

# Rezoning Plat

## 2455 Austell Road

Cobb County, Georgia  
Land Lot 15, 17th District, 2nd Section

prepared for:  
**Cortez Auto Sales, Inc.**

**DGM**  
LAND PLANNING  
CONSULTANTS



975 Gas Flux  
Box 506  
KENNESAW  
GA 30144  
770 514-9006  
FAX 514-9491



R-15



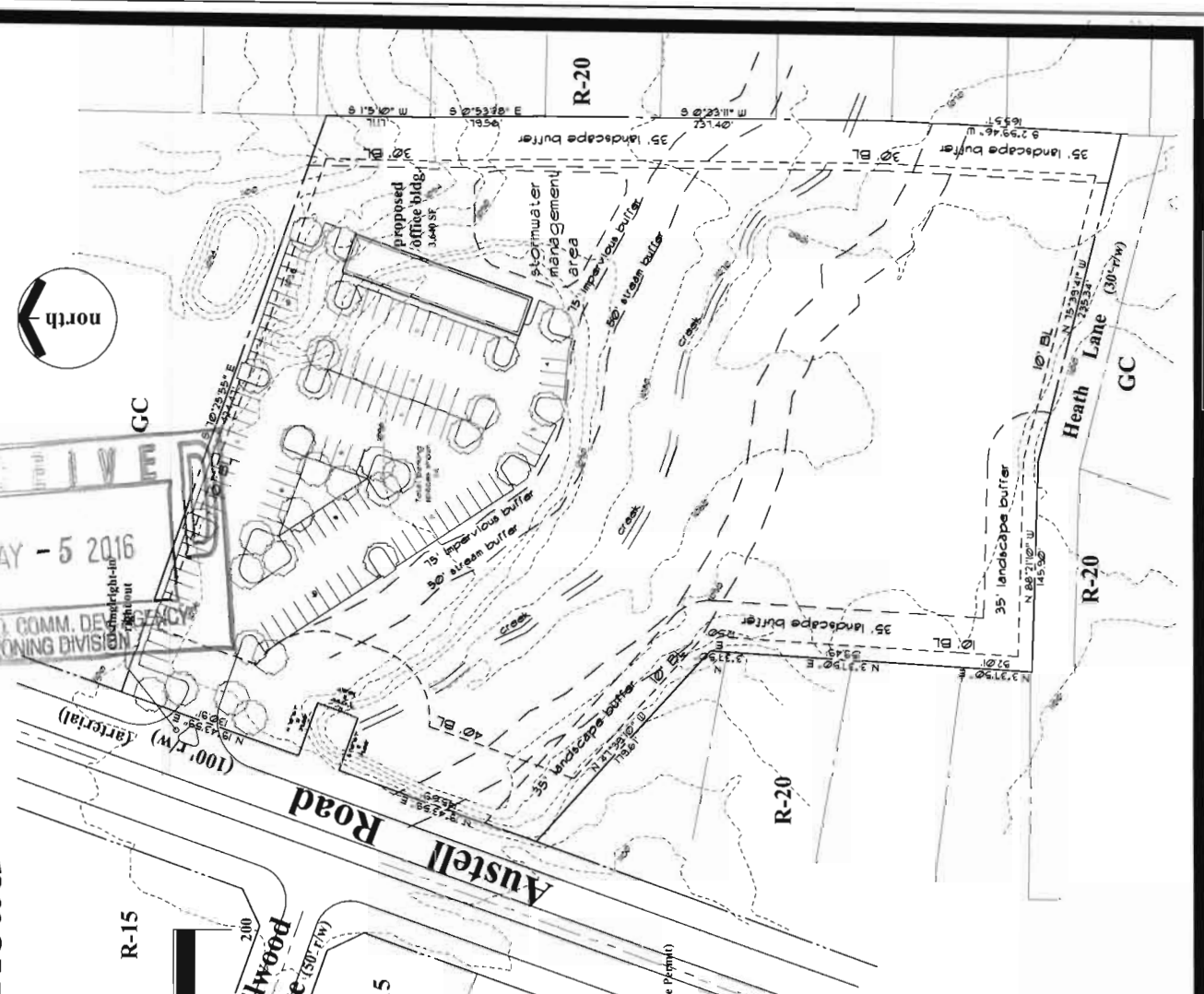
R-15

NS

### Site Data

Total Site Area: 5.63 AC  
Existing Zoning: GC  
Proposed Zoning: CRC (w/Special Land Use Permit)  
Total Building Area Shown: 3,640/SF  
Total Parking Spaces Shown: 114  
CRC Building Setbacks:  
front: 40'  
side: 10'  
rear: 30'

- NOTES:**
1. Boundary, non-surveyed areas.
  2. Topographic information from Cobb County GIS.
  3. All measurements are to the center of the lot unless otherwise noted.
  4. No easements are shown, to exist on this site.
  5. Survey and utility data are to be determined.
  6. No utility lines or structures are shown to exist on this site.
  7. No utility easements are shown to exist on this site.



**APPLICANT:** Cortez Auto Sales, Inc.

**PHONE#:** 770-912-0831 **EMAIL:** hugo1125@hotmail.es

**REPRESENTATIVE:** Garvis L. Sams, Jr.

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

