

SLUP-3
(2015)

4701 AUSTELL ROAD

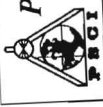
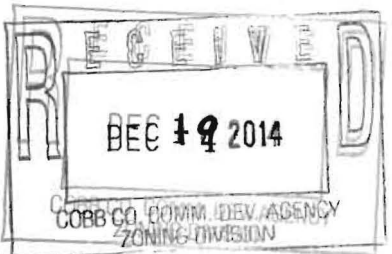
Rezoning Plat for
Butler Tire Company

Land Lot 1080, 19th District, 2nd Section
Cobb County, Georgia

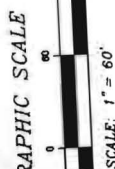
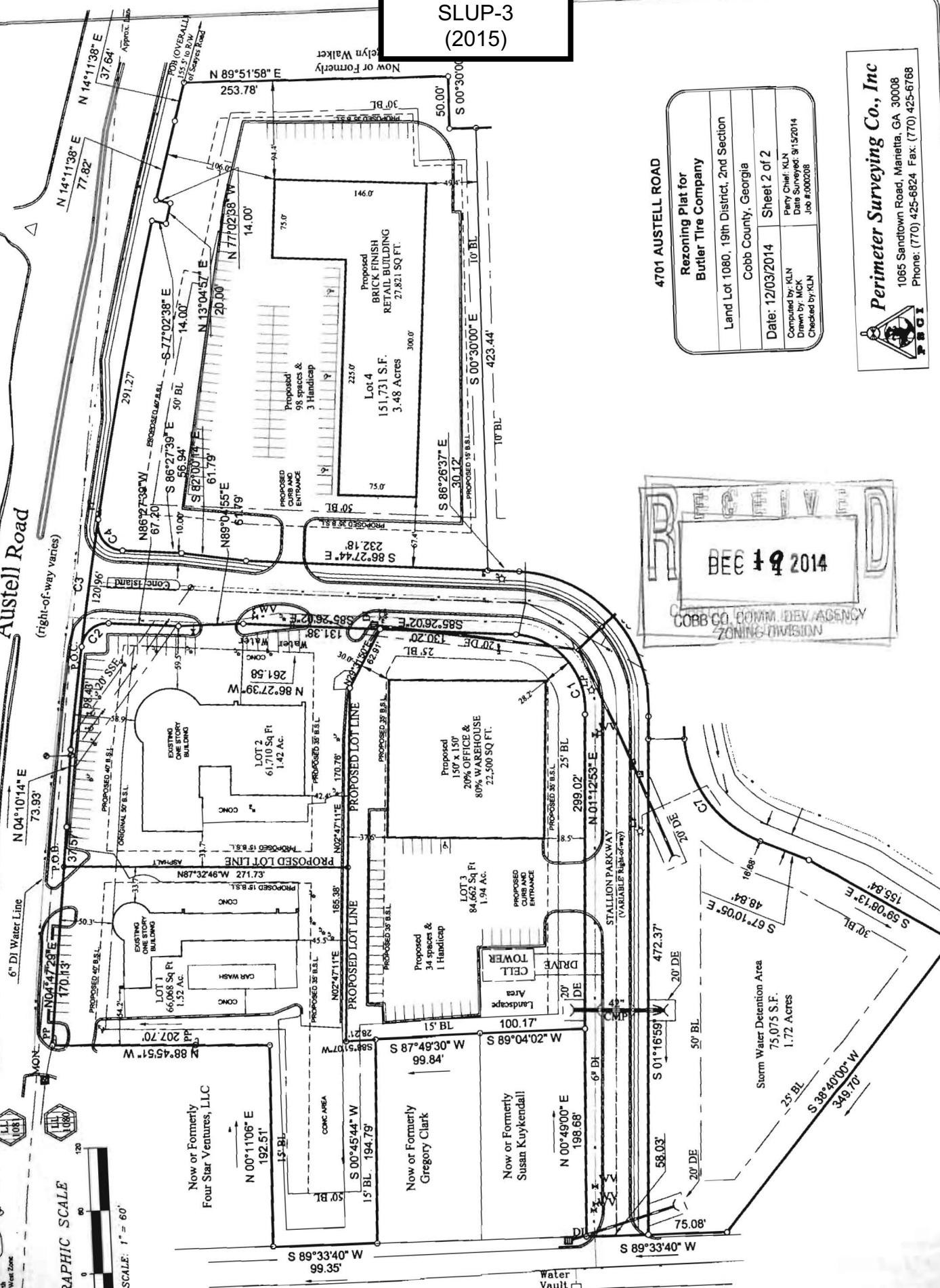
Date: 12/03/2014 Sheet 2 of 2

