

Cobb County Community Development Agency Zoning Division

1150 Powder Springs St. Marietta, Georgia 30064

Case # SLUP- 4 Public Hearing Dates: PC: 03-06-18

BOC: 03-20-18

SITE BACKGROUND

Applicant: Vinings Storage, LLC

Phone: (404) 272-2518

Email: tommlinder@yahoo.com

Representative Contact: Garvis L. Sams, Jr.

Phone: (770) 422-7016

Email: gsams@slhb-law.com

Titleholder: Spring Land, LLC, Mid-America

Apartments, L.P.

Property Location: North side of Mount Wilkinson Parkway, east side of Spring Hill Parkway, and on the west side of I-285

Address: None Assigned

Access to Property: Mount Wilkinson Parkway

and Spring Hill Parkway

FINAL ZONING STAFF RECOMMENDATION: (Zoning staff member: Terry Martin, MPA)

QUICK FACTS

Commission District: 2-Ott

Current Zoning: RMR (Residential Mid-Rise) and

CRC (Community Retail Commercial)

Current use of property: Vacant

Proposed use: Climate-Controlled Self-Service

Storage Facility

Future Land Use Designation: RAC (Regional Activity

Center)

Site Acreage: 6.45

District: 17

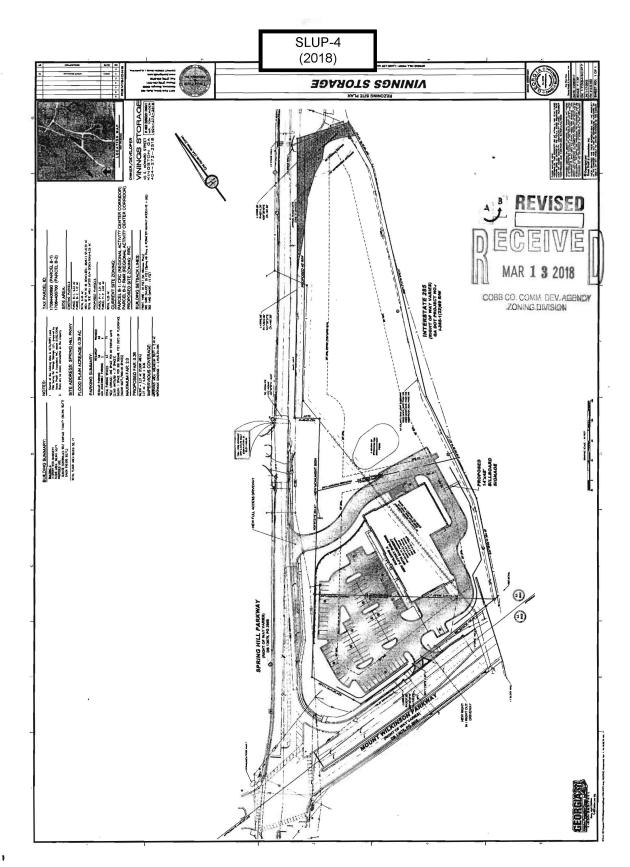
Land Lot: 844

Parcel #: 69, 70

Taxes Paid: Yes

Based on the included analysis, staff recommends **APPROVAL** subject to:

- 1. Site plan received by the Zoning Division on March 13, 2018, with the District Commissioner approving minor modifications;
- 2. Landscape plan to be reviewed by the County Arborist with final approval by the District Commissioner;
- 3. Final building architecture to be approved by the District Commissioner;
- 4. Variance as outlined in the Zoning Division Comments;
- 5. Fire Department's comments and recommendations;
- 6. Sewer and Water Division's comments and recommendations;
- 7. Stormwater Management Division's comments and recommendations; and
- 8. Department of Transportation's comments and recommendations.



SLUP-4 2018-Aerial Map



North

Zoning: RM-12 and RM-8 (Multi-family Residential) **Future Land Use**: HDR (High Density Residential)

SLUP-4 2018-GIS



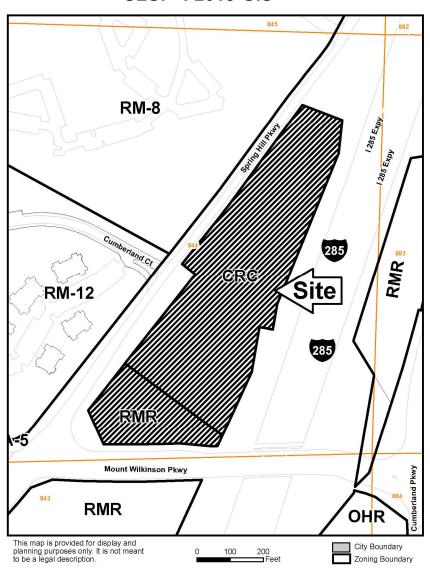
Zoning: RM-12 and RM-8 (Multi-family Residential)