**TITLEHOLDER:** Georgia-Cumberland Association of Seventh-Day Adventist, Inc.

**PROPERTY LOCATION:** On the east side of Austell Road, south of Windy Hill Road

(2455 Austell Road)

**ACCESS TO PROPERTY:** Austell Road

**PHYSICAL CHARACTERISTICS TO SITE:** Undeveloped wooded lot

**PETITION NO:** Z-56

**HEARING DATE (PC):** 07-07-16

**HEARING DATE (BOC):** 07-19-16

**PRESENT ZONING** GC

**PROPOSED ZONING:** CRC

**PROPOSED USE:** Previously owned automobile sales facility

**SIZE OF TRACT:** 5.6287 acres

**DISTRICT:** 17

**LAND LOT(S):** 15

**PARCEL(S):** 5

**TAXES: PAID** X **DUE** \_\_\_\_\_

**COMMISSION DISTRICT:** 4

**CONTIGUOUS ZONING/DEVELOPMENT**

**NORTH:** GC/ Pawn Shop and Shooting Range

**SOUTH:** R-20/ Single Family Home

**EAST:** R-20/ Milford Heights Subdivision

**WEST:** R-15/ Milwood Forest Subdivision

*Adjacent Future Land Use:*

North: Neighborhood Activity Center (NAC)

East: Low Density Residential (LDR)

South: Neighborhood Activity Center (NAC)

West: Low Density Residential (LDR) and

Neighborhood Activity Center (NAC)

