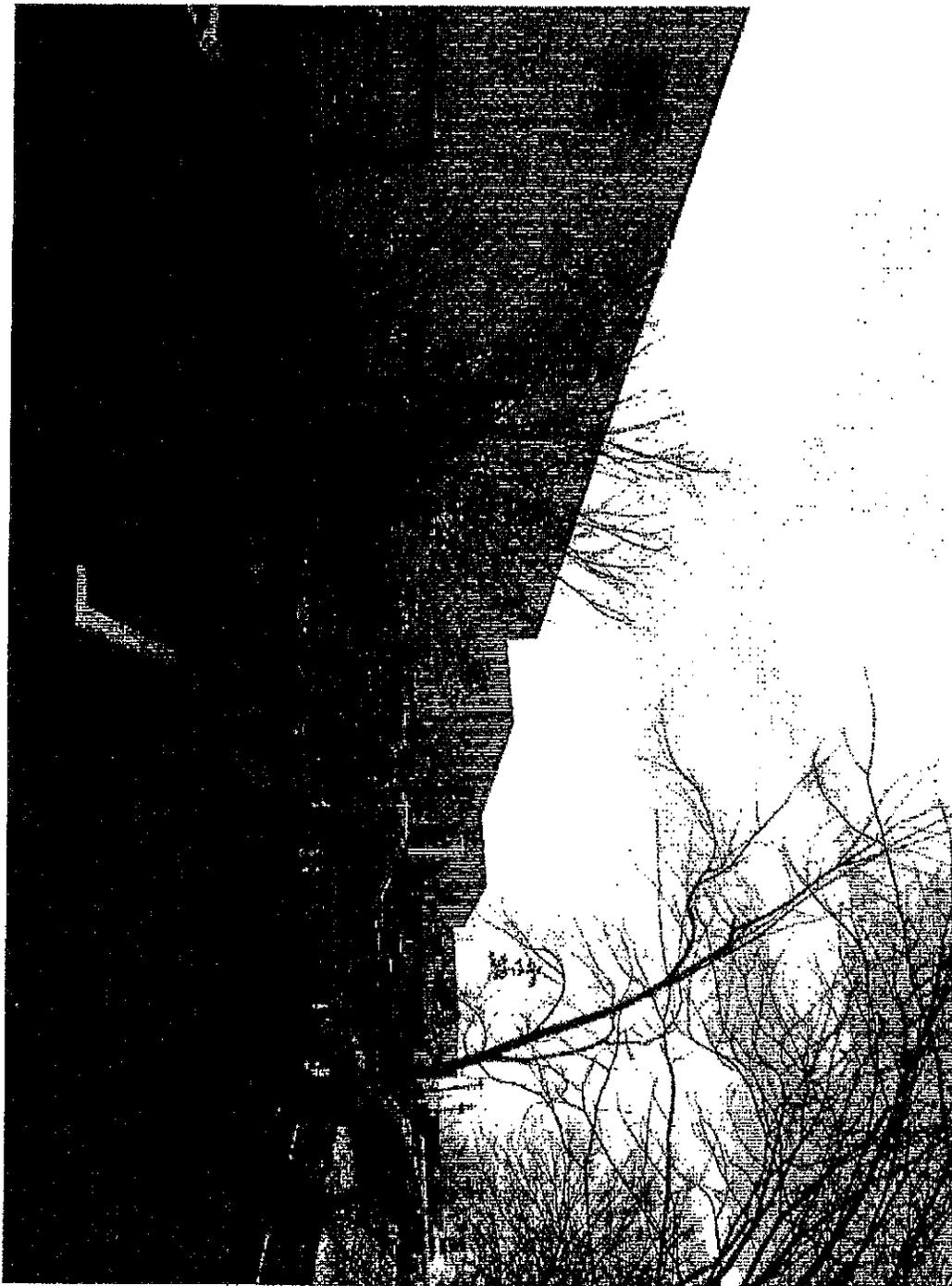
School recreation court and abutting industrial buildings



