

APPLICANT: Unique International Auto, LLC

PETITION NO: SLUP-1

PHONE#: _____ **EMAIL:** _____

HEARING DATE (PC): 02-02-16

REPRESENTATIVE: Parks F. Huff

HEARING DATE (BOC): 02-16-16

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

PRESENT ZONING: R-20

TITLEHOLDER: Unique International Auto, LLC

PROPOSED ZONING: Special Land

PROPERTY LOCATION: East side of Powell Drive, south of

Use Permit

Veterans Memorial Highway

PROPOSED USE: Used Auto Sales, Auto

(5835 Powell Drive).

Storage Yard

ACCESS TO PROPERTY: Powell Drive

SIZE OF TRACT: 0.458 acre

PHYSICAL CHARACTERISTICS TO SITE: One story metal

DISTRICT: 18

building

LAND LOT(S): 34

PARCEL(S): 17

TAXES: PAID X **DUE** _____

CONTIGUOUS ZONING/DEVELOPMENT

COMMISSION DISTRICT: 4

NORTH: R-20/ Vacant Industrial Building (Subject of Z-7, February 2016)

Adjacent Future Land Use:

North: Neighborhood Activity Center (NAC)

SOUTH: GC/ Automotive Repair and Paint and Body

East: Neighborhood Activity Center (NAC)

EAST: LI/ Wooded, Undeveloped

South: Neighborhood Activity Center (NAC))

WEST: GC, R-20/ Automotive Repair

West: Neighborhood Activity Center (NAC)

