



STAFF REVIEW

Variance Case #: V2015-21 **Legistar #:** 20150292

City Council Hearing: Wednesday, May 13th, 2015 **7:00 p.m.**

Property Owner: Denbesten & Bokhoven, Ltd.
4559 Old Winter Garden Rd.
Orlando, FL 32811

Applicant: Vermeer Southeast Sales and Service, Inc.
1320 Gresham Road
Marietta, GA 30062

Agent: Adam J. Rozen
Sams, Larkin, Huff & Balli, LLP
376 Powder Springs Street, Suite 100
Marietta, GA 30064

Address: 1320 Gresham Road

Land Lot: 16 **District:** 1167 **Parcel:** 0040

Council Ward: 5A **Existing Zoning:** LI (Light Industrial)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to reduce the buffer from 50' to a 10' replanted buffer. [§708.26(B.7.c) & §708.26(I)]
2. Variance to reduce the front yard setback from 50' to 22' for the existing structure. [§708.26(H)]
3. Variance to allow gravel as an acceptable surface for the parking of trailers and equipment. [§716.08(A) & (B)]
4. Variance to allow the use of metal siding on the side(s) of a building facing a roadway. [§708.26(G.2)]
5. Variance to waive the planted strip/border area requirement for the section adjacent to existing structure fronting Gresham Road. [§712.08(G.2.a)]
6. Variance from outside storage facilities requirements. [708.26(B.35)]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals

and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



1320 Gresham Road – Vermeer Southeast facility



Rear storage yard



Frontage along Gresham Road



Parking area on northern side of building



Outdoor Storage along Gresham Road



Road frontage between the building and Gresham Road

Staff Review:

Vermeer Southeastern Sales and Service is requesting multiple variances for the property located at 1320 Gresham Road in order to expand their existing business. The subject property is zoned LI (Light Industrial) and is approximately 4 acres in size. The properties south of the subject property and across Gresham Road to the west are zoned HI (Heavy Industrial) and operate accordingly.

Vermeer Southeast Sales and Service, Inc. is also requesting to annex and rezone (Z2015-15 / A2015-03) two adjacent, vacant parcels on Gresham Road, near the corner of Wallace Road. These two properties, addressed as 1330 & 1350 Gresham Road on city records, total 1.14 acres and are zoned R-20 (Single Family Residential) in Cobb County. The applicant wishes to annex and rezone these two properties so they may be combined with the subject property for a building and parking expansion. The applicant is requesting a number of variances in order to implement the desired expansion.

Variance #1: Buffer Reduction

Business license history indicates Vermeer has operated at this location since the late 1980s while historical aerial images show that the area within the buffer has been used for outdoor storage since at least the early 1980s. However, these images also show the equipment storage as being between 20 and 30 feet away from the eastern property line. The requested variance would allow the buffer to be further reduced to a ten foot (10') wide buffer, containing one row of evergreen plantings along the residential properties to the east. Buffers are also required to contain a six foot (6') tall opaque fence, but no new fencing is proposed. Of these four properties, only three contain a structure. The applicant also shows the placement of a detention pond, screened with one row of trees, within the required buffer.

Variance #2: Front Setback

Front setback requirements for LI zoned parcels on a collector or a local street is 50 feet. The existing Vermeer building currently sits 22 feet from Gresham Road. It is likely that the widening of Gresham/Wallace Road reduced the original setback and caused the building to become nonconforming.

Variance #3: Gravel Surface

The applicant is requesting approval of a variance to allow equipment to be stored in a gravel parking area. Section 716.08 requires the parking of any vehicles (including, but not limited to trailers and boats) to be on a hardened surface, such as concrete, asphalt, or brick. The applicant is concerned that the loading and unloading by large trucks of their equipment into the storage area will damage any hard surface and will be in constant need of repair. Instead of having to constantly maintain the surface, the applicant would rather use gravel.

Variance #4: Metal Building

The existing building is made primarily of metal siding with some masonry accents on the front and side. All commercial and industrial zoning code sections require "*structures which utilize metal siding shall be constructed with brick, stone, rock or wood covering any facade of the building facing a roadway.*" This applies regardless of whether the building fronts on a highly traveled corridor or is located in an industrial area surrounded by metal industrial buildings. Staff has not been provided elevations of the proposed addition; however, due to its use as a heavy equipment repair and sales facility, it will likely be made of similar materials to the existing building.