School recreation court and abutting industrial buildings

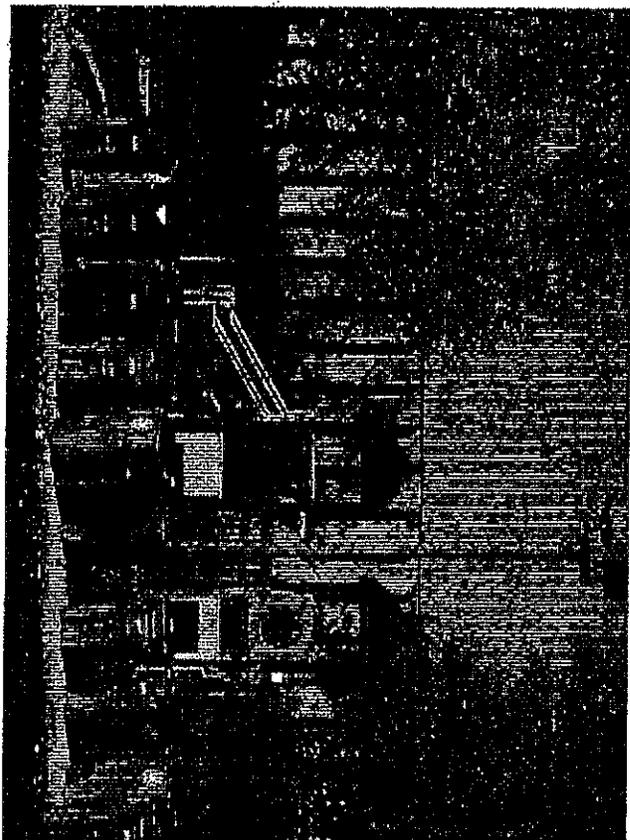
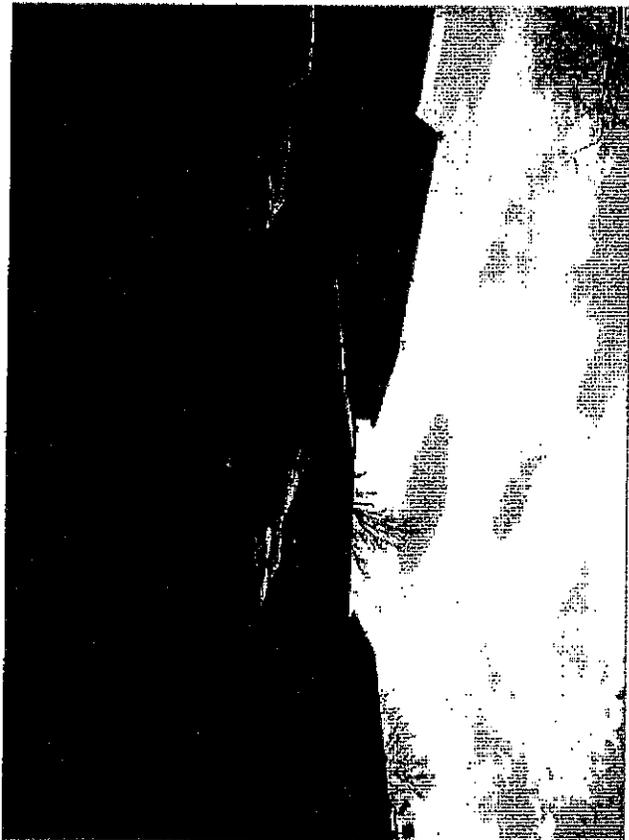


