



Case # SLUP-5
Public Hearing Dates:
PC: 05-01-18
BOC: 05-15-18

Cobb County Community Development Agency
Zoning Division
1150 Powder Springs St. Marietta, Georgia 30064

SITE BACKGROUND

Applicant: 3103ND, LLC c/o Battle Law, P.C.

Phone: 770-242-7878

Email: kmpark@inoknoll.com

Representative Contact: Michele L. Battle

Phone: 404-601-7616

Email: mlb@battlelawpc.com

Titleholder: John S. Thombley, James E. Leake,
M.D. and Georgianna Jean K. Vakentino

Property Location: Northwest end of Barrett
Corners Drive, west of Vaughn Road

Address: 1400 Barrett Corners Drive

Access to Property: Barrett Corners Drive

QUICK FACTS

Commission District: 3- Birrell

Current Zoning: GC (General Commercial)

Current use of property: Daycare Center

Proposed use: Climate-Controlled Self-Storage
Facility

Future Land Use Designation: Community Activity
Center (CAC)

Site Acreage: 1.182 acres

District: 20

Land Lot: 207

Parcel #: 20020700240

Taxes Paid: Yes

FINAL ZONING STAFF RECOMMENDATION:

(Zoning staff member: Donald Wells)

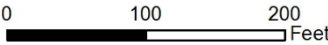
Based on the analysis of this case, Staff recommends **APPROVAL** subject to the following:



1. Site plan received by the Zoning Division on February 1, 2018;
2. District Commissioner to approve final architecture;
3. Fire Department comments and recommendations;
4. Planning Division comments and recommendations;
5. Water and Sewer Division comments and recommendations;
6. Stormwater Management Division comments and recommendations; and
7. Department of Transportation comments and recommendations.

SLUP-5 2018-Aerial Map



This map is provided for display and planning purposes only. It is not meant to be a legal description.

