



PLANNING AND DEVELOPMENT DEPARTMENT CASE REPORT

Case Number: RZC2023-00003
Current Zoning: C-3 (Highway Business District)
Overlay District: Gateway 85
Request: Rezoning to **M-1** (Light Industry District)
Additional Requests: Variances
Address: 5493 Goshen Springs Road
Map Number: R6214 005
Site Area: 2.93 acres
Square footage: 21,796
Proposed Development: Heavy Equipment Rental, Sales, and Service
Commission District: District 2 – Commissioner Ku
Character Area: Workplace Center

Staff Recommendation: APPROVAL WITH CONDITIONS

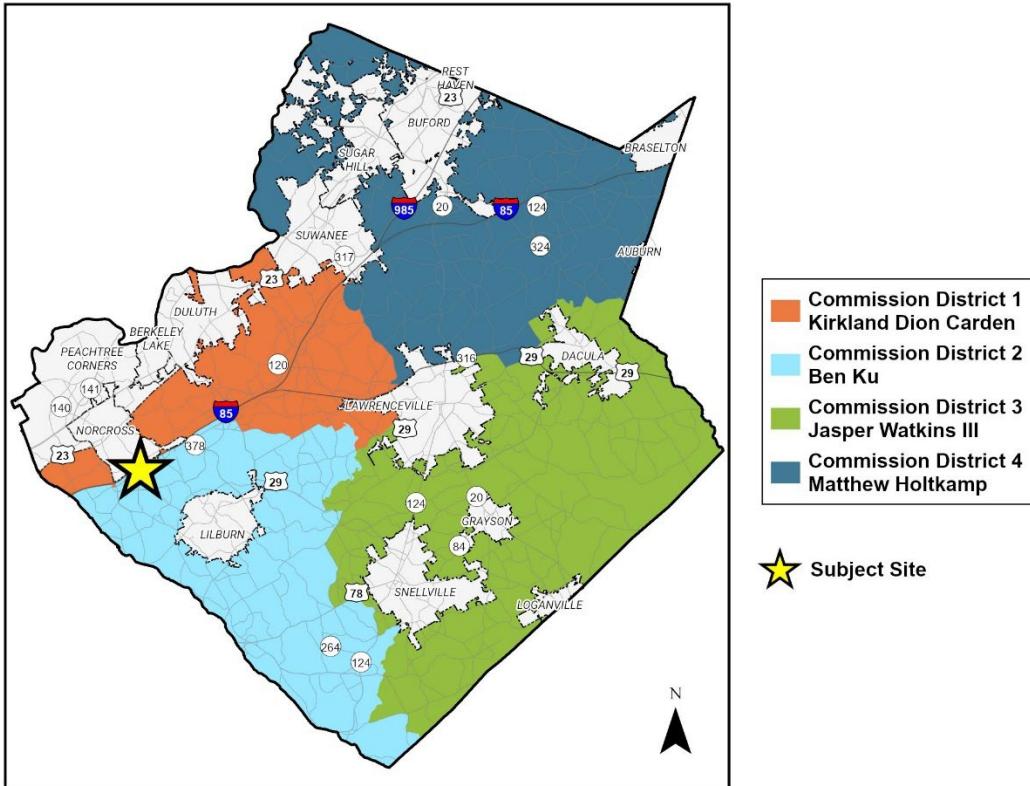
**Planning Commission
Recommendation:** APPROVAL WITH CONDITIONS

Case Number: SUP2023-00010
Current Zoning: C-3 (Highway Business District)
Overlay District: Gateway 85
Request: Special Use Permit
Additional Requests: Variances
Address: 5493 Goshen Springs Road
Map Number: R6214 005
Site Area: 2.93 acres
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**Planning Commission
Recommendation:** APPROVAL WITH CONDITIONS

Planning Commission Advertised Public Hearing Date: 1/4/2023
Board of Commissioners Advertised Public Hearing Date: 1/24/2023
Remanded to Planning Commission
Planning Commission Readvertised Public Hearing Date: 3/8/2023
Board of Commissioners Readvertised Public Hearing Date: 3/28/2023



Applicant: JCB Atlanta Real Estate, LLC
c/o Andersen Tate & Carr
1960 Satellite Boulevard, Suite 4000
Duluth, GA 30097

Owner: Salmon Property Investments, LLC
506 Turner McCall Boulevard SW
Rome, GA 30165

Contact: Melody A. Gloton

Contact Phone: 770.822.0900

Zoning History

The subject property is zoned C-3 (Highway Business District). There are three, 1987 special use permit applications on record for this property. All of those applications were related to oversized signage. Two were denied and one was withdrawn. In 1992, the property was rezoned from M-1 (Light Industry District) to C-3 for car and truck rental, pursuant to REZ1992-00159. The current requests were remanded back to the Planning Commission by the Board of Commissioners in January 2023.