Prepared by: KLN
Checked by: MCK
Job #: 000208

Perimeter Surveying Co., Inc
1085 Sandtown Road, Marietta, GA 30008
Phone: (770) 425-6824 Fax: (770) 425-6768

Austell Road
(right-of-way varies)



Roberta Street Extension
(50' Right-of-way)



APPLICANT: Butler Brothers Tire Company

PHONE#: (770) 973-8622 **EMAIL:** alan@butlertire.com

REPRESENTATIVE: J. Kevin Moore

PHONE#: (770) 429-1499 **EMAIL:** jkm@mijs.com

TITLEHOLDER: M.A.T. Investments, LLC

PROPERTY LOCATION: Easterly side of Austell Road; north of Roberta Circle Extension; westerly side of Roberta Circle; north, south, east and west sides of Stallion Parkway (4071 Austell Road)

ACCESS TO PROPERTY: Austell Road and Stallion Parkway

PHYSICAL CHARACTERISTICS TO SITE: Existing tire and emissions, carwash businesses and vacant acreage

CONTIGUOUS ZONING/DEVELOPMENT

- NORTH:** R-20/Single-family houses and GC/Office
- SOUTH:** NRC/Church; R-20/Single-family houses and South Cobb High School
- EAST:** GC/Office; R-15/Bennett Subdivision; R-20/Undeveloped
- WEST:** PSC/Commercial developments, dental office, emissions station

PETITION NO: SLUP-3

HEARING DATE (PC): 02-03-15

HEARING DATE (BOC): 02-17-15

PRESENT ZONING: GC

PROPOSED ZONING: Special Land Use Permit

PROPOSED USE: Used Auto Dealer

SIZE OF TRACT: 1.52 acres

DISTRICT: 19

LAND LOT(S): 1080

PARCEL(S): 47, 54, 56

TAXES: PAID X **DUE** _____

COMMISSION DISTRICT: 4

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

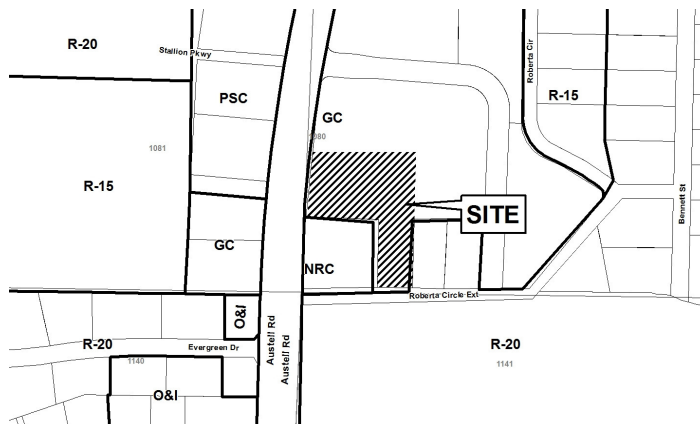
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

