

5780 POWELL DRIVE
RECONSTRUCTION - COBB COUNTY PARK (800)400110
FOR
SAMS, LARKIN & HUFF C/O
ENOCH "K" WAIN "APPAH"
234 POWELL DRIVE, SUITE 100, ALPHARETTA, GA 30004
PHONE 770-232-2816

"WE PROVIDE SOLUTIONS"
PLANNERS AND ENGINEERS COLLABORATIVE
SITE PLANNING & LANDSCAPE ARCHITECTURE & LAND SURVEYING
9500 RESEARCH COURT • MONROVIE, GEORGIA 30023 • (770)351-3211 • FAX (770)351-3353 • WWW.PECCOL.COM

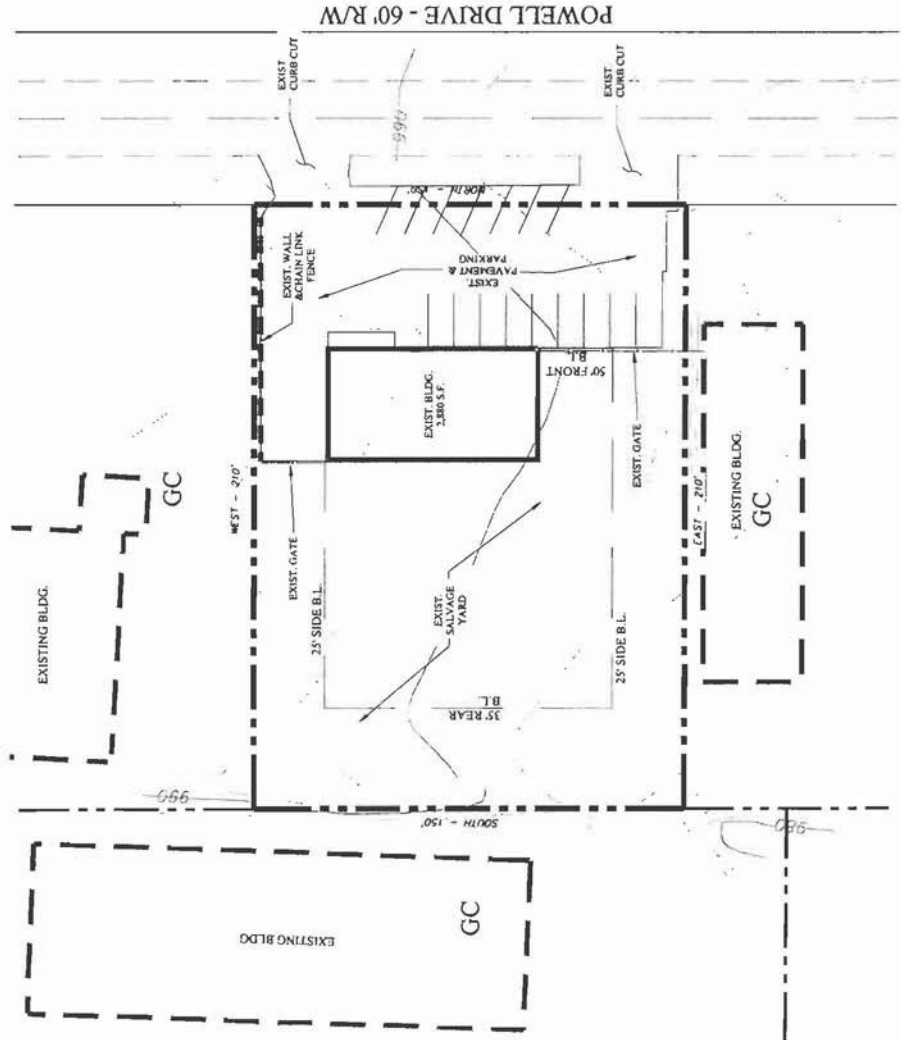
TOTAL SITE AREA	0.72 ACRES (31,363 S.F.)
TOTAL BUILDING AREA	2,880 S.F.
ZONING	
EXISTING ZONING	DC
PROPOSED ZONING	H1 - SLIP
ZONING JURISDICTION	COBB COUNTY
DEVELOPMENT REGULATIONS	
FRONT SETBACK	50'
SIDE SETBACK	25'
REAR SETBACK	35'
REQUIRED PARKING	1/200 SF
PARKING SPACES REQUIRED	15
PARKING SPACES PROVIDED	15