Variance #5: Planted Border

While the applicant intends on providing new street trees along Gresham Road in the areas that do not already have them, the section of frontage between the front of the building and Gresham Road is problematic. Behind the sidewalk is a guardrail with a retaining wall behind it, preventing the placement of street trees within the ten foot (10') planted border. And, although not considered allowable street trees, there are two multi trunk Crape Myrtles planted at the base of the wall.

Variance #6: Outdoor Storage

Additionally, outdoor storage facilities in the LI district requires an opaque fence or wall not less than 8 feet in height and such use be at least fifty (50) feet from any property zoned or used for residential purposes and twenty five (25) feet from any right of way. Although LI zoning requires any repair work to be done inside an enclosed structure, this business does rely on a large amount of outdoor storage due to the size of the equipment. Additionally, outdoor storage facilities in the LI district requires an opaque fence or wall not less than eight feet (8') in height and such use be at least fifty feet (50') from any property zoned or used for residential purposes and twenty five feet (25') from any right of way. The submitted plan shows a portion of outdoor equipment storage within the buffer as well as a new equipment storage lot in the southern section of the property, against Gresham Road.

SAMS, LARKIN, HUFF & BALLI
A LIMITED LIABILITY PARTNERSHIP

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JOEL L. LARKIN
PARKS F. HUFF
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ADAM J. ROZEN

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April 9, 2015

**VIA E-MAIL &
REGULAR MAIL**

Mr. Russell J. Roth, AICP
Planning & Zoning Manager
City of Marietta
205 Lawrence Street
Marietta, GA 30060

Re: Amended Rezoning, Annexation and Variance Application of Vermeer Southeast Sales and Service, Inc. for Gresham Road, Land Lot 1138 & 1167, 16th District, Parcel 4, 2nd Section, Cobb County, Georgia & 1320 Gresham Road, Land Lot 1167, 16th District, Parcel 70, 2nd Section, City of Marietta, Cobb County, Georgia.

Dear Rusty:

Please find the attached amended enumeration of requested variances to amend the application filed on March 24, 2015 and the amended variance requests submitted March 26, 2015.

Please contact me if anything further is needed or if you have any questions or concerns regarding this file.

Sincerely,

SAMS, LARKIN, HUFF & BALLI, LLP

/s/ Adam J. Rozen

Parks F. Huff
phuff@slhb-law.com
Adam J. Rozen
arozen@slhb-law.com

AJR/dvm
Attachment

cc: Shelby Little
Vermeer Southeast Sales and Service, Inc.

Vermeer Southeast Sales and Service, Inc.

Amended as of April 9, 2015

1320 Gresham Rd:

1. Reduction of buffer from 50-foot buffer to 10-foot replanted buffer- 708.26(7)(c) & 708.26(I);
2. Reduction in Front Setback requirements to reflect current placement of structure - 708.16(H);
3. Relief from surface parking standards to allow gravel or crush and run for parking of trailers and equipment to eliminate unnecessary destruction of concrete or asphalt by heavy equipment - 716.08(A) & 716.08(B)(1-3);
4. Relief from the limitation on metal siding - 708.26(G)(2)
5. Relief from Planted Strip/Border Area tree requirements adjacent to existing structure fronting Gresham Rd - 712.08 (G)(2)(a);
6. Relief from Outside Storage facilities requirements; 708.26 (B)(35);

Gresham Rd (Annexed Parcel)*:

7. Reduction of buffer from 50-foot buffer to 10-foot replanted buffer- 708.26(7)(c) & 708.26(I);

*Two Parcels, TID # 16113800040 & 16116700040

TO: Marietta Daily Journal

FROM: City of Marietta

RUN AD DATE: April 17, 2015

PUBLIC NOTICE OF REZONINGS, VARIANCES, AND CODE AMENDMENTS

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following rezoning and variance requests by City Council at their meeting on **Wednesday, May 13, 2015, 7:00 p.m.**, City Hall, for a final decision to be made.