Industrial Businesses abutting David Scull Apartments and Playground

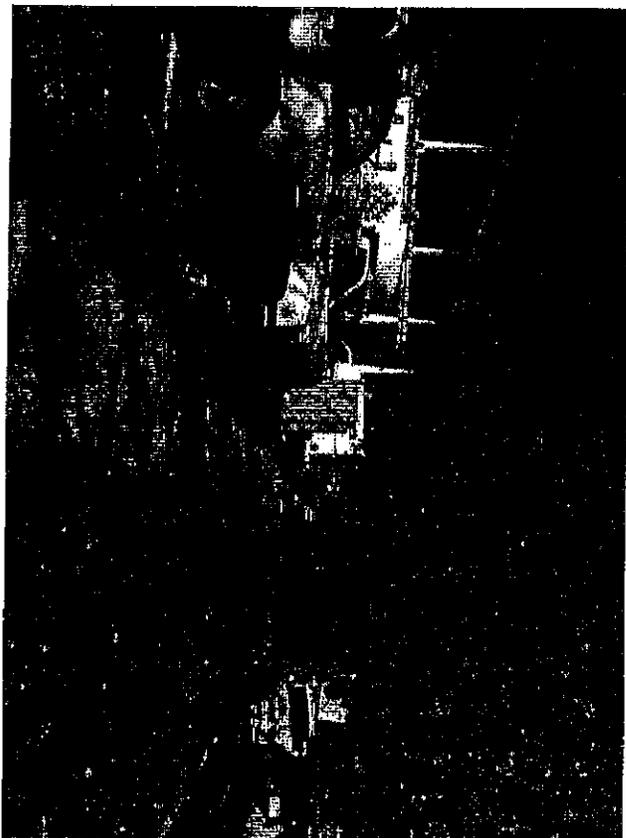


Scheer Partners
A Corporation for Assets

View of Industrial Buildings from David Scull Apartments and Playground



Existing conditions along First Street



All other industrial uses in the I-L zone have a greater impact on a school than self-storage warehouse

- **Traffic**
- **Activities**
- **Noise, dust, odor etc.**
- **Effect on pedestrian circulation**
- **Building safety**

Staff Note: Exhibit 11 consists of the cover letter submitted by Robert Dalrymple of Linowes and Blocher at the public hearing. Appended to the cover letter was a very large file of additional materials that were also submitted at the public hearing. A copy of these materials is available for viewing in the City Clerk's office during normal business hours.

LINOWES
AND **BLOCHER LLP**
ATTORNEYS AT LAW

December 15, 2014

Bob Dalrymple
bdalrymple@linowes-law.com
301.961.5208
Yum Yu Cheng
ycheng@linowes-law.com
301.961.5219

Via Hand Delivery

Mayor Bridget Donnell Newton
and Members of the City Council
City of Rockville
111 Maryland Avenue
Rockville, Maryland 20850-2364

Re: Opposition to the Proposed Zoning Text Amendment TXT2015-00239 for Self-Storage Facilities (“Proposed Text Amendment”); Impact on the Approval of the ezStorage Site Plan (STP2014-00208) for 1175 Taft Street (the “Property”)

Dear Mayor Newton and Members of the City Council:

On behalf of Rockville North Land LLLP, the owner of the Property that recently received site plan approval of an ezStorage self-storage facility located in the Light Industrial (I-L) Zone within 210 feet of Maryvale Elementary School, we strongly oppose the Proposed Text Amendment and urge you to reject the Proposed Text Amendment for the reasons set forth in our letter dated December 9, 2014 to the Planning Commission (a copy of which is attached for your reference) and in the Planning Commission’s Memorandum dated December 12, 2014 to the Mayor and Council (the “Planning Commission’s Recommendation”), recommending (by a 5-1 vote) that “the text amendment be rejected for the following reasons:

- This is a targeted zoning action;
- There has been an inadequate process in generating the proposed amendment; and
- The arbitrary nature of the 250 foot separation and isolation of this one particular use [referring to the self-storage use].”

The Proposed Text Amendment, if adopted, would remove “self-storage warehouse” from the “service industrial” use class and create a separate use class for “self-storage warehouse” to be permitted only as a conditional use in the I-L, I-H, MXE, and MXB Zones with a conditional requirement that such use not be permitted on a lot within 250 feet of a public school. Although the Proposed Text Amendment has been drafted to apply to four different zones that currently permits the self-storage warehouse use in the City, its only impact as intended is to prevent the construction of the ezStorage self-storage facility that the Planning Commission



Mayor Bridget Donnell Newton
and Members of the City Council
December 15, 2014
Page 2

approved at the original public hearing on September 10, 2014 and then re-approved at the reconsideration hearing on November 12, 2014.