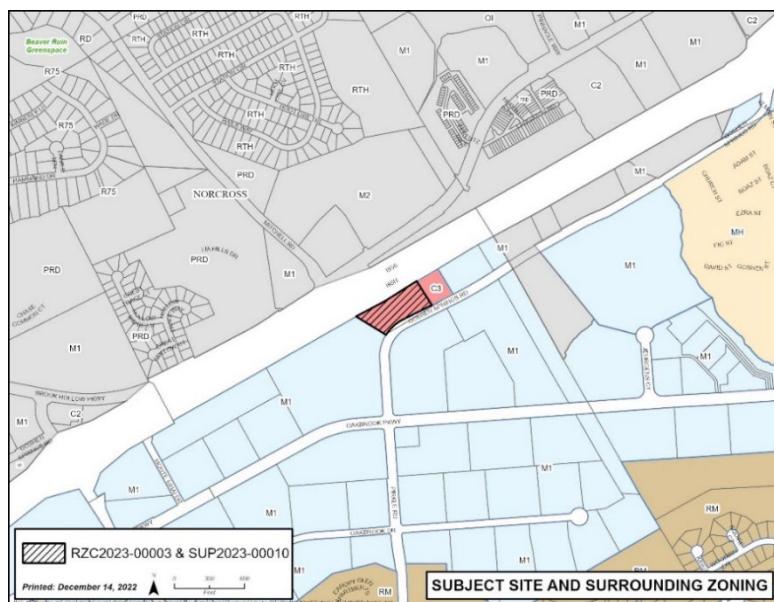
Existing Site Condition

The subject site is a 2.93-acre parcel located along Goshen Springs Road, north of its intersection with Oakbrook Parkway. The parcel is adjacent to Interstate 85 and is highly visible from the interstate. The site is almost completely developed with only a small portion along the northern and western property lines left grassed. A billboard, visible from I-85, is located in the northwest corner of the property. The developed portion of the site contains a 21,796 square foot building with two overhead doors oriented

toward the street and customer, employee, and fleet parking areas. BusMax Rent-a-Bus is currently operating at this location and parks its fleet of buses, trucks, and vans on the property. The property is surrounded by a chain-link fence with barbed wire. Overhead powerlines are present along the Goshen Springs Road frontage, but there are no sidewalks on this section of the road. The nearest Gwinnett County Transit stop is 0.75 miles from the site.

Surrounding Use and Zoning

The subject site is surrounded by light industrial uses. Two countertop and natural stone warehouses are located to the east of the subject property. Further east on Goshen Springs Road is another heavy equipment rental establishment and waste hauling facility. Across Goshen Springs Road to the south is the Norcross Corporate Park, which contains office and warehouse uses in several one-story buildings. Oakbrook Parkway is located to the south of the subject property. Oakbrook Parkway and the connecting streets in the area contain dozens of large office warehouse buildings. A training facility and warehouse is located on the property to the west. Across I-85 to the north is a recycling facility. The following is a summary of surrounding uses and zoning:



Location	Land Use	Zoning	Density
Proposed	Heavy Equipment, Rental Sales and Service	M-1	N/A
North	Heavy Industrial	M-2 (Norcross)	N/A
East	Light Industrial	C-3	N/A
South	Light Industrial	M-1	N/A
West	Light Industrial	M-1	N/A

Project Summary

The applicant requests a special use permit and the rezoning of a 2.93-acre parcel from C-3 to M-1 to operate a heavy equipment sales and service facility, including:

