



OFFICE OF ZONING AND DEVELOPMENT
55 Trinity Avenue S.W., Suite 3350
Atlanta, Georgia 30303
(404) 330-6145

APPLICATION #: V-17-212

DATE ACCEPTED 07/26/2017

APPEAL

NOTICE TO APPLICANT

Address of Property:

310 McDonough BLVD SE

City Council District: 1 Neighborhood Planning Unit (NPU): Y

Board of Zoning Adjustment (BZA) Hearing Date:

Thursday, September 14, 2017 at 12:00 p.m.

Council Chambers, 2nd Floor, City Hall
55 Trinity Avenue, S.W.

The contact person for NPU is:

Russell Hopson
404-849-2818
Rhopson2@gmail.com

Contact info for adjacent NPUs is provided below if necessary:

Additional Contacts:

Please contact the person(s) listed above within five days to find out which meetings you will be required to attend before the next NPU meeting. If you are unable to reach the contact person, please call the city's NPU Coordinator at 404-330-6145.

Signed,

RG, for Director, Office of Zoning and
Development

Scott Kashka

V-17-212

APPLICATION FOR APPEAL OF A DECISION OF AN ADMINISTRATIVE OFFICER

RECEIVED

JUL 26 2017

OFFICE OF ZONING

Date Filed _____

Application Number V-17-212

Name of Applicant KASHKA SCOTT Daytime Phone 404.944.9420

Company Name (if applicable) Mission Development email KASHKAScott@me.com

Address 231 Roper Mill Pkwy Woodstock GA 30188
street city state zip code

Name of Property Owner Mission Development Phone 404.944.9420

Address 231 Roper Mill Pkwy Woodstock GA 30188
street city state zip code

Description of Property

Address of Property 310 McDonough Blvd SE Atlanta GA
street city state zip code

Area: _____ Land Lot: _____ District: _____, _____ County, GA.

Property is zoned: RG-3-C, Council District: 1, Neighborhood Planning Unit (NPU): Y

TO THE BOARD OF ZONING ADJUSTMENT (not applicable if appellant is not the property owner):

I hereby authorize the staff of the Office of Zoning and Development to inspect the premises of the above-described property. I understand that it is my responsibility to post a public notice sign on the property according to the instructions given to me by the Office of Zoning and Development upon filing this application. I swear that all statements herein and attached hereto are true and correct to the best of my knowledge and belief.

Kashka Scott
OWNER OR AGENT FOR OWNER (APPLICANT)

Kashka Scott
PRINT NAME OF OWNER

Sworn To And Subscribed Before Me This 19th Day Of July 20 17.

[Signature]
NOTARY PUBLIC



V-17-212
RECEIVED


JUL 26 2017

OFFICE
OF
PLANNING

PUBLIC NOTICE SIGN POSTING

- As owner of the property subject to the appeal I understand that I must post the public notice sign, provided by the Office of Zoning and Development, no later than 15 days prior to the scheduled BZA hearing date.

- As non-owner of the property subject to the appeal I understand that the Office of Zoning and Development will post the public notice sign to the subject property no later than 15 days prior to the scheduled BZA hearing date.


SIGNATURE OF APPELLANT

Kasuka Scott
PRINT NAME OF APPELLANT

V-17212
RECEIVED

JUL 26 2017

OFFICE
OF

SUMMARY OF APPEAL

The property owner received a notice from the City of Atlanta, dated April 26, 2017 (delivered June 26, 2017) advising that the current use of the property is not permitted as a non-conforming use pursuant to the City of Atlanta Zoning Ordinance.

The foregoing appeal is intended as a challenge to the conclusion that the uses on the subject property are not legally nonconforming. In this regard, the Applicant submits that the history of use of the property, as well as the efforts to market the subject property for these uses, clearly demonstrate the lawful continuation of a legally nonconforming use.



