

Application for "Other Business"

Cobb County, Georgia

(Cobb County Zoning Division - 770-528-2035)

BOC Hearing Date Requested: April 16, 2013

Applicant: M & R Used Auto Parts, Inc.

(applicant's name printed)

Address: 3310 Chastain Ridge Drive, Marietta, GA 30066

COBB COUNTY ZONING DIVISION
Phone #: (770) 579-2070

E-Mail: mit786@hotmail.com

Garvis L. Sams, Jr. of Sams, Larkin & Huff, LLP

Address: 376 Powder Springs St., Ste. 100, Marietta, GA 30064

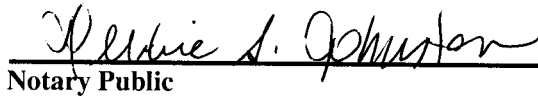
(representative's name, printed)


(representative's signature)

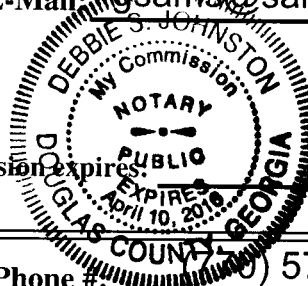
Phone #: (770) 422-7016

E-Mail: gsams@samslarkinhuff.com

Signed, sealed and delivered in presence of:


Notary Public

My commission expires:



4/10/2016

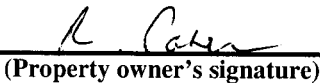
Titleholder(s): SELMA, LLC

(property owner's name printed)

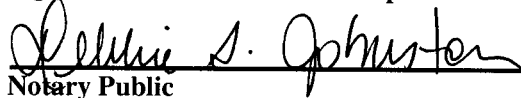
Address: 3310 Chastain Ridge Dr., Marietta, GA 30066

Phone #: (770) 579-2070

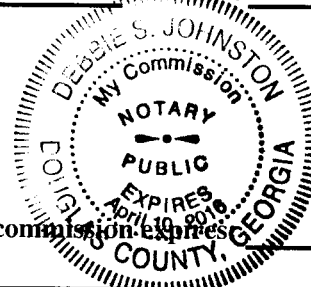
E-Mail: mit786@hotmail.com


(Property owner's signature)

Signed, sealed and delivered in presence of:


Notary Public

My commission expires:



4/10/2016

Commission District: 4th (Cupid)

Zoning Case: SLUP-7 (2011)

Date of Zoning Decision: 09/08/2011

Original Date of Hearing: 09/08/2011

Location: South side of Huddleston Drive

(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 806, 823, 824

District(s): 19th

State specifically the need or reason(s) for Other Business: To modify two stipulations/ conditions of the grant of the original Special Land Use Permit regarding screening and fencing relative to contiguous property (Gary Leeman). Mr. Leeman has agreed to these modifications as evidenced by the document he has signed which is submitted contemporaneously herewith.

(List or attach additional information if needed)

Mr. Gary Leeman.

Leeman Architectural Woodwork.

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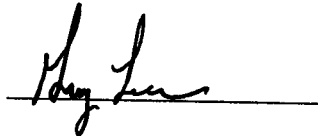
As per our last meeting we have on January 18th 2012. We had agreed that

1 You accept to no longer requiring a privacy fence on your side. Instead if we need we can apply a screen on your fence to create privacy.

2 You have no objections to have 6ft screen on the Huddleston Dr. in place of slats.

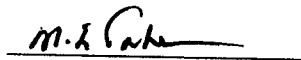
All these will replace what we had agreed on August 2, 2011 in Mr. Garvis L. Sams Jr. office.

I need your Signature.



Gary Leeman.

Date:- 3-11-13



M I Taher

Date:- 3/11/13

**MINUTES OF ZONING HEARING
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SEPTEMBER 8, 2011
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REGULAR CASES --- NEW BUSINESS (Continued):

SLUP-7 M & R USED AUTO PARTS, INC. (Branch Banking and Trust Company, owner) requesting a **Special Land Use Permit** for the purpose of a Salvage Facility And Sale Of Vehicular Parts in Land Lots 806, 823 and 824 of the 19th District. Located on the south side of Huddleston Drive.