- The temporary use of an existing 21,796 square foot building for the continued use of office and service/repair uses.
- An alternate plan to construct a 12,440 square foot building to replace the existing building. No timeline has been established regarding when the building replacement would occur.
- Employee and customer parking located near the office portion of the existing building and to the north of the alternate planned building.
- Outdoor display of heavy equipment for rental and purchase located in the western portion of the lot.
- An outdoor machine storage area located along Goshen Springs Road to the west of the building. (The alternate plan shows future expansion of all outdoor areas)
- A wash out area to clean equipment prior to being serviced. The wash out area is designed to use recycled water and uses a treatment system to remove dirt and oil from the water. No wash out area is shown on the alternate plan.
- One full access driveway onto Goshen Springs Road in its current location.
- Continued use of the existing billboard.
- Future site plan shows 18 parking spaces.

Zoning and Development Standards

The applicant is requesting a special use permit and rezoning to M-1(Light Industry District). The following is a summary of applicable development standards from the Unified Development Ordinance (UDO):

Standard	Required	Current/Proposed	Meets Standard?
Building Height	Maximum 45'	20'/30'	YES
Front Yard Setback	Minimum 50'	40'/60'	NO*
Side Yard Setback	Minimum 25'	60'/75'	YES
Rear Yard Setback	Minimum 50'	40'/74'	NO*
Off-Street Parking	Minimum: 44 spaces Maximum: 108 spaces	13 spaces/18	NO**
Minimum Lot Width	Minimum 150'	>150'	YES
Minimum Lot Size	Minimum 1 acre	2.93 acres	YES
Landscape Strip	Minimum 10'	≥10'	YES

*The current building does not comply with these setback requirements. Variances have been requested.

**A parking variance has been requested.

In addition, the following standards apply to development in the Gateway 85 Overlay District:

Standard	Meets Standard?
Outdoor display of or sales of used merchandise associate with any use.	NO*
Barbed wire, razor wire, or similar elements is prohibited, except in M-1 and M-2 zoning districts and only when not visible from any street.	YES
Any wall or fence which extends into the required front yard shall be ornamental or decorative.	YES
A walkway shall be provided from all buildings to an adjacent public right of way.	NO*
Streetscape standards requiring 2-foot-wide sidewalk landscape strip and pedestrian lights.	NO*

*The applicant is requesting variances for these items.

Variance Requests

In addition to the rezoning and special use permit request, the applicant is seeking variances from the following provision of Title II of the UDO:

1. Section 230-10 Dimensional Standards of Zoning Districts.

Minimum front and rear setback in the M-1 zoning district is 50 feet.

The applicant is not proposing any change to the existing building. The building is currently setback 40 feet from the front and rear property line, which complies with the current C-3 zoning district requirements.

2. Section 240-20 Parking Space Requirements

Equipment Rental facilities shall provide 1 space per 500 square feet.

The applicant is requesting a reduction in the minimum parking spaces to allow less than 44 (1 per 500 square feet) parking spaces. A total of 13 spaces are proposed.

3. Section 220-50.4.F.B Gateway 85 Overlay District Outdoor Display or Sales Standards

Prohibited outdoor displays or sales. Outdoor display or sales of used merchandise associated with any use.

The applicant is requesting to allow the display and sales of used heavy equipment and outdoor machine storage.

4. Section 220-50.7.A Gateway 85 Pedestrian Access

A walkway shall be provided from all buildings to an adjacent public right of way.

The applicant is requesting to not install a walkway from the existing building to the right of way.

5. Section 220-50.5 Streetscape Standards

Street Type	Sidewalk Landscape Strip	Sidewalk	Landscape Strip	Streetlights
Local	Minimum 2'	Minimum 5'	Minimum 10'	Required

The applicant is requesting to provide a 5-foot-wide sidewalk and 10-foot-wide landscape strip but no sidewalk landscape strip or streetlights.

Internal and External Agency Review

In addition to these Development Standards, the applicant must meet all other UDO requirements related to infrastructure improvements. Internal and External agency review comments are attached (Exhibit F). Standard site and infrastructure improvements will also be required related to transportation, stormwater, water, and sewer utilities. Recommended improvements not already required by the UDO have been added as staff recommended conditions.