FEMA MAP (NTS)



SITE LOCATION MAP (NTS)



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SLUP-16
(2014)

APPLICANT: Enoch Appiah
PHONE#: (404) 343-9044 **EMAIL:** enochbak@gmail.com
REPRESENTATIVE: Garvis L. Sams, Jr. (770) 422-7016
PHONE#: 770-422-7016 **EMAIL:** gsams@slhb-law.com
TITLEHOLDER: Enoch Appiah

PROPERTY LOCATION: West side of Powell Drive, south of
Veterans Memorial Highway
(5780 Powell Drive).

ACCESS TO PROPERTY: Powell Drive

PHYSICAL CHARACTERISTICS TO SITE: Existing metal
building

CONTIGUOUS ZONING/DEVELOPMENT

NORTH: GC/ Auto Service shop
SOUTH: GC/EnviroWaste Equipment Inc Truck & Equipment sales
EAST: GC, R-20/ All Phase Auto Service, J Power Transmission
WEST: GC/ Putnams Collision Center

PETITION NO: SLUP-16
HEARING DATE (PC): 08-05-14
HEARING DATE (BOC): 08-19-14
PRESENT ZONING: GC
(see Z-55 for rezoning request to HI)
PROPOSED ZONING: Special Land
Use Permit
PROPOSED USE: Vehicle Storing,
Salvaging, and Towing
SIZE OF TRACT: 0.72 acre
DISTRICT: 18
LAND LOT(S): 34
PARCEL(S): 11
TAXES: PAID X **DUE** _____
COMMISSION DISTRICT: 4

OPPOSITION: NO. OPPOSED **PETITION NO:** _____ **SPOKESMAN** _____

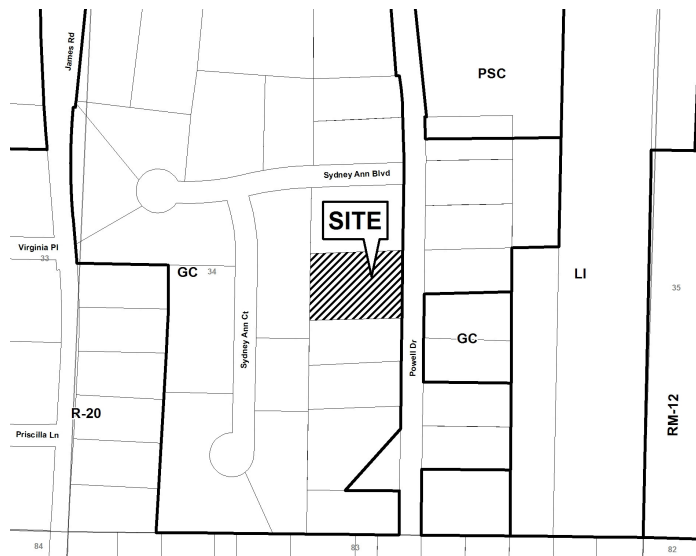
PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____
REJECTED _____ **SECONDED** _____
HELD _____ **CARRIED** _____