Future Land

Use: HDR (High

Density

Residential)



EAST

Zoning: RMR (Residential Mid-Rise)

Future Land

Use: RAC (Regional

Activity Center)

SOUTH

Zoning: RMR (Residential Mid-Rise)

Future Land Use: RAC (Regional Activity Center)

DEPARTMENT COMMENTS- Zoning Division

Current zoning district for the property

The RMR district is intended to provide for higher density residential uses (not to exceed 33 DUA) located in areas designated as regional activity centers as defined and shown on the Cobb County Comprehensive Plan: A Policy Guide, adopted November 27, 1990.

The CRC district is established to provide locations for retail commercial and service uses which are designed and oriented to serve several neighborhoods making up a community. Projects developed within the CRC district should be done so as compact unified centers. CRC districts should be located on properties which are 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. Additionally, the desired quadrant location will provide for planned developments and one-destination shopping and service locations to serve the community, and will minimize traffic congestion. Click here to enter text.

Requested zoning district for the property

The RRC district is established to provide locations for intense retail commercial, office or mixed uses which exceed 500,000 net square feet and which are designed and oriented to serve a regional market making up a community. Projects developed within the RRC district should be done so as compact unified centers. Ideally, projects developed within the RRC district should occupy an area adjacent to or having good access to interstate highways, which is delineated within a 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 in order to develop the site for a climate controlled self-service storage facility. The proposed development includes one three-story building with a basement. The building will consist of 88,916 square-feet of climate controlled self-storage and a 10,000 square-foot salon. This SLUP request is for the storage facility. The proposed hours of operation will be Monday through Saturday from 8 a.m. until 7 p.m., and Sundays from 1 p.m. until 6 p.m. The proposed architecture shall be in substantial conformity to the renderings/elevations attached to this analysis.

Non-residential criteria

Proposed # of buildings: 1 Proposed # of stories: 3

Total sq. footage of development: 88,916 sq. ft. (excluding 10,000 sq. ft. salon)

Floor area ratio: 0.31

Square footage per acre: 13,679 sq. ft.

Required parking spaces: 27 (for storage facility); Proposed parking spaces: 27 (for storage)

Acres in floodplain or wetlands: 0.39; Impervious surface shown: 39%

DEPARTMENT COMMENTS- Zoning Division (continued)

Are there any zoning variances?

No.

DEPARTMENT COMMENTS- Fire Department

After analyzing the information presented for a Preliminary Review, the Cobb County Fire Marshal's Office is confident that all other items can be addressed during the Plan Review Stage.

DEPARTMENT COMMENTS- Site Plan Review (County Arborist)

No comment.

DEPARTMENT COMMENTS- Cemetery Preservation

No comment.

DEPARTMENT COMMENTS- School System

No comment.

DEPARTMENT COMMENTS- Stormwater Management

- 1. Flood hazard: Yes
- 2. Flood hazard zone: Zone X
- 3. Drainage Basin: Camp Bert Adams Creek4. FEMA Designated 100-year Floodplain Flood.
- 5. Wetlands: No
- 6. Streambank buffer zone: Yes
- 7. County Buffer Ordinance: 50' each side of creek channel.
- 8. Stormwater discharges must be controlled not to exceed the capacity of the existing downstream storm drainage system.
- 9. Existing Lake Downstream <u>Camp Bert Adams Lake ~2300'</u> Additional BMP's for erosion & sediment control will be required.
- 10. Lake Study required to document pre- and post-development sediment levels.
- 11. Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on existing downstream drainage system(s).
- 12. Special site conditions and/or additional comments:
 - This triangular-shaped site is located adjacent to I-285 at the northeast intersection of Mount Wilkinson and Spring Hill Parkways. The site drains to into the Camp Bert Adams Creek to the north. There is approximately 0.3 acres of floodplain at the north end of the site that is associated with the headwater pool for the creek culvert under I-285.
 - Stormwater management is proposed to be provided by multiple ponds as shown.