Staff Analysis

Rezoning and Special Use Permit Request Analysis: According to the UDO, if a proposed amendment is for the rezoning of property and involves a change in zoning classification, the Department shall evaluate the request and make a recommendation with respect to the standards governing exercise of zoning power as defined in Section 270-20.5. For Special Use Permits, the Department shall evaluate the request and make a recommendation with respect to the standards governing exercise of zoning power as defined in Section 270-20.5. After this evaluation, staff makes the following findings based on the standards from the UDO:

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

The subject property is surrounded by light industrial uses. The property is currently used for a bus and truck rental company. The proposed use is similar in the fact that it will openly store merchandise for sale and rent. There is another heavy equipment rental and sales facility located on Goshen Springs Road to the east. The proposed use would be suitable in view of the use and development of adjacent property.

B. Whether a proposed rezoning and special use permit will adversely affect the existing use or usability of adjacent or nearby property.

The existing use and usability of adjacent or nearby properties would not be impacted by the zoning change and special use permit. With the exception of the adjacent property to the east, all of the other properties in the area are zoned M-1. The adjacent C-3 zoned parcel is occupied by a light industrial use as well. In addition, the property's current use is similar to the proposed use.

C. Whether the property to be affected by a proposed rezoning and special use permit has a reasonable economic use as currently zoned.

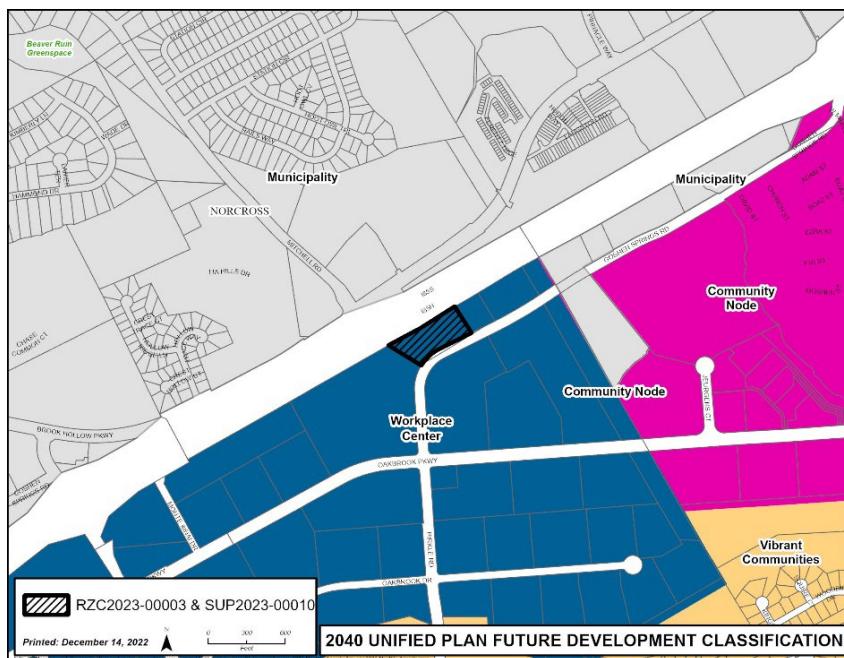
The property has a reasonable economic use as currently zoned.

D. Whether the proposed rezoning and special use permit will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

Impacts on public facilities would be anticipated in the form of traffic, utility demand, and stormwater runoff; however, appropriate conditions, site development requirements, and planning would mitigate these impacts. No impact is anticipated on school enrollment. Agency review comments related to any potential improvements concerning this rezoning request are attached (Exhibit F).

E. Whether the proposed rezoning and special use permit is in conformity with the policy and intent of the Unified Plan and Future Development Map.

The 2040 Unified Plan and Future Development Map indicate the subject property lies within the Workplace Center Character Area. This designation includes office parks, industrial parks, freight-oriented, and logistic uses. The character area encourages service uses to offset the anticipated reduction in manufacturing and light industry. The requested rezoning and special use permit for a heavy equipment rental, sales, and service facility conforms with the policy and intent of the Unified Plan and Future Development Map.



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 proposed rezoning and special use permit.

The surrounding land use is characterized by exclusively light industrial uses. The proposed rezoning would allow for a use that is similar to the use currently on the property. Approval of the rezoning would not substantially change the existing use or the existing character of the area.