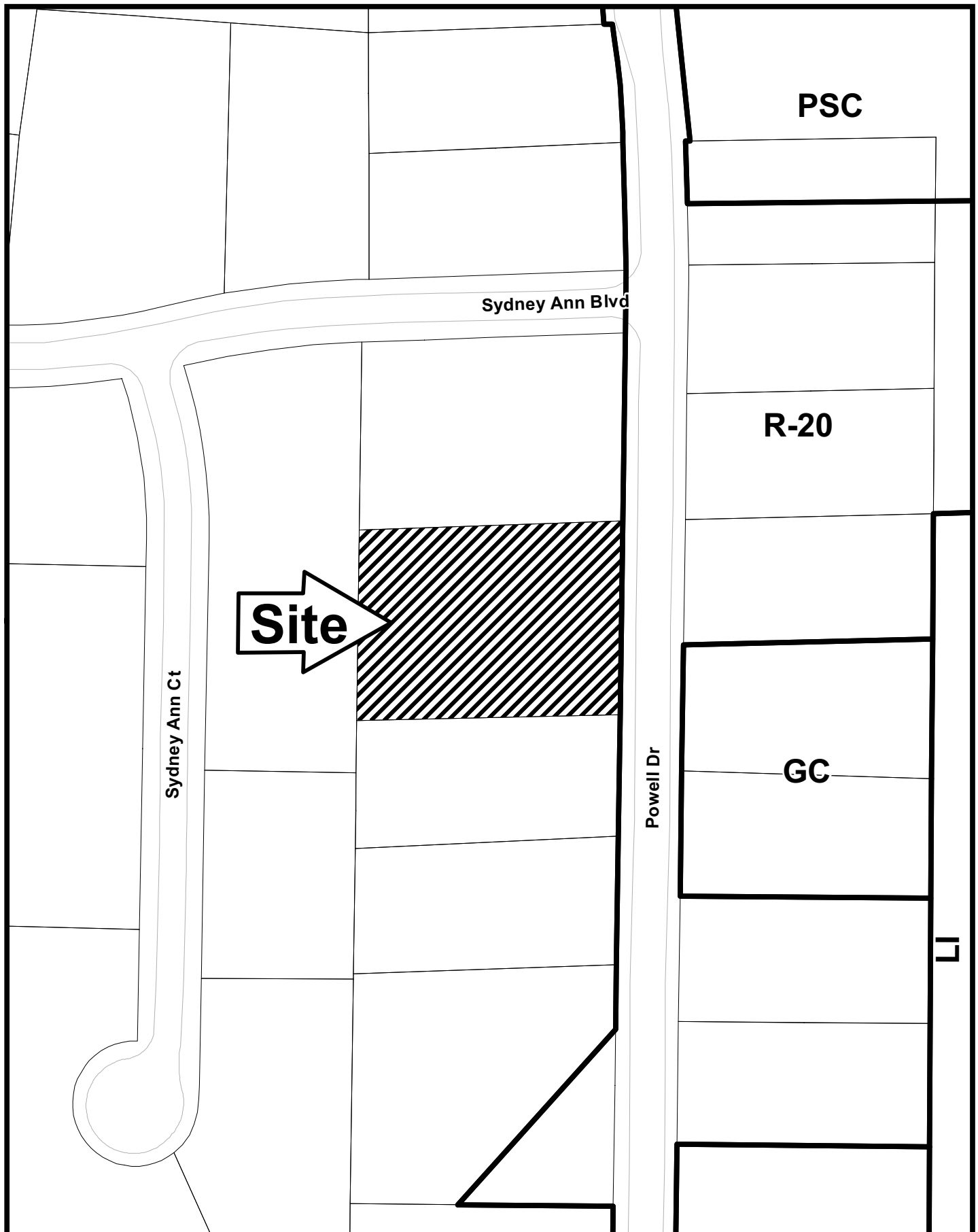
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____
REJECTED _____ **SECONDED** _____
HELD _____ **CARRIED** _____

STIPULATIONS:



SLUP-16



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

0 100 200 Feet



City Boundary
Zoning Boundary

APPLICANT: Enoch Appiah

PETITION NO.: SLUP-16

PRESENT ZONING: GC

PETITION FOR: SLUP

ZONING COMMENTS: Staff Member Responsible: John P. Pederson

The applicant is requesting a Special Land Use Permit in order to operate a vehicle storage, salvage and towing business on this property. The vehicle storage yard and salvage yard are behind a fenced area to the rear of the building. The business would operate Monday through Saturday 8:00 a.m. to 6:00 p.m. The property will be used in its current condition. This Special Land Use Permit is connected to a rezoning case on this same agenda (being Z-55). This application is the result of Code Enforcement actions regarding the use of the property.