V-17-212

RECORDED

JUL 26 1975

EXHIBIT "A"

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 41 of the 14th District of Fulton County, Georgia and more particularly described as follows:

BEGINNING at the corner formed by the intersection of the northeastern side of McDonough Boulevard with the northwestern side of Grant Street (formerly Nolan Street); thence northeasterly, along the northwestern side of Grant Street, 305.0 feet to the southernmost corner of Lot 29, said subdivision; thence northwesterly along the southwestern line of said Lot 29, a distance of 179.6 feet to the northeastern corner of Lot 6, said subdivision; thence southwesterly at an interior angle of 79 degrees 12 minutes from the preceding course, 60.6 feet to an iron pin; thence southwesterly at an interior angle of 244 degrees 25 minutes from the preceding course, 203.9 feet to an iron pin on the northeasterly side of Milton Avenue; thence southeasterly, along the northeastern side of Milton Avenue 199.5 feet to the intersection of the northeastern side of Milton Avenue and the northeastern side of McDonough Boulevard; thence southeasterly along the northeastern side of McDonough Boulevard 167.8 feet to the point of beginning, being Lots 1, 2, 3 and 4, and parts of lots 5 and 30 of the Nolan Property, a subdivision by S. D. Thurman & Co., as per plat by J. C. Conn, C.E., dated June, 1906, and recorded in Plat Book 2, page 164, in the Office of the Clerk of the Superior Court of Fulton County, Georgia, and being property known as 310 McDonough Boulevard, S.E., according to the present system of numbering houses in the City of Atlanta, and according to a plat of survey for Atlanta Steel Erectors, Inc., prepared by Bush, Blood and Boyd, Inc., dated July 2, 1975, revised July 18, 1975.



