



OFFICIAL USE ONLY

Case #: 17-2150 Master File #: _____ Date: _____
Received By: _____ Project Planner: _____ Related Cases: _____

APPELLANT:

Name: Douglass Properties II, LLC/Lancze G. Douglass

Mailing Address: 1402 E. Magnesium Rd.

City, State, Zip: Spokane, WA 99217

Telephone Number(s): 509.951.4785 (mobile); 509.483.4966 (fax)

E-Mail Address: lanzce@irentspokane.com

REPRESENTATIVE OR ATTORNEY:

Name: Michael J. Murphy & William J. Crittenden

Mailing Address: Groff Murphy, PLLC, 300 East Pine Street

City, State, Zip: Seattle, WA 98122

Telephone Number(s): 206.618.7200 (MJM); 206.361.5972 (WJC)

E-Mail Address: mmurphy@groffmurphy.com; bill@billcrittenden.com

I hereby appeal the administrative (staff) decision described below for those reasons stated herein and as attached hereto, and seek the relief and remedies as stated. I understand that this appeal is not complete without payment of the required filing fee. I understand that this appeal will be considered pursuant to the authority and provisions of Olympia Municipal Code 18.75.020 and 18.75.040.

Filing Fee: \$1,000.00 (plus Hearing Examiner Deposit of \$500.00 when appealing an impact fee)

X I understand that an impact fee appellant is **required to pay actual Hearing Examiner costs**, which may be higher or lower than any deposit amount. I hereby agree to pay any such costs.

DECISION APPEALED: Director's Review of Transportation Impact Fee

Case Name: Secure-It Self Storage

Decision Maker: Tim Smith

Case Address: 2225 Cooper Pt Rd SW #2 Bldg,
Olympia, WA

Date of Decision: March 2, 2018

Case No.: Permit #17-2150

COPY OF DECISION APPEALED IS ATTACHED: ☒ YES ☐ NO

Basis of Appeal.

1. Please describe how you are or are likely to be harmed by the decision you are appealing.

If the decision is not corrected, the appellant will be forced to pay an excessive and unsupportable transportation impact fee.

2. Please describe below, or in attachments, how and why you believe the city staff erred.

See attached Appendix A.

3. **Remedy or Relief Sought:** If you are successful on appeal, please describe the action you wish the Hearing Examiner to take. Explain how this action would eliminate or reduce harm to you.

Reduce the transportation impact fee to a supportable amount:

- a. Base trip generation on number of storage units, not Gross Floor Area of entire building; and
- b. Eliminate unsupportable trip length adjustment factor that arbitrarily increases per trip fee by 69%.

Have you served notice of this appeal on any other parties? ☐ YES ☒ NO

There are no other parties.

If yes, please list:

Signed:  3-15-18
Signature Date

APPENDIX A

Appellant does not dispute the City's right to charge a transportation impact fee. The error here lies in the method used by City Staff to calculate impact fees for mini-storage facilities. The City Staff erred in setting the transportation impact fee in two ways: first, the decision to use "gross floor area" as the variable for measurement of trip generation is not supported by substantial evidence. Second, the decision to impose a trip adjustment factor that assumes the average trip is 5.1 miles instead of the City base average of 3 is not supported by substantial evidence either. Further, these decisions together and separately violate the appellant's substantive due process rights because the fee does use a reasonable method to calculate the fee (making it simply a tax on development) and the resulting fee amount is unduly oppressive.

Facts:

The transportation impact fee worksheet for the Project shows that the impact fee of \$167,580 is based on 126,000 square feet times \$1.33 per square foot. According to Olympia's Transportation Impact Fee Update, November 2016 ("2016 Study") at pages 7-8, impact fees are based on additional PM peak hour trips. Pages 7-8 of the 2016 Study describe how the cost per each new PM peak hour trip (\$2,999) is derived. According to page 16 of the Update, the number of PM peak hour trips for each type of use is based on the trip generation data in the 2012 (9th Ed.) of the ITE Transportation Manual. Per pages 12 and 13 of the 2016 Study, the trip generation for a Mini-Warehouse is based on Land Use Code 151 in the ITE Manual. According to the 2016 Study at page 10, Table 3, Column 4, each storage unit generates .26 "PM Peak Trips/Ends" per unit. The trip generation rate of .26 is based on square footage, as indicated on Table 3.

