

APPLICANT: Enoch Appiah

PHONE#: (404) 343-9044 **EMAIL:** enochbak@gmail.com

REPRESENTATIVE: Garvis L. Sams, Jr.

PHONE#: (770) 422-7016 **EMAIL:** gsams@slhb-law.com

TITLEHOLDER: Enoch Appiah

PROPERTY LOCATION: West side of Powell Drive, south of

Sydney Ann Boulevard

(5780 Powell Drive).

ACCESS TO PROPERTY: Powell Drive

PHYSICAL CHARACTERISTICS TO SITE: Existing vehicle repair

storage and salvaging business

PETITION NO: Z-55

HEARING DATE (PC): 08-05-14

HEARING DATE (BOC): 08-19-14

PRESENT ZONING: GC

PROPOSED ZONING: HI

PROPOSED USE: Vehicular Repair, Storing

and Salvaging Vehicles and Towing of Vehicles

SIZE OF TRACT: 0.72 acre

DISTRICT: 18

LAND LOT(S): 34

PARCEL(S): 11

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 4

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

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

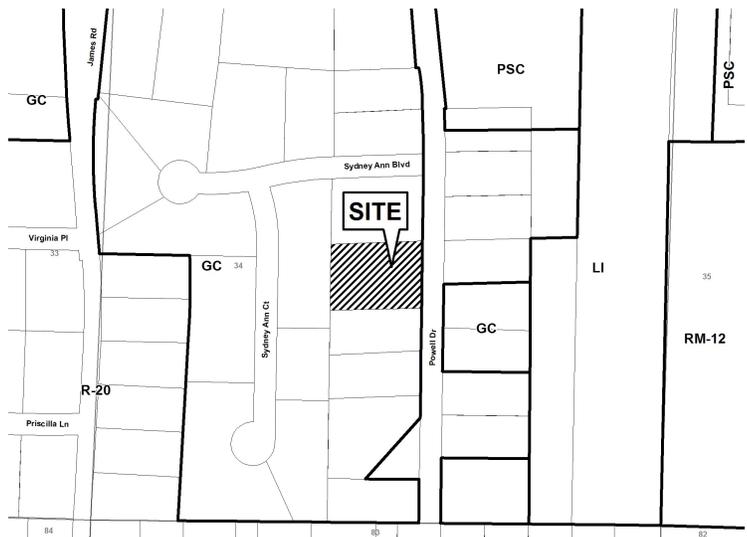
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