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

PLANNING COMMISSION RECOMMENDATION

APPROVED _____ **MOTION BY** _____

REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

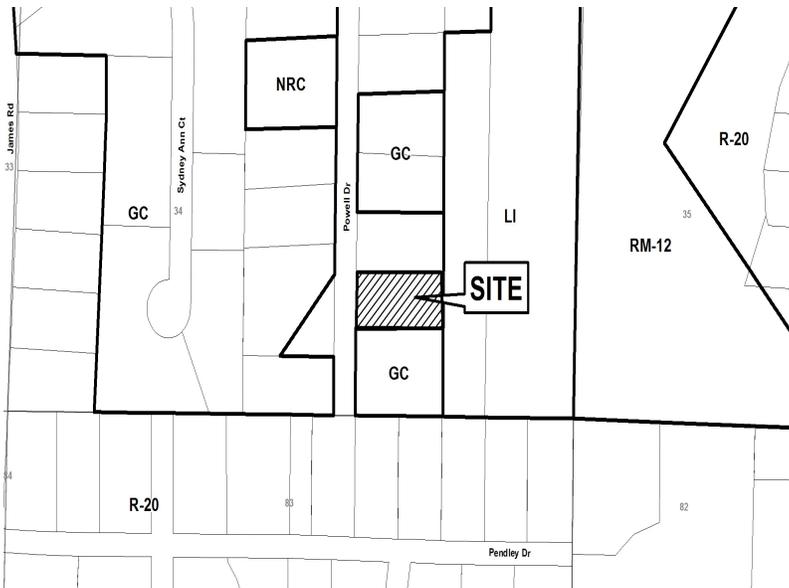
BOARD OF COMMISSIONERS DECISION

APPROVED _____ **MOTION BY** _____

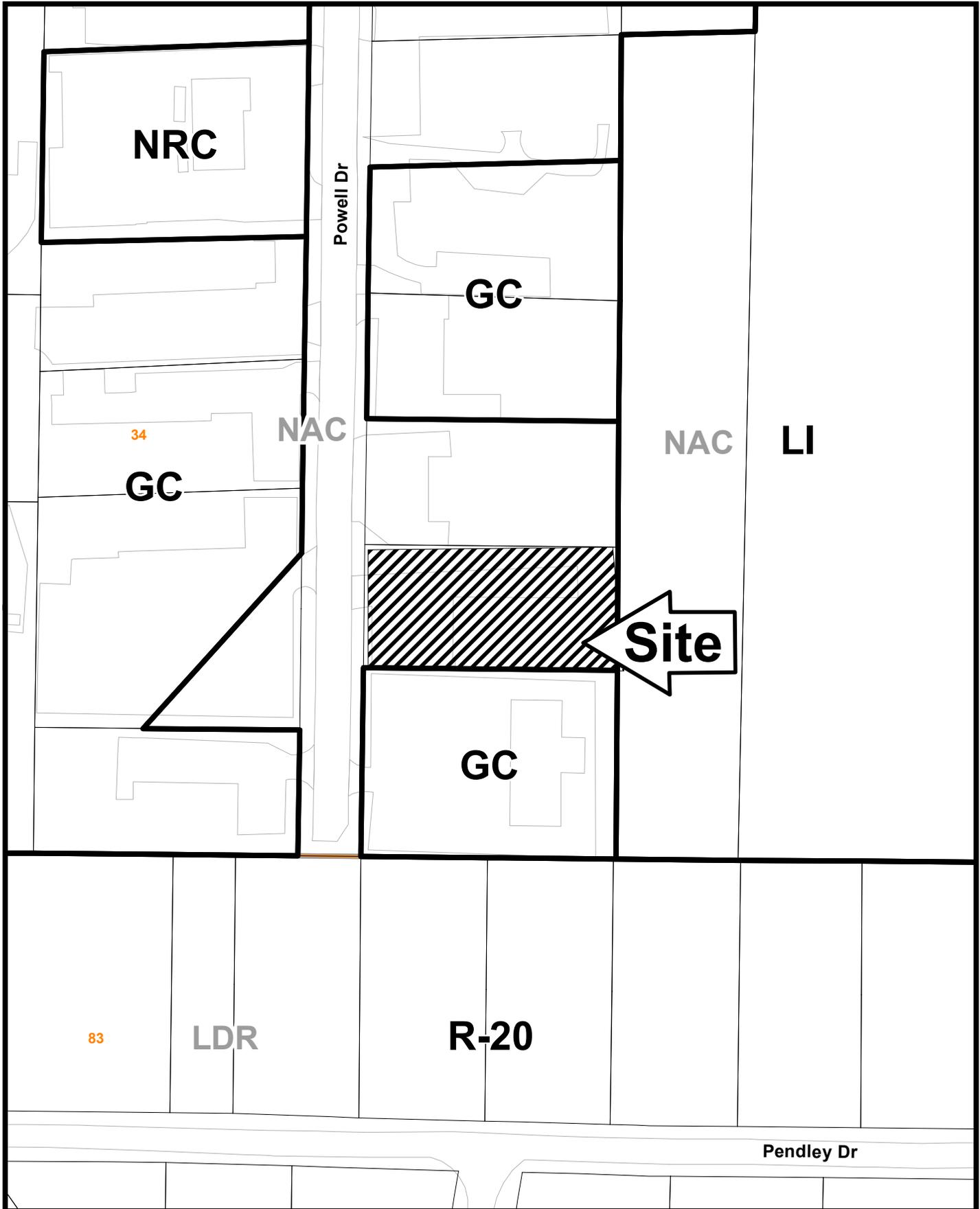
REJECTED _____ **SECONDED** _____

HELD _____ **CARRIED** _____

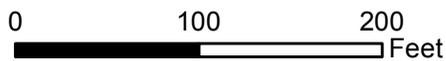
STIPULATIONS:



SLUP-1



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



-  City Boundary
-  Zoning Boundary

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PETITION FOR: SLUP

ZONING COMMENTS: Staff Member Responsible: Terry Martin, MPA

The applicant is requesting a Special Land Use Permit in order to operate an automotive storage yard as well as used automobile sales upon the subject site. The companion case Z-4 has been filed to rezone the property to the HI heavy industrial district. The existing industrial building will be utilized and proposed hours are Monday through Saturday 7:00 a.m. to 8:00 p.m.

The applicant’s request would result in several needed variances if approved as requested. These include:

1. Waive the minimum lot size from the required 40,000 sq. ft. to 19,932 sq. ft.;
2. Waive the minimum lot width at the front setback line from the required 150 ft. to 100 ft.;
3. Waive the rear setback from the required 40 ft. to 24 ft.;
4. Waive the side setback from the required 20 ft. to 10 ft. adjacent to the southern property line;
5. Waive the 50 ft. landscaped screening buffer adjacent to residentially zoned property to zero feet adjacent to the northern property line (adjacent property filed under current case Z-7);
6. Allow the special exception use of an automobile storage yard to be on HI zoned property not within an area delineated as industrial future land use;
7. Allow the special exception use of a used automobile sales facility to be on HI zoned property not within an area delineated as industrial future land use; and
8. Waive the minimum of one (1) acre of paved surface for parking of used autos for sale.

Historic Preservation: No comment.

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.

WATER & SEWER COMMENTS:

Property is served by public water and septic system. See comments for Z-4 (2016).

TRAFFIC COMMENTS:

Recommend no parking 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.

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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 CONDITIONS

- 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 any proposed site improvements on downstream receiving system.

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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. The existing site must be cleared of all storage on unimproved surfaces.
2. Any parking lot expansion must not exceed 70% total impervious coverage for parcel. Any increase in impervious coverage of more than 5000 square feet will require stormwater management to be provided.