Z-02-92



Zoning Map Search

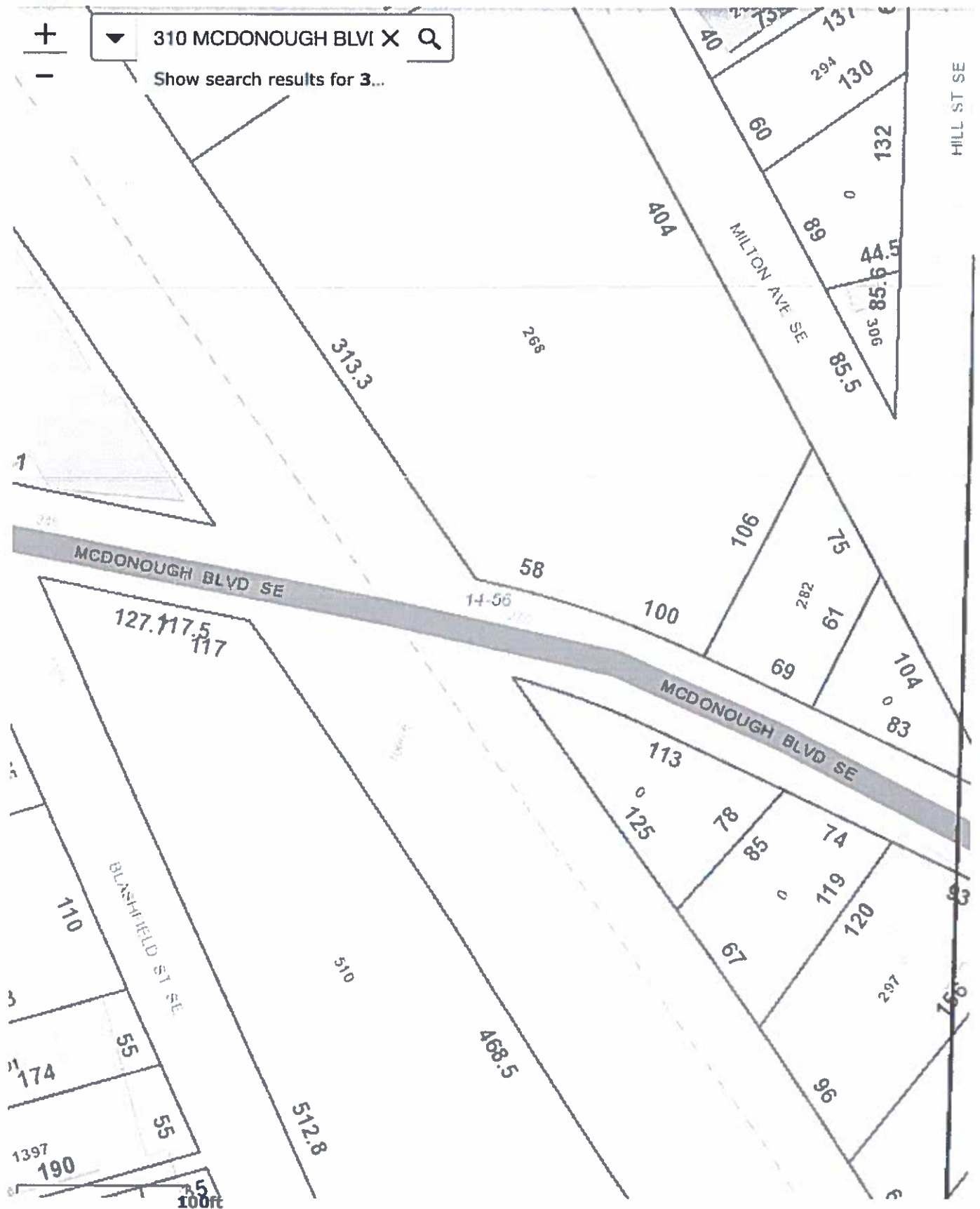
DPCD



▼ 310 MCDONOUGH BLVD X 🔍



Show search results for 3...



33.718 -84.378 Degrees

DECISION APPEALED



CITY OF ATLANTA
OFFICE OF BUILDINGS
 55 TRINITY AVE, SW • S
 ATLANTA, GEORGIA 30303

CERTIFIED MAIL



7036 1970 0000 4661 1588

First Class Mail
 Combined Price



U.S. POSTAGE® PRIMEY BOWLES
 ZIP 30303 \$ 006.56⁰
 0600336102 JUN 26 2017

Kashka Scott
Mission Development
231 Rope Mill Pkwy
Woodstock, GA 30188

30188-245331





CITY OF ATLANTA

DEPARTMENT OF CITY PLANNING

55 Trinity Avenue, S.W. SUITE 3900 - ATLANTA, GEORGIA 30303

404-330-8150 - FAX: 404-858-6979

<http://www.atlantaga.gov/Government/Planning/buro/buildings.aspx>

M. KASIM REED
MAYOR

Tim Keane
Commissioner

Gregory L. Pace
Co-Interim Director
Office of Buildings

Fredalyn Frasier
Co-Interim Director
Office of Buildings

Date: April 26, 2017

From: Shennetha Smith, Zoning Inspector Sr. *SS*
City of Atlanta Office of Buildings

Re: 310 McDonough Blvd S.E.
Nonconforming Use Verification Request

Inspection results:

- An exterior zoning inspection was conducted at 310 McDonough Blvd SE on April 17, 2017. The inspection revealed vehicles stored on the premises and opaque fencing material installed over the chain-link fence, which prevented direct access to the primary building.

Research:

- The zoning of the property was rezoned from I-1-C (Light Industrial-Conditional) to RG-3-C (Residential General Sector-3-Conditional), and was approved by the mayor on March 25, 2003. Substitute Ordinance Z-02-92.
- City of Atlanta Office of Revenue Business License Division revealed several previous businesses on file at the location.
- Haines Directories indicated no information available from 1966-2000.
- Atlanta GIS research shows the property was rezoned to RG-3-C on March 17, 2003 per Ordinance No. Z-02-92.
- Accela research shows several housing code cases which have been resolved:
 1. one electrical permit issued on February 8, 2016
 2. one building complaint from March 2016
 3. one zoning complaint from December 2016
- Georgia Power has indicated service ended on December 8, 2016 and new service was active on April 3, 2017.
- Real estate research does not show the property listed for sale.
- Research in Kiva revealed three permits were issued:
 1. Kiva Permit PZ-2001136 was issued to construct new townhomes on November 18, 2002
 2. Kiva Permit BLM1-200701799 was issued on August 13, 2007
 3. Kiva Permit ATRP-200800083 was issued on February 8, 2008 for tree removal

- City of Atlanta Department of Watershed Management records indicated no water service usage from May 2002-April 2003, no water service from May 2003-April 2004, no water service from February 2008-July 2008, and no water service from March 2009-November 2015.
- The current water service usage has been active since April 2016.
- A business license was issued in error for auto repair on February 17, 2016. A letter to rescind the business license was hand-delivered to the owner of said business to cease and desist. The previous occupant Pedro Tinoco was served with a citation to appear in court for noncompliance on September 12, 2016.