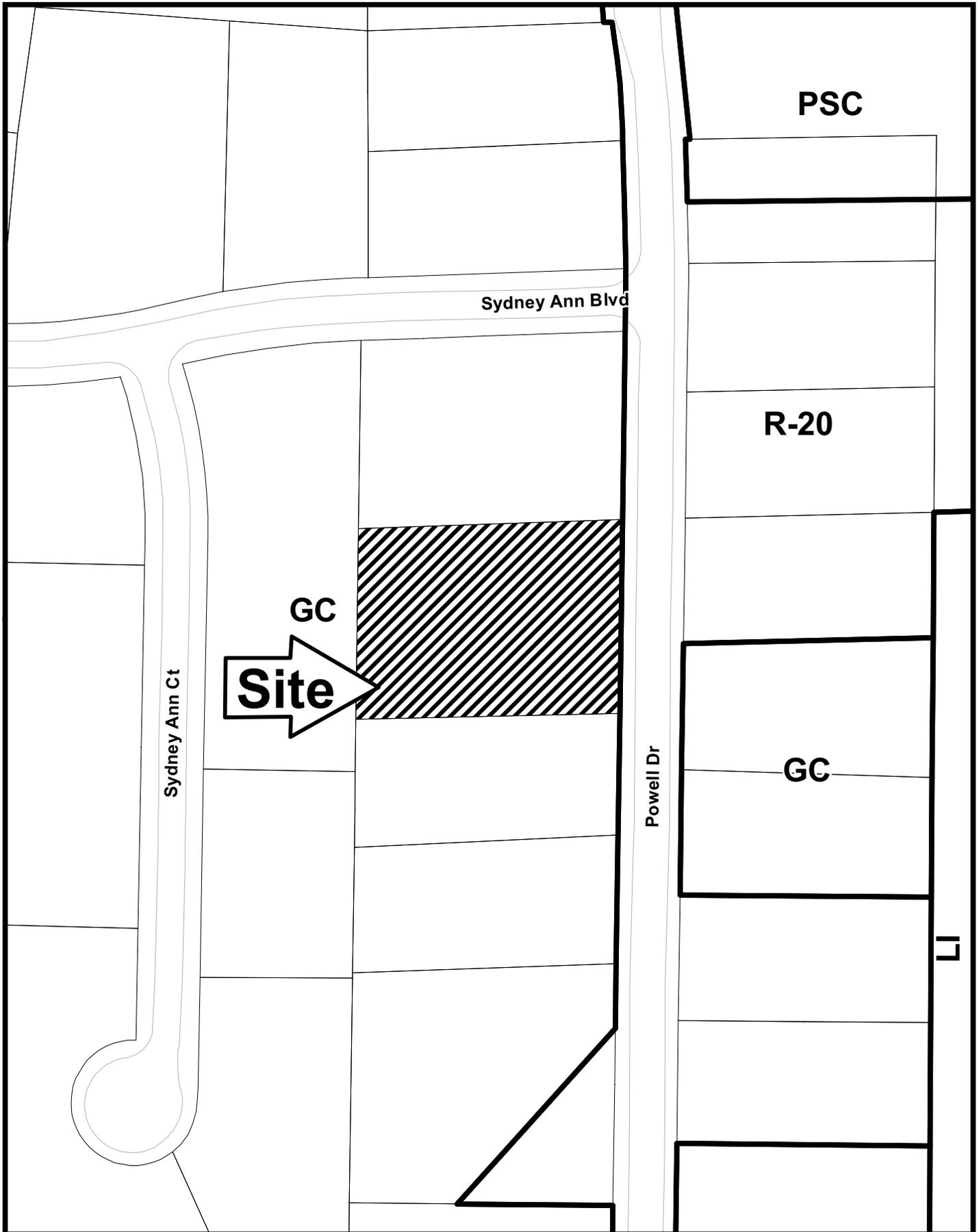
REJECTED _____ **SECONDED** _____

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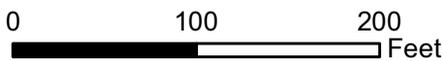
STIPULATIONS:



Z-55



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



-  City Boundary
-  Zoning Boundary

APPLICANT: Enoch Appiah

PETITION NO.: Z-55

PRESENT ZONING: GC

PETITION FOR: HI

ZONING COMMENTS:

Staff Member Responsible: John P. Pederson

Land Use Plan Recommendation: Neighborhood Activity Center (NAC)

Proposed Number of Buildings: 1(Existing)**Total Square Footage of Development:** 2,880

F.A.R.: 0.091 **Square Footage/Acre:** 4,000

Parking Spaces Required: 13 **Parking Spaces Provided:** 15

The applicant is requesting rezoning to the Heavy Industrial (HI) zoning category for the purpose of operating 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 Rezoning Application is connected to a Special Land Use Permit (SLUP) case on this same agenda (being SLUP-16). This application is the result of Code Enforcement actions regarding the use of the property.

This application requires a contemporaneous variance to waive the lot size from the required 40,000 square feet to 31,363 square feet.

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.

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.: Z-55

PRESENT ZONING: GC

PETITION FOR: HI

PLANNING COMMENTS:

The applicant is requesting a rezoning from GC to HI for purposes of vehicular repair, storing, salvaging and towing vehicles. The 0.72 acre site is located on the west side of Powell Drive, south of Sydney Ann Boulevard.

Comprehensive Plan

The parcel is within a Neighborhood Activity Center (NAC) future land use category, with GC zoning designation. 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.

Master Plan/Corridor Study

Not applicable.

Historic Preservation

After consulting various county historic resources surveys, historic maps, archaeology surveys and Civil War trench location maps, staff finds that no known significant historic resources appear to be affected by this application. No further comment. No action by applicant requested at this time.

Design Guidelines

Is the parcel in an area with Design Guidelines? Yes No

If yes, design guidelines area _____

Does the current site plan comply with the design requirements?

Incentive Zones

Is the property within an Opportunity Zone? Yes No

The Opportunity Zone is an incentive that provides \$3,500 tax credit per job in eligible areas if two or more jobs are being created. This incentive is available for new or existing businesses.

Is the property within an Enterprise Zone? Yes No

The Enterprise Zone is an incentive that provides tax abatements and other economic incentives for qualifying businesses locating or expanding within designated areas for new jobs and capital investments.

Is the property eligible for incentives through the Commercial and Industrial Property Rehabilitation Program? Yes No

The Commercial and Industrial Property Rehabilitation Program is an incentive that provides a reduction in ad valorem property taxes for qualifying redevelopment in eligible areas.

