

**DISTRICT COUNCIL FOR PRINCE GEORGE'S COUNTY, MARYLAND
OFFICE OF THE ZONING HEARING EXAMINER**

SPECIAL EXCEPTION

2022-015

DECISION

Application: Consolidated Storage
Applicant: SSZ Bowie Self Storage, LLC
Opposition: Terry Nuriddin
Hearing Dates: November 1, 2023 & December 4, 2023
Hearing Examiner: Joyce B. Nichols
Disposition: Approval with Conditions

NATURE OF PROCEEDINGS

- (1) Special Exception 2022-015 is a request for permission to use approximately 7.93 acres of land in the CS (Commercial Service) Zone located at 16200 Old Central Avenue, Bowie, for a Consolidated Storage facility.
- (2) At the conclusion of the evidentiary hearing, the record was closed. There are 81 exhibits in the record.

FINDINGS

Subject Property

- (1) The site is in the Developing Tier of Prince George's County. The Property is located in the southwest quadrant of the intersection of US 301 (Robert S. Crain Highway), MD 214 (Central Avenue) and Old Central Avenue, Upper Marlboro/Bowie, Maryland. The Property also has a street address of 16200 Old Central Avenue, Upper Marlboro, Maryland 20774 (the "Property"). The Property is recorded with the Land Records of Prince George's County as "Parcel A Mister Kelly's" record plat NLP 146@42.

Surrounding and Surrounding Uses

- (2) The Property is currently zoned CS (Commercial Service) Zone.

North - Central Avenue (MD 214); and across Central Avenue is the National Research Home Park located within the LCD (Legacy Comprehensive Design) Zone,

East - Interchange of Robert S. Crain Highway (US 301),

South - Old Central Avenue opposite the intersection of Summit Point Boulevard located within the 381 .52-acre South Lake mixed-use residential and commercial planned community consisting of 800 lots and 110 parcels, 1,294 dwelling units, 390 hotel rooms, and 675,000 square feet of retail and office space, which is located within the current LCD Zone but being developed subject to the prior Mixed Use Transportation Oriented (M-X-T) zoning regulations; and

West - Old Central Avenue/southbound ramp off MD 214 intersection; beyond Old Central Avenue is Outparcel 'H' and Parcel 'S' located within the South Lake mixed-use residential and commercial development.

Neighborhood and Surrounding Uses

(3) The neighborhood of the Subject Property was not defined in the Technical Staff Report; instead, the Staff Report only discusses the neighborhood in the following terms:

“The general neighborhood primarily includes residential and commercial uses as follows:

North - MD 214 (Central Avenue), and the National Research Home Park (also known as Ternberry Development) located within the Legacy Comprehensive Design (LCD) Zone beyond.

East - US 301 (Robert Crain Highway), and undeveloped land in the Agricultural-Residential Zone beyond.

South - Old Central Avenue, with the South Lake mixed-use residential and commercial planned community beyond, consisting of 1,294 dwelling units, 390 hotel rooms, and 675,000 square feet of retail and office space.

West - Old Central Avenue/southbound ramp of the MD 214 intersection; beyond Old Central Avenue, to the south, are outparcels located within the LCD Zone. This land is currently wooded and undeveloped.”¹

As the approval of a Special Exception requires a finding that, “the proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood,” and further that approval of a Special Exception for a Consolidated Storage use requires findings that, “The use shall be appropriate, given the nature of development in the neighborhood” and that, “The exterior and architectural facade of the building shall be compatible with the prevailing architecture and appearance of other development in the surrounding neighborhood.” Additionally, a defined neighborhood is required by State and case law. As the Technical Staff failed to define the neighborhood as required by law, the neighborhood as defined by the Applicants expert land

¹ Staff Report, p. 5.

planner, Mr. Mark Ferguson is accepted as the neighborhood in the instant Application thus the neighborhood of the Subject Property for this Application as follows:

- North – Central Avenue (MD 214);
- East – The eastern edge of the northbound lanes of Crain Highway (US Route 301) and the properties fronting on it;
- South – Marketplace Boulevard;
- West – Collington Branch.

While these boundaries leave the Subject Property close to the northeast corner of the defined neighborhood, Central Avenue and Crain Highway are both high-classification, high-speed roadways with wide rights-of-way which form substantive physical and visual barriers which do not exist to the south and west. Marketplace Boulevard is approximately five-eighths of a mile south of the Subject Property and represents the transition between the mixed uses in South Lake and the employment uses in Collington Center to the south.

(4) The Subject Property comprises a single platted parcel of undeveloped, wooded land. It is surrounded by three roadways, two of which are high-classification, limited access roadways: Old Central Avenue, a local road from which the proposed use will get its access; Central Avenue (MD 214), an expressway, and the southbound lanes of Crain Highway (US 301), which are planned to become the A-61 “service road” to the west of the planned F-1 realignment and upgrade of US 301 as a freeway.

Across Old Central Avenue to the south and west is the South Lake development in the LCD Zone. Development across from the Subject Property which has been constructed to date are two-family dwellings (“two-over-twos”) on the east side of Summit Point Boulevard, and an as-yet-undeveloped office building is proposed for the west side of Summit Point Boulevard. Beyond the two-family dwellings and the office building, townhouses are undergoing development currently. Ultimately, the entire development is proposed to comprise (as cited above in the Staff Report) 1,294 dwelling units, 390 hotel rooms, and 675,000 square feet of retail and office space.

Across the southbound lanes of Crain Highway in the expanded median of US 301 are a mix of state-owned undeveloped land, rural single-family development in the AR, RE and RR Zones, and service commercial uses in the CS, RE and AR Zones, including the offices of City General contractors, two towing companies and their storage yards, and a Wawa Gas Station and Convenience Store. Along the northbound lanes of US 301 are estate residential development in the AR zone, and a cluster of service. Commercial development by MD 214 in the CS Zone, including a vacant repair facility, the Corner Lounge restaurant, Tommy’s vehicle repair, and the Frisco Sawmill.

