

RESOLUTION NO. 30-2018  
INTRODUCED BY: Mayor Roche

A RESOLUTION AMENDING A CONDITION OF THE GRANT OF A  
VARIANCE FOR AN INDOOR SELF-STORAGE BUSINESS AT 641  
RICHMOND ROAD.

WHEREAS, DealPoint Merrill, LLC (the "Applicant"), for property located at 641 Richmond Road in the City of Richmond Heights, filed an application with the Zoning Board of Appeals, Case No.823 requesting a variance to Section 1151.03 of the City's Zoning Code to permit an indoor self-storage use at the former Macy's department store building at the foregoing address located in a B-2 Regional Business Zoning District in the City which use is not listed as either a permitted or conditional use in that zoning district;

WHEREAS, pursuant to Resolution No. 114-2017, this Council approved the variance for the use of the subject property for an indoor self-storage use in the B-2 Regional Business Zoning District with conditions – two of those conditions being:

- (a) An "impact fee" which is as follows:  
Commencing on the 25<sup>th</sup> month on the anniversary of the issuance of the Certificate of Occupancy for CubeSmart, the Applicant shall subsidize the current payroll tax (using the then current tax rate) by calculating the annual difference between what the retail tenants pay (who occupy the Macy's building) in the form of a payroll tax on an annual basis against a fixed guaranteed sum of \$20,000 per year payroll tax ("Payroll Cap") for a term of 7 years. This difference would be referred to as the Payroll Tax Subsidy by Applicant. The payment would be made by Applicant in arrears at the end of each quarter during the calendar year; and
- (b) The Applicant shall use its best efforts to lease the 30,000 square feet of retail space on the first floor of the subject building;

WHEREAS, due to certain Building Code provisions regarding the separation of retail and storage uses, the Applicant has requested that it be permitted to revise the foregoing conditions set forth above to provide as follows:

- (a) An "impact fee" which is as follows:  
Commencing on the 25<sup>th</sup> month on the anniversary of the issuance of the Certificate of Occupancy for CubeSmart, the Applicant shall subsidize the current payroll tax (using the then current tax rate) by calculating the annual difference between what the retail tenants pay (who occupy the Macy's building) in the form of a payroll tax on an annual basis against a fixed guaranteed sum of \$20,000 per year payroll tax ("Payroll Cap") for a

term of ~~5~~ 7 years. This difference would be referred to as the Payroll Tax Subsidy by Applicant. In years 6 and 7, the payroll taxes received from the retail tenants in the former Macy's department store shall also include payroll taxes received from outlot development at the subject property. The payment would be made by Applicant in arrears at the end of each quarter during the calendar year; and

~~(b) The Applicant shall use its best efforts to lease the 30,000 square feet of retail space on the first floor of the subject building. The Applicant may reduce the originally-proposed minimum 30,000 square feet of retail space on the first floor of the former Macy's department store to 19,095 square feet of retail space on the first floor but shall construct no less than 18,282 square feet of retail space on the second floor in a location accessible to the public and shall use its best efforts to lease a minimum of 37,377 square feet of retail space in the subject building.~~

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1: This Council approves the amendment to the conditions of the variance authorized by its Resolution No. 114-2017 as set forth in the recitals to this Resolution above.

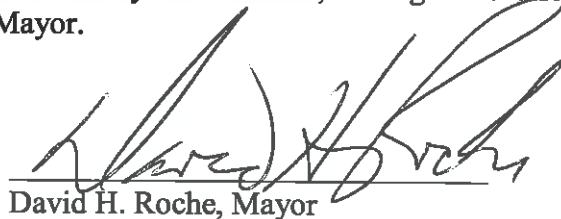
Section 2: The Clerk is instructed to mail a copy of this Resolution to the Applicant by certified mail, return receipt requested.

Section 3: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4: This Resolution shall take effect and be in force from and after the earliest period allowed by law which, being an administrative act by this Council, shall go into effect immediately upon its passage and signature by the Mayor.

PASSED:

March 20, 2018

  
David H. Roche, Mayor

APPROVED:

March 20, 2018

ATTEST: Betsy Traben  
Betsy Traben  
Clerk of Council

Eloise Cotton-Henry  
Eloise Cotton-Henry  
President of Council