The evidence in the public record clearly supports rejection of the Proposed Text Amendment, which (if adopted) would not be upheld by the Maryland courts. Even Commissioner Littlefield, who did not vote in favor of the Planning Commission's Recommendation, noted that "it was hard to separate the text amendment consideration from the site plan that was recently before them." During the Planning Commission's public meeting on December 10, 2014 on the Proposed Text Amendment (the "December 10, 2014 Public Meeting"), Commissioner Littlefield also stated that "[i]t's obviously related to that" and he agreed "with the testimony received that Siena¹ acted in good faith since the beginning of this; that they are concerned with fairness." Commissioner Littlefield pointed out that "approval of the text amendment could have a negative impact on the business community's perception of the City."

In addition, during the December 10, 2014 Public Meeting, Commissioner Tyner stated that "this is flat-out spot zoning"² and "this is a very badly intended amendment" that's been proposed "to take care of a situation that some people found distasteful, although there has been complete transparency in public processes." Commissioner Hill was troubled by the "arbitrary choice in 250 feet" and the "arbitrary nature in picking this particular use out of the list of industrial uses to have special treatment for", both of which led him "to think that this is not a well-conceived of and written text amendment that would pass legal muster based on those criteria." Commissioner Goodman stated that "the amendment as written is targeted" and "it would be ill-advised to go forward with this specific amendment", and recommended that the City look at a broader context and not focus on one use. Commissioner Liederman concurred with Commissioner Goodman, stating that "trying to pick one particular use and one particular location which this obviously does is not in keeping with sort of a measured and studious approach that I think the city should take." Commissioner Liederman also observed that "[w]hat we have in this suggestion [referring to the Proposed Text Amendment] is that a self-storage warehouse would create a danger to children and it doesn't", meaning that "it doesn't specify that anybody has actually studied that or made any findings that should result in any greater regulation."

¹ Siena formed "Rockville North Land LLLP" to acquire the title to the Property.

² According to Maryland case law, spot zoning is illegal if it is inconsistent with an established comprehensive plan and is made solely for the benefit of private interests. Trustees of McDonogh Educational Fund & Institute v. Baltimore County, 221 Md. 550 (1960); Huff v. Board of Zoning Appeals of Baltimore County, 214 Md. 48 (1957).



Mayor Bridget Donnell Newton
and Members of the City Council
December 15, 2014
Page 3

Finally, we highlight the following statements made by Chairman Hadley at the December 10, 2014 Public Meeting:

I agree with the majority of the commissioners that it is a single purpose, single purpose piece of zoning text that's proposed. It doesn't have a reasonable correlation with any other schools or present issues in the city; ...

The idea of the city making a sudden and drastic turnaround under political pressure, however worthy it might be, is a problem that we've had in the city and for the applicant long before he purchased the property to come before the city to explain what his parking situation was and that it be a dialogue and for there to be action which favorably changed the parking environment so he could go forward. And then for us to turn around in a very brief time and say, oops, sorry, here's a bit of single-purpose rezoning that is going to make you stop in your tracks. I would think that **the degree of financial investment lost in that situation would be fairly substantial, and I do think there's – I'll say on the record – there's an issue of damages if you get in that situation.**

...

But, you know, my major beef ... this is a case of trying to enact zoning text that is supposed to implement our comprehensive master plan, but there's no correlation between this [referring to the Proposed Text Amendment] and the comprehensive master plan. We're not reviewing this in terms of reviewing our master plan right now. So instead of having a long-term study that it's supposed to get from the Planning Commission, **instead of having correlation between all the areas of study -- i.e., working out what the transition is and what the impact is with area 16 in this particular case, instead of doing all that we're supposed to do, we're just going right to sort of a reaction to political input.** And I know I'm being a drum, like a little bit on Christmas day or something, but **we have a recent attorney general's opinion that says a master plan is a long-term, long-view thing. It's mandatory and you cannot pass ordinances or regulations to implement it that are inconsistent with it. ... I believe this would not be just inconsistent but just out of touch.** There's been no effort in this process to correlate this to any particular master plan concept. ...