Variance Requests Analysis: The standards for granting variances are outlined in Section 270-100.7 of the UDO. Staff makes the following findings related to the variance request:

The applicant is requesting several variances for the subject property. The first variance is to allow encroachments into the required front and rear yards. The building meets the current standard setbacks of the C-3 zoning district. However, if rezoned to M-1, the building will not meet the minimum 50-foot-wide front and rear setback. The proposed future site plan does comply with the M-1 minimum setback requirements. The second variance is to allow a reduction in the minimum amount of parking spaces. The applicant is proposing less than the required 44 spaces. The UDO requires one parking space per 500 square feet of building. However, most of the building is used for servicing the equipment and not for display of merchandise. This results in a large number required parking spaces. Approval of these variances allows the site to remain in its current state without alterations to the building and parking areas. In addition, it is unnecessary to provide the amount of parking required by the UDO, when most of the building is used for servicing equipment.

The remaining variances are from the Gateway 85 Overlay District regulations. The request is to allow the sale of used merchandise which is prohibited by the Overlay District. Allowing the sale of used heavy equipment would not result in any noticeable difference from the sale or rental of other equipment. The heavy equipment that would be rented is openly stored, making it indistinguishable from used equipment for sale on the site. The second request is to not provide a walkway from proposed sidewalk along Goshen Springs Road to the front of the building. It is unlikely that there would be much, if any, foot traffic created by a heavy equipment rental facility. The final request is to not provide the full streetscape standards. The applicant is providing the required sidewalk and landscape strip. However, the applicant is requesting to not install streetlights or the 2-foot-wide sidewalk landscape strip. Goshen Springs Road is an industrial road that provides access to a small number of industrial facilities and provides access to the rear of a large industrial park. Providing a sidewalk and landscape strip is satisfactory for this road.

Staff Recommendation

Based on the staff's evaluation of the request and the standards governing exercise of zoning power, the Department of Planning and Development recommends **APPROVAL WITH CONDITIONS** of the rezoning and special use permit requests.

In addition, staff recommends **APPROVAL** of the following variances:

1. To allow a 10-foot encroachment into the front and rear setback for the existing building only.
2. To allow a reduction in the minimum amount of parking spaces from 44 to 13 spaces.
3. To allow the outdoor sale and display of used merchandise within the Gateway 85 Overlay District.
4. To not provide a walkway from the Goshen Springs right of way to the front of the building.
5. To not provide the 2-foot-wide sidewalk landscape strip and streetlights.

Planning Commission Recommendation

Based on staff's evaluation of the request, information presented at the public hearing, and the Planning Commission's consideration of the standards governing the exercise of zoning power related to this application, the Planning Commission recommends **APPROVAL WITH CONDITIONS** of the rezoning and special use permit request.

In addition, the Planning Commission recommends **APPROVAL** of the following variance requests:

1. To allow a 10-foot encroachment into the front and rear setback for the existing building only.
2. To allow a reduction in the minimum amount of parking spaces from 44 to 13 spaces.
3. To allow the outdoor sale and display of used merchandise within the Gateway 85 Overlay District.
4. To not provide a walkway from the Goshen Springs right of way to the front of the building.
5. To not provide the 2-foot-wide sidewalk landscape strip and streetlights.

Planning Commission Recommended Conditions (includes Staff Recommended Conditions, as Amended)

RZC2023-00003:

Approval as M-1 (Light Industry District) for heavy equipment rental, sales, and service, subject to the following conditions:

1. The proposed development shall be constructed in general conformance with Exhibit B: Site Plan dated received November 3, 2022, with revisions required by conditions and the Unified Development Ordinance, subject to the review and approval of the Department of Planning and Development.
2. Any future development or redevelopment of the building and/or site shall be constructed in general conformance with Exhibit C: Proposed Future Site Plan dated received February 27, 2023, with revisions required by conditions and the Unified Development Ordinance, subject to the review and approval of the Department of Planning and Development.
3. No temporary tents, temporary canopies, temporary banners, temporary streamers, or temporary roping decorated with flags, tinsel, or other similar materials shall be displayed, hung, or strung on the site, except within 60 days of grand opening and during special events which shall occur no more than twice per calendar year, and last no longer than seven days each.
4. Outdoor display and storage shall be limited to the areas indicated on Exhibit B: Site plan dated received November 3, 2022. If redeveloped, outdoor display and storage shall be limited to the areas indicated on Exhibit C: Proposed Future Site Plan dated received February 27, 2023.
5. All repair of equipment and/or vehicles of any kind shall take place indoors.
6. The existing chain-link fence along Goshen Springs Road shall be removed and replaced with **wrought iron style fencing as presented at the March 8, 2023, Planning Commission meeting compliant with the Gateway 85 Overlay District.**
7. All barbed wire fencing shall be removed from the site.
8. The developer shall construct a five-foot-wide sidewalk along the Goshen Springs Road frontage.