Final assessment:

The applicant has submitted three affidavits without contact information in which nonconforming verification use cannot be confirmed. Therefore, with the above being stated, it has been concluded that this property **does not** meet the criteria for consideration as a legal nonconforming commercial use, and the current permitted principal use must comply with the current zoning district regulations **RG-3-C** (*Residential-General Sector-3 Conditional*).

Cc: Gregory Pace, Interim Director, DCP – Office of Buildings

The Hilliard Firm LLC

260 Peachtree Street, Suite 401
Atlanta, Georgia 30303
(678) 952-8855 (office)
(404) 797-5525 (direct dial)
www.thehilliardfirm.com

M. HAKIM HILLIARD
hhilliard@thehilliardfirm.com

October 27, 2016

VIA ELECTRONIC MAIL

Felicia McCrary,
City of Atlanta Bureau of Buildings
55 Trinity Avenue, SW
Atlanta, Georgia 30303

RE: 310 McDonough Boulevard, SE
Atlanta, Georgia

Dear Felicia:

This letter is prepared in reference to my representation of the above-referenced property located at 310 McDonough Boulevard, SE, Atlanta, Georgia. In this regard, it is his position that, despite his action in rezoning the subject property, he submits that he never demonstrated an intention to abandon the use of the subject property as a car repair and storage facility since acquiring the property in 2006. Therefore, he is seeking confirmation from your office that his current business operation is a legal nonconforming use pursuant to the City of Atlanta Code of Ordinances. earlier this week as planned. Thank you for taking the time to review this Notice of Conflict.

In support of Mr. Scott's position that he enjoys nonconforming he has prepared an affidavit, along with supporting documents. You will see from the attached list that the affidavits that support Mr. Scott's are not notarized, and the real estate listings referenced as Exhibit D. are not attached. We recognize the affidavits need to be executed to be relied upon, and the listings need to be provided, but we wanted to provide you with this information without further delay, and we commit to deliver executed affidavits and listing by close of business on Monday, October 31.

Please call me if you have any questions. Otherwise, I look forward to delivering you the additional documentation on Monday.

Sincerely,



M. Hakim Hilliard

Cc: Mr. K.K. Scott
Jeffrey Haymore, Esquire
File

AFFIDAVIT OF KASHKA SCOTT

STATE OF GEORGIA

COUNTY OF FULTON

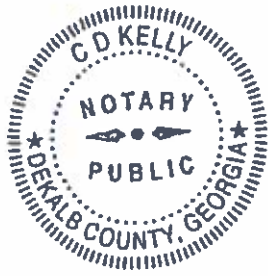
Before the undersigned, an officer duly commissioned by the laws of the State of Georgia, on this 27th day of October, 2016, personally appeared KASHKA SCOTT, who having been duly sworn depose and say:

1. I am over 21 years of age and I reside in the State of Georgia.
2. I am the owner of Scott and Sons Holdings, a business that I incorporated in 1998 for the purpose of, among other things, storing and repairing the heavy equipment and other industrial vehicles associated with my business operations.
3. Contemporaneously with the incorporation of my business, I obtained a business license from the City of Atlanta. See, Copy of Business License No. 145667LGB, attached hereto as Exhibit A.
4. In 2006, I purchased the property located at 310 McDonough Boulevard in the City of Atlanta (the "Subject Property"). At the time of my purchase, it was operating as an auto repair shop.
5. I immediately began operating my business on the Subject Property with the same use as the previous owner. In fact, Pedro Tinicio, one of the mechanics who worked at the previous operation, has continued to work for me until today by servicing and repairing my vehicles on the Subject Property.
6. In addition to Mr. Stuart Bailey and other contractors, I work closely with Heavy Equipment Logistics, an independent contractor I periodically engage to pick up and drop off my vehicles and other heavy equipment from the Subject Property and other job sites. See, Affidavit of Stuart Bailey, attached hereto as Exhibit B.
7. In conjunction with my application to become a certified vendor with the City of Atlanta, the City of Atlanta, in fact, inspected the Subject Property to ensure my business was an actual operating business, performing the services outlined in my description of services on my application. See, Copy of Certification attached hereto as Exhibit C.
8. Although the Subject Property has always been used for the purpose described above since I purchased it in 2006, there are periods of no activity between jobs or between servicing of my vehicles and other equipment, but there has never been a period of more than two

months or more when there was not active servicing and repairing of vehicles occurring on the Subject Property.

9. In addition, I also spent time listing the Subject Property for sale for the same industrial use it is being used for now. A copy of the listings are attached hereto as Exhibit D.


KASHKA SCOTT



Subscribed and sworn to before me this 27th day of October, 2016


Notary Public

My commission expires on _____

C D Kelly
Notary Public, Dekalb County, GA
My Commission Expires February 21, 2020

Please Check box if this is a new address

Postage Required
Paid Office
We Mail
Driver Without
Proper Postage



**CITY OF ATLANTA, GEORGIA - DEPARTMENT OF FINANCE
OCCUPATION TAX REGISTRATION CERTIFICATE**

CERTIFICATE NO. : 145667LGB
BUSINESS NAME : SCOTT AND SONS HOLDINGS
LOCATION : 1850 JONESBORO RD SE ATLANTA GA 30315

DATE ISSUED : 1-1-2015 EXPIRES ON : 12-31-2015

BUSINESS NAME AND ADDRESS:

**SCOTT AND SONS HOLDINGS
P.O. BOX 12556
ATLANTA GA 30315**



**J. Anthony "Jim" Beard, CTP
Chief Financial Officer**

DISPLAY THIS CERTIFICATE IN A CONSPICUOUS PLACE AT BUSINESS LOCATION
NOT VALID IF BUSINESS LOCATION DOES NOT COMPLY TO CITY ZONING REQUIREMENTS
NOT VALID UNLESS ACCOMPANIED BY STATE OF GEORGIA LICENSE(S) IF REQUIRED

CERTIFICATE NOT TRANSFERABLE

IF BUSINESS TERMINATES OR CHANGES OWNERSHIP DURING CERTIFICATE PERIOD
CALL THE BUSINESS LICENSE OFFICE AT 404-330-6278

THIS CERTIFICATE IS SUBJECT TO ALL APPLICABLE ORDINANCES AND LAWS

Ex. A"

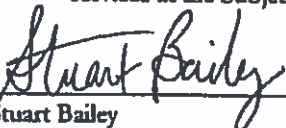
AFFIDAVIT OF STUART BAILEY

STATE OF GEORGIA

COUNTY OF FULTON

Before the undersigned, an officer duly commissioned by the laws of the State of Georgia, on this 3rd day of May, 2016, personally appeared Stuart Bailey, who having been duly sworn depose and say:

1. I am over 21 years of age and I reside in the State of Georgia.
2. I am the owner of PWG, a business that heavy equipment mechanical services.
3. In conjunction with my work, since 2006, I have periodically been engaged by Kashka Scott of Scott and Sons Holdings to service, repair and/or deliver and pick up heavy machinery and vehicles from property located at 310 McDonough Boulevard in the City of Atlanta (the "Subject Property").
4. At every occasion that I have visited the Subject Property in a professional capacity, it was always in conjunction with the performance of work on behalf of the owner.
5. I have visited the Subject Property at least 3 per year since 2006 to perform professional services at the Subject Property.