Master Plan/Sectional Map Amendment

(5) The Subject Property is located in the Planning Area 74A. The applicable Master Plan is the 2022 Approved Bowie-Mitchellville and Vicinity Master Plan, approved on March 8, 2022.

The Sector Plan's Land Use Map designated the Subject Property for "Commercial" future land use.

The Countywide Map Amendment reclassified the Subject Property from the previously-existing C-M Zone to the comparable CS Zone.

The Growth Policy Map in the May, 2014 General Plan placed the Property in the Established Communities growth policy area. The printed Generalized Future Land Use Map in the General Plan is too small to read; the PGAtlas layer identifies it for "Residential, Medium" land use.

The site is not within a Priority Preservation Area.

Applicants' Proposal

(6) The proposed use for Special Exception 2022-015 is the construction of a three-story, 98,523-square-foot building and four one-story buildings totaling 20,050 square feet, for a project total of 118,573 square feet of building gross floor area. Thirty-eight vehicular parking spaces, 5 loading spaces and 6 bicycle spaces will serve the building, and there will be a 2.7-acre paved and landscaped outdoor storage area as an accessory use (comprising 34% of the site's gross tract area).

Access to the property from Old Central Avenue will be aligned with the end of Summit Point Boulevard. Within the property, access to the one-story buildings, the loading doors on the three-story buildings and the outdoor storage area will be controlled by fencing and security gates.

The developed areas of the property will be surrounded by new landscaping in conformance with the provisions of the Landscape Manual, as well as retained woodlands, and the accessory outdoor storage area will be surrounded by a six-foot sight-tight fence. The depth of the retained woodlands is typically about thirty feet along Central Avenue and Old Central Avenue (where across from the developed two-family dwellings in South Lake), fifty feet along the ramp from southbound Crain Highway to eastbound Central Avenue, and eighty to one hundred feet along Crain Highway.

The development will be provided with two ponds to manage stormwater runoff.

Conformance with the Zoning Ordinance

(7) At the time of the submittal of the instant Application in 2022, Consolidated Storage was a permitted use by Special Exception in the CS Zone. The Prince George's County Council enacted

Prince George's County Council Bill CB-11-2023, adopted on March 28, 2023, which effectively eliminated Consolidated Storage from the CS Zone. However, CB-11-2023, Section 3 states:

“SECTION 3. BE IT FURTHER ENACTED that any proposed development of a consolidated storage use located outside I-95/I-495 (the “Capital Beltway”) that has completed a Pre-Application Neighborhood Meeting for a Special Exception or a Detailed Site Plan pursuant to Section 27-3402, prior to April 1, 2023, may be reviewed and decided in accordance with the use regulation in effect prior to the effective date of this Ordinance.”

The pre-application community meeting for this subject Application occurred on February 7, 2023, prior to April 1, 2023. Thus, the instant Application conforms to the Zoning Ordinance, prior to the change in Section 27-5101, Principal Use Table, of the Zoning Ordinance, enacted by CB-11-2023.

BURDEN OF PROOF

(8) [T]he Court ...(of Appeals of Maryland)... has frequently expressed the applicable standards for judicial review of the grant or denial of a special exception use. The special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The special exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any fact or circumstance negating this presumption. The duties given the Board are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan.

Whereas, the applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. If he shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the Board to decide. But if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a special exception use is arbitrary, capricious, and illegal. Turner v. Hammond, 270 Md. 41, 54-55, 310 A.2d 543, 550-51 (1973); Rockville Fuel & Feed Co. v. Board of Appeals of Gaithersburg, 257 Md. 183, 187-88, 262 A.2d 499, 502 (1970); Montgomery County v. Merlands Club, Inc., 202 Md. 279, 287, 96 A.2d 261, 264 (1953); Anderson v. Sawyer, 23 Md. App. 612, 617, 329 A.2d 716, 720 (1974). These standards dictate that if a requested special exception use is properly determined to have an adverse effect upon neighboring properties in the general area, it must be denied. Schultz

v. Pritts, 291 Md. 1, 432 A.2d 1319, 1325 (1981).

See also Mossberg v. Montgomery County, 107 Md. App. 1, 666 A.2d 1253 (1995).

(9) [T]he appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed and the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. Turner v. Hammond, 270 Md. 41, 54-55, 310 A.2d 543, 550-51 (1973); Deen v. Baltimore Gas & Electric Co., 240 Md. 317, 330-31; 214 A.2d 146, 153 (1965); Anderson v. Sawyer, 23 Md. App. 612, 617-18, 329 A.2d 716, 720, 724 (1974). Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319, 1331 (1981).

See also Mossberg v. Montgomery County, 107 Md. App. 1, 666 A.2d 1253 (1995).

LAW APPLICABLE

(1) The criteria for approval of a Special Exception for Consolidated Storage in the CS Zone prior to the effective date of CB-11-2013 are the general criteria for approval of a Special Exception, §27-3604(e)(1), and the Additional Requirements for approval of Consolidated Storage, §27-5402(u).

(2) Section 27-3604(e)(1) of the Zoning Ordinance provides that a Special Exception may be approved if:

(A) The proposed use and site plan are in harmony with the purpose of this Subtitle;

The Zoning Ordinance has a hierarchy of Purposes, for the Ordinance as a whole, for Nonresidential Base Zones generally, and for the CS Zone in specific. Each of these series of purposes is addressed, following.