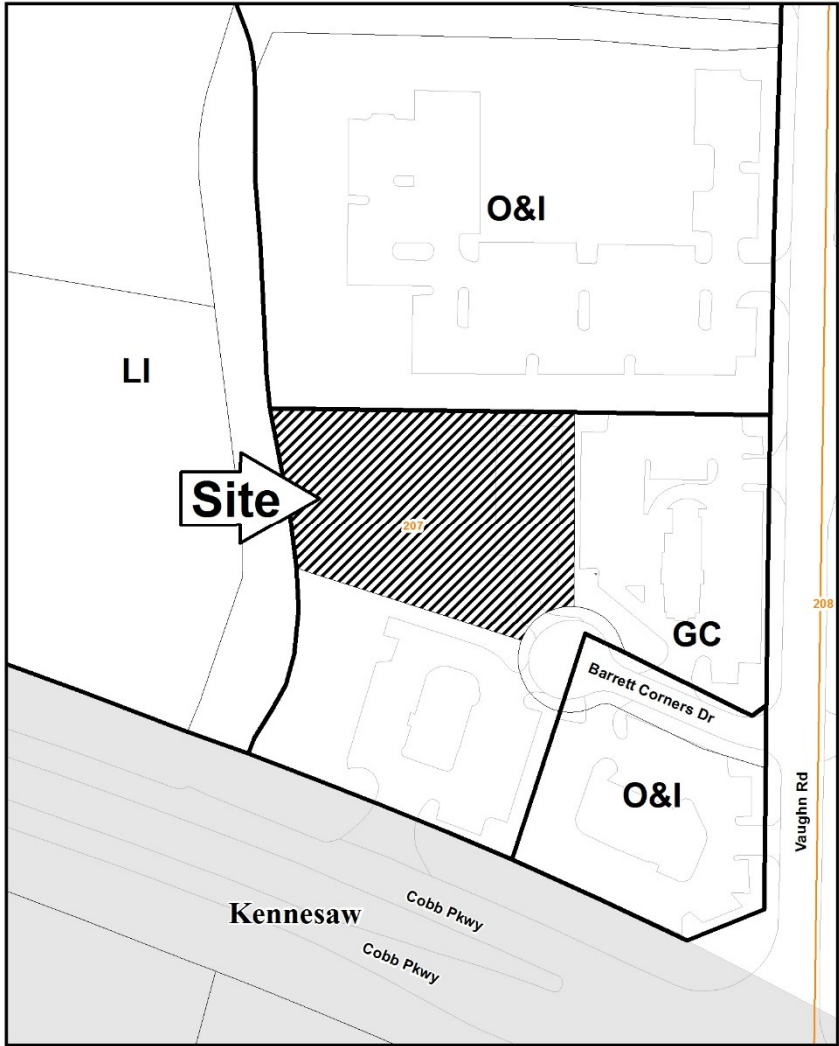


-  Land Lot
-  City Boundary

North

Zoning: O&I (Office and Institutional)
Future Land Use: CAC (Community Activity Center)

SLUP-5 2018-GIS



WEST

Zoning: LI (Light Industrial)

Future Land Use: PRC (Park/Recreation /Conservation)

EAST

Zoning: GC (General Commercial)

Future Land Use: CAC (Community Activity Center)

SOUTH

Zoning: GC General Commercial
Future Land Use: CAC (Community Activity Center)

DEPARTMENT COMMENTS- Zoning Division

Current zoning district for the property

The GC district is established to provide locations for retail commercial and service uses which are oriented toward automotive businesses, are land intensive with a need for major road access and visibility, are generally not listed as a permitted uses within the NRC (neighborhood retail commercial) and CRC (community retail commercial) districts or may have existing stipulations and conditions that limit certain intensive uses and are located in areas delineated within a community activity center and regional activity center as defined and shown on the Cobb County Comprehensive Plan: A Policy Guide, adopted November 27, 1990.

Summary of the applicant's proposal

The applicant is requesting a Special Land Use Permit (SLUP) for the purpose of a climate-controlled self-service storage facility. The applicant intends to tear down and redevelop the property. The storage facility will be a four-story, 94,100 square-foot building. The proposed hours of office hours will be from 9:30 a.m. until 6:30 p.m. Monday through Saturday and from 11:00 a.m. to 3:00 p.m. on Sunday. Customers of the facility will have access daily between the hours of 6:00 a.m. through 10:00 p.m.

Non-residential criteria

Proposed # of buildings: 1
 Proposed # of stories: 4
 Total sq. footage of development: 94,100
 Floor area ratio: 1.83
 Square footage per acre: 79611
 Required parking spaces: 8
 Proposed parking spaces: 8
 Acres in floodplain or wetlands:
 Impervious surface shown: 58%

DEPARTMENT COMMENTS- Zoning Division (continued)

Are there any zoning variances?

1. Waive 2 of the 8 parking spaces from the required 8.5 feet width to 8 feet wide.

DEPARTMENT COMMENTS- Fire Department

Modifications will be required to incorporate the Cobb County Fire Marshal's Office comments.

ACCESS: Fire apparatus access roads shall extend to within 150 feet of all portions of the facility or any portion of the exterior wall of the first floor (State Modifications IFC 503.1 2006 Edition).

All access roads shall meet the American Association of State and Highway Transportation Officials (AASHTO) design manual live load standard HS20 (75,000 lbs.) with an unobstructed width of not less than 20 feet, 25 foot inside radius, 50 foot outside turning radius and unobstructed vertical clearance of not less than 13 feet 6 inches.

DEPARTMENT COMMENTS- Site Plan Review (County Arborist)

No comment.

DEPARTMENT COMMENTS- Cemetery Preservation

There is no significant impact on the cemetery site listed in the Cobb County Cemetery Preservation Commission's Inventory Listing which is located in this, or adjacent land lot.

DEPARTMENT COMMENTS- School System

No comment.

