



Cobb County Community Development Agency  
Zoning Division

1150 Powder Springs St. Marietta, Georgia 30064

Case # Z-55

Public Hearing Dates:

PC: 09-04-18

BOC: 09-18-18

---

**SITE BACKGROUND**

Applicant: Shiv Aggarwal

Phone: (770) 416-1111

Email: shiv@aggarwalre.com

Representative Contact: John E. Underwood

Phone: (770) 925-0111/Ext. 1303

Email: junderwood@tokn.com

Titleholder: Vishal Hawthorne Plaza, LLC

Property Location: South side of Veterans Memorial Highway, north side of Old Powder Springs Road, on the west side of Old Powder Springs Road Connector and on the northwest side of Old Bankhead Highway

Address: 1245 Veterans Memorial Highway

---

**QUICK FACTS**

Commission District: 4-Cupid

Current Zoning: PSC (Planned Shopping Center)

Current use of property: Retail Center

Proposed zoning: GC (General Commercial)

Proposed use: Assembly Hall for Suites 29 & 30

Future Land Use Designation: Community Activity Center (CAC)

Site Acreage: 9.1665 ac

District: 18, 19

Land Lot: 35, 1298

Parcel #: 19129800200

Taxes Paid: Yes

---

**FINAL ZONING STAFF RECOMMENDATION:**

(Zoning staff member: Jason Campbell)

Based on the analysis of this case, Staff recommends **APPROVAL**, subject to:

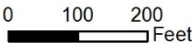
1. Site plan received by the Zoning Division on August 15, 2018, with the District Commissioner approving minor modifications;
2. Variances mentioned in the Zoning Division comments;
3. Water and Sewer Division comments and recommendations;
4. Stormwater Management Division comments and recommendations;
5. Department of Transportation comments and recommendations; and
6. Applicant to meet the Veterans Memorial Highway Design Guidelines.



# Z-55 2018-Aerial Map



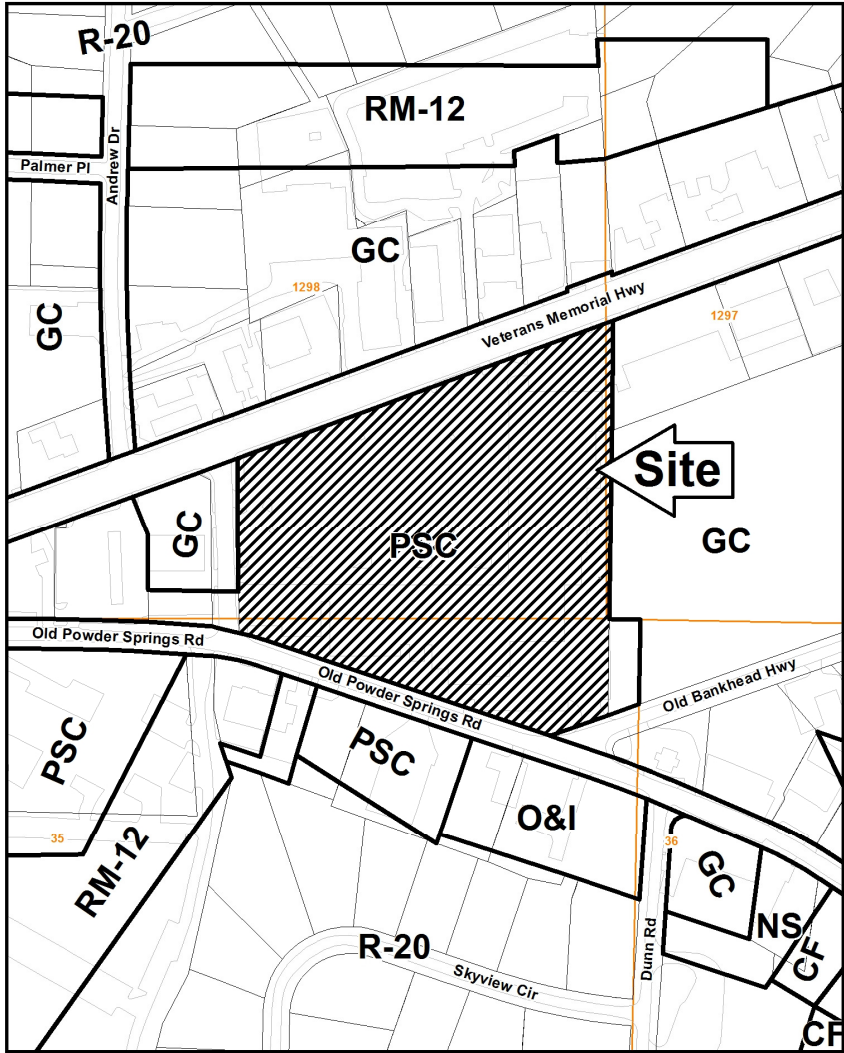
This map is provided for display and planning purposes only. It is not meant to be a legal description.