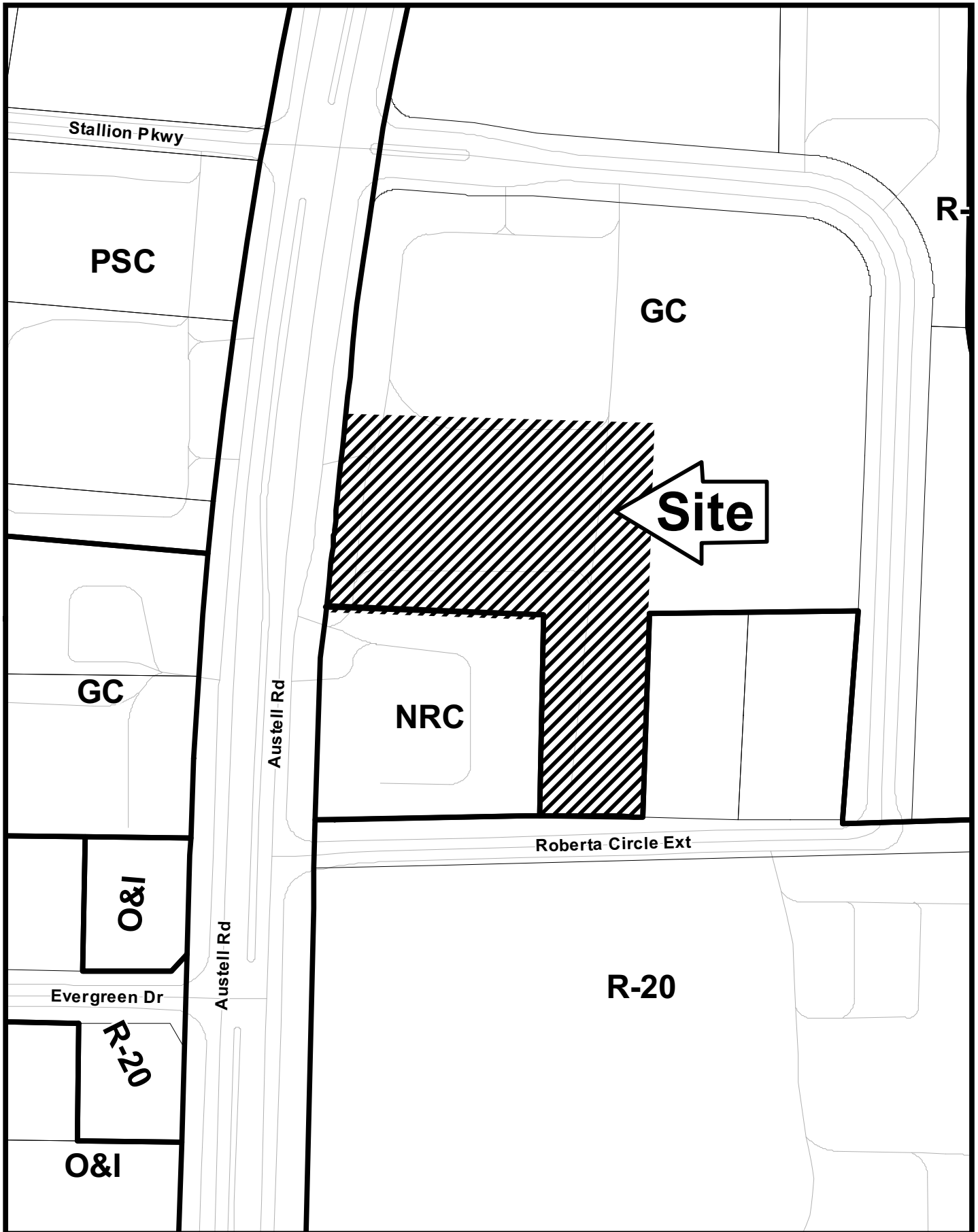
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

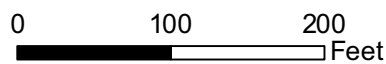
STIPULATIONS:



SLUP-3



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



City Boundary
Zoning Boundary

APPLICANT: Butler Brothers Tire Company

PETITION NO.: SLUP-3

PRESENT ZONING: GC

PETITION FOR: SLUP

ZONING COMMENTS: Staff Member Responsible: Jason A. Campbell

Applicant is requesting a Special Land Use Permit (SLUP) for the purpose of adding a used auto dealer to the proposed rezoning case (Z-22) being considered concurrently with this application. The used auto dealer will be located in the most southwestern building.

Historic Preservation: No comments.

Cemetery Preservation: No comment.

WATER & SEWER COMMENTS:

No additional comments (see comments for Z-22 2015).

TRAFFIC COMMENTS:

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

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

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: Butler Brothers Tire Company

PETITION NO.: SLUP-3

PRESENT ZONING: GC

PETITION FOR: SLUP

STORMWATER MANAGEMENT COMMENTS

This site is served by an existing stormwater detention facility. Proposed site plans must comply with approved master hydrology study for overall development.