The eighteen purposes of the Zoning Ordinance are laid out in section 27-1300. The harmony of the subject project with these Purposes is as follows:

(a) Protect and promote the health, safety, morals, comfort, convenience, and welfare of the present and future inhabitants of the County;

The harmony of the proposed Consolidated Storage development with the Zoning Ordinance's Purpose of protecting and promoting the health, safety, morals, comfort, convenience and welfare of the present and future inhabitants of the County will be discussed at

length under the finding of 27-3604(e)(1)(D), below.

(b) Implement the General Plan, Area Master Plans, Sector Plans, and Functional Master Plans;

The harmony of the proposed Consolidated Storage development with the General Plan, the Master Plan and the Functional Master Plans will be discussed at length under the finding of 27-3604(e)(1)(C), below.

(c) Promote the conservation, creation, and expansion of communities that will be developed with adequate public facilities and services;

This Application proposes a development which generates fewer trips than were approved by the Preliminary Plan of Subdivision for the Subject Property's Record Plat, which found that public facilities were adequate for a more intense development of the Subject Property. As such, approval of the subject Application would be in harmony with this purpose of promoting the conservation of a community which will be developed with adequate public facilities.

(d) Guide the orderly growth and development of the County, while recognizing the needs of agriculture, housing, industry, and business;

Approval of the subject Consolidated Storage project would provide for the orderly growth and development of the County by providing a needed use to serve the storage needs of the regional housing stock.

(e) Support pedestrian-friendly, higher-intensity, mixed-use development in the appropriate locations, including support and emphasis upon a framework for multi-modal forms of mobility for pedestrians, bicyclists, transit users, and motorists;

While the Subject Property has not been designated as a planned location for mixed-use development, it will support multiple modes of transportation through its bicycle parking, the extension of internal sidewalks to the intersection of Old Central Avenue and Summit Point Boulevard. As such, the approval of the instant application will be in harmony with this Purpose of the Zoning Ordinance.

(f) Support redevelopment and infill development within established areas of the County;

While the Subject Property is currently vacant, it was formerly the site of a restaurant, and so could be considered as redevelopment. Furthermore, the Subject Property is surrounded by both new development in South Lake and older development in the form of the long-established node of

existing service commercial uses surrounding at-grade intersection of Old Central Avenue and Crain Highway; as such, its development would constitute infill development within an established area of the County.

(g) *Provide adequate light, air, and privacy;*

The proposed Consolidated Storage project will be in harmony with this Purpose as it will be developed in conformance with the provisions the Zoning Ordinance which were established to ensure the provision of adequate light, air, and privacy, both for the proposed use at the Subject Property and for its neighbors. Those regulations include limitations on height, lot coverage, frontage, and setbacks. The Standards Specific to Accessory Uses of 27-5203(b)(9) also stipulate the enclosure of the outdoor storage area, and the Additional Requirements of 24-5402(u)(1)(G) stipulate that entrances to individual storage units must be screened.

The Special Exception Site Plan will also conform to the provisions of the Landscape Manual which require landscaped strips along the property's perimeter to provide additional privacy to its neighbors.

(h) *Encourage economic development activities that provide desirable employment and a broad, protected tax base;*

The proposed use will generate additional tax base for the County with a use that has, historically been resistant to downward valuations in assessments.

(i) *Ensure a high level of quality development in general, for the benefit of all citizens and residents, throughout the County;*

The proposed Consolidated Storage project will be in harmony with this Purpose as it will be developed in conformance with the Landscape Manual, the Tree Canopy Coverage regulations, the Development Standards provisions of the Zoning Ordinance, and the Additional Requirements of 27-5402(u)(1)(E), (F) and (G) which collectively ensure a high level of quality development.

(j) *Promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development;*

This Consolidated Storage development would be in harmony with this Purpose of the Zoning Ordinance as it will be developed in accordance with the various principles that have been codified in the Zoning Ordinance and other County laws to promote the beneficial relationships between land and buildings. These principles include the Tables of Permitted Uses for the various zones as laid out in the Zoning Ordinance, the regulations referenced by Section 27-6800 of the Zoning Ordinance requiring adherence to other County laws requiring Stormwater Management, Sediment Control and other environmental protections, and regulations requiring conformance to the

provisions of the Landscape Manual which provide for perimeter and interior landscaping.

(k) Protect the established character of residential communities and neighborhoods;

The approval of the instant Application would be in harmony with this Purpose of the Zoning Ordinance because the separation of this use from the nearby established residential communities – including communities beyond the neighborhood of this Application as formally defined above – by its physical separation due to its bordering high-speed, high-classification roadways with wide rights-of-way, by the perimeter landscaping in conformance with the provisions of the Landscape Manual, by the additional retained woodlands around much of the Subject Property’s periphery, by the orientation of the proposed buildings, and by the perimeter sight-tight fencing.

(l) Protect the County from fire, flood, panic, and other dangers;

The approval of the subject Application would be in harmony with this Purpose of the Zoning Ordinance as it will be developed in conformance with regulations established in the body of the Ordinance and other County laws, which are intended to protect from fire, flood, panic and other dangers, namely: the Floodplain Regulations, Stormwater Management Regulations, the Fire Prevention Code, the Building Code, and the Tables of Permitted Uses for the various zones.

(m) Provide sound, sanitary housing in a suitable and healthy living environment within the economic reach of all County residents;

As the proposed Consolidated Storage is commercial in nature this Purpose is not directly applicable to the instant Application. By application of the provisions of the Development Standards, the Additional Requirements, the separation of the Subject Property from its neighbors due to its bordering high-speed, high-classification roadways, the perimeter landscaping, the additional retained woodlands, and the perimeter sight-tight fencing, the approval of this Application will maintain a suitable and healthy environment for the housing which does exist in the neighborhood and beyond.

(n) Prevent the overcrowding of land;

The approval of the subject Consolidated Storage development would be in harmony with this Purpose as it will conform to the provisions of the Ordinance which were codified to ensure the prevention of overcrowding, including height limits and setbacks.

