

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

CASE NUMBER 2016-0058-S

SIENA CORPORATION/JORDAN FAMILY REVOCABLE LIVING TRUST

THIRD ASSESSMENT DISTRICT

DATE HEARD: MAY 3, 2016

ORDERED BY:

DOUGLAS CLARK HOLLMANN
ADMINISTRATIVE HEARING OFFICER

PLANNER: **JOAN JENKINS**

DATE FILED: **MAY 16, 2016**

PLEADINGS

Siena Corporation/Jordan Family Revocable Living Trust (hereinafter the applicant), seeks a special exception (2016-0058-S) to allow a self-storage facility in a C2-Commercial District on property located along the west side of Ritchie Highway, north of Arnold Road, Arnold.

PUBLIC NOTIFICATION

The hearing notice was posted on the County's website in accordance with the County Code. The file contains the certification of mailing to community associations and interested persons. Each person designated in the application as owning land that is located within 175 feet of the property was notified by mail, sent to the address furnished with the application. Terry Schuman of Bay Engineering, Inc., submitted the affidavit of Spencer Cloutier, an employee, indicating that the property was posted on April 14, 2016 (Applicant's Exhibit 1). I find and conclude that the requirements of public notice have been satisfied.

FINDINGS

A hearing was held on May 3, 2016, in which the witnesses were sworn and the following was presented with regard to the proposed relief requested by the applicant.

The Property

The subject property is owned by the Jordan Family Revocable Living Trust, which has street addresses of 1434, 1436 and 1438 Ritchie Highway,

Arnold, Maryland 21012. It is identified as Parcels 163, 167-170, and 266 in Block 17 on Tax Map 39. The property is zoned C2-Commercial Office District.

The Proposal

The applicant is requesting a special exception to allow it to raze the three existing dwellings and construct a three-story self-service storage facility on the subject property as shown on the site plan admitted into evidence as County Exhibit 2 (Sheet 6 of 19).

The Anne Arundel County Code

The provisions that govern self-storage facilities are found in, § 18-11-152, which requires that a self-service storage facility shall comply with all of the following requirements:

- (1) The facility shall be located on a lot of at least two acres.
- (2) Storage and a residence for a caretaker or resident manager shall be the only activities conducted at the facility.
- (3) Access shall be provided as follows:
 - (i) Each one-way interior driveway shall have a travel lane at least 15 feet wide.
 - (ii) Each two-way interior driveway shall have two travel lanes, each at least 12 feet wide.
 - (iii) Traffic direction and parking shall be designated by directional signs or pavement painting.
- (4) Outside storage is not permitted.

(5) In a C2 district, a self-service storage facility shall be within an enclosed controlled central structure with no external access to individual storage units.

The Evidence Presented At The Hearing

Joan A. Jenkins, a planner with the Office of Planning and Zoning (OPZ), testified in favor of granting the requested special exception. The subject property is currently improved with three dwellings and a shed and is served by public water and private septic. The site consists of six parcels. OPZ finds that the subject property is an irregular L-shaped lot that far exceeds the minimum lot area and minimum depth requirements for a lot in a C2 district. The majority of the site is zoned C2 with a small portion to the west zoned R1. A portion of road improvements are located in a C3 district. All construction is proposed in the C2 portion of the site. The applicant proposes to raze all existing buildings and construct a 3-level self-service storage facility with a total square footage of 132,624 square feet and with 1,020 units.

A review of County aerial photograph from 2014 reveals the property is bounded by the B&A Trail to the southwest, an undeveloped parcel and a veterinary hospital to the northwest, the southbound lanes of Ritchie Highway (MD Route 2) to the northeast, and a commercial building to the southeast. The Admiral's Ridge Subdivision is across Ritchie Highway.

Ms. Jenkins testified that, with regard to the specific special exception requirements of § 18-11-152, OPZ would submit the following findings: (1) The

facility is located on 5.42 acres. (2) Storage and a residence for a caretaker or resident manager are the only activities to be conducted at the facility. (3) Interior driveways meet the requirements. The applicant must comply with designating traffic direction and parking with directional signs or pavement painting. (4) Outside storage is not permitted. The applicant must comply with this provision. (5) The self-service storage facility is within an enclosed controlled central structure with no external access to individual storage units.