- Zoning Boundary
- City Boundary

North  
**Zoning:** GC (General Commercial)  
**Future Land Use:** CAC (Community Activity Center)

**Z-55 2018-GIS**



WEST  
**Zoning:** GC (General Commercial)  
**Future Land Use:** NAC (Neighborhood Activity Center)

EAST  
**Zoning:** GC (General Commercial)  
**Future Land Use:** CAC (Community Activity Center)

SOUTH  
**Zoning:** PSC (Planned Shopping Center), O&I (Office & Institutional), and RM-12 (Multi-family)  
**Future Land Use:** CAC (Community Activity Center)

## **DEPARTMENT COMMENTS- Zoning Division**

---

### **Current zoning district for the property**

The PSC district is established to provide locations for retail commercial and service uses which are designed and oriented to serve several neighborhoods making up a community. Projects developed within the PSC zoning district should be done as compact, unified centers. Projects developed within the PSC zoning district should occupy a quadrant of an intersection, with ingress and egress only from a major collector street or state highway, within an area delineated within a community activity center or regional activity center as defined and shown on the Cobb County Comprehensive Plan: A Policy Guide, adopted November 27, 1990. Any existing, developed PSC zoning/use located outside of a community activity center or regional activity center shall be deemed to be a grandfathered, nonconforming use and subject to those provisions contained in this chapter. Should any undeveloped property zoned PSC outside 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. Obtaining a building or grading permit for such development shall be deemed to be commencing development.

### **Requested zoning district for the property**

The GC district is established to provide locations for retail commercial and service uses which are oriented toward automotive businesses, are land intensive with a need for major road access and visibility, are generally not listed as a permitted uses within the NRC (neighborhood retail commercial) and CRC (community retail commercial) districts or may have existing stipulations and conditions that limit certain intensive uses and are located in areas delineated within a community activity center and regional activity center as defined and shown on the Cobb County Comprehensive Plan: A Policy Guide, adopted November 27, 1990. Any existing GC district, developed or undeveloped, located within an area delineated within an industrial-compatible area or industrial area as shown on the comprehensive plan, shall be deemed to be a grandfathered, nonconforming use after January 1, 1991, and subject to those provisions contained in this chapter.

### **Summary of the applicant's proposal**

Applicant is requesting the General Commercial (GC) zoning district for the purpose of adding an assembly hall as a permitted use. The existing Planned Shopping Center (PSC) zoning does not allow an assembly hall as a permitted use. The proposed assembly hall will occupy 9,699 square feet of the overall 113,485 square-foot shopping center. The assembly hall will be located in suites 24 through 30, as indicated on the attached sketch of the shopping center. The peak hours of operation for the assembly hall will be after 6 p.m. on Saturday and 9 a.m. to 9 p.m. on Sunday.

## **DEPARTMENT COMMENTS- Zoning Division (Continued)**

---

### **Non-residential criteria**

Proposed # of buildings: 2 (Existing)  
Proposed # of stories: 1  
Total sq. footage of development: 113,485  
Floor area ratio: 0.28  
Square footage per acre: 12,380  
Required parking spaces: 571  
Proposed parking spaces: 509  
Acres in floodplain or wetlands: 0  
Impervious surface shown: 72%

## **DEPARTMENT COMMENTS- Zoning Division (continued)**

---

### **Are there any zoning variances?**

Yes, the proposal will require the following contemporaneous variances:

1. Waive the front setbacks from the required 100 feet to 12 feet along Old Powder Springs Road Connector (existing);
2. Waive the southern side setback from the required 50 feet to 25 feet (existing);
3. Waive the rear (eastern) setback from the required 50 feet to 24 feet (existing); and
4. Waive the number of required parking spaces from 571 to 469 (existing).