V2015-21 [VARIANCE] VERMEER SOUTHEAST SALES AND SERVICE, INC. requests variances for property located in Land Lot 1167, District 16, Parcel 0070, 2nd Section, Marietta, Cobb County, Georgia and being known as 1320 Gresham Road, currently zoned LI (Light Industrial). Variance to reduce the buffer from a 50' undisturbed buffer to 10' planted buffer; variance to reduce the front yard setback from 50' to 22' for the existing structure; variance to allow gravel as an acceptable surface for the parking of trailers and equipment; variance to allow the use of metal siding on the side(s) of a building facing a roadway; variance to waive the planted strip/border area requirement for the section adjacent to existing structure fronting Gresham Road; variance to allow outdoor storage within 50 feet of property zoned residentially and within 25 feet from any City-of-way. Variance to waive the opaque fence requirement. Ward 5.

A description and plat of the property sought for the rezoning and future land use assignment are on file in the Planning and Zoning Office, City Hall, and is available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto.

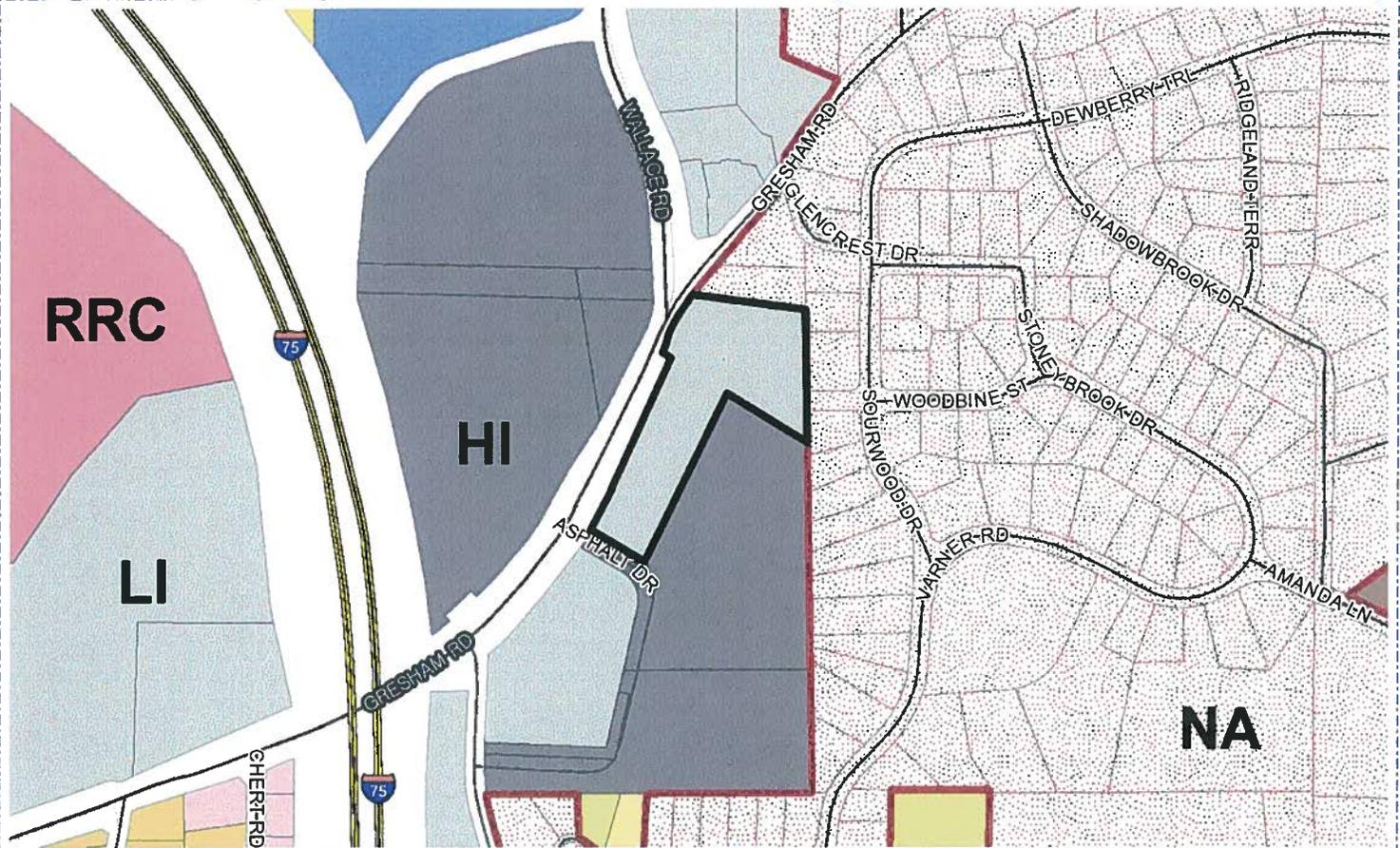
For additional information please call the Planning and Zoning Office (770) 794-5669.