STAFF RECOMMENDATIONS

SLUP-3 BUTLER BROTHERS TIRE COMPANY

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 may have an adverse affect on the usability of adjacent or nearby property. While the proposed use is small in size and is located in an area surrounded by other commercial/automotive retail uses, the applicant's location for the used auto dealership does not meet the necessary requirements, specifically this is not a permitted use under the requested NRC zoning (case Z-22 being heard contemporaneously herewith) and it does not have the required one acre of pavement exclusive of the building. Approval of the request would encourage other requests that do not meet the zoning code.
- (2) Whether or not the use is otherwise compatible with the neighborhood.*
It is Staff's opinion that the applicant's proposal will permit a use that is not suitable in view of the use and development of adjacent and nearby properties. While some of this area is geared toward automotive retail uses and those uses are permitted by zoning, they are able to accommodate the uses that are permitted on the property.
- (3) Whether or not the use proposed will result in a nuisance as defined under state law.*
The use has the potential to be a nuisance if the required one acre of pavement is not available to park the vehicles to be sold., and for vehicles to be unloaded. The 1997 Zoning Code amendment that required SLUP's with a minimum lot size for used car lots was instituted due to cars being unloaded and parked in the right-of-way.
- (4) Whether or not quiet enjoyment of surrounding property will be adversely affected.*
The quiet enjoyment of surrounding property may be adversely affected due to the fact that the proposed used auto dealer is a use that is permitted as a special exception with a Special Land Use Permit in more intense zoning categories than the proposed NRC requested in Z-22 that is being heard with this application.
- (5) Whether or not property values of surrounding property will be adversely affected.*
This proposed use could negatively affect property values to some of the nearby residential properties.
- (6) Whether or not adequate provisions are made for parking and traffic considerations.*
There are no adequate provisions for parking and traffic considerations. The proposed use does not meet the required one-acre of pavement for a used auto dealer and the proposed used auto dealer is a use that is allowed in zoning categories that permit more intense commercial uses, such as the proposed use auto dealer.

CONTINUED ON NEXT PAGE

SLUP-3 BUTLER BROTHERS TIRE COMPANY (Continued)

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

The applicant's site is located within the NAC future land use category and the applicant is requesting the NRC zoning category in Z-22 on this same agenda. The NRC zoning category does not permit used auto dealers and the NAC land use designation does not support a zoning category that permits used auto dealers.

(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 area is already zoned and occupied for commercial, retail, office and residential uses within the PSC, GC, NRC, O&I and R-20 zoning districts.

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

The applicant has indicated that hours of operation will be Monday through Friday from 7:30 a.m. until 5:30 p.m. and on Saturday from 7:30 a.m. until 1:00 p.m.

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

Applicant has not indicated the number or days of delivery.

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

The proposed used auto dealership will be located in one of the existing buildings that is also a part of Z-22 also being considered herewith. Unless the property is redeveloped, additional landscaping may not be required.

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

The use may not adversely affect the public health, safety, welfare, or moral concerns of the surrounding properties in that the use will be located in an existing building. However, the proposed use may generate more traffic because it is a use that is normally permitted in zoning categories that are more intense than the proposed NRC. The one-acre requirement is in place to prevent cars from being unloaded and parked in the right-of-way. Unloading and parking cars in the right-of-way could cause traffic safety problems.

(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.*

The requested used auto dealer is not a permitted use under the requested NRC zoning category being considered in Z-22 on this same agenda. The location also does not meet the required one acre pavement requirement for used auto dealers.

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

The applicant has provided details for the overall zoning of the properties contained in Z-22 herewith, but the portion of the property being considered for the used auto dealer business does not meet the required zoning requirements.

CONTINUED ON NEXT PAGE

SLUP-3 BUTLER BROTHERS TIRE COMPANY (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 a full consideration of the request. While this area consists of other automotive uses, the requested used auto dealer is not a permitted use under the proposed NRC zoning category and it does not meet the one acre of pavement required for used auto dealers. The requested NRC zoning category in Z-22 is appropriate for the other proposed uses, but not the used auto dealer.

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.