DEPARTMENT COMMENTS- Stormwater Management

1. Flood hazard: Yes
2. Flood hazard zone: Zone AE
3. Drainage Basin: Noonday Creek
4. FEMA Designated 100-year Floodplain Flood.
5. Wetlands: No
6. Streambank buffer zone: No
7. Stormwater discharges must be controlled not to exceed the capacity of the existing downstream storm drainage system.
8. Minimize the effect of concentrated stormwater discharges onto adjacent properties.
9. Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on existing downstream drainage system(s).
10. Special site conditions and/or additional comments:
 - The existing stormwater management facility appears to extend into the adjacent commercial parcel. The facility must be reconfigured or replaced to meet current standards and be located completely within subject parcel.

DEPARTMENT COMMENTS- Planning Division

No comment.

DEPARTMENT COMMENTS- Water and Sewer

Existing water and sewer customer.

DEPARTMENT COMMENTS- Transportation

Recommendations

1. Recommend applicant submit site details to Cobb DOT for coordination with Cobb County Airport Manager to determine potential need for a FAA study.
2. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

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STAFF ANALYSIS

There are fifteen criteria that must be considered for a Special Land Use Permit. The criteria are below in bold, with the staff analysis written unbolded:

(1) Whether or not there will be a significant adverse effect on the neighborhood or area in which the proposed use will be located.

It is Staff's opinion that the applicant's proposal will not have an adverse effect on the usability of adjacent or nearby properties. The proposed use is a quiet, low traffic generating use and will decrease the amount of traffic that could be caused by other permitted retail uses.

(2) Whether or not the use is otherwise compatible with the neighborhood.

It is Staff's opinion that the applicant's proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The property is surrounded by office and retail uses that includes several shopping centers.

(3) Whether or not the use proposed will result in a nuisance as defined under state law.

The use should not be a nuisance as defined by state law.

(4) Whether or not quiet enjoyment of surrounding property will be adversely affected.

The quiet enjoyment of surrounding properties will not be adversely affected due to the location of the applicant's proposal being in a cul-de-sac. The fast food establishments contiguous to the proposal are more intense for traffic and noise.

(5) Whether or not property values of surrounding property will be adversely affected.

The use should not adversely affect surrounding property values.

(6) Whether or not adequate provisions are made for parking and traffic considerations.

There are adequate provisions for parking and traffic considerations. The proposed plan will meet the minimum number of parking spaces but will lack the width that the code requires.

(7) Whether or not the site or intensity of the use is appropriate.

The applicant's site is appropriate for this use. The proposed use is less intense than the surrounding uses as well as the existing daycare.

STAFF ANALYSIS (continued)

- (8) Whether or not special or unique conditions overcome the board of commissioners' general presumption that residential neighborhoods should not allow noncompatible business uses.**

There are no special or unique conditions which would prohibit the use in this area. The site is situated in an area having residential, office, retail and industrial uses.

- (9) Whether or not adequate provisions are made regarding hours of operation.**

The proposed office hours will be from 9:30 a.m. until 6:30 p.m., Monday through Saturday and from 11:00 a.m. to 3:00 p.m. on Sunday. Customers of the facility will have access daily between the hours of 6:00 a.m. through 10:00 p.m.

- (10) Whether or not adequate controls and limits are placed on commercial and business deliveries.**

Deliveries should be limited to normal office hours only.

- (11) Whether or not adequate landscape plans are incorporated to ensure appropriate transition.**

The proposed use has provided landscape buffers but will need to demonstrate an emphasis on plantings within the parking area.

- (12) Whether or not the public health, safety, welfare or moral concerns of the surrounding neighborhood will be adversely affected.**

The use should not adversely affect the public health, safety, welfare, or moral concerns of the surrounding properties.

- (13) Whether the application complies with any applicable specific requirements set forth in this chapter for special land use permits for particular types of uses.**

It is Staff's opinion that the applicant's proposal meets the minimum standards that shall apply to freestanding climate-controlled self-service storage facilities

- (14) Whether the applicant has provided sufficient information to allow a full consideration of all relevant factors.**

It is Staff's opinion that the applicant's proposal meets the minimum standards that shall apply to freestanding climate-controlled self-service storage facilities.