As to the general special exception standards, Ms. Jenkins testified that the proposed use would not be detrimental to the public health, safety, or welfare; the use would be compatible with the C2 district; the proposed facility would be no more objectionable with regard to noise, fumes, vibration, or light than other permitted uses in the district; and the proposed use would not conflict with existing or programmed public uses. The proposed use has the written recommendations and comments of the Department of Health and OPZ. The applicant has the burden of proof to demonstrate public need at the hearing. The applicant will be required to satisfy requirements of the Landscape Manual through the Development Division process.

The Department of Health commented that it has evaluated the onsite sewage disposal system and determined that the proposed request does not adversely affect these systems and therefore has no objection.

The State Highway Administration has no comment.

The Long Range Planning Division commented that the 2009 GDP Land Use Plan and Broadneck Small Area Plan do not contain any site specific recommendations.

The Development Division (Engineering) reviewed the project and commented regarding Adequacy of Public Facilities and has several recommendations. The Division commented that the proposed impervious area south of the building is unnecessarily excessive. They recommend that the design be revisited to eliminate unneeded impervious areas and also reducing the amount of disturbance and clearing adjacent to the B&A Trail.

The Development Division (North Team) reviewed the project and commented that the Site Development Plan C 2016-0008-00PP is currently under review. All Development comments must be addressed prior to Preliminary Plan approval.

Based upon the standards set forth under § 18-16-304 under which a special exception may be granted, Ms. Jenkins testified that OPZ recommends approval of the requested special exception.

The applicant, represented at the hearing by Charles F. Delavan, Esquire, presented testimony and exhibits through Craig Pittinger of The Siena Corporation, Terry Schuman, the applicant's engineer, and Shep Tullier, a recognized expert in land planning, that the facility meets or exceeds the requirements of the Code for a self-service storage facility at this location. 42% of the site will remain undisturbed. The traffic to and from the site will be less than

almost any other permitted use in the C2 district. The impact on other properties will be the least of any use permitted on this property. Mr. Pittinger testified as to the history of The Siena Corporation, its other operations in Maryland and Anne Arundel County, and that the area is underserved when it comes to self-service storage facilities. Specific data as to need in the area of the Broadneck Peninsula was presented in Applicant's Exhibit 2, pages X, Y & Z.

Elizabeth M. Rosborg, testified that she is the President of the Arnold Preservation Council and read from a statement introduced into evidence as Protestant's Exhibit 2. She introduced evidence (Protestant's Exhibit 3) that there are many other self-storage facilities in the County and questioned the need for one at this location. She concluded that the Council was "neither supporting nor objecting to [the granting of the] special exception, but hoping if granted it can continue to work together for the betterment of the Arnold community ..."

Jeff Morrison testified that he owns the property across the B&A Trail to the west and is concerned about future development of the site and stormwater management since a small portion of the subject property drains under the Trail and has caused erosion problems on his property.

There was no other testimony taken or exhibits received in the matter. The Hearing Officer did not visit the property.

DECISION

The Special Exception

The law is settled that a special exception use is a use that the legislative body recognizes as compatible with permitted uses, subject to a public hearing to show compliance with the underlying standards. *Schultz v. Pritts*, 291 Md. 1 (1981); *Peoples Council for Baltimore County, et al v. Loyola College in Maryland*, 406 Md. 54, 956 A.2d 166 (2008).

The Code provisions that govern self-service storage facilities in a C2 district have been set out above. The evidence shows that the site meets the requirements of § 18-11-152. No variances are requested or needed.

In addition to meeting the requirements of § 18-11-152, the applicant must meet the requirements of § 18-16-304.

(1) Public Health, Safety, and Welfare;

I find that the proposed use will not be detrimental to the public health, safety, and welfare. The testimony and evidence shows that the facility has been designed and, hopefully, will be operated in a manner that will protect the public health, safety and welfare. The operation will be minimal, compared to other uses of the property, and will not adversely affect public health, safety or welfare.

(2) Compatibility with Development of the Surrounding District

The location of the facility and the nature of the use are compatible with the appropriate and orderly development of the district in which it is located.

(3) Noise, Fumes, Vibration and Light

The proposed use will be no more objectionable with regard to noise, fumes, vibration or light to nearby properties than operations in permitted uses in a commercial area.