## **DEPARTMENT COMMENTS- Fire Department**

---

No comment.

## **DEPARTMENT COMMENTS- Site Plan Review (County Arborist)**

---

No comment.

## **DEPARTMENT COMMENTS- 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.

## **DEPARTMENT COMMENTS- School System**

---

Approval of this petition will not have an impact on the enrollment.

## **DEPARTMENT COMMENTS- Stormwater Management**

---

1. Flood hazard: No
2. Flood hazard zone: Zone X
3. Drainage Basin: Pine Creek
4. Wetlands: No
5. Streambank buffer zone: No
6. Existing facility.
7. Special site conditions and/or additional comments:
  - No significant site improvements are proposed.
  - Stormwater management must be provided upon redevelopment or substantial site improvement.

## DEPARTMENT COMMENTS- Planning Division

---

**Cobb 2040 Comprehensive Plan:** The parcel is within the Community Activity Center (CAC) future land use category. The purpose of the CAC category is to provide for areas that can meet the immediate needs of several neighborhoods or communities. Typical land uses for these areas include low to mid-rise office buildings and department stores.

Comprehensive Plan Designation:  Consistent  Inconsistent

---

### House Bill 489 Intergovernmental Agreement Zoning Amendment Notification

Is the proposal within one-half mile of a city boundary?  Yes  No

Was the city notified?  Yes  No  N/A

Specific Area Policy Guidelines:  Yes  No

The parcels along Veterans Memorial Highway, east of the City of Austell, are in need of redevelopment. Allowing mixed-use developments in this area will assist in creating live work areas as well as reduce traffic congestion and improve traffic flow. If mixed uses are to occur along the corridor, the mixing should occur vertically by encouraging village-style developments with residential over retail/office along major streets. On the minor streets within the development, stand-alone residential would be appropriate as long as there is a vertical mixed-use component included in the project. All areas of the new mixed-use development should be pedestrian friendly. Some of the basic characteristics of these developments should include:

- Well-designed buildings that create a frame for the street system by being constructed close to the sidewalk.
- On-street parking should be allowed where there is sufficient right-of-way and where it is appropriate for the particular roadway classification.
- Pedestrian-oriented amenities should be included within the site development to create an inviting atmosphere and encourage the use of public spaces as community gathering spaces. Pedestrian-oriented amenities include decorative paving, human scale street lighting, plazas, benches, landscaping, etc.
- Residential densities within the development should be determined on a case-by-case basis depending on the location of the project, intensity of the project, and proximity to other stable residential uses.
- In order to make mixed-use developments along this corridor successful, scale is an important component. Mixed-use buildings should be no more than three stories tall. The three-story height limit will provide the necessary density to financially allow a mixed-use development and it will also provide a consistency of scale with the surrounding residential neighborhoods.
- Residential uses in the mixed-use developments should provide for additional owner-occupied housing opportunities.

(Planning comments continued on the next page)



**DEPARTMENT COMMENTS- Planning Division** (continued)

- Mixed-use developments adjacent to stable single-family residential neighborhoods should provide a change in scale or buffering/screening that will ensure the desirability and viability of the surrounding community

---

Masterplan/ Corridor Study  Yes  No

Design guidelines area?  Yes  No

If yes, design guidelines area: Veterans Memorial highway Design Guidelines

Does the proposal plan comply with the design requirements?  Yes  No  N/A

---

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 for new or existing businesses)*

---

Is the property within an Enterprise Zone?  Yes  No

*(The South Cobb 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 investment)*

---

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)*

---

**Note: For more information on incentives, please call the Community Development Agency- Economic Development Division at 770-528-2018 or find information online at [www.cobbcounty.org/econdev](http://www.cobbcounty.org/econdev).**