Specific Errors:

A. The Selection of Gross Floor Area (GFA) as the Variable that Determines Trip Generation is Not Supported by Substantial Evidence.

The City Staff selected Gross Floor Area (GFA) as the "independent variable" to determine trip generation instead of the more logical number of storage units. There is no evidence that the City Staff had any basis for that selection, or any evidence that square footage is a more accurate basis for determining trip generation for a mini-warehouse. The City Staff points to the 2016 Study, but the 2016 Study does not explain or even discuss why square footage was used as the controlling variable. City Staff also apparently relies on the Transportation Impact Fee Rate Study from 1995, but that study does not explain or discuss why square footage was chosen either. The ITE Manual does have trip generation charts for Land Use Code (LUC) 151 ("mini-warehouses") based on both square footage and number of units, but the Manual provides no detail about the studies the charts are based on. And the ITE Manual does not offer any evidence or discussion about which charts are more accurate for this type of facility or location. There is nothing in the 1995 and 2016 Studies done for the City explaining or justifying the use of square footage to determine trip generation. City Staff has offered no other supporting documents, and there are none on the City website. In short, there is no

substantial evidence, or any evidence, supporting the decision to use square footage as the controlling variable.

Using square footage as the controlling variable matters. If the per unit ITE PM peak trip generation factor were used and applied to the actual the number of units in the Project, the fee would be .02 (PM peak factor) x 844 (number of actual units) x 1.69 (trip adjustment factor)¹ or 28.69 trips PM Peak Hour trips. By contrast, square foot based trip generation yields a factor of .26 (PM peak factor) x 126 (per 1,000 square feet) x 1.69 (trip adjustment factor) or 55.36 PM Peak Hour trips. Nearly double the number of trips. Applying the per-unit analysis to the City's cost formula: 28.69 new PM Peak Hour Trips x \$2,999 (cost of new PM peak trips), yields a fee of \$86,041.31. This is roughly 1/2 of the fee based on the square footage.

A square footage variable will always overstate usage (trips) compared to a per unit analysis. Mini-storages are simply not configured in a way that yields the volume of traffic required to achieve the rate used by the City. For example, to achieve the same number of trips as called for with the square footage driven formula, the Cooper Point facility would have to have twice as many units. This would make the average unit only 70 square feet, when the actual average is nearly twice that (approximately 140 square feet). A facility with an average unit size of 70 square feet is not an economically sustainable configuration in this or almost any other market. Thus the square footage driven formula is not rationally based.

Data from similar facilities shows that the average PM Peak Hour usage is well below the square footage driven trip generation numbers.

Use of square footage as the controlling variable makes no sense as applied to mini-storages serving primarily residential areas and customers. The number of trips to the facility has nothing to do with square footage in a residentially based mini-storage. It has everything to do with the number of units and customers. Most importantly, there is no substantial evidence supporting the decision to use square footage as the controlling variable. The only factor that appears to be relevant is the fact that its use will invariably lead to a higher fee.

B. The Trip Length Adjustment Factor has no Rational Basis.

After determining the number of new trips using square footage as the controlling variable, the City Staff then applies a "Trip Length Adjustment Factor" to the number of trips generated. This is supposedly intended to adjust the City's average trip length to reflect the particular usage. The Trip Adjustment Factor is based on the length of the average trip for this type of facility. For mini-ware-houses the City *assumed* an average trip length of 5.1 miles. But the City studies do not explain what evidence this critical assumption is based on.

The concept of an adjustment factor is rational because some usages draw from larger areas, others from smaller. The "adjustment" assumes the average trip to a mini-warehouse is 5.1 miles, which is 1.69 times the Olympia average of 3 miles. Hence the factor of 1.69 (5.1 miles/3.0 miles). But neither the 2016 Study nor the 1995 Study have any explanation or supporting studies to show where this 5.1 mile average trip figure for mini-storages comes from.

¹ This analysis assumes the "trip adjustment factor is valid." See discussion below regarding that "adjustment."