DEPARTMENT COMMENTS- Planning Division						
Comprehensive Plan Designation:	Consistent Inconsistent					
House Bill 489 Intergovernmental Agreement Is the proposal within one-half mile of a city be Was the City of Smyrna notified?						

DEPARTMENT COMMENTS- Water and Sewer

Water comments:						
Available at develop	ment:	XES YES	NO			
Fire flow test require	ed:	XES YES	NO			
Size and location of	Size and location of existing water main(s): 12" on west side of Spring Hill Pkwy					
Additional water cor	nments:					
Note: These comments only reflect what facilities were in existence at the time of this review. Developer may be required to install/upgrade water mains based on fire flow test results or Fire Department code. This will be addressed in the Plan Review process.						
Sewer comments:						
In the drainage basi	n:	XES YES	NO			
At development:		XES YES	NO			
Approximate distance to nearest sewer: On site						
Estimated waste generation (in G.P.D.): Average daily flow = 160; Peak flow = 400						
Treatment plant:	R. L. Sutton					
Plant capacity:		Yes	NO			
Line capacity:		YES	NO			
Projected plant avail	ability:	0-5 year	s 5-10 years over 10 years			

DEPARTMENT COMMENTS- Water and Sewer (Continued)

Dry sewers required:	YES	⊠ NO		
Off-site easement required:	YES*	igwedge NO	*If off-site easements are required, the	
Flow test required:	YES	\boxtimes NO	developer/owner must submit easements to the CCWS for review and approval as to form	
Letter of allocation issued:	YES	$oxed{oxed}$ NO	and stipulations prior to the execution of easements by the property owners. All	
Septic tank recommended by this department:	YES	⊠ NO	easement acquisitions are the responsibility of the developer/owner.	
Subject to Health Department approval:	YES	⊠ NO		

Additional sewer comments: Recorded sewer easement allows for buildings over the "tunnel" portion (Buildings A and B area). However, the extent of the tunnel is currently unclear and may affect building placement.

Note: The developer/owner will be responsible for connecting to the existing county water and sewer systems, installing and/or upgrading all outfalls & water mains, obtaining on and/or offsite easements, dedication or on and/or offsite water and sewer to Cobb County as may be required. Rezoning does not guarantee water/sewer availability or capacity unless so stated in writing by the Cobb County Water System. Permit issuances subject to continued treatment plant compliance with EPD discharge requirements.

DEPARTMENT COMMENTS- Transportation

Recommend applicant consider entering into a development agreement pursuant to O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the east side of Spring Hill Parkway, a minimum of 40' from the roadway centerline.

Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.

Recommend no access to Mount Wilkinson Parkway.

Recommend southernmost entrance on Spring Hill Parkway be restricted to right-in/right-out.

Recommend a traffic study. The traffic study assumptions (such as traffic count locations, trip generation, trip distribution and required scope of study) should be discussed with Cobb DOT prior to beginning the study.

Recommend curb, gutter, and sidewalk along the Spring Hill Parkway frontage and to retain existing trail, curb and gutter along the Mt. Wilkinson Parkway frontage.

This project may conflict with a GDOT project for the I-285 managed lane system. Recommend coordination with GDOT before proceeding with site plan design.

Recommend GDOT permits for all work that encroaches upon State right-of-way.

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

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

The site, uniquely situated in an area bounded by three major roadways, will not have any significant adverse effect on the area in the immediate vicinity.

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

The property is located within the RAC (Regional Activity Center) future land use category and within an area with intense residential, office, and commercial uses.

- (3) 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.
- **(4) Whether or not quiet enjoyment of surrounding property will be adversely affected.**The property's location, as previously described, will ensure that the use will not adversely affect the quiet enjoyment of surrounding property.
- (5) Whether or not property values of surrounding property will be adversely affected. It is staff's opinion that property values of surrounding property will not be adversely affected.
- (6) Whether or not adequate provisions are made for parking and traffic considerations. More than adequate parking is provided on the proposed site plan.
- (7) Whether or not the site or intensity of the use is appropriate.

The applicant's proposal takes advantage of the site while providing surplus parking and requiring only minor setback variances.

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

The proposed use is appropriate for this area which lies within the RAC future land use category and the existing CRC district already on the majority of the property.

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

The hours of operation will be appropriate for the proposed use.

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

Deliveries to the property will not adversely impact adjacent commercial uses.

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

Landscaping will be provided as per a plan to be reviewed and approved by the County Arborist and District Commissioner.