(emphasis added).



Mayor Bridget Donnell Newton
and Members of the City Council
December 15, 2014
Page 4

In support of our opposition and the Planning Commission' recommendation to reject the Proposed Text Amendment, enclosed are the following documents being submitted into the public record in case we find a need to challenge the Proposed Text Amendment:

- A letter dated November 13, 2013 from Linowes and Blocher LLP, on behalf of Siena Corporation ("Siena"), to the Planning Commission requesting an amendment to the parking requirements as part of the comprehensive text amendment to the Zoning Ordinance (TXT2014-00236) (the "Comprehensive Text Amendment") to create a separate lower parking standard for the "self-storage warehouse" use to facilitate the development of an ezStorage self-storage facility at the Property;
- A Memorandum dated November 20, 2013 from the Planning Commission to the Mayor and Council, indicating its agreement that the creation of a separate lower parking standard for the "self-storage warehouse" use should be considered by the Mayor and Council as part of the Comprehensive Text Amendment;
- A transcript of the Mayor and Council Public Hearing on December 9, 2013 on the Comprehensive Text Amendment, reflecting Siena's request for an amendment to the parking requirements to create a separate lower parking standard for the "self-storage warehouse" use to facilitate the development of an ezStorage self-storage facility at the Property;
- A letter dated December 24, 2013 from Linowes and Blocher LLP, on behalf of Siena, to the Mayor and Council, filing a separate Text Amendment Application (TXT2014-00236) (the "Self-Storage Parking Text Amendment") to request an amendment to create a separate lower parking standard for the "self-storage warehouse" use to facilitate the development of an ezStorage self-storage facility at the Property;
- A Memorandum dated January 15, 2014 from the Planning Commission to the Mayor and Council, stating that the Commission reviewed the Self-Storage Parking Text Amendment which proposes to create a separate lower parking standard for the "self-storage warehouse" use and recommending an amendment to the Self-Storage Parking Text Amendment to require one parking space for each 100 storage units in a multi-story facility;
- A transcript of the Mayor and Council Public Hearing on January 27, 2014 on the Self-Storage Parking Text Amendment;



Mayor Bridget Donnell Newton
and Members of the City Council
December 15, 2014
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- Ordinance No. 03-14, adopted by the Mayor and Council at its meeting of February 10, 2014, to create a separate lower parking standard for the “self-storage warehouse” use;
- A Planning Commission Staff Report dated September 3, 2014 on Site Plan Application STP2014-00208 for an ezStorage self-storage facility (the “ezStorage Site Plan”), recommending approval subject to conditions;
- A transcript of the Planning Commission Public Hearing on September 10, 2014 on the ezStorage Site Plan;
- A transcript of the Community Forum section of the Mayor and Council Meeting on October 27, 2014 (Agenda Item No. 6) when the Mayor and Council decided that the City will undertake an outside study of the East Rockville Neighborhood Plan area and the adjacent industrial area (referring to Area 16 or the Southlawn Industrial Area); and when Councilmember Feinberg made a motion for a moratorium to specifically stop the ezStorage project and later withdrew the motion after receiving advice from the City Attorney;
- A transcript of the “Community Forum” section of the Mayor and Council Meeting on November 3, 2014 (Agenda Item No. 6) reflecting testimony from representatives of Siena against any attempt by the Mayor and Council to introduce a moratorium or a zoning text amendment for the purpose of stopping the ezStorage project;
- A transcript of the “Review and Comment -- Future Agenda” section of the Mayor and Council Meeting on November 3, 2014 (Agenda Item No. 19) reflecting Councilmember Feinberg’s request that a proposed zoning text amendment be added to the next Mayor and Council Agenda and direction to Staff to draft a text amendment proposed to amend four zones (I-L, I-H, MXE, and MXB) to allow a self-storage warehouse as a conditional use with the condition that the use not be located on a lot within 250 feet of a public school;
- A Memorandum dated November 5, 2014 from Planning Staff to the Planning Commission on the ezStorage Site Plan for the reconsideration hearing on November 12, 2014, recommending approval subject to modified conditions;
- A transcript of the Mayor and Council Meeting on November 10, 2014 (Agenda Item No. 15) reflecting the Mayor and Council’s authorization of the filing of Councilmember Feinberg’s proposed text amendment to amend four zones (I-L, I-H,