The 2016 Study at page 16 generally says “Trip length data were estimated using limited national survey results.” But this is not in reference to the average trip length for “mini-warehouses.” No supporting data is supplied, nor specifically cited for the general statement. There is no way of knowing if there is any data for the specific use at issue. No such data is discussed in the ITE Manual. No such data is available on the City website. The 2016 Study also notes that the ITE trip generation data is “most applicable to suburban contexts.” The 2016 Study goes on to create shorter trip length adjustments for the downtown area. The Cooper Point area is not suburban. It is more urban than suburban given the surrounding higher density land uses.

When superimposed over a map of Olympia (Exhibit 1) it is obvious that the 5.1 mile average trip length assumption is unsupportable and irrational. That radius would include much of the South Sound. People living more than 3 miles away (and closer) would have several more convenient options and would not come the extra distance to Cooper Point for this service. See Exhibit 2. The assumed 5.1 mile average trip length is also inconsistent with the industry standard for mini-storages, which assumes a facility will draw from a 3 mile radius, unless there are other facilities closer than that.

Significantly, the assumed trip length of 5.1 miles in the adjustment factor in Table 3 of 2016 Study is the same adjustment factor as shown for Warehousing/Storage and Light Industry/Manufacturing Industrial Park. But average trip data for commercial/industrial warehouses or industrial facilities is not relevant to a mini-storage serving a primarily residential area. Commercial and industrial warehousing would naturally draw from a larger area as there are fewer of them to serve an area or region. Further, this is the same adjustment factor for Warehousing/Storage used in the 1995 study. The mini-warehouse category apparently did not exist in 1995 because it is not reflected in that study; thus the 2016 Study appears to have just assumed mini-warehouse were comparable to their commercial/industrial cousins without any analysis whatsoever. If that is true, it also means that the analysis has not been updated since 1995, and does not reflect transportation pattern changes in the last 23 years, the growth of the mini-storage industry, or the distinction between a commercial/industrial warehouse and a mini-storage facility.

In summary, there is no substantial evidence to support the assumption that the average trip length is 5.1 miles, which drives the 1.69 trip adjustment factor. Accordingly, if the proper controlling variable is used (number of storage units instead of GFA), and the assumed trip length is 3 (making the trip adjustment factor 1), then the proper fee would be \$50,623.12. Assuming the square footage analysis is found to be supportable, the correct impact fee would be \$98,247.24, not \$166,320.00.

C. The Excessive and Unsupportable Fee Violates Appellant’s Substantive Due Process Rights.

Under Washington law, a 3–prong test is applied to determine if a regulation violates a party’s substantive due process rights: (1) whether the regulation aims to achieve a legitimate public purpose, (2) whether the means adopted are reasonably necessary to achieve that purpose, and (3) whether the regulation is unduly oppressive on the property owner.

Olympia's transportation impact fee for mini-warehouses fails this test. First, assuming the collection of transportation impact fees to defray the impacts of new development furthers a legitimate public purpose, the use of unsupportable and flawed methodology to calculate the fee fails the second test because the flawed methodology is not "reasonably necessary" to achieve the purpose. Second, the flawed methodology results in an excessive fee that is "unduly oppressive."