(4) Conflict with Public Facilities and Roads

There was evidence that the proposed use will not conflict with any existing or programmed public facility, public service or road.

(5) Health Department and Planning & Zoning Recommendations

The Department of Health and the Office of Planning and Zoning have no objection to the application.

(6) Public Need

The facility will provide a needed resource to nearby property owners and apartment dwellers, as well as businesses (the split is estimated to be 85% residential users and 15% commercial users) for storage. I find that there has been proof of public need.

(7) Adherence to Criteria for Use

There was evidence that this facility will be able to adhere to the criteria that govern a self-service storage facility.

(8) Critical Area Compliance

The facility is not in the critical area.

(9) Compliance with the Landscape Manual

The applicant will have to comply with the Landscape Manual during the permitting phase. The applicant asserts that it can comply with the Landscape Manual. Therefore, I find that this element will be met.

Therefore, I conclude that the applicant has complied with the requirements of § 18-11-152 and of § 18-16-304 and is entitled to the special exception requested.

ORDER

PURSUANT to the application of Siena Corporation/Jordan Family Revocable Living Trust, petitioning for a special exception to allow a self-storage facility in a C2-Commercial District; and

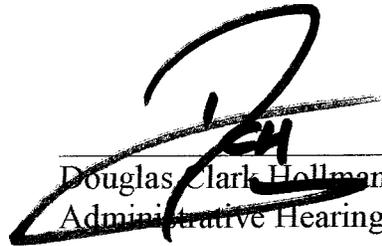
PURSUANT to the notice, posting of the property, and public hearing and in accordance with the provisions of law, it is this **16th day of May, 2016**,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County that the applicant is hereby **granted** a special exception to allow a self-service storage facility in a C2-Commercial Office District on property identified as Parcels 163, 167-170, and 266 in Block 17 on Tax Map 39, pursuant to § 18-11-153, as shown on the site plan introduced into evidence at the hearing as County Exhibit 2 (Sheet 6 of 19).

Furthermore, County Exhibit 2, referenced in this decision, is incorporated herein as if fully set forth and made a part of this Order.

The foregoing special exception is subject to the following conditions:

- A. The applicant shall comply with any instructions and necessary approvals from the Development Division and Permit Center, as well as instructions and necessary approvals from any state or federal agency with regulatory jurisdiction over the subject property or the use authorized by this special exception.
- B. The applicant shall comply with any instructions regarding the application of the Landscape Manual to the subject property.