**Special District**

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

**Dobbins Air Reserve Base Zones**

Is the property within the Dobbins Airfield Safety Zone?  Yes  No

Is the property within the Clear Zone (CZ)?  Yes  No

(Planning comments continued on the next page)

**DEPARTMENT COMMENTS- Planning Division** (continued)

---

Is the property within the Accident Potential Zone (APZ I)?  Yes  No

Is the property within the Accident Potential Zone II (APZ II)?  Yes  No

Is the property within the Noise Zone?  Yes  No

Is the property within the Bird/Wildlife Air Strike Hazard Area (BASH)?  Yes  No

---

**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.

**DEPARTMENT COMMENTS- Water and Sewer**

---

**Water comments:**

Available at development:  YES  NO

Fire flow test required:  YES  NO

Size and location of existing water main(s): 6" in Old Powder Springs Road

Additional water comments: Existing water customer. Purchase of fire vault DCDA for existing unprotected fire line may be required prior to building permit

Note: These comments only reflect what facilities were in existence at the time of this review. Developer may be required to install/upgrade water mains based on fire flow test results or Fire Department code. This will be addressed in the Plan Review process.

---

**Sewer comments:**

In the drainage basin:  YES  NO

At development:  YES  NO

Approximate distance to nearest sewer: On site

Estimated waste generation (in G.P.D.): Average daily flow = +0; Peak flow = +0

Treatment plant: South Cobb

Plant capacity:  Yes  NO

Line capacity:  YES  NO

Projected plant availability:  0-5 years  5-10 years  over 10 years

Dry sewers required:  YES  NO

Off-site easement required:  YES\*  NO

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 sewer comments: Existing sewer customer

\*If off-site easements are required, the developer/owner must submit easements to the CCWS for review and 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/owner.

Note: The developer/owner will be responsible for connecting to the existing county water and sewer systems, installing and/or upgrading all outfalls & water mains, obtaining onsite and/or offsite easements, and dedication of onsite and/or offsite water and sewer to Cobb County as may be required. Rezoning does not guarantee water/sewer availability or capacity unless so stated in writing by the Cobb County Water System.

## DEPARTMENT COMMENTS- Transportation

Roadway	Roadway classification	Speed limit (MPH)	Jurisdictional control	Min. R.O.W. requirements
Veterans Memorial Highway	Arterial	45	Georgia DOT	100'
Old Powder Springs Road	Minor Collector	25	Cobb County	60'

Roadway	Location	Average daily trips	Level of service
Veterans Memorial Highway	West of Old Bankhead Highway	25,300	D
Old Powder Springs Road	South of Veterans Memorial Highway	3,700	C

*Based on 2016 AADT counting data taken by GDOT, as published on their website, for Veterans Memorial Highway.*

*Based on 2008 traffic counting data taken by Cobb County DOT for Old Powder Springs Road.*

*Planning Level of Service based on available Average Daily Trips using GRTA guideline thresholds. Classification thresholds for LOS A and LOS B are not available for local roads from this data source.*

*LOS C or D is acceptable based on GDOT Design Policy Manual criteria.*

### Comments and observations

Veterans Memorial Highway is classified as an arterial roadway and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

Old Powder Springs Road is classified as a minor collector roadway and according to the available information the existing right-of-way does not meet the minimum requirements for this classification.

### Recommendations

1. Recommend applicant consider entering into a development agreement pursuant to O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the south side of Veterans Memorial Highway, a minimum of 50' from the roadway centerline upon redevelopment.
2. Recommend applicant consider entering into a development agreement pursuant to O.C.G.A. 36-71-13 for dedication of the following system improvements to mitigate traffic concerns: a) donation of right-of-way on the north and east side of Old Powder Springs Road, a minimum of 30' from the roadway centerline upon redevelopment.
3. Recommend applicant be required to meet all Cobb County Development Standards and Ordinances related to project improvements.
4. Recommend GDOT permits for all work that encroaches upon State right-of-way.

STAFF ANALYSIS

---

Per section 134-122 of the Official Code of Cobb County, below is a written zoning analysis relating to the following (question in bold; the answer is not bold):

**A. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;**

It is Staff's opinion that the applicant's proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property. Properties in the area are zoned GC, PSC, O&I, LI, RM-12, and R-20.