Accessibility to Meetings: If you believe you may need the City/BLW to provide special accommodations in order to attend/or participate in any of the above meetings, please call Mr. Patrick Henley, ADA Coordinator, at 770-794-5558 (voice) or 770-794-5560 (TDD) no later than 48 hours before the date of the above meeting.

City of Marietta
205 Lawrence Street
Marietta, Georgia 30060



Variance



Address	Parcel Number	Acreage	Ward	Zoning	FLU
1300 GRESHAM RD	16116700140	6.182	5A	HI	IM
1320 GRESHAM RD	16116700070	3.994	5A	LI	IM

Property Owner:	Denbesten & Bokhoven, Ltd
Applicant:	Vermeer Southeast Sales & Service
City Council Hearing Date:	5/13/15
Acquisition Date:	
Case Number:	V2015-21

Zoning Symbols

- Railroads
- City Limits
- Cobb County Pockets
- NA
- R1 - Single Family Residential (1 unit/acre)
- R2 - Single Family Residential (2 units/acre)
- R3 - Single Family Residential (3 units/acre)
- R4 - Single Family Residential (4 units/acre)
- RA4 - Single Family Residential - Attached
- RA6 - Single Family Residential - Attached
- RA8 - Single Family Residential - Attached
- MHP - Mobile Home Park
- PRD-SF - Planned Residential Dev. Single Family
- RM8 - Multi Family Residential (8 units/acre)
- RM10 - Multi Family Residential (10 units/acre)
- RM12 - Multi Family Residential (12 units/acre)
- RHR - Residential High Rise
- PRD-MF - Planned Residential Dev Multi Family
- NRC - Neighborhood Retail Commercial
- CRC - Community Retail Commercial
- RRC - Regional Retail Commercial
- PCD - Planned Commercial Development
- LI - Light Industrial
- HI - Heavy Industrial
- PID - Planned Industrial Development
- MXD - Mixed Use Development
- CBD - Central Business District
- OIT - Office Institutional Transitional
- LRO - Low Rise Office
- OI - Office Institutional
- OS - Office Services
- OHR - Office High Rise