Mayor Bridget Donnell Newton
and Members of the City Council
December 15, 2014
Page 6

MXE, and MXB) to allow a self-storage warehouse as a conditional use with the condition that the use not be located on a lot within 250 feet of a public school, and Councilmember Moore's statement that he had not seen any hard facts to suggest the text amendment is justified and that the text amendment would specifically block a pending application, referring to the ezStorage Site Plan;

- A letter dated December 9, 2014 from Linowes and Blocher LLP to the Planning Commission, opposing the Proposed Text Amendment;
- A transcript of the Planning Commission Meeting on December 10, 2014 on the Proposed Text Amendment to separate "self-storage warehouse" use from the "service industrial" use class and change the use from a permitted use to a conditional use with a conditional requirement that the use not be permitted on a lot within 250 feet of a public school; and
- A Memorandum dated December 12, 2014 from the Planning Commission to the Mayor and Council, recommending (by a 5-1 vote) that the Proposed Text Amendment be rejected.

If the Mayor and Council decide to approve the Proposed Text Amendment, we respectfully request that language be added to exempt application of the Proposed Text Amendment to approved site plans, which includes the ezStorage Site Plan.

Thank you for your consideration of our comments. We will be available at the public hearing tonight to answer any questions you may have. We will also be available after the public hearing to discuss alternative solutions that will result in a better outcome for the City.

Sincerely yours,

LINOWES AND BLOCHER LLP

A handwritten signature in cursive script that reads "C. Robert Dalrymple".

C. Robert Dalrymple

A handwritten signature in cursive script that reads "Yum Yu Cheng".

Yum Yu Cheng



Mayor Bridget Donnell Newton
and Members of the City Council
December 15, 2014
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Enclosures

cc: Ms. Barbara Matthews, City of Rockville
Ms. Susan Swift, City of Rockville
Mr. Deane Mellander, City of Rockville
Mr. James Wasilak, City of Rockville
Debra Daniel, Esq., City of Rockville
Mr. Craig Pittinger, Siena Corporation
Mr. Perry Berman, Scheer Partners
Ms. Gabrielle M. Duvall, Esq., Linowes and Blocher LLP



December 23, 2014

Rockville Mayor and Council
111 Maryland Ave.
Rockville, MD 20850

Dear Mayor Newton and Members of the Council:

The Rockville Chamber of Commerce strongly opposes Zoning Text Amendment TXT2015-00239 for a variety of reasons. It is imperative that Rockville have a thriving business community if the City is to continue to provide the excellent services for which it is known without raising taxes. Rockville will have the reputation as a difficult jurisdiction in which to do business if the Mayor and Council make arbitrary decisions that negatively impact a legitimate business and will discourage other businesses from locating in Rockville. Without a strong tax base that includes both residents and businesses, Rockville cannot prosper.

We agree with the Planning Commission that planning decisions should not be targeted at one business, particularly when the decision is not consistent with the Master Plan. While we understand that neighborhood and resident input are important, we do not believe that residents should dictate policy especially when their objections are not grounded in fact. There is absolutely no evidence that self-storage units are bad for a community or are dangerous.

Over the years, we have seen communities object to many new projects and have later seen that their concerns are unwarranted. Although most of these projects are outside of the City limits, the lessons learned should not be ignored. Neighbors argued vehemently against Strathmore, the conference center and other projects that have, in the end, proved to be wonderful additions to the community.

We hope you will reject Zoning Text Amendment TXT2015-00239. It is the fair thing to do and will prove beneficial to Rockville because it will not cause other businesses to decide against locating in Rockville.

Sincerely,

Andrea Jolly
President/CEO