**OPPOSITION:** NO. OPPOSED **PETITION NO:** \_\_\_\_\_ **SPOKESMAN** \_\_\_\_\_

**PLANNING COMMISSION RECOMMENDATION**

**APPROVED** \_\_\_\_\_ **MOTION BY** \_\_\_\_\_

**REJECTED** \_\_\_\_\_ **SECONDED** \_\_\_\_\_

**HELD** \_\_\_\_\_ **VOTE** \_\_\_\_\_

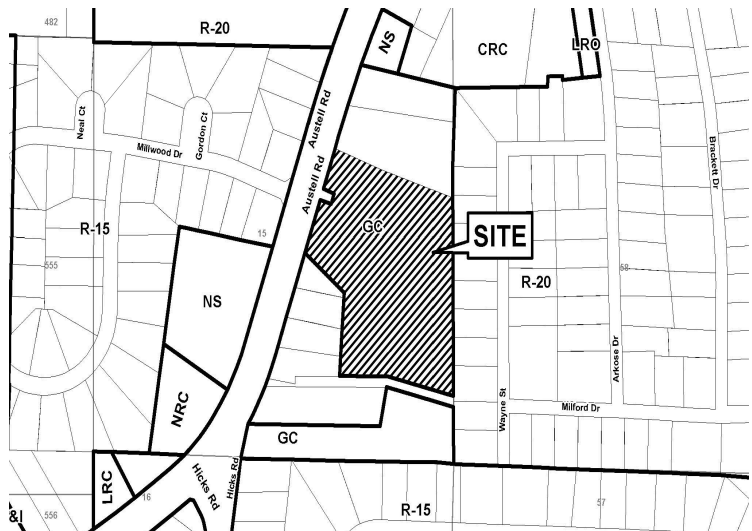
**BOARD OF COMMISSIONERS DECISION**

**APPROVED** \_\_\_\_\_ **MOTION BY** \_\_\_\_\_

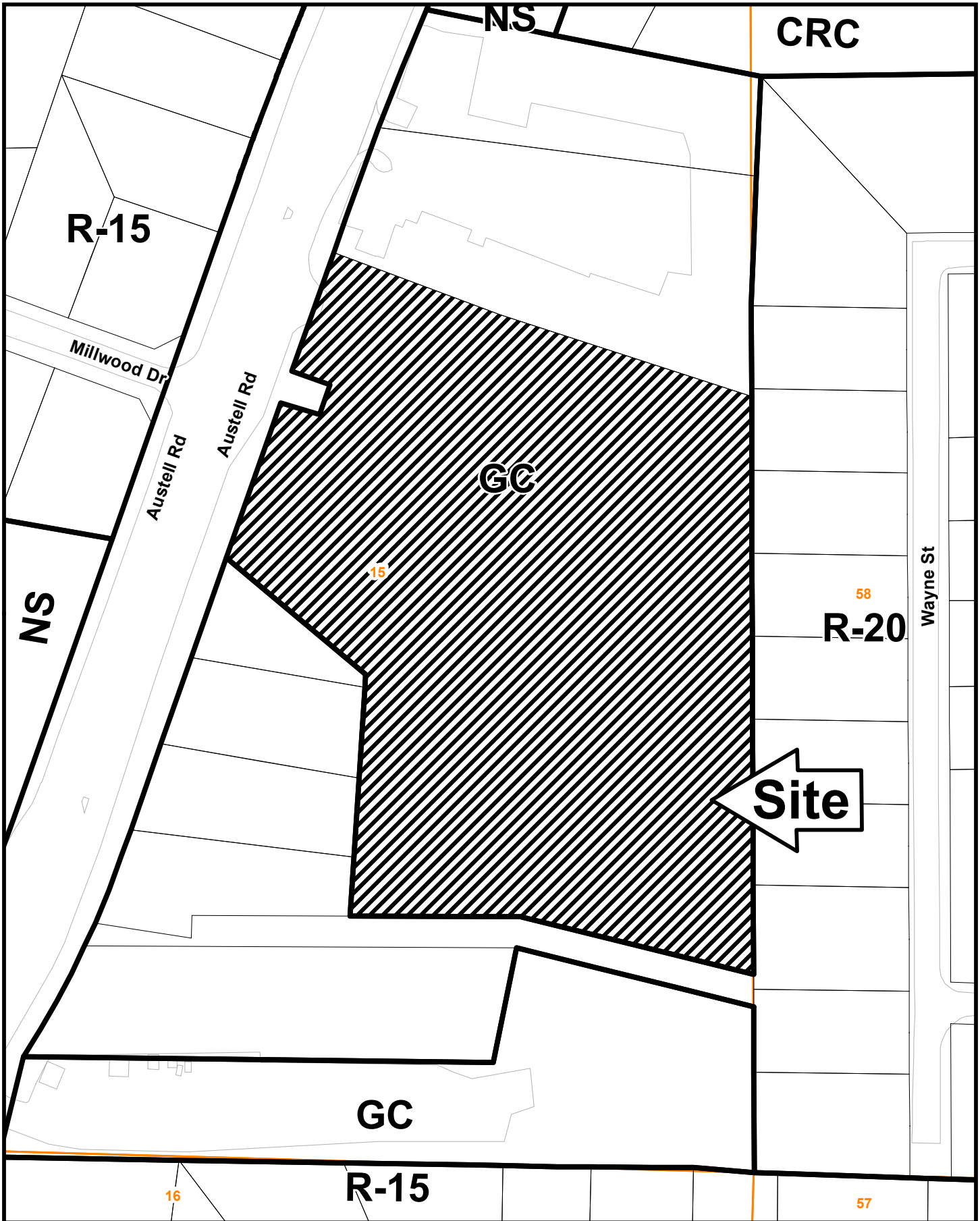
**REJECTED** \_\_\_\_\_ **SECONDED** \_\_\_\_\_