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

The public health, safety, welfare and moral concerns of the surrounding area will not be adversely affected by the applicant's proposal.

(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.

All concerns specific to climate controlled self-service storage facilities regarding parking, landscaping, and architectural style will adhere to the Code's requirements with landscaping and building architecture to be approved by the District Commissioner. Too, the buildings are proposed to be three stories but will be no taller than surrounding buildings in the area.

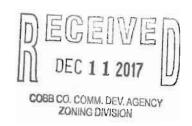
(14) Whether the applicant has provided sufficient information to allow a full consideration of all relevant factors.

Landscape plans and building elevations will be submitted prior to permitting for Commissioner's approval.

(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 use is appropriate for the property's location and provides a reasonable use for the uniquely situated property. Companion case Z-16, seeking to rezone the entire property to the RRC, will result in an appropriate zoning category as well.

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

OF

VININGS STORAGE, LLC

Special Land Use Permit Application for an 6.45± Acre Tract of Land located in Land Lot 844, 17th District, 2nd Section, Cobb County, Georgia

Submitted for the Applicant by:

Garvis L. Sams, Jr.
Sams, Larkin, Huff & Balli, LLP
Suite 100
376 Powder Springs Street
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(770) 422-7016
gsams@slhb-law.com

I. INTRODUCTION

This Application seeks both a Rezoning and a Special Land Use Permit ("SLUP") to allow the construction and development of a Climate Control Self-Service Storage Facility ("CCSSSF") and an Ancillary Retail Component on the subject property. The property at issue is situated on a tract of land approximately 6.45 acres in size located on the north side of Mount Wilkinson Parkway, the east side of Spring Hill Parkway and is directly contiguous to and located on the west side of I-285. The subject property is presently zoned with split zoning classifications of RMR & CRC and undeveloped. The County's Future Land Use Map ("FLUM") designates the subject property as located within the confines of a Regional Activity Center ("RAC"). The subject property shall be developed for a CCSSSF state-of-the art building and a compatible Ancillary Retail Component which will support the adjacent residential uses, as proposed by the Applicant.

II. CRITERIA TO BE APPLIED TO SPECIAL LAND USE PERMITS

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 subject property is bordered by properties zoned and used for high density residential (apartments). The entirety of the eastern property line of the subject property has direct contiguity to I-285 which is a heavily traveled transit corridor. The area in which the proposed development will be located is specifically designed to accommodate high density residential and commercial uses and traffic; however, the proposed CCSSSF will produce little if any AM/PM peak hour traffic, the operations of which will be totally contained within the building. Therefore, the proposal will have no adverse impact upon neighborhoods or adjacent properties.

B. Whether or not the use is otherwise compatible with the neighborhood.

The neighborhoods around the subject property are zoned RMR, RM-12, RM-8, RA-5 and consist of high-density residential uses within a Regional Activity Center ("RAC") under the County's Future Land Use Map. Given these facts and the reality that the area already consists of a preponderance of high density residential uses, which creates an extraordinary amount of "mass", the proposed use is compatible with the nearby neighborhoods in which it will be located.

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, either public or private, as that term is defined under Georgia law. In fact, the proposed construction of a CCSSSF building in this location with direct contiguity to I-285, will eliminate potential nuisances as defined under state law.

D. Whether or not the quiet enjoyment of surrounding property will be adversely affected.

The surrounding properties consist of high density residential developments which are more intense than the CCSSSF and neighborhood appropriate Retail Components proposed by the Applicant. Further, the proposed use is located with direct contiguity to I-285 with proposed access to Spring Hill Parkway and Mount Wilkinson Parkway.

E. Whether or not property values of surrounding property will be adversely affected.

The surrounding properties consist primarily of higher density residentially-oriented properties and multi-family uses. Therefore, the values of surrounding properties will not be adversely affected.

F. Whether or not adequate provisions are made for parking and traffic considerations.

The proposal will meet the needs of the traffic generated both by users and staff of the CCSSSF and the Ancillary Retail Component. The Regional Activity Center area in which the subject property is located was specifically designed for uses which generate heavy traffic; however, the current proposal will generate significantly less traffic than most any other non-residential use in general and specifically less in AM and PM peak hours.

G. Whether or not the site or intensity of the use is appropriate.

The subject property consists of 6.45 acres of land. The size of the property is more than adequate to accommodate the proposed CCSSSF and retail uses and the proposed floor area ratio ("FAR").