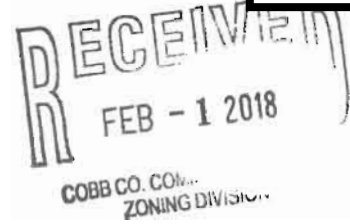
STAFF ANALYSIS (continued)

- (15) In all applications for a special land use permit the burden shall be on the applicant both to produce sufficient information to allow the county fully to consider all relevant factors and to demonstrate that the proposal complies with all applicable requirements and is otherwise consistent with the policies reflected in the factors enumerated in this chapter for consideration by the county.**

The applicant has provided sufficient information that demonstrates the proposal's compliance with all applicable requirements.

The staff analysis and recommendation made by the Planning and Zoning Staff are only the opinions of the Planning and Zoning Staff and are by no means the final decision. The Cobb County Board of Commissioners makes the final decisions on all Rezoning and Land Use Permits at an advertised public hearing.

STATEMENT OF INTENT



And

Other Material Required by
Cobb County, Georgia Zoning Ordinance
For

A Special Land Use Permit Application pursuant to
the Cobb County Zoning Ordinance

Of

3103ND, LLC

For

+/-1.182 acres of Land
located at
1400 Barrett Corners Drive
Tax Parcel 20020700240
Land Lot 207, 20th District, Cobb County

Submitted for Applicant by:

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COBB COUNTY
ZONING DIVISION

I. STATEMENT OF INTENT

The Subject Property is a 1.182-acre tract of land located at 1400 Barrett Corners Drive, which is zoned General Commercial and has a land use designation of Community Activity Center. The Subject Property is currently improved with a one-story day care center. The Applicant is seeking to obtain a Special Land Use Permit for the develop a 91,400 sq. ft. four-story climate controlled self-storage facility on the Subject Property. The proposed facility will feature 24-hour security, gate coded access, and will be made of energy efficient materials.

The Subject Property is located on Barrett Corner Drive which is a commercial cul de sac area which is improved with an Arby's, Kentucky Fried Chicken and Wendy's, and is directly North of the new Kennesaw Marketplace and West of Barrett Crossing Shopping Center. There are multiple residential properties near the Subject Property, including the Villas at Barrett Lakes, Touchstone at Ridenour, Ridenour Summit Condos, Ridenour Townhomes, and the Landings at Kennesaw Mountain.

ZONING ORDINANCE ARTICLE II SECTION 134-37 - CRITERIA

- A. **Whether or not there will be a significant adverse effect on the neighborhood or area in which the proposed use will be located:** The proposed self-storage facility will have no adverse effect on the neighborhood or area in which the proposed use is located. The Subject Property is located between existing fast food restaurants and is abutted to the rear by CryoLife, Inc., a distributor of cryogenically preserved human tissues for cardiac and vascular transplant applications. A self-storage facility is a compatible use and will simply support the commercial and residential uses currently existing within the area.
- B. **Whether or not the use is otherwise compatible with the neighborhood:** The proposed use is compatible with the neighborhood. The area surrounding the Subject Property has become a highly trafficked commercial corridor with residential, commercial, and office uses. The Subject Property is flanked commercial properties zoned GC, OI and LI, and near the Cobb Parkway and Ernest Barrett Parkway intersection which is a heavily trafficked area. The proposed use is highly compatible with the current uses in and along Cobb Parkway and Ernest Barrett Parkway and fits within the designated land use, Commercial Activity Center, which will serve the needs of area businesses, offices and residents.
- C. **Whether or not the use proposed will result in a nuisance as defined under state law:** The proposed use will not result in a nuisance as defined under state law. The proposed storage facility will be energy efficient and have a low environmental impact. There will be limited gate coded access during appropriate business hours that will not disturb nearby property owners.
- D. **Whether or not quiet enjoyment of surrounding property will be adversely affected:** Quiet enjoyment of the surrounding property will not be adversely affected. The

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proposed storage facility will be an energy efficient climate-controlled building with a low traffic impact at a range of approximately 1-2 customers per hour.