**HELD** \_\_\_\_\_ **VOTE** \_\_\_\_\_

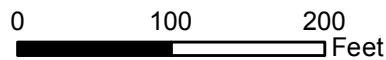
**STIPULATIONS:**



# Z-56-2016 GIS



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



- City Boundary
- Zoning Boundary

**APPLICANT:** Cortez Auto Sales, Inc.

**PETITION NO.:** Z-56

**PRESENT ZONING:** GC

**PETITION FOR:** CRC

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**ZONING COMMENTS:**

**Staff Member Responsible:** Donald Wells

**Land Use Plan Recommendation:** Neighborhood Activity Center (NAC)

**Proposed Number of Buildings:** 1 **Total Square Footage of Development:** 3640

**F.A.R.:** .014 **Square Footage/Acre:** 646.5

**Parking Spaces Required:** 19 plus 1 space per car **Parking Spaces Provided:** 114

The applicant is requesting the CRC zoning category for a previously owned automobile sales facility. The applicant intends to operate the facility Monday through Saturday from 8:00 am to 6:00 pm and closed on Sunday. The applicant proposes to build a 3640 square foot sales office. The applicant has also applied for a Special Land Use Permit as required by the code as SLUP-8. This property has been undeveloped for many years. The code states that should any undeveloped property zoned GC outside of a community activity center or regional activity center fail to commence development by January 17, 1996, the owner of such property shall be required to bring the property back in for rezoning consistent with the comprehensive plan prior to any development.

**Cemetery Preservation:** No comment.

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**APPLICANT:** Cortez Auto Sales

**PETITION NO.:** Z-56 & SLUP -8

**PRESENT ZONING:** GC

**PETITION FOR:** CRC

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**FIRE COMMENTS:**

NO 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: Cortez Auto Sales, Inc

PETITION NO.: Z-56

PRESENT ZONING: GC

PETITION FOR: CRC

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**PLANNING COMMENTS:**

The applicant is requesting a rezoning from GC to CRC for the purpose of previously owned automobile sales facility. The 5.6287 acre site is located on the east side of Austell Road, south of Windy Hill Road (2455 Austell Road).

HB-489 Intergovernmental Agreement Zoning Amendment Notification:

Is the application site within one half (1/2) mile of a city boundary?  Yes  No  
If yes, has the city of \_\_\_\_\_ been notified?  Yes  No / N/A

Comprehensive Plan

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

Specific Area Policy Guidelines:

There are no specific policy guidelines for this area in the Comprehensive Plan.

Adjacent Future Land Use:

North: Neighborhood Activity Center (NAC)  
East: Low Density Residential (LDR)  
South: Neighborhood Activity Center (NAC)  
West: Low Density Residential (LDR) and Neighborhood Activity Center (NAC)

Master Plan/Corridor Study

The property is located within the boundary of the Austell Road Corridor Study

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.

**APPLICANT: Cortez Auto Sales, Inc**

**PRESENT ZONING: GC**

**PETITION NO.: Z-56**

**PETITION FOR: CRC**

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**PLANNING COMMENTS:**

**Continued**

Is the property within an Enterprise Zone?  Yes  No

The Smyrna-Osborne 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 Community Development Agency, Planning Division at 770.528.2018 or find information online at <http://economic.cobbcountyga.gov>.

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

Is this property within the Six Flags Special Service District?