Stuart Bailey

Subscribed and sworn to before me this ____ day of _____, 2016

Notary Public

My commission expires on _____

Ex. B

The State of Georgia

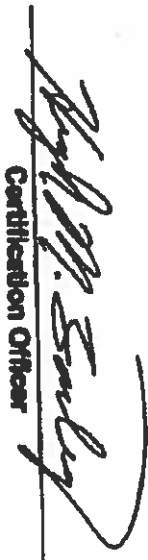


Department of Administrative Services
Certificate of Registration

This firm has been registered as a Certified Minority Business Enterprise and Certified Minority Subcontractor

Scott and Sons Holding, Inc.
P.O. Box 12556
Atlanta, Georgia 30315

From: 11-15-2007 to: 11-15-2010
(Must file annual Affidavit with GDOT)
Certification Number: 2007-1155


Certification Officer

EX. C



Trust • Hardiness • Service

Department of Administrative Services

State Purchasing Division

Tim O'Keefe, C.P.M.

Assistant Commissioner-Procurement

Sunny Farlee
Governor

Brad Douglas
Commissioner

November 20, 2007

Ms. Kashka Scott, President
SCOTT AND SONS HOLDING, LLC
P.O. box 12556
Atlanta, Georgia 30315

Dear Ms. Kashka:

Thank you for becoming a Certified Minority Business Enterprise (MBE) vendor with the State of Georgia. Enclosed is your Certificate of Certification along with a status verification letter. This certification is in conjunction with the Disadvantaged Business Enterprise (DBE) certificate you received from our Georgia Department of Transportation.

Please contact our office at 404.636.0936 should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Hugh M. Farley".

Hugh M. Farley
Vendor Relations



Department of Transportation

State of Georgia
#2 Capitol Square, S.W.
Atlanta, Georgia 30334-1002

HAROLD E. LINNENKOHLE
COMMISSIONER
(404) 858-8206

GERALD M. ROSS, P.E.
CHIEF ENGINEER
(404) 858-8277

BUDDY GRATTON, P.E.
DEPUTY COMMISSIONER
(404) 858-8212

EARL L. MAHFULZ
TREASURER
(404) 858-5224

November 15, 2007

Ms. Kashka Scott, President
SCOTT AND SONS HOLDING, LLC
P.O. Box 12556
Atlanta, Georgia 30315

Dear Ms. Scott:

The Georgia Department of Transportation has reviewed your updated Georgia Uniform Certification Disadvantaged Business Enterprise (DBE) application. Our evaluation of the information submitted with your request for certification indicates that your firm has met the criteria outlined in Federal Regulations 49 CFR, Part 26.

Accordingly, your firm has been certified for a period of three (3) years beginning with the effective date of this letter and the expiration date is November 15, 2010.

Your Vendor ID Code is: 2SC514


Your firm has been certified to provide the following services as outlined in the North American Industry Classification System (NAICS):

| | |
|-------------------|--|
| NAICS Code 236210 | Industrial Building Construction |
| NAICS Code 236220 | Commercial and Institutional Building Construction |
| NAICS Code 237310 | Highway, Street, and Bridge Construction |
| NAICS Code 238910 | Site Preparation Contractors |
| NAICS Code 541330 | Engineering Services |

You will receive an annual Affidavit of No Change and Personal Financial Statement (PFS) approximately thirty days prior to your firm's certification anniversary date. This Affidavit of No Change and PFS must be completed, signed and returned to our office before your anniversary date in order to continue your firm's eligibility as a Disadvantaged Business Enterprise.

If at any time during the year there is a change in ownership and/or control of your firm, address and/or phone number you are required to notify this office of such change immediately in writing.

Sincerely,

for 
Patricia A. "Pat" Flower
EEO Assistant Administrator -- DBE Program


Michael G. Cooper
Equal Opportunity Division Director

MGC/YLC

Ex. D (not attached)

Other affidavits,
(to be supplemented)


AFFIDAVIT OF PEDRO TINOCA

STATE OF GEORGIA

COUNTY OF FULTON

Before the undersigned, an officer duly commissioned by the laws of the State of Georgia, on this 6th day of June 2016, personally appeared Pedro Tinoca, who having been duly sworn depose and say:

1. I am over 21 years of age and I reside in the State of Georgia.
2. I am the owner of Backyard Works, a auto repair business.
3. In conjunction with my work, since 2006, I have periodically been engaged by Kashka Scott to service, repaid and/or deliver and pick up heavy machinery and vehicles from property located at 310 McDonough Boulevard in the City of Atlanta (the "Subject Property").
4. At every occasion that I have visited the Subject Property in a professional capacity, it was always in conjunction with the performance of work on behalf of the owner.
5. I have visited the Subject Property at least 5 per year since 2006 to perform professional services at the Subject Property.
6. In 2001 to 2006, I worked at the property located at 310 McDonough Blvd. At the time of my employment, it was operating as an auto repair shop.