9. The area between the newly installed sidewalk and the existing pavement of the subject property shall be sodded or landscaped as approved by the Planning and Development Department.
10. The only billboard allowed on the property shall be the existing billboard along Interstate 85.

11. All new construction shall be glass and/or masonry, stacked stone, stucco, pre-cast concrete, or tilt-wall buildings or construction.

SUP2023-00010:

Approval of a special use permit for heavy equipment rental, sales, and service, subject to the following conditions:

1. The proposed development shall be constructed in general conformance with Exhibit B: Site Plan dated received November 3, 2022, with revisions required by conditions and the Unified Development Ordinance, subject to the review and approval of the Department of Planning and Development.
2. Any future development or redevelopment of the building and/or site shall be constructed in general conformance with Exhibit C: Proposed Future Site Plan dated received February 27, 2023, with revisions required by conditions and the Unified Development Ordinance, subject to the review and approval of the Department of Planning and Development.
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5. All repair of equipment and/or vehicles of any kind shall take place indoors.
6. The existing chain-link fence along Goshen Springs Road shall be removed and replaced with **wrought iron style fencing as presented at the March 8, 2023, Planning Commission meeting compliant with the Gateway 85 Overlay District.**
7. All barbed wire fencing shall be removed from the site.
8. The developer shall construct a five-foot-wide sidewalk along the Goshen Springs Road frontage.
9. The area between the newly installed sidewalk and the existing pavement of the subject property shall be sodded or landscaped as approved by the Planning and Development Department.
10. The only billboard allowed on the property shall be the existing billboard along Interstate 85.

11. All new construction shall be glass and/or masonry, stacked stone, stucco, pre-cast concrete, or tilt-wall buildings or construction.

Exhibits:

- A. Site Visit Photos
- B. Site Plan
- C. Proposed Future Site Plan
- D. Letter of Intent and Applicant's Response to Standards
- E. Application and Disclosure of Campaign Contributions
- F. Internal and External Agency Review Comments
- G. Maps
- H. Fence Exhibit Presented at the March 8, 2023, Planning Commission Meeting.

Exhibit A: Site Visit Photos



View of subject property from Interstate 85 (from Google Street View)



View of inventory display area from Goshen Springs Road

Exhibit B: Site Plan

[attached]