H. Whether or not special or unique conditions overcome the Board of Commissioners' general presumption that residential neighborhoods not allow non-compatible businesses.

The proposed uses are compatible with respect to high-density residential developments surrounding the subject property. A CCSSSF will have little if any effect upon residential use or values in view of the fact the proposed use is compatible and complementary in nature.

I. Whether or not adequate provisions are made regarding hours of operation.

The hours of operation shall be from 8:00 a.m. until 6:00 p.m. Monday-Saturday and from 1:00 p.m. until 6:00 p.m. on Sundays.

J. Whether or not adequate controls and limits are placed on commercial and business deliveries.

Deliveries to the subject property will be commensurate in number and type to existing deliveries or visits to other CCSSSF facilities within RACs and in other parts of Cobb County.

K. Whether or not adequate landscape plans are incorporated to ensure an appropriate transition.

The Applicant will be submitting a landscape plan during the Plan Review Process subject to review and approval by the County's Arborist and the Community Development Department, with final review and approval by the District Commissioner.

L. Whether or not the public health, safety, welfare or moral concerns of the surrounding neighborhood will be adversely affected.

The surrounding "neighborhood" consists of high density residential uses, all of which are compatible and provide extraordinary "mass" for the proposed CCSSSF.

M. Whether the Application complies with any applicable specific requirements set forth in this chapter for a Special Land Use Permit for particular types of uses.

This Application meets all of the requirements for a Special Land Use Permit and all required information has been supplied within the SLUP Application and the Rezoning Application packages, respectfully.

N. Whether the Applicant has provided sufficient information to allow a full consideration of all relevant factors.

The Applicant has addressed all issues raised by law. The Applicant also remains available to respond to additional questions or issues raised by the County's professional staff, Members of the Planning Commission or Members of the Board of Commissioners.

III. PRESERVATION OF CONSTITUTIONAL RIGHTS

The Zoning Ordinance of Cobb County, Georgia lacks adequate standards for the Board of County Commissioners to exercise its power to issue Special Land Use Permits. In essence, the standards are not sufficient to contain the discretion of the Board of Commissioners and to provide the Courts with a reasonable basis for judicial review. Because the stated standards (individually and collectively) are too vague and uncertain to provide reasonable guidance to the Board of Commissioners, the Zoning Ordinance violates the Fifth and Fourteenth Amendments of the Constitution of the United States in matters of zoning. The Zoning Resolution also violates Article I, Section III, Paragraph 1; and Article 1, Paragraphs 1 and 2 of the Constitution of the State of Georgia, 1983.

The Board of Commissioners is granted the power to zone pursuant to Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia, 1983. It is a power which must be fairly exercised. Based on this element of fairness, the Zoning Ordinance of Cobb County, Georgia violates Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia, 1983.

The Zoning Ordinances presently in effect is contrary to the best interests of the health and welfare of the citizens of Cobb County, Georgia, and constitutes an arbitrary and capricious act. As a result, the Zoning Ordinance is in violation of Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia; and Article I, Section II, Paragraph 3 of the Constitution of

the State of Georgia, 1983. Furthermore, the Zoning Ordinance violates the due process clause and equal protection clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States of America.

In addition, the Zoning Ordinance is unconstitutional in that it renders the subject property unusable and destroys it marketability. Therefore, the Zoning Ordinance constitutes a taking of the Applicant's property without just and adequate compensation and without due process of law in violation of the Fifth and Fourteenth Amendments to the United States Constitution and in violation of Article I, Section I, Paragraph 1 and Article I, Section III, Paragraph 1(a) of the Constitution of Georgia.

The failure to approve the requested Special Land Use Permit for the subject property would constitute the taking of property without due process and without the payment of adequate compensation in violation of Article I, Section I, Paragraph 1 of the Constitution of the State of Georgia, 1983; and the Fifth and Fourteenth Amendments of the Constitution of the United States.

Failure to grant the Application for the Special Land Use Permit would be contrary to the best interests of the health and welfare of the citizens of Cobb County, Georgia, and would further constitute an arbitrary and capricious act. As such, failure to grant the application would constitute a violation of Article I, Section I, Paragraph 1 of the Constitution of the State of Georgia, 1983; and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia; and Article I, Section II, Paragraph 3 of the Constitution of the State of Georgia, 1983, together with the due process clause and equal protection clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States of America.