Pedro Tinoca

Subscribed and sworn to before me this ____ day of ____, 2016

Notary Public

My commission expires on _____

AFFIDAVIT of LORENZO PRECIADO

STATE OF GEORGIA

COUNTY OF FULTON

Before the undersigned, an officer duly commissioned by the laws of the State of Georgia, on this 4 day of August, 2016, personally appeared Lorenzo Preciado, who having been duly sworn depose and say:

1. I am over 21 years of age and I reside in the State of Georgia.
2. I am a former employee of Scott and Son's Holdings llc. the owner of 310 McDonough Blvd Atl GA 30315.
3. In conjunction with my employment, since 2006, I have periodically been engaged in my duties at 310 McDonough Blvd to store equipment & construction materials.
4. At every occasion that I have visited the Subject Property in a employment capacity, it was always in conjunction with the performance of work on behalf of the owner.
5. I have visited the Subject Property at least 10 per year since 2006 to perform professional duties at the Subject Property.

Lorenzo Preciado
Lorenzo Preciado

Subscribed and sworn to before me this ____ day of _____, 2016

Notary Public

My commission expires on _____

AUTHORIZATION OF ATTORNEY
(Required only if the appellant is represented by an attorney.)

(Please Print Clearly)

I SWEAR, AS AN ATTORNEY AT LAW, THAT I HAVE BEEN AUTHORIZED BY THE APPELLANT TO FILE THE ATTACHED APPEAL APPLICATION.

NAME OF APPELLANT:

LAST NAME Mission Development FIRST NAME _____
ADDRESS 231 Rope Mill Pkwy SUITE _____
CITY Woodstock STATE Georgia ZIP CODE 30188

APPELLANT'S TELEPHONE NUMBER: 404.944.9420

NAME OF ATTORNEY:

LAST NAME HILLIARD FIRST NAME M. HAKIM
ADDRESS 260 PEACHTREE SUITE 401
CITY ATLANTA STATE GEORGIA ZIP CODE 30303

ATTORNEY'S TELEPHONE NUMBER: 404.389.9085


SIGNATURE OF ATTORNEY

V-17-212
RECEIVED

AUTHORIZATION BY PROPERTY OWNER
(Required only if the applicant is not the owner of the property subject to the appeal.)

JUL 26 2017

(Please Print Clearly)

OF
PLANNING

I. Mission Development (OWNER'S NAME) SWEAR AND AFFIRM THAT I AM THE OWNER OF THE PROPERTY AT 310 McDonough Blvd (PROPERTY ADDRESS). AS SHOWN IN THE RECORDS OF _____ COUNTY, GEORGIA, WHICH IS THE SUBJECT MATTER OF THE ATTACHED APPEAL APPLICATION. I AUTHORIZE THE PERSON NAMED BELOW TO FILE THIS APPLICATION AS MY AGENT.

NAME OF APPLICANT:

LAST NAME Scott FIRST NAME Kashka

ADDRESS 231 Roper Mill Pkwy SUITE _____

CITY Woodstock STATE Georgia ZIP CODE 30188

OWNER'S TELEPHONE NUMBER: 404.944.9420

[Signature]
SIGNATURE OF OWNER

Kashka Scott
PRINT NAME OF OWNER

PERSONALLY APPEARED BEFORE ME THE ABOVE NAMES, WHO SWEARS THAT THE INFORMATION CONTAINED IN THIS AUTHORIZATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

[Signature]
NOTARY PUBLIC
7-19-17

DATE