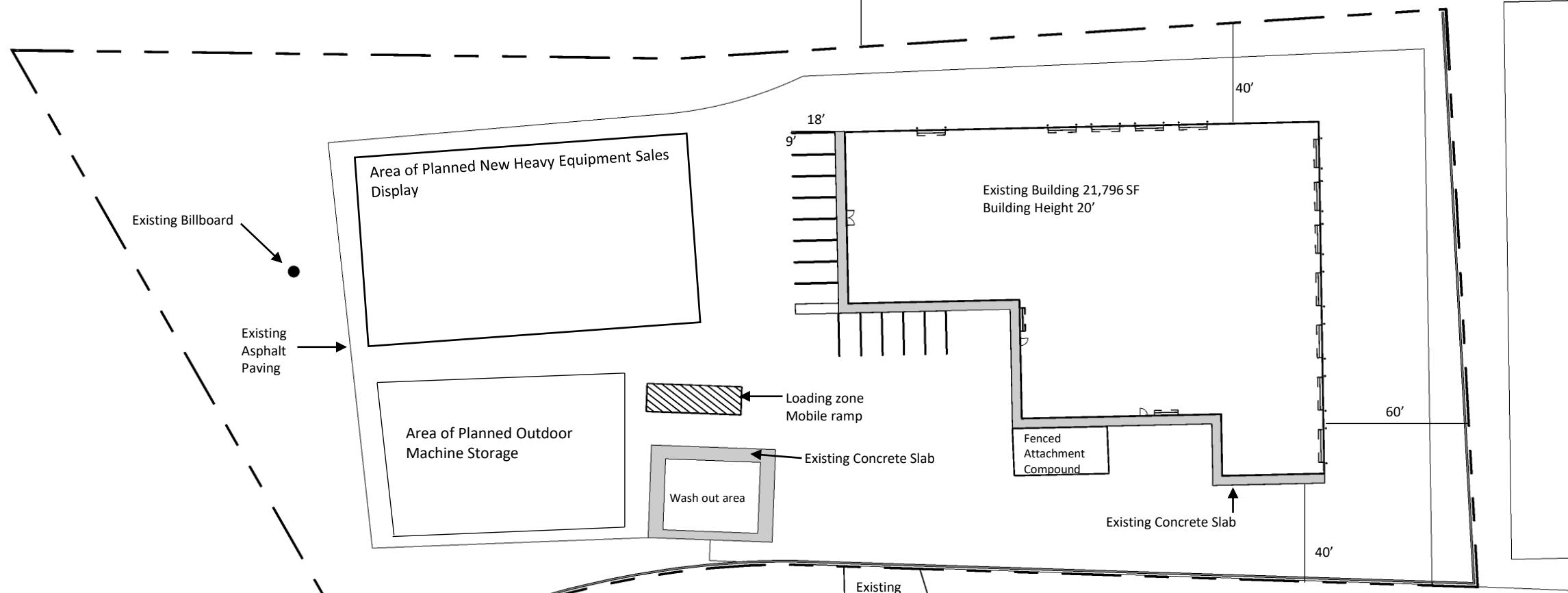


JCB Atlanta Real Estate, LLC
5493 Goshen Springs Rd, Norcross, GA 30093
9/15/2022

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11.3.2022

Highway I-85

57' From property line to highway



RZC2023-00003 & SUP2023-00010

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Exhibit C: Proposed Future Site Plan

[attached]