Any limitation on the time for presentation of the issues before the Board of

Commissioners who have the power to zone and rezone is a violation of the guarantees of free

speech under Article I, Section I, Paragraph 5 of the Constitution of the State of Georgia, 1983 and the First Amendment of the Constitution of the United States of America. Further, said limitations are in violation of the right to petition and assemble, in violation of Article I, Section I, Paragraph IX of the Constitution of the State of Georgia, 1983 and the First Amendment of the Constitution of the United States of America as well as the due process clauses of the Constitution of Georgia, 1983 and the Constitution of the United States of America.

The Zoning Ordinance of Cobb County, Georgia is unlawful, null and void in that its adoption and map adoption/maintenance did not comply with the requirements of its predecessor ordinance and/or the Zoning Procedures Law, O.C.G.A. § 36-66-1, et seq.

IV. CONCLUSION

Based upon the foregoing reasons, the Applicant respectfully requests that the Special Land Use Permit at issue be approved with the Applicant soliciting any comments from staff or other officials of Cobb County so that such recommendations or input may be incorporated as conditions of approval of the Application.

SAMS, LARKIN, HUFF & BALLI, LLP

By:

GARVIS L. SAMS, JR. Attorney for Applicant

Georgia Bar No. 623950

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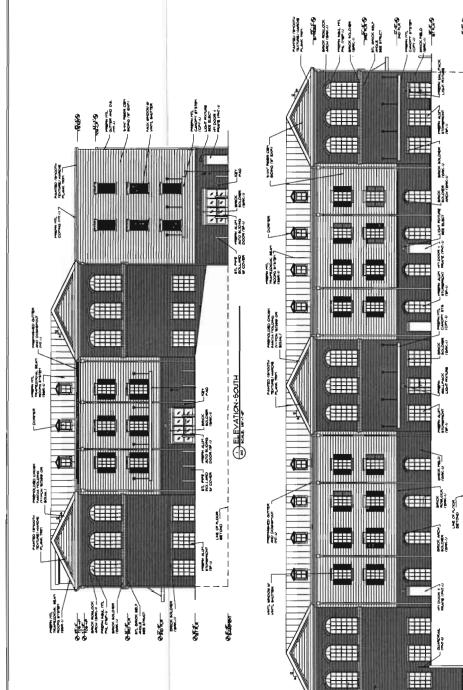
Spring Hill Parkway Cobb County GA