The public hearing was opened and Mr. Garvis L. Sams, Jr. addressed the Commission. Following presentation and discussion, the following motion was made:

MOTION: Motion by Homan, second by Williams, to recommend **approval** of Special Land Use Permit **subject to:**

- **general conformance with site plan received by the Zoning Division on July 7, 2011, with the District Commissioner approving minor modifications (on file in the Zoning Division)**
- **letters of agreeable conditions from Mr. Garvis L. Sams, Jr. dated August 2, 2011 and September 7, 2011 (on file in the Zoning Division)**
- **allow this use in Industrial Compatible land use category**
- **regarding the 3.49 acre tract, there will be no outside storage except as related to the general use of a salvage yard; regarding the entire 37.25 acre tract, there shall be no outside storage of construction equipment or vehicles**
- **car crushing will be limited to once a month and within the hours of 8 a.m. and 5 p.m., Monday through Friday**
- **there will be no fluids of any kind in the vehicles when they arrive on the property**
- **Stormwater Management Division comments and recommendations**
- **Cobb DOT comments and recommendations**
- **owner/developer to enter into a Development Agreement pursuant to O.C.G.A. §36-71-13 for dedication of system improvements to mitigate traffic concerns**

VOTE: ADOPTED unanimously

**MINUTES OF ZONING HEARING
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REGULAR CASES — NEW BUSINESS (Continued):

SLUP-7 M & R USED AUTO PARTS, INC. (Continued)

Clerk's Note: Chairman Homan and Planning Commissioner Hovey encouraged Applicant/Representative to begin dialog with the Mayor of the City of Powder Springs regarding the details and negotiations related to this Special Land Use Permit prior to the September 20, 2011 Board of Commissioners' Zoning hearing.

Mr. Joe Atkins and Ms. Dorothy Bishop will conduct a final review of the appropriateness of restricting outside storage of the entire 37.25 acre tract, as the petition relates only to the 3.49 acre portion; their recommendations will be available to the Board of Commissioners prior to the September 20, 2011 Zoning Hearing.

HELD CASE:

Z-24

PULTE HOME CORPORATION (Alan Sharples and Brian Sharples as Co-Trustees of the Wilbert Sharples Living Trust dated October 30, 2001, and Sharples Investments, LLLP, owners) requesting Rezoning from R-20 to R-15/OSC for the purpose of a Single-Family Subdivision in Land Lot 520 of the 16th District. Located on the east side of Shaw Road, north of Piedmont Road.

The public hearing was opened and Mr. John Moore and Mr. Joe Bruder addressed the Commission. Following presentation and discussion, the following motion was made:

MOTION: Motion by Trombetti, second by Williams, to recommend deletion of Reasoning to the R-20/OSC zoning district subject to:

- site plan dated August 22, 2011, with final approval by District Commissioner (on file in the Zoning Division)
- letter of agreeable conditions from Mr. John Moore dated August 31, 2011 (on file in the Zoning Division), with the following changes:

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GARVIS L. SAMS, JR.
JOEL L. LARKIN
PARKS F. HUFF
JAMES A. BALLI

SUITE 100
376 POWDER SPRINGS STREET
MARIETTA, GEORGIA 30064-3448

770-422-7016
TELEPHONE
770-426-6583
FACSIMILE

MELISSA R. HAISTEN
JUSTIN H. MEEKS

August 2, 2011

SAMSLARKINHUFF.COM

VIA E-MAIL and
HAND DELIVERY

Mr. Jason Campbell, Planner III
Cobb County Community Development Agency
Zoning Division
1150 Powder Springs Road
Suite 400
Marietta, GA 30064

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COBB COUNTY ZONING DIVISION

Re: Special Land Use Permit Application of M & R Used Auto Parts, Inc.
(No. SLUP-7)

Dear Jason:

This firm represents M & R Used Auto Parts, Inc. ("M & R") concerning the above-captioned Application for a Special Land Use Permit ("SLUP"). The Application is scheduled to be heard and considered by the Cobb County Planning Commission on September 8, 2011 and, thereafter, is scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on September 20, 2011.

With respect to the foregoing, the SLUP proposal has precipitated a dialogue which has been established with the County's Professional Staff during the pendency of the Application. Following is list of agreements and stipulations which are a result of that dialogue and which M & R agrees to becoming conditions and a part of the grant of the SLUP request and binding upon the subject property thereafter:

1. The stipulations and conditions set forth herein shall replace and supercede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the property which constitutes the subject matter of the above-captioned SLUP Application.

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2. The SLUP Application includes a 3.49 acre tract of land which is zoned Heavy Industrial (HI) with reference to that certain site plan prepared by Frontline Surveying & Mapping, Inc. which was filed contemporaneously with the SLUP Application and the development shall be in substantial conformity thereto.¹
3. The property which constitutes the subject matter of this Application (3.49 acres) shall be developed under the HI classification as a salvage facility which will include the sale of vehicular parts and include the construction of an approximately 20,000 sq. ft. building which will be approximately thirty-five feet (35') in height.
4. All signage shall be ground-based, monument style signage with finish, materials and colors being in substantial conformity to the architectural style and composition of the building. There shall be no billboard signs, no roof signs and no exterior temporary signs excepting on grand opening signage and signage indicating the coming development.
5. Lighting within the proposed industrial development shall be chosen by the developer, shall be environmentally sensitive and appropriately spaced for safe lighting and security purposes throughout the site.
6. Efforts shall be undertaken to ensure that all lighting is as unobtrusive as possible.²
7. The hours of operation shall be from 8:30 a.m. until 6:00 p.m. Monday through Saturday. There will be no business operations on Sundays.
8. There will be a total number of 5 – 6 employees on-site during the hours of operation and on-site security including video surveillance will be provided.