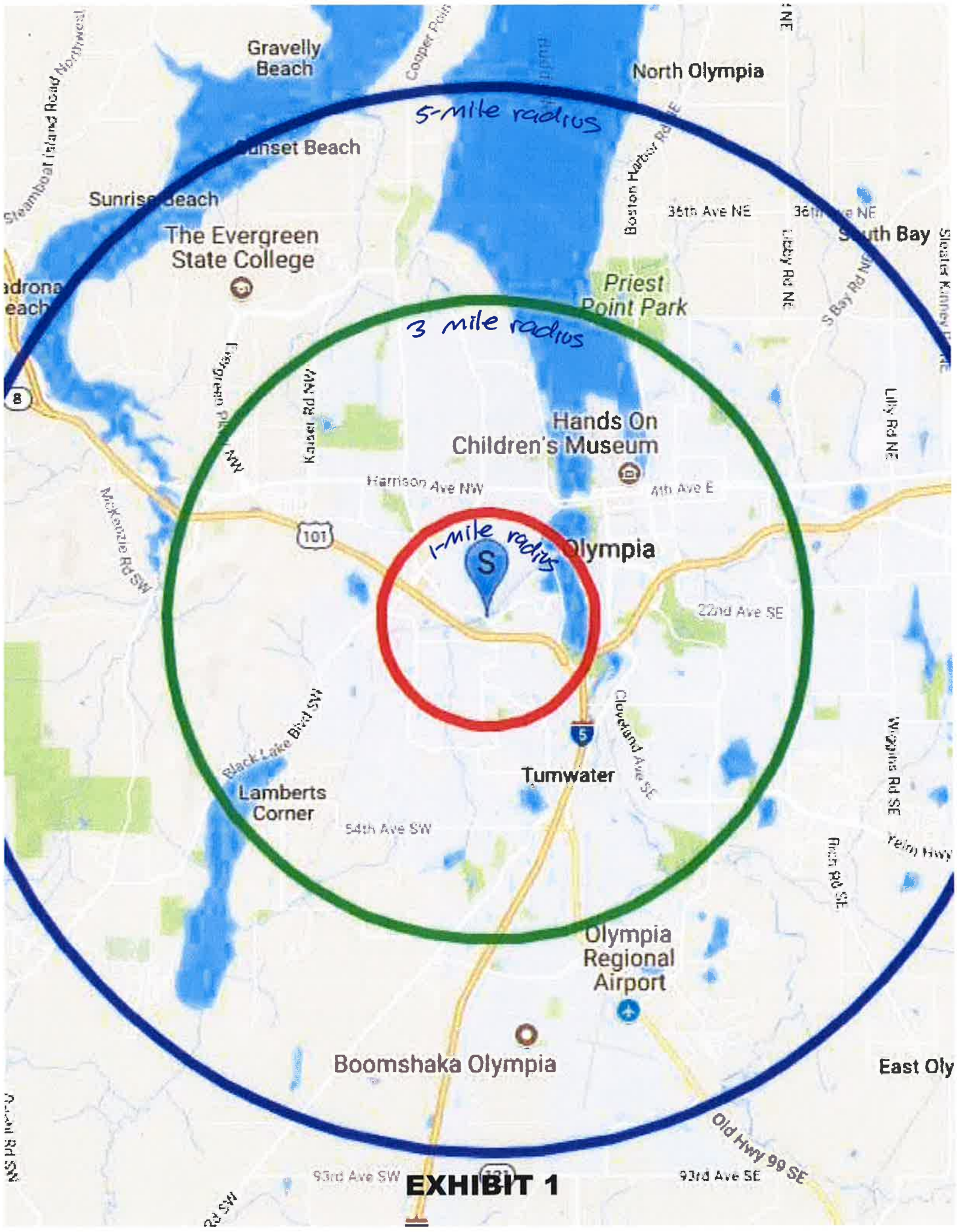
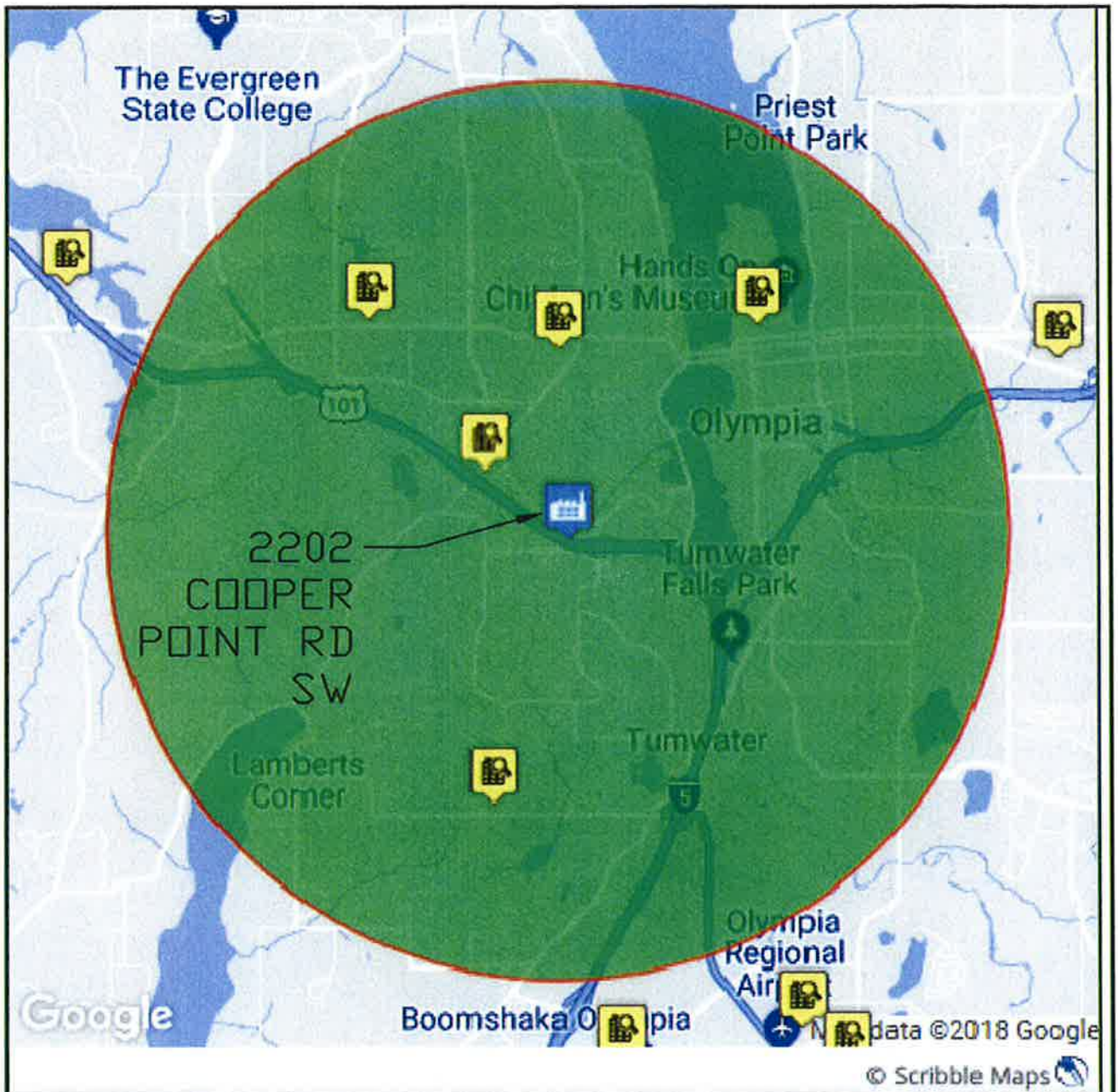