**B. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;**

The applicant's proposal will not adversely affect the existing use or usability of adjacent or nearby properties. The property has been developed and utilized as a shopping center for many years and is surrounded by GC zoning and varying commercial uses.

**C. Whether the zoning proposal will result in a use which will or could cause an excessive burdensome use of existing streets, transportation facilities, utilities, or schools;**

It is Staff's opinion that the proposal will not cause an excessive or burdensome use. The peak hours of use for the proposed assembly hall will be at less busy times for the other uses in the retail center.

**D. Whether the zoning proposal is in conformity with the policies and intent of the comprehensive plan;**

It is Staff's opinion that the requested General Commercial (GC) zoning district is in conformity with the *Cobb County Comprehensive Plan*, which delineates this property as being within the Community Activity Center (CAC) future land use category.

STAFF ANALYSIS (Continued)

---

**E. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal;**

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 approving the applicant's rezoning proposal. The area contains a mixture of commercial, industrial, and residential uses. The proposed assembly hall will be a combination of a few suites in the existing shopping center.

**The staff analysis and recommendation 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.**

## IMPACT ANALYSIS OF PROPOSED REZONING

(a) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;

This rezoning from PSC to GC Site Plan Specific will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The property at issue, Hawthorne Plaza Shopping Center, 1245 Veteran's Memorial Highway, Mableton, GA 30126 (the "Property") is currently zoning PSC. The Property is a 113,485 square foot shopping center located at the southeasterly and southwesterly intersection of Veterans Memorial Highway and Old Powder Springs Road Connector. This shopping center was originally constructed prior to December 26, 1972, the effective date of the Cobb County Zoning Ordinance. The original zoning was PSC (Planned Shopping Center District).

Adjacent to the Property to the east is a shopping center zoned GC and another shopping center across Veteran Memorial Highway to the north is GC. To the south of the subject Property is GC zoned property. Along this portion of Veteran Memorial Highway is a substantial amount of commercial shopping centers zoned GC and/or PSC. See the attached copy of the Cobb County Land Use and Zoning Report.

The reason for rezoning the Property to GC is to allow for a tenant space of 9,699 SF (Suites 24 through 30) in the shopping center to be used as an Assembly Hall in addition to all other permissible uses. The Assembly Hall use is not allowed under PSC but under GC. This use will be a suitable use for the surrounding area. See the attached sketch showing the suites that seek the approval of use for an assembly hall.

(b) Whether the zoning proposal will adversely affect the existing use of usability of adjacent or nearby property.

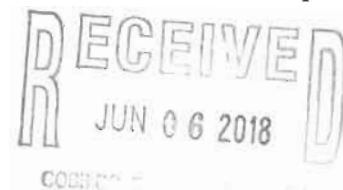
The Rezoning of the subject Property will not adversely affect or impact the existing use or usability of adjacent or nearby properties. The property is a shopping center. The surrounding properties are commercial uses including shopping centers. The proposed use of an Assembly Hall will not adversely affect the adjacent properties. The Assembly Hall use will be only used in a space of 9,699 square feet out of 113,485 total square feet in the shopping center.

(c) Whether the Property to be affected by the zoning proposal has a reasonable economic use as currently zoned;

No, the subject Property does not have a reasonable economic use as currently zoned. The GC category will allow for an Assembly Hall use to fill a vacant space in the Shopping Center. If the Property is not rezoned to GC, this use would not be allowed and the space may remain vacant.

(d) Whether the zoning proposal will result in a use which could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools;

This use will not result in a use that will be burdensome to the existing infrastructure, utilities or schools. This use is very similar to the existing use of a shopping center. This is not an expansion of the Shopping Center.



(e) Whether the zoning proposal is in conformity with the policy and intent of the land use plan;

This zoning proposal is in conformity with the policy and intent of the land use plan.

(f) Whether there are other existing or changing conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of the zoning proposal;

The viability of this Shopping Center depends on the ability to attract tenants. There is currently a substantial amount of space available in the Shopping Center. A proposed tenant wants to use a Shopping Center space for an event facility catering mainly to the Hispanic community for wedding receptions and similar functions. In order to allow this type of a facility, the property has to be rezoned to GC. This will be a good use of the space providing community based events. This use will not affect any adjacent properties.