(o) Protect the rural character of the County in designated, appropriate locations;

As the proposed Consolidated Storage development is not located in the County’s Rural and Agricultural Areas, this Purpose is not directly applicable to the instant Application.

- (p) Ensure the provision of open space to protect scenic beauty and the natural features of the County, as well as provide adequate recreational space;***

As the proposed Consolidated Storage development will conform to the Open Space Set-Aside requirements of the Development Standards in the Zoning Ordinance, the approval of the instant Application will be in harmony with this Purpose of the Zoning Ordinance.

- (q) Protect against undue noise, and air and water pollution, and to encourage the preservation of stream valleys, steep slopes, lands of natural beauty, dense forests, scenic vistas, and other similar features; and***

The subject Application will generate no new air or water pollution, and will disturb no stream valleys, steep slopes, lands of natural beauty, large areas of dense forest, scenic vistas or other similar features.

- (r) Protect and conserve the agricultural industry and natural resources.***

The approval of this proposed Consolidated Storage development would be in harmony with this Purpose of the Ordinance because the no regulated natural features are present on the Subject Property, and the Subject Property is not located in an agricultural area.

(3) In addition to the purposes of the broader Ordinance, there are seven general Purposes for Nonresidential Base Zones, Section 27-4203(a), as follows:

- (1) Provide appropriately located lands for the full range of business uses needed by the County's residents, businesses, and workers, consistent with the goals and policies of the General Plan and the applicable Area Master Plan or Sector Plan to support quality economic growth;***

As the instant Application proposes a use which is context-sensitive infill in accordance with the General Plan's intent for Established Communities, and is consistent with the land use recommendation of the Master Plan, its approval would be in harmony with this Purpose of Nonresidential Base Zones.

- (2) Strengthen the County's economic base, and provide employment opportunities close to home for County residents;***

Echoing the general Purpose of 27-1300(h), the proposed use will generate additional tax base for the County, and as a commercial use will provide employment opportunities for County residents. As such, this Application's approval will be in harmony with this Purpose.

(3) *Create suitable environments for various types of businesses, and protect them from the adverse effects of incompatible development;*

Because of the Subject Property's location at a long-established node of existing service commercial uses surrounding at-grade intersection of Old Central Avenue and Crain Highway and because of the separation of the Subject Property from its neighbors due to its bordering high-speed, high-classification roadways, the perimeter landscaping, the additional retained woodlands, and the perimeter sight-tight fencing, the approval of this Application will be in harmony with this Purpose of creating a suitable, protected environment for the proposed business.

(4) *Create suitable environments for various types of mixed-use development, where business, office, retail, and residential development is designed and integrated in compatible ways;*

Because the proposed development is not a mixed-use development, this Purpose is not directly applicable to the instant Application.

(5) *Accommodate new infill development and redevelopment that is consistent with the context and the character of the nonresidential zone in which it is located;*

Echoing the general Purpose of 27-1300(f), the proposed Consolidated Storage development will be consistent with the context of the older development at the long-established node of service commercial uses surrounding at-grade intersection of Old Central Avenue and Crain Highway in the same CS Zone, and as such will be appropriate infill development consistent with the context and character of the nonresidential zone in which it is located.

(6) *Ensure nonresidential development is located and designed to protect and preserve the character of existing single-family zones and neighborhoods; and*

Echoing the general Purpose of 27-1300(k), the approval of the instant Application would be in harmony with this Purpose of Nonresidential Base Zones because the separation of this use from the nearby single-family zones – including communities beyond the neighborhood of this Application as formally defined above –due to its bordering high-speed, high-classification roadways with wide rights-of-way; by the perimeter landscaping in conformance with the provisions of the Landscape Manual, by the additional retained woodlands around much of the Subject Property's periphery, by the orientation of the proposed buildings, and by the perimeter sight-tight fencing.

(7) *Promote sustainable development that conserves energy and is energy-efficient, reduces the emission of greenhouse gases, provides physical and economic access to nutritious foods, employs sustainably-sourced and recycled materials, and meets similar sustainability goals.*

Through its conformance with the Green Building Standards in the Development Standards of the Zoning Ordinance, the approval of the proposed Consolidated Storage development will promote the sustainability goals which have been incorporated into the Ordinance.

(4) There are also two purposes for the CS (Commercial, Service) Zone specifically, Section 27-4203(C)(1), as follows:

(A) To provide for a concentration of retail sales and services (including auto-oriented commercial uses), office, and eating or drinking establishments; and

As the proposed use is compatible with the adjacent concentration of auto-oriented commercial uses and the Eating and Drinking Establishment at the service commercial node around the at-grade intersection of Old Central Avenue and Crain Highway, the approval of the instant Application would be in harmony with this Purpose of the CS Zone.

(B) To accommodate medium- to moderately high-density residential development as part of vertically or horizontally mixed-use development.

Because the proposed use is for a service commercial use that is provided for in the Table of Uses for the CS Zone reference by Section 3 of CB-11-2023, these last purpose is not directly applicable to the instant Application.

(5) The other criteria for approval of a Special Exception laid out in Section 27-3604(c)(1) of the Zoning Ordinance, are as follows:

(B) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle;

Based upon an inspection of the proposed Special Exception Site Plan and Landscaping Plan, the accompanying architectural elevations, lighting plan and Green Building Standards, the accompanying geotechnical report, taking note of the approved NRI equivalency letter, and the proposed Type 2 Tree Conservation Plan, the proposed use will be in conformance with all of the applicable requirements and regulations of the Zoning Ordinance.