EXHIBIT 1



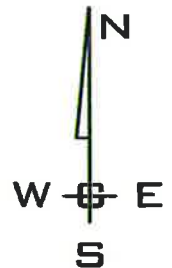
3 MILE RADIUS



SELF-STORAGE FACILITY



NEW SECURE IT SELF-STORAGE FACILITY



NOT TO SCALE

PROJ #: 15-1500
DATE: 03/14/18
DRAWN: STT
APPROVED: TRW

SELF-STORAGE EXHIBIT OLYMPIA, WASHINGTON



WHIPPLE CONSULTING ENGINEERS
CIVIL AND TRANSPORTATION ENGINEERING
21 S. PINES RD
SPOKANE VALLEY, WA 99206
PH: 509-893-2617 FAX: 509-926-0227

FIGURE 5

OLYMPIA, WA

EXHIBIT 2



March 2, 2018

Mr. Lancze G. Douglass
1402 East Magnesium Rd.
Spokane, WA 99127

Dear Mr. Douglass:

RE: Request for Director's Review of Impact Fee; Permit #17-2150, Secure-it Storage Building #2

The City of Olympia Community Planning & Development Department (CP&D) has reviewed your request for a Director's review of the Transportation Impact Fee for the above-referenced project. This request was made in accordance with Olympia Municipal Code 15.04.090C.

This request is specifically for Building #2. The City had previously charged transportation impact fees for Buildings 1, 3, 4, 5, 6 and 7 using the same rate methodology. These fees have been paid in full. Building permit applications for those buildings were submitted to the City in 2016 and were therefore assessed for impact fees at the 2016 impact fee rate of \$1.29 per square foot of gross floor area. The 2017 rate for Building #2 was \$1.33 per square foot of gross floor area (\$1.32 + \$0.01 administrative fee).