¹ The Applicant is purchasing a total of 37.25 acres (which includes the 3.49 acres) now or formerly known as Pointe West Business Center which has proceeded through the Plan Review process (LDP No. 050407).

² The nearest residential development (Liberty Oaks Subdivision) is located approximately 750' from the subject property across a Conservation Easement Parcel (including 100 year flood plain).

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9. There are no requirements for landscaping and buffers because all contiguous properties are zoned HI. However, M & R will agree to construct a six foot (6') privacy fence around the perimeter of the subject property with said area being fenced having controlled ingress/egress by way of automated gates on both sides of the proposed building.
10. All setback areas may be penetrated for purposes of detention, utilities and stormwater management as long as such encroachments satisfy Cobb County regulations.
11. An agreement to comply with Cobb County Development Standards and Ordinances related to project improvements except as approved by the Board of Commissioners, the Cobb County Department of Transportation or the Cobb County Community Development Agency, as their respective authority may allow.
12. Compliance with written recommendations from the Stormwater Management Division with respect to the location, configuration and methodology of water quality and on-site detention (if any). Additionally, an agreement to the following:
 - a. To design and adhere to the Best Management Practices in the construction of detention and water quality areas on-site or the utilization of existing off-site detention with such design installation based upon Cobb County Development Standards.
 - b. Any on-site above ground detention areas shall be landscaped and/or fenced in accordance with Cobb County Development Standards.
 - c. Any field placement within flood plain must be compensated by an equal volume of cut which must be field verified and as-built certification provided.
13. Compliance with the recommendations of the City of Powder Springs with respect to the availability and acquisition of water and sewer to service the subject property.³

³ The Applicant is in possession of a letter from the City of Powder Springs' Water/Sewer Supervisor Travis Pearson, dated July 27, 2011, which verifies that water and sewer service are available to the site.

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14. Compliance with Cobb County Parking Ratio Requirements with respect to customer and employee parking. The balance of the site (behind the gates and within the area which will be fenced) shall be a hardened surface consisting of a mixture of a tar and gravel mix acceptable to and consistent with Cobb County Development Standards and Ordinances.
15. With respect to the proposed development, the developer seeks to have the SLUP approved to a conceptual site plan and seeks a contemporaneous variance to the regulations of the Cobb County Zoning Ordinance which includes allowing an industrial business which requires a SLUP within an industrial compatible (IC) area.
16. There shall be no vehicles of any type permanently parked in front of the proposed development containing identification signage or advertising signage. Additionally, the following uses under the HI classification shall be prohibited:
 - a. Bio-medical waste disposal facility;
 - b. Landfills;
 - c. Manufacturing;
 - d. Mining;
 - e. Ambulance services;
 - f. Animal hospitals;
 - g. Aviation airports;
 - h. Breeding and boarding kennels;
 - i. Bus stations;
 - j. Carwashes;

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- k. Churches;
- l. Dry cleaning plants;
- m. Electrical supply stores;
- n. Farm equipment stores;
- o. Full service gasoline stations;
- p. Group homes;
- q. Helicopter landing areas;
- r. In-home daycare;
- s. Laundry and dry cleaning establishments;
- t. Linen and diaper services;
- u. Livestock;
- v. Railroad car classification yards;
- w. Railroad stations for freight;
- x. Homeless shelters;
- y. Taxi stands and dispatching agencies;
- z. Transportation equipment storage and maintenance facilities;
- aa. Truck terminals;
- bb. Vocational Schools.

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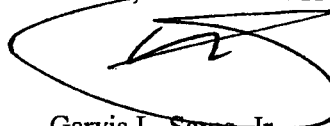
Mr. Jason Campbell, Planner III
Cobb County Community Development Agency
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17. Compliance with recommendations from the Cobb County Department of Transportation ("DOT") with respect to traffic and infrastructure issues.⁴
18. Compliance with recommendations from the Cobb County Fire Department as contained in the Zoning Analysis.
19. An agreement to comply with the at-grade crossing agreement between the Applicant's predecessor in title and CSX Railroad.
20. Minor modifications to the stipulations/conditions, lighting, landscaping, architectural features and the like may be approved by the District Commissioner as needed or necessary.