City of Marietta Planning & Zoning

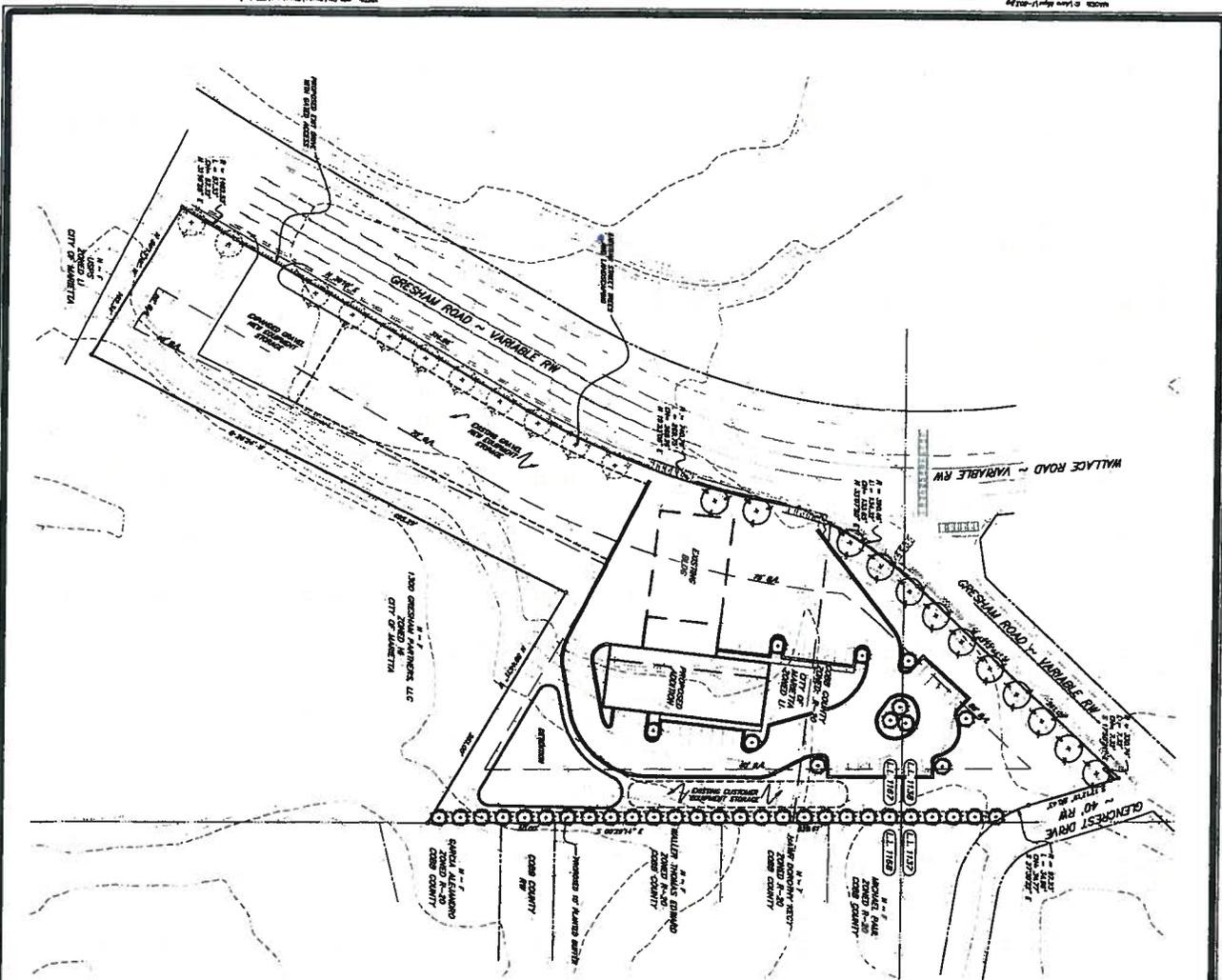


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Property Owner:	Denbesten & Bokhoven, Ltd
Applicant:	Vermeer Southeast Sales & Service
City Council Hearing Date:	5/13/15
Planning Commission Hearing Date:	
BZA Hearing Date:	Case Number: V2015-21
Comments:	
City of Marietta Planning & Zoning	

Legend

-  Railroads
-  City Limits
-  Cobb County Pockets

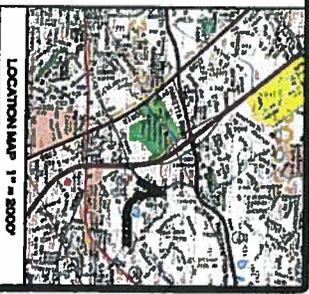


SITE DATA:
 ZONING - COBB COUNTY: R-30
 ZONING - CITY OF MARIETTA: LI
 SETBACKS
 FRONT (PARTIAL) - 75'
 FRONT (COLLECTOR) - 50'
 FRONT (LOCAL) - 50'
 SIDE (PAVING) - 50'
 SIDE (UNPAVED) - 50'
 REAR - 50'
 ALLOWABLE INTERVENOUS PERCENTAGE - 75%
 MAXIMUM BUILDING HEIGHT - 50'
 MAXIMUM FLOOR AREA RATIO - 50%
 50' REQUIRED BUFFER ADJACENT TO RESIDENTIAL ZONING

THE PLANNING OF LAND IS THE RIGHT OF THE LAND OWNER.
 THE CITY OF MARIETTA AND COBB COUNTY ARE NOT RESPONSIBLE FOR THE ACCURACY OF THIS PLAN.
 DATE: 11/15/2011
 DRAWN BY: [Name]