The CP&D Director finds that the fee has been calculated correctly. The transportation impact fee for a mini warehouse is based on cost per square foot gross floor area (GFA) and not the number of individual storage units. This is supported by the ITE Trip Generation manual (9th Ed.) Land Use Code 151 page 223. A chart from the manual is enclosed that identifies common trip generation rates (PM peak hour). For a mini warehouse, the Unit of Measure is 1,000 square feet, and the Trips per Unit Measure is 0.26. Based on this information, Olympia calculated the impact fee using the components of impact fees described in Table 3 of the City of Olympia Transportation Fee Update, November 2016. A calculation worksheet (Table 4) from a prior impact fee rate study update is enclosed which further illustrates the method for determining impact fee rates.

PM Peak 0.26 trips /1000 sq. ft. * 100% new trips * 5.1 miles/3 miles * \$2999 average cost per trip in 2017 = \$1.33 per sq. ft. GFA * 126,000 sq. ft. GFA = **\$167,580**. (Note: this includes the administrative fee of \$1,260.00 + \$166,320.00, per enclosed invoice)

Determinations of the Director can be appealed to the hearing examiner subject to the procedures set forth in OMC Chapter [18.75](#). An appeal application must be filed within fourteen (14) days from the date of this letter. The application must be accompanied by a \$1,000 appeal fee. Please contact me if you have questions or would like to discuss this issue further.

Sincerely,

Tim Smith, AICP
Principal Planner

Enclosures

APPENDIX B

**City of Olympia**

601 4th Avenue E. – PO Box 1967,
Olympia WA 98501-1967
360.753.8314
<http://www.olympiawa.gov>
cpdinfo@ci.olympia.wa.us

INVOICE**Date: 02-Mar-18**

DOUGLASS PROPERTIES LLC
1402 E MAGNESIUM RD STE 202
SPOKANE, WA 99217

Application No.: 17-2150**Parcel No.:** 12822330200**Project:** SECURE-IT SELF STORAGE**Subdivision:****Permit Type:** COMMERCIAL BUILDING**BLOCK / LOT****Site Address:** 2225 COOPER PT RD SW #2 BLDG Olympia

Description	Fee Amount	Paid/Credit	Balance Due
Administrative Fee - Transportation Impact	\$1,260.00	\$1,260.00	\$0.00
Building Permit - Commercial	\$66,564.21	\$66,564.21	\$0.00
Building Plan Review - Commercial	\$43,266.74	\$43,266.74	\$0.00
Impact Fee - Transportation	\$166,320.00	\$166,320.00	\$0.00
State Building Code Surcharge	\$4.50	\$4.50	\$0.00

Total Fee Amount: \$277,415.45**Total Paid Credits:** \$277,415.45**Balance Due:** \$0.00**PAYMENT DUE UPON RECEIPT****Contacts:**

Type	Name	Address
OWNER	DOUGLASS PROPERTIES LLC	1402 E MAGNESIUM RD STE 202 SPOKANE, WA 99217
APPLICANT	DOUGLASS PROPERTIES LLC	1402 E MAGNESIUM RD STE 202 SPOKANE, WA 99217

APPENDIX B

INSTITUTE OF TRANSPORTATION ENGINEERS **COMMON TRIP GENERATION RATES (PM Peak Hour)**

(Trip Generation Manual, 9th Edition)

Code	Description	Unit of Measure	Trips Per Unit
PORT AND TERMINAL			
30	Truck Terminal	Acres	6.55
90	Park and Ride Lot with Bus Service	Parking Spaces	0.62
INDUSTRIAL			
110	General Light Industrial	1,000 SF	0.97
120	General Heavy Industrial	Acres	2.16
130	Industrial Park	1,000 SF	0.85
140	Manufacturing	1,000 SF	0.73
150	Warehousing	1,000 SF	0.32
151	Mini-Warehouse	1,000 SF	0.26
152	High-Cube Warehouse	1,000 SF	0.12
170	Utilities	1,000 SF	0.76
RESIDENTIAL			
210	Single-Family Detached Housing	Dwelling Units	1.00
220	Apartment	Dwelling Units	0.62
221	Low-Rise Apartment	Dwelling Units	0.58
230	Residential Condominium / Townhouse	Dwelling Units	0.52
240	Mobile Home Park	Dwelling Units	0.59
251	Senior Adult Housing - Detached	Dwelling Units	0.27
252	Senior Adult Housing - Attached	Dwelling Units	0.25
253	Congregate Care Facility	Dwelling Units	0.17
254	Assisted Living	Beds	0.22
255	Continuing Care Retirement Community	Dwelling Units	0.16
LODGING			
310	Hotel	Rooms	0.60
320	Motel	Rooms	0.47
330	Resort Hotel	Rooms	0.42
RECREATIONAL			
411	City Park	Acres	0.19
412	County Park	Acres	0.09
413	State Park	Acres	0.07
415	Beach Park	Acres	1.30
416	Campground / Recreation Vehicle Park	Camp Sites	0.27
417	Regional Park	Acres	0.20
420	Marina	Berths	0.19
430	Golf Course	Acres	0.30
431	Miniature Golf Course	Holes	0.33