(C) The proposed use shall be consistent with the General Plan and shall conform with the relevant goals, policies, and strategies of the applicable Area Master Plan, Sector Plan, or Functional Master Plan for the Subject Property and its surrounding area;

The relevant Plans which apply to this site are the 2014 General Plan, the 2022 Approved Bowie-Mitchellville and Vicinity Master Plan, and a number of Functional Master Plans, including

the Resource Conservation Plan (which includes the Green Infrastructure Plan), the County Master Plan of Transportation, the Public Safety Facilities Master Plan, The Historic Sites and Districts Plan, and the Water Resources Functional Master Plan.

General Plan

As noted above, the General Plan classified the subject site in its Growth Policy Map² in the Established Communities category. The printed Generalized Future Land Use Map³ is at too small a scale to be for the Subject Property to be legible, though the Generalized Future Land Use layer on the PGAtlas GIS site indicates Residential Medium land use.

“Established Communities” are described by the General Plan as “the County’s heart – its established neighborhoods, municipalities and unincorporated areas outside designated centers,”⁴ and recommends that, “Established communities are most appropriate for context-sensitive infill and low- to medium-density development....”⁵

Due the node of existing service commercial uses surrounding the interchange of Central Avenue and Crain Highway (or more properly the at-grade intersection of Old Central Avenue and Crain Highway) the approval of the subject Application would be context-sensitive infill.

Master Plan

As noted above, the applicable Master Plan is the 2022 Approved Bowie-Mitchellville and Vicinity Master Plan, approved on March 8, 2022. Map 16, “Future Land Use,” recommends the Subject Property and the node of existing service commercial uses at the intersection of Old Central Avenue and Crain Highway for “Commercial” land use.⁶

In addition to the Future Land Use Map, Policy LU 20 in the Land Use Element addressing land uses in the US 301 corridor directs:

“Policy LU 20 Concentrate commercial uses along the US 301 corridor at certain planned interchanges (see Map 16. Future Land Use).

LU 20.1 As US 301 is upgraded to a limited-access freeway (F-10), concentrate retail and service commercial development on the west side of planned interchanges at Leeland Road and MD 214 to reduce the burden on existing infrastructure and conserve sensitive environments, such as woodland, wetlands, and farmland. Discourage commercial land use

² M-NCP&PC, Plan Prince George’s 2035 – Approved General Plan (May, 2014), p. 107.

³ General Plan, p. 101.

⁴ Ibid., p. 106.

⁵ Ibid., p. 20.

⁶ M-NCP&PC, 2022 Approved Bowie-Mitchellville and Vicinity Master Plan (March, 2022), p. 50.

elsewhere along the corridor.”⁷

The CS Zone of the Subject Property, on the west side of the planned [and existing] interchange of US 301 and MD 214, implements this Master Plan policy and the more specific strategy LU 20.1.

In its August 14, 2023 memorandum regarding the instant Application, the staff of the MNCPPC’s Environmental Planning Section discussed the conformance of the proposed use to the five areawide policies and strategies in the Natural Environment Element of the Master Plan; your Hearing Examiner concurs with Staff’s analysis, and further finds that the remaining five policies in that Plan Element are either applicable only to public agencies or within the Bowie State MARC Center.

None of the other Plan Elements contain policies or strategies which are specifically applicable to the Subject Property.

Other Applicable Functional Master Plans

There are no regulated natural features on the Subject Property, and the proposed development will be in accordance with a Type 2 Tree Conservation Plan which has been recommended for approval by MNCPPC staff. As such, the instant Application does not impair the Green Infrastructure Plan.

With regard to the Historic Sites and Districts Plan, no historic sites or resources are located immediately proximate to subject site; as such, the approval of the subject application will not have an adverse impact on this Functional Master Plan.

The Water Resources Functional Master Plan addresses broad regulatory policy and large-scale watershed planning, and as such makes no recommendations which are directly applicable to the subject application.

No proposed sites for Public Safety facilities are in the area affected by the instant Application.

The 2009 Countywide Master Plan of Transportation classifies Central Avenue (Maryland Route 214) as an expressway roadway (E-1) with 4-5 lanes in a 150’-200’ right-of-way. This right-of-way already exists. It classifies Crain Highway (US 301) as the combination of a proposed arterial “service road” (A-61) which will occupy the existing southbound lanes of Crain Highway. US 301 will be upgraded to a freeway (F-1) east of the proposed A-61. The rights-of-ways for these roadways also exist.

⁷ Ibid., p. 78.

Finally, the Master Plan of Transportation proposes a reconfigured interchange between MD 214 and US 301. The configuration of that interchange is illustrated conceptually on Maps 20 and 21 in the Master Plan of Transportation⁸ and in greater detail on Drawing 10 of 12 of the US 301 Access Control Study (January, 1999) which was included as Exhibit 8 in the record of an application to authorize a building permit (16977-2020-CGU) for a structure in a proposed right-of-way. In that matter the District Council adopted the Zoning Hearing Examiner's findings of fact and recommendations, which stated that,

- (1) The District Council finds that the proper right-of-way to be applied is the one depicted in the 1999 SHA US 301 Access Control Study and the 2009 Master Plan of Transportation (although there is less detailed engineering information in the latter);***
- (2) PGAtlas information on the location of the proposed right-of-way shall not be utilized for this property.***

With this determination of the extent of the proposed right-of-way for the planned reconfigured interchange, the Special Exception Site Plan does not contain any structures which will require authorization by the District Council pursuant to Section 27-3617(a)(1)(D) of the Zoning Ordinance. As such, the approval of the subject Application will not impair the Countywide Master Plan of Transportation.

In conclusion, because the proposed Consolidated Storage project is in keeping with the General Plan's broad land use policies for the Established Communities areas, actively implements the Master Plan's applicable recommendations, and is in harmony with the applicable Functional Master Plans, approval of the subject Application will be in harmony with the Ordinance's purpose of implementing those plans.