MAGNETIC NORTH



NOT ISSUED FOR CONSTRUCTION

1 of 1

NO.	DATE	BY	REVISIONS

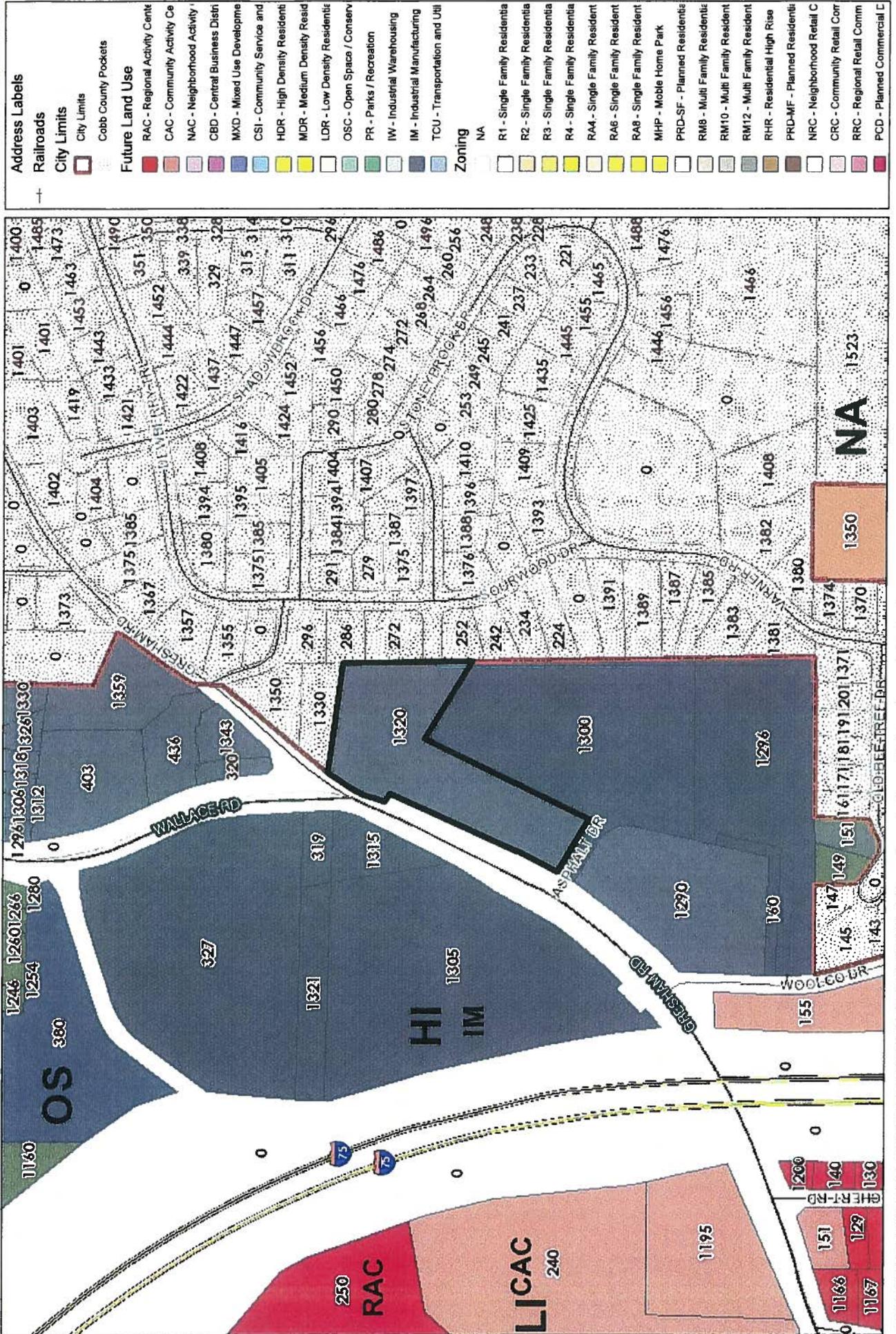
PROJECT TITLE: VERMEER SOUTHEAST ZONING & AMENDMENT PLAN

VERMEER SOUTHEAST
 FOR TODD VER STEEG
 LAND LOTS 1167 & 1158, 16TH DISTRICT, 1ST SECTION
 CITY OF MARIETTA, COBB COUNTY, GEORGIA





V2015-21 and Z0015-15 (A2015-03)



DISCLAIMER NOTE: This map is prepared for the inventory of real property found within this jurisdiction and is compiled from aerial photography, recorded deeds, plats and other imagery, data and public records. Users of this map are hereby notified that the aforementioned primary public information sources should be consulted for verification of the information contained on this map. This jurisdiction, and the mapping companies involved in preparing it, assume no legal responsibilities for the information contained on this map.