Yes  No

Is the property within the Dobbins Airfield Safety Zone?

Yes  No

If so, which particular safety zone is this property within?

CZ (Clear Zone)  APZ I (Accident Potential Zone I)

APZ II (Accident Potential Zone II)

Bird / Wildlife Air Strike Hazard (BASH) area

APPLICANT Cortez Auto Sales

PETITION NO. Z-056

PRESENT ZONING GC

PETITION FOR CRC

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**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 / E side of Austell Rd

Additional Comments:

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.

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**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: ~20' N of property line in Austell Road ROW

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

Dry 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 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: Cortez Auto Sales, Inc.

PETITION NO.: Z-56

PRESENT ZONING: GC

PETITION FOR: CRC

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**STORMWATER MANAGEMENT COMMENTS**

FLOOD HAZARD:  YES  NO  POSSIBLY, NOT VERIFIED

DRAINAGE BASIN: Favor 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: within and adjacent to stream channel

- 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 the proposed project on receiving stream and existing culvert at Wayne Street.

APPLICANT: Cortez Auto Sales, Inc.

PETITION NO.: Z-56

PRESENT ZONING: GC

PETITION FOR: CRC

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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 stormwater management system must be designed to accommodate and provide conveyance through the site for the existing detention pond discharge from 2445Austell Road to the north.

**APPLICANT:** Cortez Auto Sales, Inc.

**PETITION NO.:** Z-56

**PRESENT ZONING:** GC

**PETITION FOR:** CRC

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**TRANSPORTATION COMMENTS:**

ROADWAY	AVERAGE DAILY TRIPS	ROADWAY CLASSIFICATION	SPEED LIMIT	JURISDICTIONAL CONTROL	MIN. R.O.W. REQUIREMENTS
Austell Road	30,600	Arterial	45 mph	Georgia DOT	100'

*Based on 2013 traffic counting data taken by Cobb County DOT for Austell Road.*

**COMMENTS AND OBSERVATIONS**

Austell Road is classified as an arterial and according to the available information the existing right-of-way does meet the minimum requirements for this classification.

**RECOMMENDATIONS**

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

Recommend replacing disturbed curb, gutter, and sidewalk along the Austell Road frontage.

Recommend a deceleration lane on Austell Road for the entrance.

Recommend restricting the Austell Road driveway to right in/right out and to be in compliance with commercial driveway standards.

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

## STAFF RECOMMENDATIONS

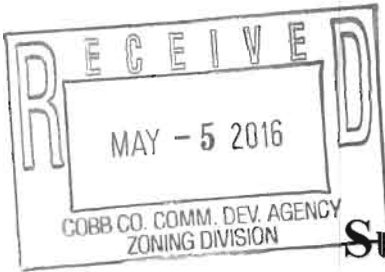
### **Z-56 CORTEZ AUTO SALES, INC.**

- 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. This property is located in an area that consist of retail and residential uses. This property will be surrounded by residentially zoned property on 3 sides.
- B. It is Staff's opinion that the applicant's rezoning proposal may have an adverse affect on the usability of adjacent or nearby property. The adjacent commercial properties are nonconforming uses and will require rezoning upon use change or redevelopment. The land use plan suggest the uses include small offices, limited retail and grocery stores.
- C. It is Staff's opinion that the applicant's rezoning proposal will not 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 in a Neighborhood Activity Center (NAC). Neighborhood Activity Centers are to provide for areas that serve neighborhood residents and businesses. Typical land uses for these areas includes small offices, limited retail uses and grocery stores.
- 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 deleting the applicant's rezoning proposal to NRC. The deletion of this request will bring the property into compliance with the NAC land use category, and will allow some type of development in the future.