STAFF RECOMMENDATIONS

SLUP-1 UNIQUE INTERNATIONAL AUTO, LLC

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.* **The applicant's requested uses are some of the most intense automotive related uses and may not be compatible given the restrictions of the site's size and development.**
- (2) *Whether or not the use is otherwise compatible with the neighborhood.* **The request is not compatible with the recent, less intense rezonings in the Powell Drive area that are in keeping with the area's NAC neighborhood activity center designation.**
- (3) *Whether or not the use proposed will result in a nuisance as defined under state law.* **The proposed use may result in a nuisance as defined under state law due to the intense use of the property.**
- (4) *Whether or not quiet enjoyment of surrounding property will be adversely affected.* **The proposed use of auto storage yard has the potential to adversely affect the quiet enjoyment of surrounding properties.**
- (5) *Whether or not property values of surrounding property will be adversely affected.* **Property values of surrounding property has the potential to be adversely affected.**
- (6) *Whether or not adequate provisions are made for parking and traffic considerations.* **Due to the property's size, and the nature of the proposed storage and auto sales lot uses, adequate parking cannot be provided and traffic considerations are potentially concerning.**
- (7) *Whether or not the site or intensity of the use is appropriate.* **The intensity of the proposed uses is not appropriate for the site due to its size and development.**
- (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 property is within an established commercial area though the proposed uses are still noncompatible.**
- (9) *Whether or not adequate provisions are made regarding hours of operation.* **Though hours of operation are also a consideration, the use as a whole is too intense.**
- (10) *Whether or not adequate controls and limits are placed on commercial and business deliveries.* **The proposed use cannot be adequately limited to make it compatible.**

Staff Recommendations continued on next page

SLUP-1 UNIQUE INTERNATIONAL AUTO, LLC (Continued)

- (11) *Whether or not adequate landscape plans are incorporated to ensure appropriate transition. While no landscape plans are proposed, none will be required if the adjoining property is also rezoned under currently applied case Z-7.*
- (12) *Whether or not the public health, safety, welfare or moral concerns of the surrounding neighborhood will be adversely affected. Due to the nature of the use of an automobile storage yard, there are potential health and safety concerns from contaminants, etc. from the number of autos that would be stored on site.*
- (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 Code calls for the proposed uses of auto storage yard and used auto sales to be located within areas delineated as industrial on the future land use map. The subject property is located within the NAC neighborhood activity center future land use area. Also, the site cannot provide the required one (1) full acre of paved parking surface for the used auto sales as the site is only 19,932 sq. ft. in size.*
- (14) *Whether the applicant has provided sufficient information to allow a full consideration of all relevant factors. The applicant has provided sufficient information to allow a full consideration of all relevant factors.*
- (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 property, if rezoned to the NRC neighborhood retail commercial district under companion case Z-4, will be suitable for those types of uses encouraged under the NAC future land use category. The proposed uses of auto storage yard and used automobile sales are too intense for this site.*

Based on the above analysis, Staff recommends **DENIAL** of this request.

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.

NOV 25 2015

SPECIAL LAND USE PERMIT STATEMENT OF INTENT
FOR THE APPLICATION OF UNIQUE INTERNATIONAL AUTO, LLC

COMES NOW, UNIQUE INTERNATIONAL AUTO, LLC, and, pursuant to §134-37 (e) of the Cobb County Zoning Ordinance, files this Statement and shows the following:

1. The proposed short term automobile storage yard and internet used auto sales will not have a negative effect on the neighborhood or area. The property and surrounding properties are zoned under multiple commercial and industrial classifications and most have car related repair businesses. The proposed use is consistent with other uses in the area and will not negatively impact the neighborhood.
2. The proposed automobile storage and automobile sales is compatible within the neighborhood which includes many similar uses. Powell Drive has many other automobile uses and this use will not conflict with the other uses.
3. The proposed use will not create a nuisance. The use is consistent with the long term uses on Powell Drive. The automobile storage and internet auto sales will not create noise or traffic that is incompatible with the existing uses.
4. The use will not impact the quiet enjoyment of surrounding properties which uses are all compatible with the proposed automobile storage and sales.
5. The proposed use will complement the surrounding properties and will not adversely affect their values.
6. Unique will provide adequate parking for the car storage and the traffic created by the businesses is minimal.
7. Although the zoning category is HI which is inconsistent with the Neighborhood Activity Center (NAC) designation, the actual use will have less noise, traffic and other impact than most other NAC uses.
8. The proposed use is not in close proximity to residential uses.
9. The business hours are limited to typical business hours from 7:00 a.m. to 8:00 p.m. Monday through Saturday.

SAMS, LARKIN, HUFF
& BALLI, LLP

A LIMITED LIABILITY PARTNERSHIP
ATTORNEYS AT LAW
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MARIETTA, GA 30064
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- 10. Delivery hours will be limited to daylight hours and six days a week. Deliveries would not have an impact on the residential properties.
- 11. The proposed business will occupy an existing commercial building and it is surrounded by other commercial or industrial buildings.
- 12. The existing industrial metal building is consistent with other buildings in the area.
- 13. The applicant is requesting to reduce the minimum lot size from 40,000 square feet to approximately 19,000 square feet for the existing lot and to allow for internet automobile sales on less than one acre of paved surface

The foregoing provides the factors to be considered in recommending approval of a Special Land Use Permit Application. Additional Details will be submitted during the pendency of the application.

Respectfully submitted, this the 28 day of November, 2015.

SAMS, LARKIN, HUFF & BALLI, LLP

By: 

PARKS F. HUFF
Attorney for Applicant
Ga. Bar No. 375010