- (D) The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area;***

The proposed consolidated will be developed in accordance with modern development regulations to provide access at a safe point on an appropriately-classified road; will be surrounded by substantive screening in the form of fencing, landscaping and preserved woods; will be provided with Stormwater Management, which together with conformance to the Development Standards in the Zoning Ordinance will promote the health and safety of the present and future inhabitants of the County.

The public safety will be specifically protected by the requirement in the Development Standards which made the Applicant demonstrate that the land it sits on will not be unsafe despite

⁸ M-NCP&PC, Approved Countywide Master Plan of Transportation (November, 2009), pp. 94-95.

the presence of the Marlboro Clay stratum.

It will provide for a needed use as demonstrated by the Applicant's Market Study, promoting the welfare and convenience of the present and future inhabitants of the County, and it will be located in a neighborhood which includes an abutting node of compatible service commercial uses, and will feature architecture which is compatible with the surrounding neighborhood, promoting the County inhabitants' welfare and comfort.

(E) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood;

From a planning perspective, the term "neighborhood" describes the extent of area which would be meaningfully impacted by the proposed development. The Subject Property's location, surrounded by existing roadways, two of which are high-classification, high-speed roadways with wide rights-of-way, is substantially separated from adjacent properties to the north to the degree that they do not form a part of the defined neighborhood; the physical and visual barrier provided by these roadways separate the Subject Property from the communities to the north and east to a degree that the only impact which would notionally extend beyond those barriers are traffic generated by the proposed use. Since the proposed Consolidated Storage use will generate a very small amount of traffic, barely over the *de minimis* threshold, indicate that the adjacent developed residential properties to the north, while not being within the defined general neighborhood, will not be materially impacted by the proposed development, and as such, the proposed Consolidated Storage use will not be detrimental to their use.

Similarly, the low traffic generation, architectural design and substantive perimeter screening will protect the uses within the general neighborhood – whether adjacent or beyond – from detrimental effects to their use or development.

(F) The proposed site plan is in conformance with an approved Tree Conservation Plan; and

If the companion Tree Conservation Plan, TCP2-096-90/02, is approved in conjunction with the requested Special Exception, this Application will be in conformance with this required finding.

(G) The proposed site plan demonstrates the preservation and/or restoration of the regulated environmental features in a natural state to the fullest extent possible in accordance with the requirements of Subtitle 24: Subdivision Regulations.

The Subject Property does not contain any areas of regulated natural features.

The Subject Property is not located within the Chesapeake Bay Critical Area, therefore the provisions of §27-3604(2) are not applicable.

(6) Section 27-5401, General Special Exception Standards, contains two additional stipulations regarding setbacks being measured from the limit of the Special Exception, and noting that additional landscaping may be required by the District Council if the landscaping required by the Landscape Manual is deemed to be insufficient. These stipulations are noted but do not require further findings.

(7) Sections 27-5402(u) requires:

(1) Consolidated storage may be permitted, subject to the following:

(A) The application shall be accompanied by:

(i) An impact statement explaining:

(aa) The nature and scope of the operation; and

(ab) The type and amount of traffic expected to be generated;

(ii) A description (graphic and narrative) of the proposed architectural facade of the building.

The Applicant's Statement of Justification identifies the materials which were submitted as a part of the Application detailing the traffic and architectural design, and together with the narrative in the Applicant's Statement and the lengthy testimony and exhibits of Applicant's expert architect, Rebekah Brown (Exhibit 70), form the required impact statement and the narrative description of the architectural façade of the proposed building. The expert transportation engineer, Dylan McAndrew testified as to traffic adequacy. (Exhibit 11 and 58)

(B) The Subject Property shall have frontage on, and direct vehicular access to, an existing street with sufficient capacity to accommodate the type and amount of traffic expected to be generated by the use;

Old Central Avenue is a two-lane local road with a right-of-way of 80 feet in width. The paved width is approximately 48 feet, and includes paved shoulders as a part of an open section. The Applicant's Statement of Justification and Traffic Statement submitted with the Application point out that the road was previously deemed sufficient to accommodate a mix of commercial uses which would generate traffic significantly higher than the 11 morning and 18 evening peak hour trips generated by the proposed Consolidated Storage use. See also testimony of Dylan McAndrew and Exhibit's 11 and 58.

(C) The use shall be appropriate, given the nature of development in the neighborhood;

As discussed previously, the Subject Property forms a part of a node of historic service commercial uses around the intersection of Old Central Avenue and Crain Highway. This use will be fully compatible with those uses. This use will also be compatible with the proposed office

building which will be constructed on the opposite side of Old Central Avenue in South Lake. The perimeter screening and buffering of the proposed Consolidated Storage facility, including new landscaping in conformance with the provisions of the Landscape Manual, retained woodlands, a six-foot sight-tight fence will collectively form a substantive visual buffer to the residential uses in South Lake; this visual separation, combined with the low traffic generation and generally low level of activity at the Subject Property indicate that the use will be appropriate given the nature of development in the neighborhood.

- (D) The District Council shall find that:**
(i) There is a need for the public in the surrounding area.

The Applicant's Statement of Justification summarizes the findings of the market study which accompanied the instant application, and together they demonstrate that a public need for this facility exists in the surrounding area. Mr. Ed Steere, an expert in market analysis, testified at length to the need for Consolidated Storage in this area and provided a needs analysis (Exhibit 76) and a location plan showing the location of Consolidated Storage within a 5 mile radius of the Subject Property. (Exhibit 81)

- (E) The exterior and architectural facade of the building shall be compatible with the prevailing architecture and appearance of other development in the surrounding neighborhood;**

Ms. Brown, expert architect, testified as to compliance with the provisions in the architectural design to insure compatibility with the prevailing architecture and appearance of other development in the surrounding neighborhood.