Based on the above analysis, Staff recommends **DELETING to NRC** subject to the following conditions:

1. District Commissioner approve final Site Plan;
2. Prohibit all automotive uses;
3. Water and Sewer Division comments and recommendations;
4. Stormwater Management Division comments and recommendations;
5. Department of Transportation comments and recommendations;

**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.**



Application No. Z-56  
PC Hearing: July 7, 2016  
BOC Hearing: July 19, 2016

## Summary of Intent for Rezoning \*

.....  
**Part 1. Residential Rezoning Information (attach additional information if needed)**

- a) Proposed unit square-footage(s): N/A
  - 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): Previously owned automobile sales facility
- b) Proposed building architecture: To be submitted under separate cover.
- c) Proposed hours/days of operation: Monday - Saturday from 10:00 a.m. to 6:00 p.m. and closed on Sundays.
- d) List all requested variances: Shown on site plan (if any).

\* In the event that Cortez Auto Sales, Inc. does not close on the subject property within six (6) months after the approval of same, the zoning classification shall revert to the GC Zoning Classification without any further action being necessary on the part of Cobb County or the Property Owner.

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**Part 3. Other Pertinent Information (List or attach additional information if needed)**

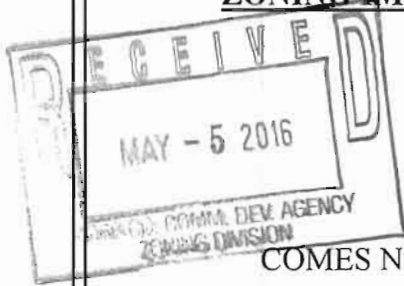
The subject property is presently zoned General Commercial ("GC") and located within the confines of a Neighborhood Activity Center ("NAC") under the County's Future Land Use Map.

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**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). None known at this time

.....  
\* Applicant specifically reserves the right to amend any information set forth in this Summary of Intent for Rezoning, or any other portion of the Application for Rezoning, at any time during the rezoning process.

**ZONING IMPACT STATEMENT FOR THE REZONING APPLICATION**  
**OF CORTEZ AUTO SALES, INC.**



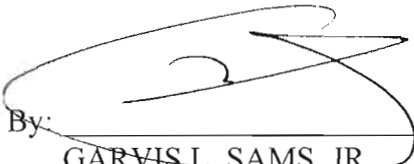
COMES NOW, CORTEZ AUTO SALES, INC., and, pursuant to §134-121(a)(7) of the Cobb County Zoning Ordinance, files this Zoning Impact Statement, as follows:

- A. The zoning proposal will permit a use of the property which is suitable in the context of development, uses and existing zonings along this section of the Austell Road Corridor.
  
- B. The zoning proposal will have no adverse effect or impact upon the exiting uses or usability of adjacent or nearby properties, the preponderance of which are designated as General Commercial (“GC”), Neighborhood Shopping (“NS”), and Neighborhood Retail Commercial (“NRC”) all located within an Neighborhood Activity Center (“NAC”) on Cobb County’s Future Land Use Map. Additionally, although lying within the same Neighborhood Activity Center, there are existing Community Retail Commercial (“CRC”) zoned properties and uses further north at the intersection of Austell Road and Windy Hill Road.

- C. The subject property to be affected by the zoning proposal has limited 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 zoning classification of General Commercial (“GC”).
- 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. There is an existing right-in/right-out curb cut and sidewalks along the property frontage.
- E. The zoning proposal is consistent with the uses and purposes contemplated under Cobb County's Comprehensive Land Use Plan and Future Land Use Map with the subject property lying and being within an existing Neighborhood Activity Center (“NAC”) area. There are intensive existing GC zoned uses immediately north of this site which include a Gun Shop and Range and a Pawn Shop selling Jewelry and Guns among other items.

F. There is no substantial relationship between the existing zoning classification of General Commercial (“GC”) and Community Retail Commercial (“CRC”) 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 this section of the Austell Road Corridor, there are no established land use planning principles or political considerations which would vitiate the zoning proposal.

SAMS, LARKIN HUFF AND BALLI, LLP

By: 

GARVIS L. SAMS, JR.  
Attorney for Applicant  
Ga. Bar No. 623950

SAMS, LARKIN, HUFF  
& BALLI, LLP

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