1956448\_1







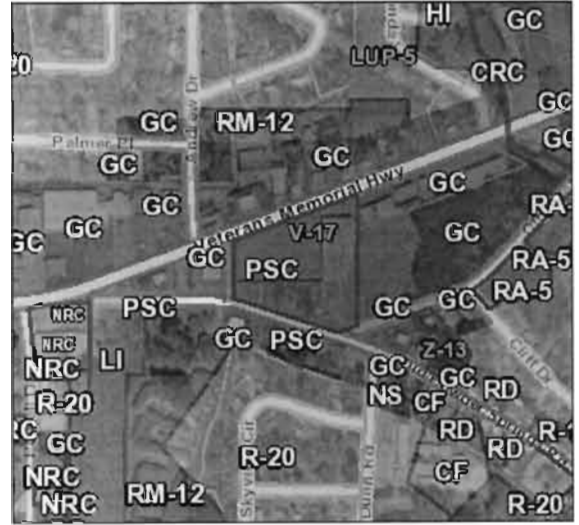
## Cobb County Land Use and Zoning Report

*Parcel Information:*

**PIN**                   **PIN:**            19129800200  
**Property Addr.**   **Owner:**       HAWTHORNE PLAZA LLC  
**Owner Name**       **Address:**   1245 VETERANS MEMORIAL HWY  
**Owner Addr.**                    ROSWELL        GA        30076

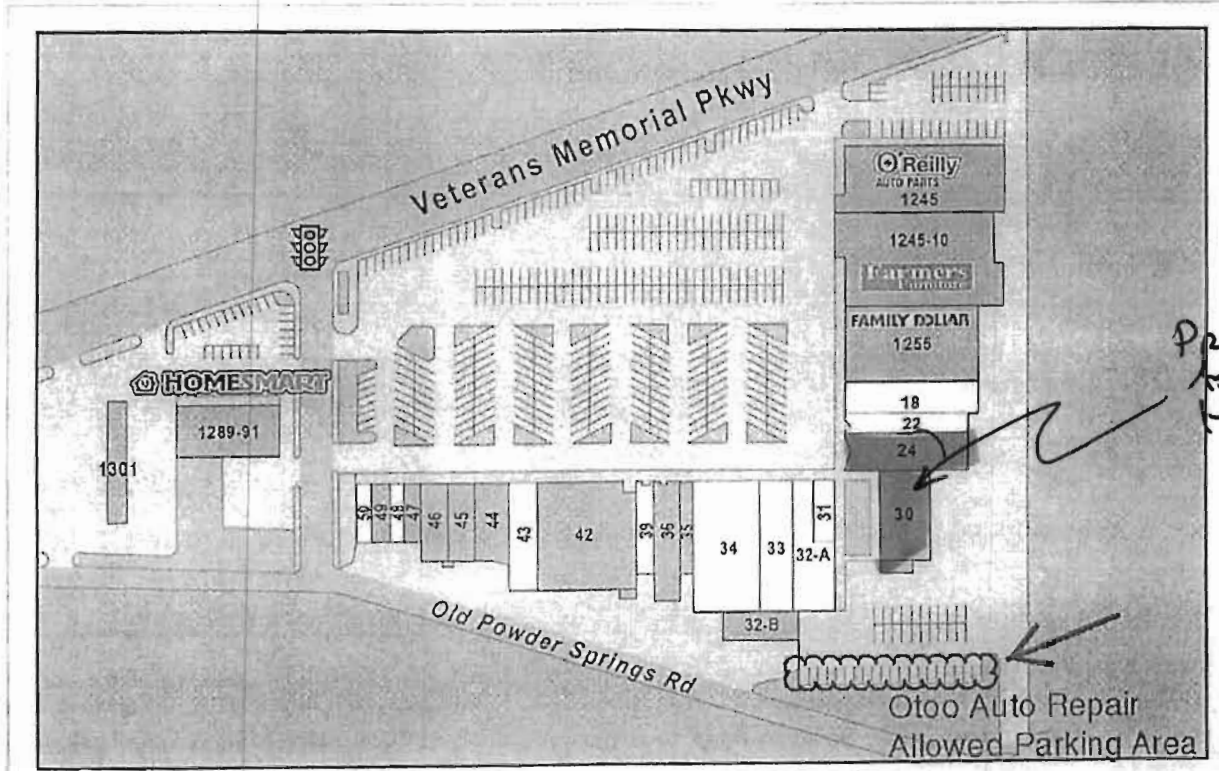
*Zoning District*   GC  
*Zoning District*   GC  
*Zoning District*   PSC  
*Zoning District*   GC