- (F) Beginning June 23, 1988, no entrances to individual consolidated storage units shall be visible from a street or from adjoining land in any Rural and Agricultural, Residential, or Commercial base zone (or land proposed to be used for residential or commercial purposes on an approved Basic Plan for the LCD Zone or any approved detailed site plan);**
- (G) Entrances to individual consolidated storage units shall be either oriented toward the interior of the development or completely screened from view by a solid wall, with landscaping along the outside thereof; and**

The architectural design and layout of the proposed buildings orient all of the individual unit entrances toward the interior of the development, and the perimeter landscape screening, fencing and retained woodlands will collectively insure that no entrances will be visible from the streets which surround the Subject Property. Adjacent land in the LCD and AR Zones are not adjoining.

- (H)** *Consolidated storage for which special exceptions were approved prior to the date reflected in paragraph (F), above, need not meet the provisions set forth in paragraphs (F) and (G), above.*

The instant Application would be approved after June 23, 1988; as such, paragraphs (f) and (G) are applicable.

- (1)** *In the CS, NAC, TAC-E, and LTO-E Zones, the property owner shall set aside of minimum of 1,500 square feet of gross floor area of commercial/retail/office space at ground level or above ground level at zero base rent to be leased as business incubator or Community Non-Profit Space, as defined in Section 27-2500 of this Code, subject to the following:*
- (i)** *If the Community Non-Profit Space is located above ground level, the property owner shall ensure that space is handicapped accessible, and shall provide adequate signage so that the public can locate the space.*
 - (ii)** *Occupancy and use of the Community Non-Profit Space shall be subject to a Community Benefit Agreement executed by the property owner and Community Non-Profit organization. Said Community Benefit Agreement shall be binding on all successors, heirs, and assigns of the property.*
 - (iii)** *The property owner shall ensure that the Community Non-Profit tenant access to at least one (1) large storage unit on the property.*

The Applicant provided testimony that this Requirement is met.

- (2)** *In addition to what is required by Section 27-3604(c), Special Exception Submittal Requirements, the site plan shall show the topography of the subject lot and abutting lots (for a depth of at least fifty (50) feet).*

The topography of the Subject Property and areas extending approximately one hundred feet surrounding the Subject Property has been shown on the Special Exception Site Plan.

Development Standards

- (8)** Section 27-6 of the Zoning Ordinance requires the following applicable findings:

a. Section 27-6200 Roadway Access, Mobility, and Circulation

The Special Exception Site Plan demonstrates sufficient roadway access, mobility, and circulation. The site is accessed via a 44-foot-wide entrance from Old Central Avenue. Sidewalk

and bike circulation is addressed with the inclusion of a 5-foot sidewalk and bicycle racks on-site.

b. Section 27-6300 Off-Site Parking and Loading

In accordance with the Parking and Loading Regulations contained in Section 27-6300 of the Zoning Ordinance, Consolidated Storage requires 1.0 spaces per 3,000 square feet of rentable storage area, 4.0 spaces per 1,000 square feet of office space, and 2.0 spaces per resident manager. This development has 93,239 square feet of rentable storage area, and thus, would require 32 parking spaces. There is 900 square feet of office space which will require an additional 4 parking spaces. There is no resident manager associated with this development. The total required spaces are 36. There are 38 parking spaces proposed. The Plan also meets the requirement for handicap spaces, as there are tow van accessible spaces provided. Per Table 27-6310(a), Industrial Uses, of the Zoning Ordinance, based on gross floor area, the required number of loading spaces would be five. The proposed development meets this requirement.

c. Section 27-6400 Open Space Set-Asides

This Special Exception exceeds the required minimum Open Space Set-Aside. The proposed development provides 26 percent open space.

d. Section 27-6500 Landscaping

This Special Exception is in conformance with the applicable standards of the Landscape Manual. Section 4.2, Requirements for Landscape Strips Along Streets, and Section 4.3, Parking Lot Requirements, are shown on the Landscape Plan.

e. Section 27-6600 Fences and Walls

The Special Exception is in conformance with Section 27-6600. The site will incorporate a 6-foot-high, vinyl, board-on-board fence, as well as landscape plantings.

f. Section 27-6700 Exterior Lighting

The site photometric analysis plan associated with this Special Exception demonstrates conformance with Section 27-6700. Light-level measurements at the property line are shown to be eligible. All exterior luminaries, including security light, are full cut-off fixtures that are directed downward.

g. Section 27-6800 Environmental Protection and Noise Controls

An approved Natural Resources Inventory Equivalency Letter (NRI-029-2023) was submitted with the Application. There are no REFs on-site. However, sensitive species may be

found to occur on the southwest corner of the property.

A Type 2 Tree Conservation Plan (TCP2-096-90-02) was submitted with this Special Exception Application. No specimen trees are proposed for removal with this Application.

An approved SWM Concept Plan and approval letter was also submitted with this Special Exception Application.

The Application is in conformance with Sections 27-6802, 27-6803, 27-6805, 27-6808, and 27-6809 of the Zoning Ordinance

Conditions of approval will address the possible presence of sensitive species on-site, the submittal of an Erosion and Sediment Control Plan, and that the TCP2 and SWM Concept Plan match, prior to certification.

h. Section 27-61100 Industrial Form and Design Standards

The South Bowie Self Storage Zone building uses a mix of material, color, and fenestration patterning to add visual interest and break up the building massing. Building fenestrations have window patterning that is more similar in scale and pattern to residential. Long expanses of uninterrupted fenestrations have been avoided.

The building roofline will have variations in height, color, and material to complement the more residential aesthetic of the building. The one-story perimeter storage units continue the design aesthetic while also providing screening of loading activities with the facility.