The applicant is requesting variances, which include:

1. Allowing the use in Neighborhood Activity Center in lieu of an Industrial area.
2. Allowing a fence to be six feet in height in lieu of eight feet in height. Additionally, the fence does not provide visual screening on all sides of the property.
3. Allow the requested activity to take place within 100-feet of the property line.
4. Allow the activity within 200 feet of residentially zoned property.

Historic Preservation: No comments.

Cemetery Preservation: No comment.

WATER & SEWER COMMENTS:

Environmental Health Dept. approval needed for continued use of septic system. Otherwise, must connect to sewer.

TRAFFIC COMMENTS:

Recommend sidewalk along the Powell Drive frontage.

Recommend one commercial full access driveway and one additional out only driveway.

Recommend no parking or parking spaces on the right-of-way.

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

FIRE COMMENTS:

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.

APPLICANT: Enoch Appiah

PETITION NO.: SLUP-16

PRESENT ZONING: GC

PETITION FOR: SLUP

STORMWATER MANAGEMENT COMMENTS

FLOOD HAZARD: ☐ YES ☒ NO ☐ POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Pine Creek FLOOD HAZARD INFO: Zone X

- ☐ FEMA Designated 100 year Floodplain Flood.
- ☐ Flood Damage Prevention Ordinance DESIGNATED FLOOD HAZARD.
- ☐ Project subject to the Cobb County Flood Damage Prevention Ordinance Requirements.
- ☐ Dam Breach zone from (upstream) (onsite) lake - need to keep residential buildings out of hazard.

WETLANDS: ☐ YES ☒ NO ☐ POSSIBLY, NOT VERIFIED

Location: _____

- ☐ The Owner/Developer is responsible for obtaining any required wetland permits from the U.S. Army Corps of Engineer.

STREAMBANK BUFFER ZONE: ☐ YES ☒ NO ☐ POSSIBLY, NOT VERIFIED

- ☐ Metropolitan River Protection Area (within 2000' of Chattahoochee River) ARC (review 35' undisturbed buffer each side of waterway).
- ☐ Chattahoochee River Corridor Tributary Area - County review (_____ undisturbed buffer each side).
- ☐ Georgia Erosion-Sediment Control Law and County Ordinance - County Review/State Review.
- ☐ Georgia DNR Variance may be required to work in 25 foot streambank buffers.
- ☐ County Buffer Ordinance: **50'**, 75', 100' or 200' each side of creek channel.

DOWNSTREAM CONDITION

- ☐ Potential or Known drainage problems exist for developments downstream from this site.
- ☐ Stormwater discharges must be controlled not to exceed the capacity available in the downstream storm drainage system.
- ☐ Minimize runoff into public roads.
- ☐ Minimize the effect of concentrated stormwater discharges onto adjacent properties.
- ☐ Developer must secure any R.O.W required to receive concentrated discharges where none exist naturally
- ☐ Existing Lake Downstream _____.
Additional BMP's for erosion sediment controls will be required.
- ☐ Lake Study needed to document sediment levels.
- ☐ Stormwater discharges through an established residential neighborhood downstream.
- ☐ Project engineer must evaluate the impact of increased volume of runoff generated by the proposed project on _____.