Vinings Self Storage



Z-16 and SLUP-4 (2018) Building Elevations

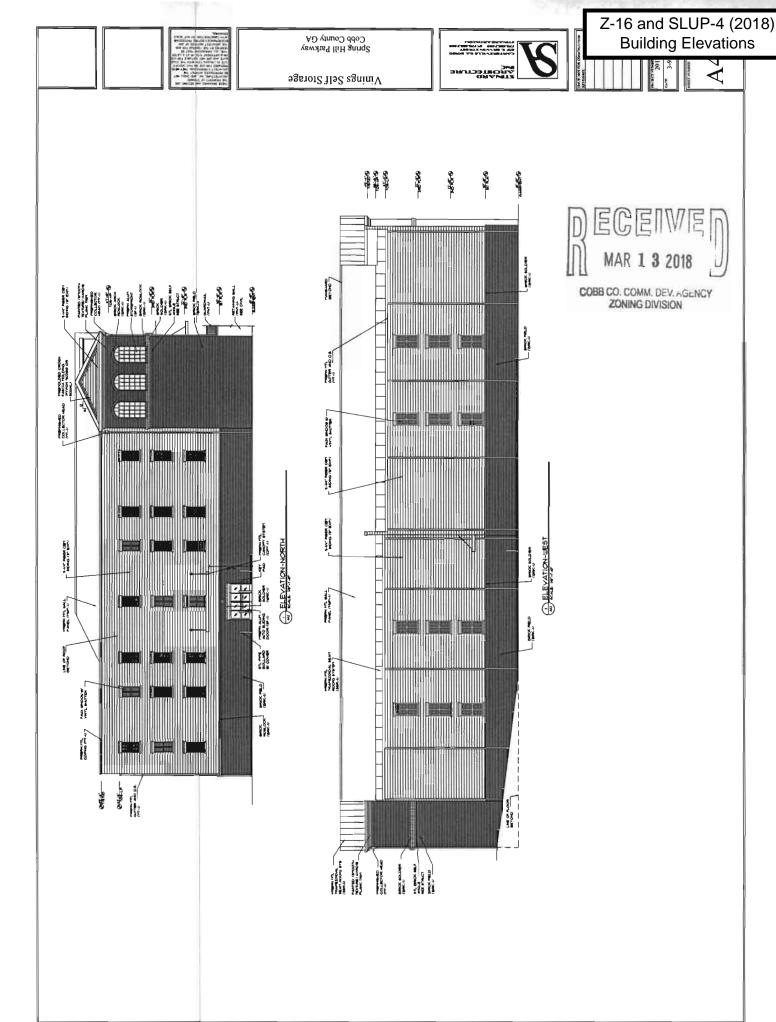


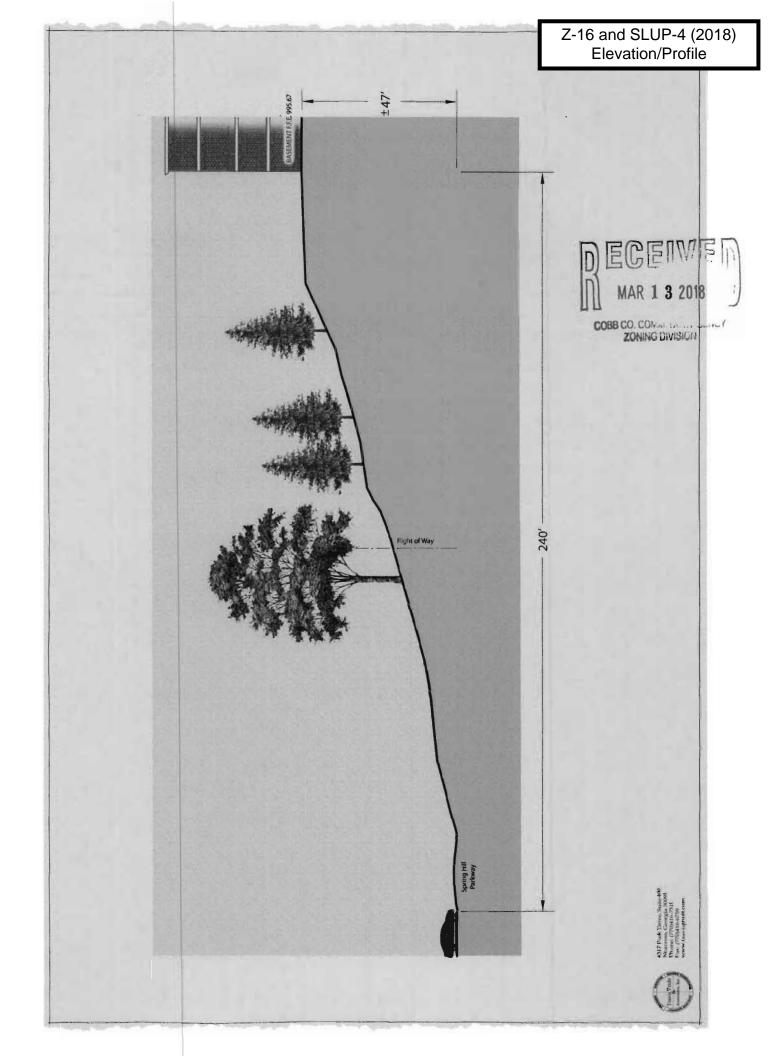


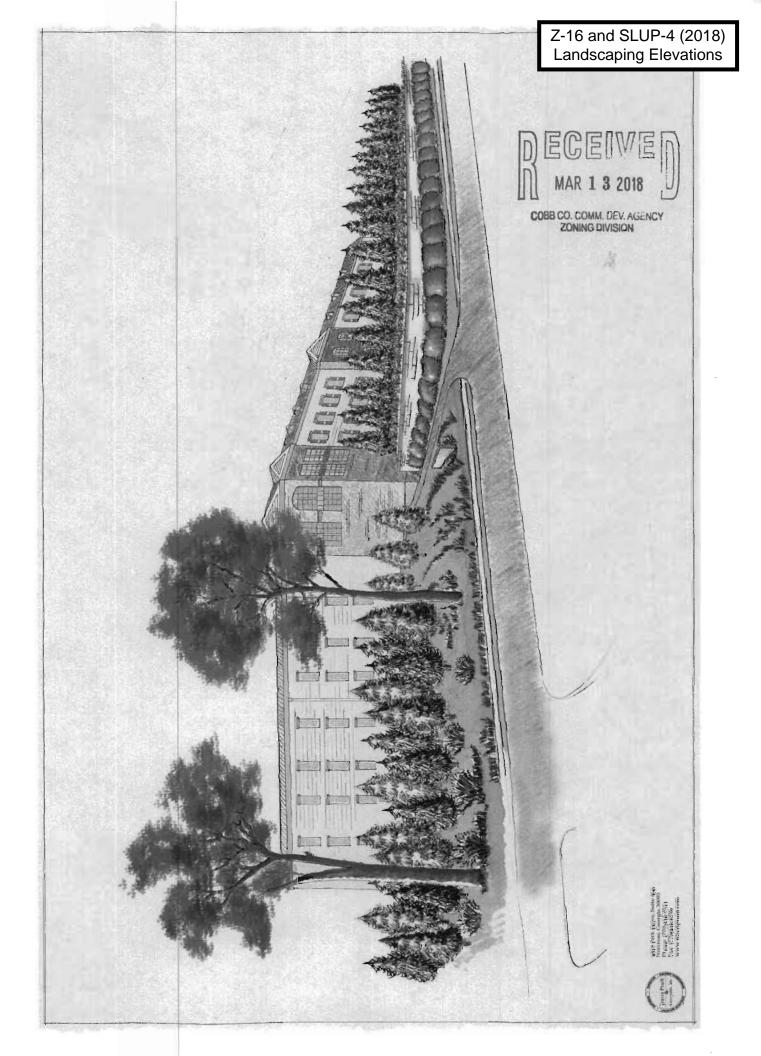
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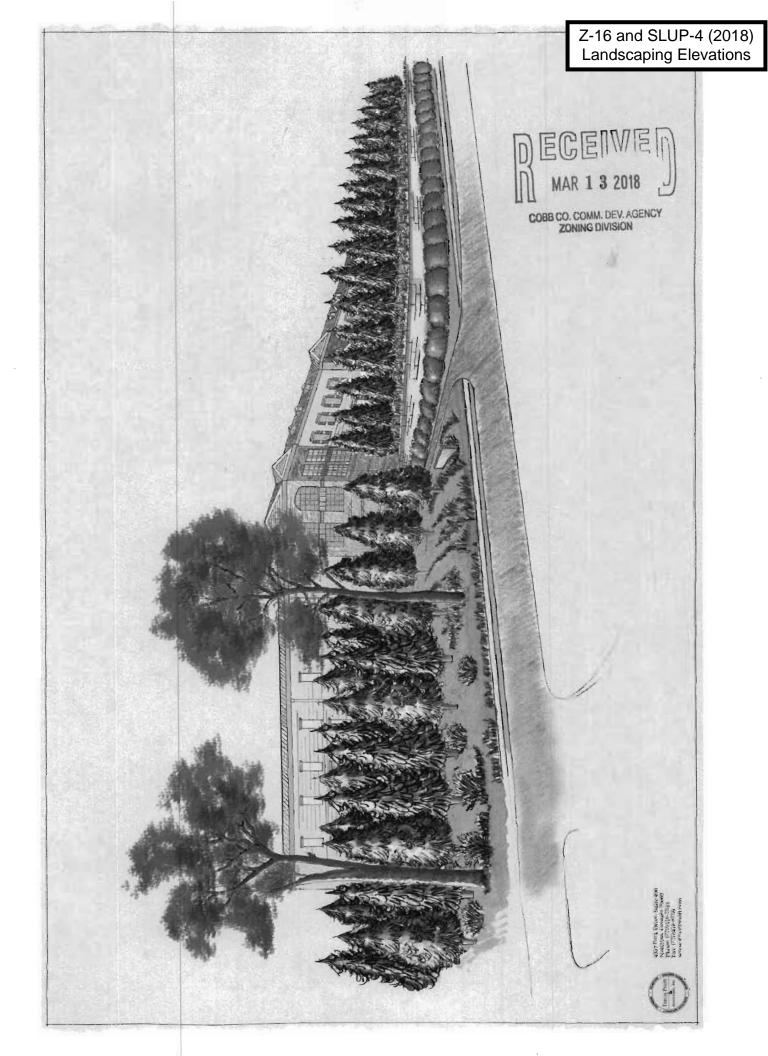


COBB CO. COMM. DEV. AGENCY ZONING DIVISION









Planning Commission Decision

NO. OPPOSED:	APPROVED	DENIED	DELETED TO
NO. IN SUPPORT	MOTION BY:	SECONDED:	VOTE:
Names of those Op	posed:	Comments:	
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