The primary entrance will be clearly defined by distinct architectural features and will be oriented to be visible from the roadway entrance. Off-street parking will not be located between the front of the building and the street it faces.

i. Section 27-61200 Neighborhood Compatibility Standards

The proposed development is bound by MD 214 to the north, Old Central Avenue to the west and south, and an on-ramp to US 301 to the east. There is an existing housing development to the north beyond MD 214. To the south is mixed-use community of South Lake currently under construction. Both developments incorporate a mix of brick and vinyl siding and articulation into their residential architecture. The proposed Special Exception uses similar architectural features to enhance compatibility with the surrounding neighborhoods.

The proposed development uses a combination of one-story brick storage units, landscaping, and fencing to screen interior activity from adjacent properties. Lighting is also designed to be unobtrusive to neighboring residential uses.

The Applicant has demonstrated that there is a need for Consolidated Storage in the community, as market analysis shows the area to be underserved. Staff find that the proposed development meets the Neighborhood Compatibility Standards.

Parking Regulations

(9) In accordance with Section 27-6303 of the Zoning Ordinance, an application for a Special Exception use requires submission of a Parking Plan. In accordance with the Parking and Loading Regulations contained in Section 27-6300, Consolidated Storage requires 1.0 spaces per 3,000 square feet of rentable storage area, 4.0 spaces per 1,000 square feet of office space, and 2.0 spaces per resident manager. The instant development has 93,239 square feet of rentable storage area, and thus, would require 32 parking spaces. There is 900 square feet of office space which will require an additional 4 parking spaces. There is no resident manager associated with this development. Therefore, the total required spaces are 36. There are 38 overall parking spaces proposed. The Plan also meets the requirement for handicap spaces, as there are two van accessible spaces provided. Bicycle parking is calculated at 2 bike spaces for the first 10 vehicular parking spaces and one bike parking space per an additional 10 vehicular parking spaces. Based on 38 parking spaces, there would be 5 bicycle parking spaces required. Six spaces are provided. Per Table 27-6310(a), based on gross floor area, the required number of loading spaces would be five. The proposed development meets this requirement.

2018 Prince George's County Landscape Manual Requirements

(10) A Special Exception must comply with the Landscape Manual through the approval of a Landscape Plan. Specifically, conformance is required for Section 4.2, Requirements for Landscape Strips Along Streets; Section 4.3, Interior Planting for Parking; and Section 4.9, Sustainable Landscaping Requirements. The proposed Landscape Plan meets these requirements.

Prince George's County Tree Canopy Coverage Ordinance

(11) This Application is subject to the requirements of the Prince George's County Tree Canopy Coverage Ordinance. This site is located within the CS Zone (prior C-M Zone) and is required to provide 10 percent of the site area in TCC. The proposed limit of disturbance is 328,110 square feet. Therefore, 32,811 square feet of tree canopy must be provided. The TCC schedule provided on the proposed Landscape Plans shows TCC at 41,144 square feet.

Prince George's County Woodland and Wildlife Habitat Conservation Ordinance

(12) Per Section 27-6300, the site is subject to the provisions of the Prince George's County Woodland and Wildlife Habitat Conservation Ordinance (WCO) because the Property is greater

than 40,000 square feet and has a previously approved TCP2. TCP2-096-90-02 was submitted for approval.

The TCP2 shows no woodlands in the net tract area. The threshold, as established by the zone, is 10 percent, or 0.79 acre. The total Woodland Conservation requirement of 0.79 acre is required. The Applicant proposes to meet this requirement with 0.79 acre of off-site mitigation credits, which was previously obtained with prior approvals.

Opposition

(13) Ms. Terry Nuriddin, a resident of South Bowie, testified in opposition and provided her written testimony (Exhibit 71). Ms. Nuriddin is opposed to the proposed commercial use of the Property and would prefer that the Property be utilized for the benefit of the neighborhood, such as a dog park. Ms. Nuriddin was dissatisfied with the procedural errors she believes were committed by the M-NCPPC Technical Staff during the processing of this Application. A few of the concerns expressed were the Staff use of an outdated mailing list and a failure to notify the neighbors by their correct names.

DISPOSITION

Based on the testimony, Applicant's Statement of Justification, the Technical Staff Report, associated referrals, and materials in the record, the Applicant has demonstrated conformance with the required Special Exception findings, as set forth in Section 27-3604 and Section 27-5402(u) of the Prince George's County Zoning Ordinance.

Special Exception SE 2022-015, and Type 2 Tree Conservation Plan TCP2-096-90-02, for South Bowie Self Storage Zone, is APPROVED, subject to the following Conditions:

1. Prior to certification of the Special Exception Site Plan, the following revisions shall be made, or information shall be provided:
 - a. The freestanding sign detail, dimensions, and square footage shown on the proposed signage Schedule must be consistent.
 - b. Additionally, the property boundary bearings and distances to be consistent with the record plat.
2. At the time of the issuance of the first permit for the Subject Property:
 - a. The development proposed on both the Type 2 Tree Conservation Plan and the Stormwater Management Plan shall match.

- b. A copy of the Erosion and Sediment Control Plan must be submitted to the M-NCPPC staff so that the ultimate limits of disturbance for the project can be verified and shown on the revised TCP2.
 - c. A letter from the Maryland Department of Natural Resources Wildlife and Heritage Service regarding sensitive species shall be submitted to the M-NCPPC staff, and any conditions of the letter shall be met.
- 3. During the construction phases of this project, noise should not be allowed to adversely impact activities on the adjacent properties. Indicate intent to conform to construction activity noise control requirements as specified in Subtitle 19 of the Prince George's County Code.
- 4. During the construction phases of this project, no dust should be allowed to cross over property lines and impact adjacent properties. Indicate intent to conform to construction activity dust control requirements, as specified in the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control.