APPLICANT: Enoch Appiah

PETITION NO.: SLUP-16

PRESENT ZONING: GC

PETITION FOR: SLUP

STORMWATER MANAGEMENT COMMENTS – Continued

SPECIAL SITE CONDITIONS

- ☐ Provide comprehensive hydrology/stormwater controls to include development of out parcels.
- ☒ Submit all proposed site improvements to Plan Review.
- ☐ Any **spring activity** uncovered must be addressed by a qualified geotechnical engineer (PE).
- ☐ Structural fill _____ must be placed under the direction of a qualified registered Georgia geotechnical engineer (PE).
- ☒ Existing facility.
- ☒ Project must comply with the Water Quality requirements of the CWA-NPDES-NPS Permit and County Water Quality Ordinance.
- ☐ Water Quality/Quantity contributions of the existing lake/pond on site must be continued as baseline conditions into proposed project.
- ☐ Calculate and provide % impervious of project site.
- ☐ Revisit design; reduce pavement area to reduce runoff and pollution.

INSUFFICIENT INFORMATION

- ☐ No Stormwater controls shown _____
- ☐ Copy of survey is not current – Additional comments may be forthcoming when current site conditions are exposed.
- ☐ No site improvements showing on exhibit.

ADDITIONAL COMMENTS

1. A Notice of Intent must be filed with the Georgia Environmental Protection Division for coverage under the NPDES General Permit to discharge stormwater associated with industrial activity. This facility will likely be classified under SIC Code 5015 for auto salvage operations. A stormwater pollution prevention plan must be prepared and a copy provided to the Cobb County Stormwater Management Division. Measures to prevent contamination of stormwater runoff from the site must be implemented.

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STAFF RECOMMENDATIONS

SLUP-16 ENOCH APPIAH

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

- (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 have an adverse affect on the usability of adjacent or nearby property. The proposed use is unsightly with virtually the entire rear yard covered with cars and auto parts. There have been complaints on this property that resulted in Code Enforcement cases on this property in 2012, 2013 and 2014. Violations included incidental storage, litter, non compliance vehicles, parking on the grass, junk cars and unpermitted uses. Additionally, there appears to be large storage structures built in the past three years in the northwest corner of the property and on the south property line that may not have any building permits. The setbacks appear to have been violated, but Staff cannot entirely evaluate the structures since the structures are not shown on the site plan.

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

It is Staff's opinion that the applicant's proposal will not permit a use that is suitable in view of the use and development of adjacent and nearby properties. The area is mostly zoned for commercial uses that cater to vehicle repair and maintenance. This proposed industrial use would be out of character with the rest of the area.

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

The use has been a nuisance and will be a nuisance as defined by state law. The use will be unsightly, the use will need many variances, and the use has had Code Enforcement complaints in the past.

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

The quiet enjoyment of surrounding property will be adversely affected due to the intensity and scale of the applicant's proposal. The applicant's use is fully visible from the street and adjoining properties.

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

Property values will be adversely affected by the applicant's use. The outdoor storage is up to the property lines without any buffering or screening. This property was included within the boundaries of the *Veterans Memorial Highway-West Corridor Study* (2001). The study was concerned with aesthetics, non-conforming uses, and unsightly code violations. The study states "The corridor aesthetically projects a run-down image (page 34)". It is Staff's opinion that this property looks run down and run down properties do not increase property values.

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

There are not adequate provisions for parking and traffic considerations. Upon a site visit many of the required parking spaces are taken by wrecked or untagged vehicles. There are vehicles parked in unmarked parking spaces. Additionally, part of the front parking lot is located on the right-of-way, which Cobb DOT does not permit.

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STAFF RECOMMENDATIONS

SLUP-16 ENOCH APPIAH (CONTINUED)

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

The applicant's site is not appropriate for this use. The applicant's use would need variances for lot size, fencing, screening, and other zoning criteria. This type of use is required to be in Industrial areas so it does not negatively affect its neighbors.

- (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 not any special or unique conditions as to why this incompatible industrial business should be located in this General Commercial area.

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

N/A

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

There are not adequate controls on deliveries. Wrecked and damaged cars are delivered and parked in front of the building, whereas they must be parked within the fenced and screened area behind the building.

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

There is not adequate landscaping on this parcel due to the fact that the applicant stores cars and parts right up to the property line. There is no landscaping to help screen the use.