*Year Petition No.*       2016V-17



First Lease Amendment Agreement  
Eric Otoo d/b/a Otoo Automotive Repair  
Hawthorne Plaza Shopping Center  
Page 5 of 5

EXHIBIT "A"  
SITE PLAN



Proposed  
Assembly  
Hall  
9,699 SF.



Application No. Z-55

Sept. 2018

# 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) List all requested variances: \_\_\_\_\_

.....  
**Part 2. Non-residential Rezoning Information (attach additional information if needed)**

- a) Proposed use(s): Neighborhood / Community Retail (103, 786 sf)  
Assembly Hall (9,699 sf)
- b) Proposed building architecture: \_\_\_\_\_
- c) Proposed hours/days of operation: Neighborhood / Community Retail 9:00 - 6:00  
Monday to Saturday. Peak assembly hall usage will be after 6:00 p.m. Saturday  
9:00 a.m. to 9:00 p.m. on Sunday
- d) List all requested variances: Waiver of setbacks to match existing  
structures; Waiver of parking spaces to match existing parking

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

See "concurrent variances requested" attached hereto.

.....  
**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).** No.

### CONCURRENT VARIANCES REQUESTED

1. Waive current setback requirements to existing building setbacks as shown on attached survey.
2. Waive number of required parking spaces to meet existing number of spaces, as follows:

Existing building area of 113,485 sf (55,760 sf + 57,725 sf)

Parking area for assembly hall (suites 24 and 30) = 9,699 sf

Parking area required for neighborhood/community retail space = 519 spaces  
(113,485 sf - 9,699 sf = 103,786sf/200sf/space = 519 spaces)

Parking area required for assembly hall = 54 spaces  
(20 tables x 8 seats/table = 160 seats/3 seats/space = 54 spaces)

Peak attendance for Assembly Hall will be at night or on Sunday, so 1/2 of parking spaces may be assigned to spaces for community retail use

Therefore, total required parking spaces = 547 spaces  
(519 spaces + 28 spaces (1/2 of 54) = 547 required spaces)

There are 469 existing parking spaces. Therefore a variance is requested to reduce the number of spaces to match the existing spaces.

3. Waive the requirement for a traffic impact study. The only change in use applied for is 9,699 sf of space to be used as an assembly hall.



**Planning Commission Decision**

NO. OPPOSED: \_\_\_\_\_ APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ DELETED TO \_\_\_\_\_

NO. IN SUPPORT \_\_\_\_\_ MOTION BY: \_\_\_\_\_ SECONDED: \_\_\_\_\_ VOTE: \_\_\_\_\_

---

**Names of those Opposed:**

**Comments:**

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

---

Stipulation letter from \_\_\_\_\_ dated \_\_\_\_\_  
Stipulation letter from \_\_\_\_\_ dated \_\_\_\_\_  
Stipulation letter from \_\_\_\_\_ dated \_\_\_\_\_

---

**Board of Commissioners Decision**

NO. OPPOSED: \_\_\_\_\_ APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ DELETED TO \_\_\_\_\_

NO. IN SUPPORT \_\_\_\_\_ MOTION BY: \_\_\_\_\_ SECONDED: \_\_\_\_\_ VOTE: \_\_\_\_\_

---

**Names of those Opposed:**

**Comments:**

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

---

Stipulation letter from \_\_\_\_\_ dated \_\_\_\_\_  
Stipulation letter from \_\_\_\_\_ dated \_\_\_\_\_  
Stipulation letter from \_\_\_\_\_ dated \_\_\_\_\_