Please do not hesitate to call should you or the staff require any additional information or documentation prior to the formulation of your Zoning Analysis and Recommendations to the Planning Commission and Board of Commissioners. With kind regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



Garvis L. Sams, Jr.
gsams@samslarkinhuff.com

GLSjr/brl
cc: Shown next page.

⁴ The DOT is not requiring the donation of additional right-of-way or infrastructure in the form of sidewalk, curbing or gutters.

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Mr. Jason Campbell, Planner III
Cobb County Community Development Agency
Zoning Division
August 2, 2011
Page 7

cc: Members, Cobb County Board of Commissioners – VIA E-Mail and Hand Delivery
Members, Cobb County Planning Commission – VIA E-Mail
Mr. Robert L. Hosack, Jr., AICP, Director – VIA E-Mail and Hand Delivery
Ms. Jane Stricklin, P.E. – VIA E-Mail
Mr. David Breaden, P.E. – VIA E-Mail
Ms. Karen King, Assistant County Clerk – VIA E-Mail
Ms. Lori Presnell, Deputy County Clerk – VIA E-Mail
Mr. Milton Dortch – VIA E-Mail
M & R Used Auto Parts, Inc. – VIA E-Mail

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SUITE 100
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770-422-7016
TELEPHONE
770-426-6583
FACSIMILE

MELISSA P. HAISTEN
JUSTIN H. MEEKS

September 7, 2011

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COBB COUNTY ZONING DIVISION

VIA E-MAIL

Mr. Jason Campbell, Planner III
Cobb County Community Development Agency
Zoning Division
1150 Powder Springs Road
Suite 400
Marietta, GA 30064

Re: Special Land Use Permit Application of M & R Used Auto Parts, Inc.
(No. SLUP-7)

Dear Jason:

As you know, this firm represents the Applicant and property owner concerning the above-captioned Application for Special Land Use Permit ("SLUP"). The Application is scheduled to be heard and considered tomorrow by the Cobb County Planning Commission and, thereafter, is scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on September 20, 2011.

Previously, on August 2, 2011, we submitted a letter of agreeable stipulations/conditions. However, yesterday we met with Gary Leeman, the CEO/President of Leeman Architectural Woodwork and the owner of the adjacent 350,000 square foot industrial building. The dialogue established with Mr. Leeman was productive and has resulted in my client's agreement to the following additional stipulations which shall, in addition to the August 2, 2011 stipulations, become conditions and a part of the grant of the Special Land Use Permit request and binding upon the subject property thereafter:

1. The stipulations and conditions set forth herein shall be in addition to and in some instances supersede or modify stipulations/conditions contained in the August 2, 2011 stipulation letter.
2. An agreement to construct an eight foot (8') privacy fence around the subject property including a controlled ingress/egress by way of automated gates on both sides of the proposed building. Said fence shall be a chain link fence with green slats inserted thereon. The upkeep and maintenance of the fence shall be the sole responsibility of the Applicant.

VIA E-MAIL

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3. The building which shall be constructed on the site (approximately 20,000 square feet in size) shall be a metal building with brick veneer accents on the front of said building.
4. There shall be an architectural and landscape committee comprised of Mr. Gary Leeman, Mr. Ike Taher and the Community Development Agency Director with respect to determining final architectural and landscaping plans to ensure that said plans comply with the terms and conditions of the stipulations which have been agreed upon. Modifications to the landscaping and/or architecture will be approved by the committee prior to presentation to the District Commissioner for final approval. Once construction of the building is complete, a Certificate of Occupancy has been issued and the landscaping has been installed, the committee shall cease to exist.
5. The Applicant agrees that, in addition to the 3.49 acre tract which is the subject matter of this Application, there will be no outside storage of construction equipment on any part of the 37.25 acre tract which will be purchased by the Applicant.
6. If the subject property is determined to be undevelopable for the purposes sought by the Applicant or, if for any reason, the building, fencing and landscaping is not complete within twenty-four (24) months from the date of a successful grant of Special Land Use Permit, then, and in such an event(s), the Special Land Use Permit shall cease to exist without further action being necessary on the part of Cobb County.

Please do not hesitate to call should you or the staff require any additional information or documentation regarding this Application. With kind regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP



Garvis L. Sams, Jr.
gsams@samslarkinhuff.com

GLSjr/brl

cc: Shown next page.

VIA E-MAIL

Mr. Jason Campbell, Planner III
Cobb County Community Development Agency
Zoning Division
September 7, 2011
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cc: Members, Cobb County Board of Commissioners – VIA E-Mail
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Mr. John Pederson, AICP, Manager – VIA E-Mail
Mr. Robert L. Hosack, Jr., AICP, Director – VIA E-Mail
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Michael Sullivan, Esq. – VIA E-Mail
Mr. Milton Dortch – VIA E-Mail
M & R Used Auto Parts, Inc. – VIA E-Mail