Code	Description	Unit of Measure	Trips Per Unit
432	Golf Driving Range	Tees / Driving Positions	1.25
433	Batting Cages	Cages	2.22
435	Multi-Purpose Recreational Facility	Acres	5.77
437	Bowling Alley	1,000 SF	1.71
441	Live Theater	Seats	0.02
443	Movie Theater without Matinee	1,000 SF	6.16
444	Movie Theater with Matinee	1,000 SF	3.80
445	Multiplex Movie Theater	1,000 SF	4.91
452	Horse Race Track	Acres	4.30
454	Dog Race Track	Attendance Capacity	0.15
460	Arena	Acres	3.33
473	Casino / Video Lottery Establishment	1,000 SF	13.43
480	Amusement Park	Acres	3.95
488	Soccer Complex	Fields	17.70
490	Tennis Courts	Courts	3.88
491	Racquet / Tennis Club	Courts	3.35
492	Health / Fitness Club	1,000 SF	3.53
493	Athletic Club	1,000 SF	5.96
495	Recreational Community Center	1,000 SF	1.45
INSTITUTIONAL			
520	Elementary School	1,000 SF	1.21
522	Middle School / Junior High School	1,000 SF	1.19
530	High School	1,000 SF	0.97
536	Private School (K-12)	Students	0.17
540	Junior / Community College	1,000 SF	2.54
560	Church	1,000 SF	0.55
565	Daycare Center	1,000 SF	12.46
566	Cemetery	Acres	0.84
571	Prison	1,000 SF	2.91
580	Museum	1,000 SF	0.18
590	Library	1,000 SF	7.30
591	Lodge / Fraternal Organization	Members	0.03
MEDICAL			
610	Hospital	1,000 SF	0.93
620	Nursing Home	1,000 SF	0.74
630	Clinic	1,000 SF	5.18
640	Animal Hospital / Veterinary Clinic	1,000 SF	4.72

APPENDIX B

Table 4
Calculation of Impact Fee Rate

RESIDENTIAL EXAMPLE		Multi Family Unit	
		Downtown	Rest of UGA
Trip Generation (per unit) Source: ITE Trip Generation		0.47	0.60
X	Percent New Trips	100%	100%
X	Trip Length Adjustment ÷ $\frac{\text{Trip Length (unit)}}{\text{Average Trip Length}}$	$\frac{7.7}{3.0} = 1.23$	$\frac{3.5}{3.0} = 1.17$
X	Average Cost/Trip	\$966	\$966
=	Impact Fee Rate (per unit)	\$558	\$713

OFFICE EXAMPLE		Administrative Office (50,000 sq ft)	
		Downtown	Rest of UGA
Trip Generation (per 1000 sq ft, gross floor area) Source: ITE Trip Generation		1.80 0.26	1.67
X	Percent New Trips	90% 100%	90%
X	Trip Length Adjustment ÷ $\frac{\text{Trip Length (unit)}}{\text{Average Trip Length}}$	$\frac{5.1}{3.0} = 1.69$	$\frac{5.1}{3.0} = 1.69$
X	Average Cost/Trip	\$966 \$2,999	\$966
÷	Divide by 1000 for rate per sq ft	÷ 1000	÷ 1000
=	Impact Fee Rate (per unit)	\$2.21 \$6.72 + 0.01 Admin Fee = \$6.73	\$2.46

APPENDIX B