

TOWN OF CARY RESOLUTION
Airport Boulevard Mini-Storage Special Use Request
18-SU-002

Subject Property: 170 & 180 Airport Boulevard
REALID #: 0029235, 0334354
Acreage: 2.43-acre portion of 5.99-acre whole

Property Owners: Bisharah Libbus
401 Ironwoods Drive
Chapel Hill, NC 27516

Libbus Enterprises Properties, LLC
5400 Highcroft Drive
Cary, NC 27519-8808

Applicant: Leon Capital Group
5970 Fairview Road, Suite 450
Charlotte, NC 28210

At its meeting on February 7, 2019, after conducting a duly advertised quasi-judicial hearing and after considering the application materials, staff report, testimony, exhibits, and evidence presented at the hearing or otherwise appearing in the record, and the approval criteria of Section 3.8.3 of the Town of Cary Land Development Ordinance (“LDO”), the Cary Town Council voted 5-2 to **DENY** the special use request as described below based on the following findings:

FINDINGS

1. The applicant is seeking approval of a special use to develop an 81,500 square foot mini-storage facility that would be three stories (about 40 feet) in height.
2. The Subject Property is zoned Office/Research Development (ORD). “Mini-storage” is classified as an industrial use, and is a special use in the ORD district. See LDO Section 5.1.2.
3. Special use requests require approval by the Town Council. Pursuant to Section 3.8.3 of the LDO, the Council

shall not approve a proposed special use and any accompanying site plan unless and until it determines that the proposed use meets all the criteria set forth below, based on the evidence and testimony received at the quasi-judicial public hearing or otherwise appearing in the record of the case:

(A) The proposed use or development of the land will generally conform with the Comprehensive Plan, other official plans and manuals or documents adopted by the Town;

(B) The proposed use or development of the land will not materially endanger the public health or safety;

(C) The proposed use is reasonably necessary for the public health or general welfare, such as by enhancing the successful operation of the

surrounding area in its basic community functions or by providing an essential service to the community or region;

(D) The proposed use or development of the land will not substantially injure the value of adjoining or abutting property;

(E) The proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located;

(F) The proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities; and

(G) The proposed use will not cause undue traffic congestion or create a traffic hazard or unsafe pedestrian pathway.

4. The Imagine Cary Community Plan (ICCP) is the Town of Cary's Comprehensive Plan. See LDO Section 1.4.3. The ICCP contains a "Future Growth Framework Map" (FGF Map) which "geographically organizes the Town's physical layout, structure and character into various development categories." *Id.*
5. The FGF Map designates the Subject Property, as well as adjacent properties to the north, east, and west, as "Commercial Center." ICCP, page ____.
6. Pursuant to the ICCP, Commercial Centers are primarily defined by retail shopping centers, but may include residential, office, or institutional uses supporting the commercial focus. ICCP, page 104.
7. The requested use of "mini-storage" is classified as "Warehouse Storage" in the ICCP and is defined as "Structure designed for household rental storage space." ICCP, page 113.
8. Warehouse Storage is not listed as an acceptable use type in the Commercial Center category. ICCP, page 104. Warehouse Storage is listed as an acceptable use only in the Business/Industrial Parks category of the ICCP (page 102).
9. There are 10 existing mini-storage facilities within a 3-mile radius of the Subject Property, including one located adjacent to the Subject Property.
10. Development directly to the south of the Subject Property consists of large-lot single-family homes located in the corporate limits of the Town of Morrisville, designated as a "very low density residential" area.
11. Development directly to the west of the Subject Property consists of a mini-storage facility built over 15 years ago, under different Town standards for appearance. It consists of several single-story, exterior accessed buildings.
12. Development directly to the north of the Subject Property consists of a 71,000 square foot recreational building with a two-story appearance, and a medical office building of similar height though smaller in size.
13. The property directly to the east and north of the Subject Property is vacant, and it was rezoned in 2018 to the General Commercial – Conditional Use district.
14. Within 500 feet of the Subject Property, development on the east side of Davis Drive, which is also designated as Commercial Center on the FGF Map, has recently been approved for multiple uses, including a large-format grocery store (known to be a Wegmans), a multi-tenant commercial building, and a drive-through.
15. The application and other records pertaining to the Plan are part of the record.
16. Notice was provided as required by law.

CONCLUSIONS

1. Use of the Subject Property for min-storage does not generally conform to the Comprehensive Plan, because the Comprehensive Plan does not list mini-storage (called Warehouse Storage in the Plan) as an acceptable use in the Commercial Center category of the Future Growth Framework Map;
2. The applicant failed to produce competent, material, and substantial evidence that the proposed use is reasonably necessary for the public health or general welfare such as by enhancing the successful operation of the surrounding area in its basic community functions or by providing an essential service to the community or region;
3. Competent, material, and substantial evidence was presented that ten mini-storage facilities are located within a three miles radius of the proposed use, including one facility adjacent to the proposed use; and
4. Competent, material, and substantial evidence was presented that the proposed development – a three-story building – would not be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located – in which immediately adjacent development to the west is single-story, and a large lot low density subdivision is located immediately to the south. Adjacent property to the north is undeveloped; while construction has just begun on a large-format grocery store and multi-tenant commercial building to the east (across Davis Drive).

ACCORDINGLY, based on the foregoing, the Town Council hereby concludes that the requested special use fails to meet the criteria of LDO Section 3.8.3(A), (C), and (E); and the Town Council therefore denies the special use request.

Signed, this 14 day of March, 2019.


Harold Weinbrecht, Jr., Mayor

CERTIFICATION

I, Virginia H. Johnson, Interim Town Clerk of the Town of Cary, North Carolina, do hereby certify the foregoing to be true copy of a Resolution duly adopted at the meeting of the Town Council held on March 14, 2019.

IN WITNESS WHEREOF, I have hereunto set my hand and have caused the seal of the Town of Cary to be affixed this date.


Virginia H. Johnson, Town Clerk