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

The applicant's proposal has negatively affected the public health, safety and welfare as verified by the Code Enforcement complaints in 2012, 2013 and 2014. Violations included incidental storage, litter, non compliance vehicles, parking on the grass, junk cars and unpermitted uses.

- (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 would be Staff opinion that the application does not comply with the specific requirements set forth for Special Land Use Permits since the applicant has had numerous code violations, and has been running this business here without the required approved Special Land Use Permit approved by the Board of Commissioners.

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

As of the writing of this recommendation, the applicant has not supplied Staff with an analysis of these 15 criteria. The applicant has not provided sufficient information to allow full consideration. Additionally, the applicant's site plan does not show all the existing structures.

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STAFF RECOMMENDATIONS

SLUP-16 ENOCH APPIAH (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 not provided sufficient information to allow full consideration. This proposal does not comply with the Cobb County Zoning Code, the Cobb County Comprehensive Plan or the Veterans Memorial Highway-West Corridor Study (2001). Many of the important variances that help to mitigate the negative effects of the applicant's proposal are being waived. It is Staff's opinion that the applicant's proposal is not in conformity with the policy and intent of the Cobb County Comprehensive Plan, which delineates this property to be within the Neighborhood Activity Center (NAC) land use category. The purpose of the (NAC) category is to provide for areas that serve neighborhood residents and businesses. Typical land uses for these areas include small offices, limited retail and grocery stores. This type of use is intended for Industrial areas, not Neighborhood Activity Centers. Lastly, besides the use not being permitted on this property, the applicant appears to have built structures on the property without building permits that probably violate the accessory structure code.

Based on the above analysis, Staff recommends **DENIAL**.

The recommendations 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.

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SLUP-16 (2014)
Summary of Intent

2014 JUN -5 PM 3:35

Summary of Intent for Rezoning

Part 1. Residential Rezoning Information (attach additional information if needed)

- a) Proposed unit square-footage(s): _____
- b) Proposed building architecture: _____
- c) Proposed selling prices(s): _____
- d) List all requested variances: _____

Part 2. Non-residential Rezoning Information (attach additional information if needed)

- a) Proposed use(s): Vehicular Repair, Storing and Salvaging of Vehicles and Towing of Vehicles.
- b) Proposed building architecture: As-Built
- c) Proposed hours/days of operation: Monday-Saturday, 8:00 a.m. until 6:00 p.m.
- d) List all requested variances: Waiving the required lot size from 40,000 sq. ft. to 31,363 sq. ft.

Part 3. Other Pertinent Information (List or attach additional information if needed)

The subject property is located within an area which is denominated under Cobb County's Future Land Use Map as a Community Activity Center (CAC) and adjacent to an area denominated for Industrial Compatible (IC) uses.

Part 4. Is any of the property included on the proposed site plan owned by the Local, State, or Federal Government?

(Please list all Right-of-Ways, Government owned lots, County owned parcels and/or remnants, etc., and attach a plat clearly showing where these properties are located). Not Applicable

Part 5. Is this application a result of a Code Enforcement action? No ☐; Yes ☒ (If yes, attach a copy of the Notice of Violation and/or tickets to this form).

Applicant signature: _____

Date: 6/5/14

Applicant name (printed): Garvis L. Sams, Jr., Attorney for Applicant/Title Holder

*The Applicant has spoken with Code Enforcement officials; however, no Notice of Violation nor Tickets have issued with any action by Code Enforcement being held in abeyance pending the outcome of this Application, a SLUP Application and a Variance Application.