- E. Whether or not property values of surrounding property will be adversely affected:** The property values of the surrounding property will not be adversely affected. The proposed use will increase the value of the Subject Property, which only benefit the surrounding properties.
- F. Whether or not adequate provisions are made for parking and traffic considerations:** Adequate provisions have been made for parking and traffic. Currently there is access to the Subject Property from Barrett Corners Drive, Vaughn Road and Cobb Parkway. The proposed site plan provides for 8 parking spaces, which will be available for loading and unloading, and employee parking.
- G. Whether or not the site or intensity of the use is appropriate:** The site and intensity of the proposed use is appropriate given the highly commercial nature of the surrounding properties. While the height of the Subject Property will exceed the height of the adjacent properties, the Subject Property sits to the rear of the cul de sac and it abutted by a heavily wooded area located on the adjacent Light Industrial zoned property at 1655 Roberts Blvd. Additionally, no windows will be located on the upper floors, which protects the privacy of the residents living in the Villas at Barrett Lakes across the street.
- H. Whether or not special or unique conditions overcome the board of commissioners' general presumption that residential neighborhoods should not allow noncompatible business uses:** The Subject Project is located in a commercial area.
- I. Whether or not adequate provisions are made regarding hours of operation:** Adequate provisions have been made regarding hours of operations. Office hours for the proposed storage facility with an employee present will be between 9:30am and 6:30pm Monday through Saturday and from 11am to 3pm on Sundays. Customers of the proposed storage facility will have controlled gate coded access between the hours of 6am and 10pm. The facility will be inaccessible to customers outside of these hours.
- J. Whether or not adequate controls and limits are placed on commercial and business deliveries:** Adequate controls and limits will be placed on commercial and business deliveries. The proposed storage facility will be primarily used by customers and will have a limited window with which to access storage units.
- K. Whether or not adequate landscape plans are incorporated to ensure appropriate transition:** The Subject Property will be landscaped in accordance with the Cobb County Zoning Ordinance requirements.
- L. Whether or not the public health, safety, welfare or moral concerns of the surrounding neighborhood will be adversely affected:** The public health, safety, welfare, or moral concerns of the surrounding neighborhood will not be adversely affected.

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COBB COUNTY ZONING

- M. Whether the application complies with any applicable specific requirements set forth in this chapter for special land use permits for particular types of uses:** The application complies with the applicable specific requirements set forth in self-storage climate-controlled facilities in Zoning District GC.
- N. Whether the applicant has provided sufficient information to allow a full consideration of all relevant factors:** The Applicant has provided sufficient information to allow a full consideration of all relevant factors.

CONSTITUTIONAL ALLEGATIONS

The portions of the Cobb County Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the Cobb County Zoning Ordinance to the Subject Property which restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary and capricious act by the Cobb County Commission without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the Cobb County Commission to rezone the Subject Property to the classification as requested or issue the special land use permit requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the Property or granting of a special land use permit subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would

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SLUP-5 (2018)
Statement of Intent

have the effect of further restricting Applicant's utilization of the property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

II. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Special Land Use Permit at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of Cobb County so that such recommendations or input might be incorporated as conditions of approval of this Application.

Planning Commission Decision

NO. OPPOSED: _____ APPROVED _____ DENIED _____ DELETED TO _____

NO. IN SUPPORT _____ MOTION BY: _____ SECONDED: _____ VOTE: _____

Names of those Opposed:

Comments:

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Stipulation letter from _____ dated _____
Stipulation letter from _____ dated _____

Board of Commissioners Decision

NO. OPPOSED: _____ APPROVED _____ DENIED _____ DELETED TO _____

NO. IN SUPPORT _____ MOTION BY: _____ SECONDED: _____ VOTE: _____

Names of those Opposed:

Comments:

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