Douglas Clark Hollmann
Administrative Hearing Officer

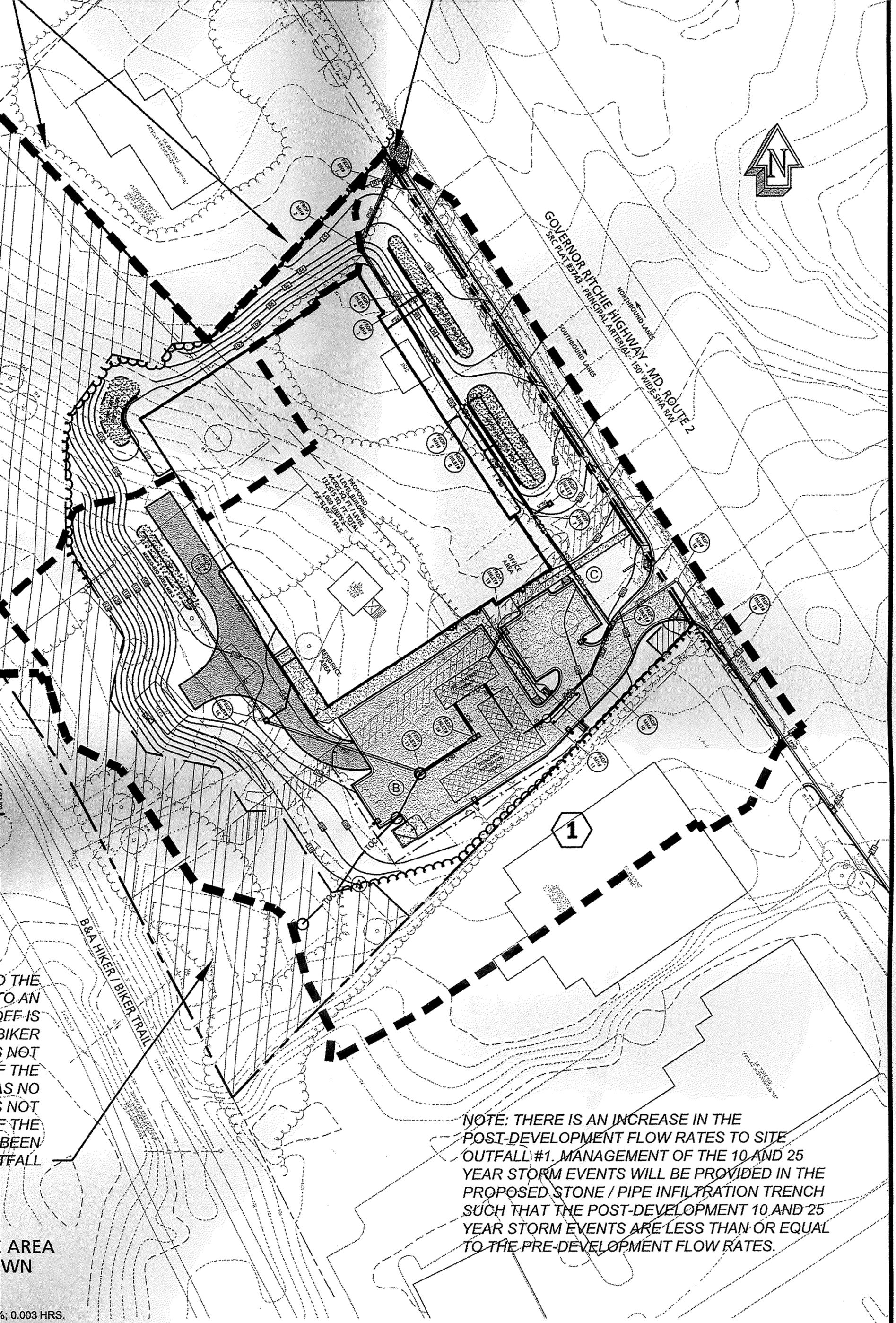
NOTICE TO APPLICANT

This Order does not constitute a building permit. In order for the applicant to construct the structures permitted in this decision, the applicant must apply for and obtain the necessary building permits, along with any other approvals required to perform the work described herein.

Any person, firm, corporation, or governmental agency having an interest in this Decision and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals within thirty (30) days from the date of this Decision.

Further, § 18-16-405(a) provides that a variance or special exception that is not extended or tolled **expires by operation of law** unless the applicant **within 18 months** of the granting of the variance or special exception (1) obtains a building permit or (2) files an application for subdivision. Thereafter, the variance or special exception shall not expire so long as (1) construction proceeds in accordance with the permit or (2) a record plat is recorded among the land records pursuant to the application for subdivision, the applicant obtains a building permit within one year after recordation of the plat, and construction proceeds in accordance with the permit.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this Order, otherwise they will be discarded.



NOTE: THERE IS AN INCREASE IN THE POST-DEVELOPMENT FLOW RATES TO SITE OUTFALL #1. MANAGEMENT OF THE 10 AND 25 YEAR STORM EVENTS WILL BE PROVIDED IN THE PROPOSED STONE / PIPE INFILTRATION TRENCH SUCH THAT THE POST-DEVELOPMENT 10 AND 25 YEAR STORM EVENTS ARE LESS THAN OR EQUAL TO THE PRE-DEVELOPMENT FLOW RATES.

POST-DEVELOPMENT S.W.M. DRAINAGE AREA SUMMARY TABLE

ID	ACREAGE	RCN	RCN*	Tc (HRS.)	Q10 (CFS) PER TR-55	Q10* (CFS) PER TR-55	Q25 (CFS) PER TR-55	Q25* (CFS) PER TR-55
1	4.03	80	76	0.25	15.32	13.54	18.37	16.48
2	2.32	62	59	0.38	3.50	2.90	4.65	3.97

* REDUCED CURVE NUMBER BASED ON STORAGE IN ESD FACILITIES

I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland.

Warning: service per document violation

Date: APRIL
 Job No: 13-43
 Scale: AS SHOWN
 Drawn: LS
 Approved: TS
 Folder: JORRITCO