Revised August 21, 2013

ZONING IMPACT STATEMENT FOR THE REZONING
APPLICATION OF ENOCH APPIAH

COMES NOW, ENOCH APPIAH, and, pursuant to §134-121(a)(7) of the Cobb County Zoning Ordinance, files this Zoning Impact Statement, as follows:

- A. The zoning proposal will permit a use of the property which is suitable in the context of development and existing zonings along the Powell Drive Corridor.
- B. The zoning proposal will have no adverse effect or impact upon the existing uses or usability of adjacent or nearby properties. The preponderance of adjacent properties are Industrial or Commercial and within a Community Activity Center (CAC) or Industrial Compatible (IC) area under Cobb County's Future Land Use Map.
- C. The subject property to be affected by the zoning proposal has no reasonable economic use as currently zoned in that the fair market value of same falls below the range of values of similarly zoned and situated properties with equivalent utility. Additionally, the present owner of the subject property is suffering a significant economic detriment by virtue of the continuation of the present nonconforming classification of GC.

- D. The zoning proposal will have no adverse impact upon the existing County infrastructure including, but not limited to, existing streets, transportation facilities, utilities or schools.
- E. There is no substantial relationship between the existing zoning classification of GC which limits the property in terms of its present utilization and the public health, safety and general welfare. Additionally, considered in the context of development along the Powell Drive Corridor, there are no established land use planning principles or political considerations which would vitiate the zoning proposal.

Respectfully submitted, this the 5th day of June, 2014.

SAMS, LARKIN & HUFF, LLP

By: 

GARVIS L. SAMS, JR.
Attorney for Applicant
Ga. Bar No. 623950

SPILL/POLLUTION PREVENTION PLAN AND PROTOCOL
CONCERNING 5780 POWELL DRIVE

ENOCH APPIAH owns an approximate .72 acre tract of land located on the west side of Powell Drive south of Veterans Memorial Highway (5780 Powell Drive). Contemporaneously herewith, Mr. Appiah has filed an Application to Rezone the subject property from General Commercial (GC) to Heavy Industrial (HI) for the purposes of continuing his business which includes vehicular repair, storage, salvaging of vehicles and towing of vehicles. In addition to the Application for Rezoning from GC to HI, Mr. Appiah has filed an Application for a Special Land Use Permit (SLUP).

With respect to the foregoing, a Notice of Intent will be filed with the Georgia Environmental Protection Division (EPD) for coverage under the NPDES General Permit to discharge stormwater associated with the proposed industrial activity upon approval of the rezoning, SLUP and entitlement of the subject property. It is anticipated that Mr. Appiah's business and facility will be classified under SIC Code 5015 for Auto Salvage Operations. As a result thereof, a Stormwater Pollution Prevention Plan is required to be submitted to the Stormwater Management Division of Cobb County which includes, inter alia, measures to prevent the contamination of stormwater runoff on the site and the protocols for the implementation of same.

In concert with Georgia EPD and at its behest, Mr. Appiah has implemented the following procedures and protocol with respect to the manner in which automotive fluids are handled and the condition of stormwater leaving the subject property.

COBB COUNTY ZONING DIVISION

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COBB COUNTY GEORGIA
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The Spill/Pollution Prevention Plan and Protocol consists of the following:

- All vehicular fluids are drained into containers on a hard surface within the inside of the building on the subject property.
- Antifreeze and oil are each drained into separate fifty (50) gallon containers.
- When three (3) of those containers for antifreeze and oil, respectively, are full, they are removed from the subject property by the Crystal Clean Company which recycles the vehicular fluids.
- With respect to gasoline and diesel fuel, the business utilizes a pump device to remove gas and/or diesel fuel from the vehicles with the fuel being repurposed and utilized by the vehicles connected with Mr. Appiah's business on the subject property.
- Once the fluids are removed from the vehicles including antifreeze, oil and fuel once the usable parts are salvaged from the vehicles, the vehicles are taken to Hunters Recycling on Old Alabama Road where those vehicles are crushed at the rate of approximately 2-3 vehicles per week.

Since all vehicular fluids are removed and stored within the building and/or on hard surfaces, there are no fluids which escape into the soil and thus no interaction between vehicular fluids and stormwater runoff from the site. These measures have been formulated and implemented at the behest of Georgia EPD and upon that Division's respective recommendations.

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