For more information on incentives, please call the Office of Economic Development at 770.528.2607 or find information online at <http://economic.cobbcountyga.gov>.

APPLICANT: Enoch Appiah

PETITION NO.: Z-55

PRESENT ZONING: GC

PETITION FOR: HI

PLANNING COMMENTS: (Continued)

Special Districts

Is this property within the Cumberland Special District #1 (hotel/motel fee)?
 Yes No

Is this property within the Cumberland Special District #2 (ad valorem tax)?
 Yes No

APPLICANT Enoch Appiah

PETITION NO. Z-055

PRESENT ZONING GC

PETITION FOR HI

WATER COMMENTS:

NOTE: Comments reflect only what facilities were in existence at the time of this review.

Available at Development: Yes No

Fire Flow Test Required: Yes No

Size / Location of Existing Water Main(s): 8" DI / W side of Powell Drive

Additional Comments: Existing water customer

Developer may be required to install/upgrade water mains, based on fire flow test results or Fire Department Code. This will be resolved in the Plan Review Process.

SEWER COMMENTS:

NOTE: Comments reflect only what facilities were in existence at the time of this review.

In Drainage Basin: Yes No

At Development: Yes No

Approximate Distance to Nearest Sewer: +/- 140' W in Sydney Ann Court

Estimated Waste Generation (in G.P.D.): A D F= 160 Peak= 400

Treatment Plant: South Cobb

Plant Capacity: Available Not Available

Line Capacity: Available Not Available

Projected Plant Availability: 0 - 5 years 5 - 10 years over 10 years

Drw Sewers Required: Yes No

Off-site Easements Required: Yes* No *If off-site easements are required, Developer must submit easements to CCWS for review/approval as to form and stipulations prior to the execution of easements by the property owners. All easement acquisitions are the responsibility of the Developer

Flow Test Required: Yes No

Letter of Allocation issued: Yes No

Septic Tank Recommended by this Department: Yes No

Subject to Health Department Approval: Yes No

Additional Environmental Health Dept approval required for continued use of septic system
Comments:

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

APPLICANT: Enoch Appiah

PETITION NO.: Z-55

PRESENT ZONING: GC

PETITION FOR: HI

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.: Z-55

PRESENT ZONING: GC

PETITION FOR: HI

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.

APPLICANT: Enoch Appiah

PETITION NO.: Z-55

PRESENT ZONING: GC

PETITION FOR: HI

TRANSPORTATION COMMENTS

The following comments and recommendations are based on field investigation and office review of the subject rezoning case:

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Powell Drive	N/A	Local	25 mph	Cobb County	50'

COMMENTS AND OBSERVATIONS

Powell Drive is classified as a local and according to the available information the existing right-of-way does meet the minimum requirements for this classification.

RECOMMENDATIONS

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.

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STAFF RECOMMENDATIONS

Z-55 ENOCH APPIAH

- A. It is Staff's opinion that the applicant's rezoning 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.
- B. It is Staff's opinion that the applicant's rezoning 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.
- C. It is Staff's opinion that the applicant's rezoning proposal will result in a use which would cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. This opinion can be supported by the departmental comments contained in this analysis.
- D. It is Staff's opinion that the applicant's rezoning 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. Additionally, 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)”, and staff believes approving this proposal would not help to reverse this statement.
- E. It is Staff's opinion that there are existing and changing conditions affecting the use and development of the property which give supporting grounds for denying the applicant's rezoning proposal. The proposed use is intended to be within an industrial area due to the amount of outdoor storage and intensity of the use. 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*. The property has been a problem for the neighbors as validated by the Code Enforcement actions in 2012, 2013 and 2014. The violations have impacted the public’s health, safety and welfare. The applicant’s survey fails to show the storage structures, which cannot be properly evaluated by the Staff.

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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Application #: Z- 55

PC Hearing Date: August 5, 2014

BOC Hearing Date: August 19, 2014

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 X (If yes, attach a copy of the Notice of Violation and/or tickets to this form).

Applicant signature: [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.

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.

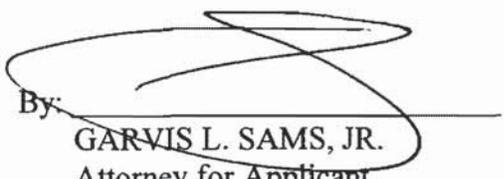
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- D. The zoning proposal will have no adverse impact upon the existing County infrastructure including, but not limited to, existing streets, transportation facilities, utilities or schools.
- E. There is no substantial relationship between the existing 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.

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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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