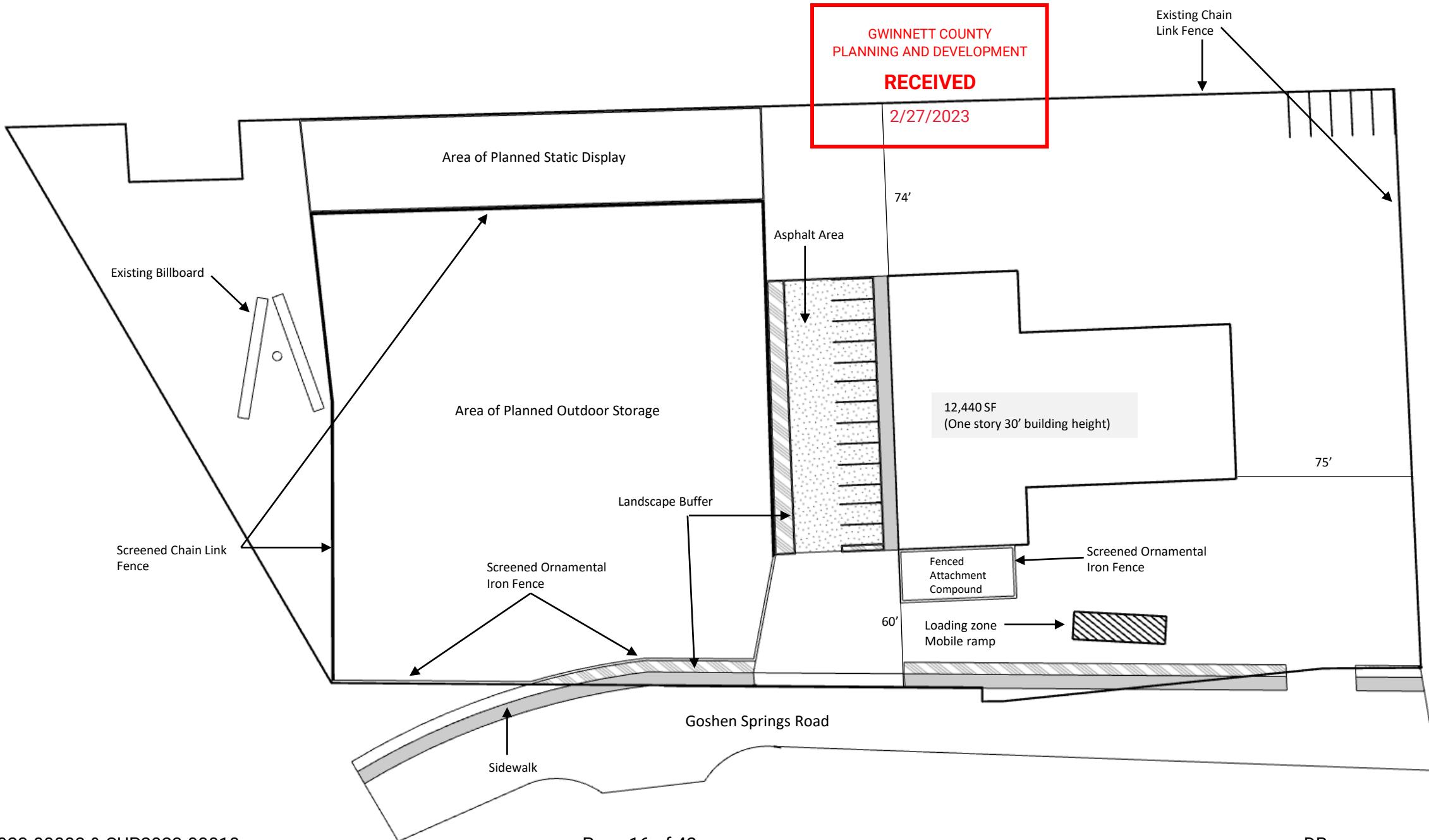


Exhibit D: Letter of Intent and Applicant's Response to Standards

[attached]

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PLANNING AND DEVELOPMENT

February 27, 2023

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REVISED LETTER OF INTENT
AND JUSTIFICATION FOR REZONING

Rezoning and Special Use Permit Applications
Gwinnett County, Georgia

Applicant:
JCB Atlanta Real Estate, LLC

Property:
Tax Parcel ID R6214 005
±3.033 Acres of Land
Located at 5493 Goshen Springs Road, Norcross, Georgia
From C-3 to M-1

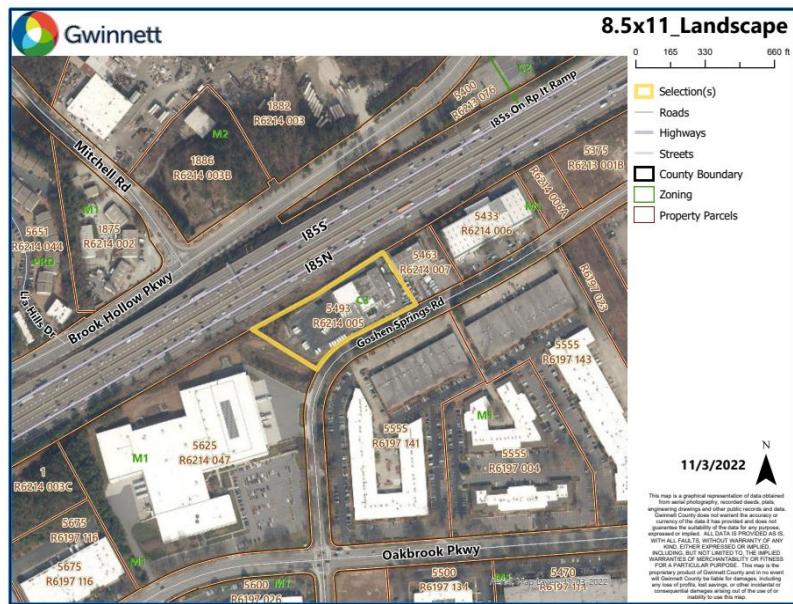
Submitted for Applicant by:
Melody A. Glouton, Esq.
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1960 Satellite Blvd.
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Duluth, Georgia 30097
770.822.0900
mglouton@atclawfirm.com

I. INTRODUCTION

GWINNETT COUNTY PLANNING AND DEVELOPMENT

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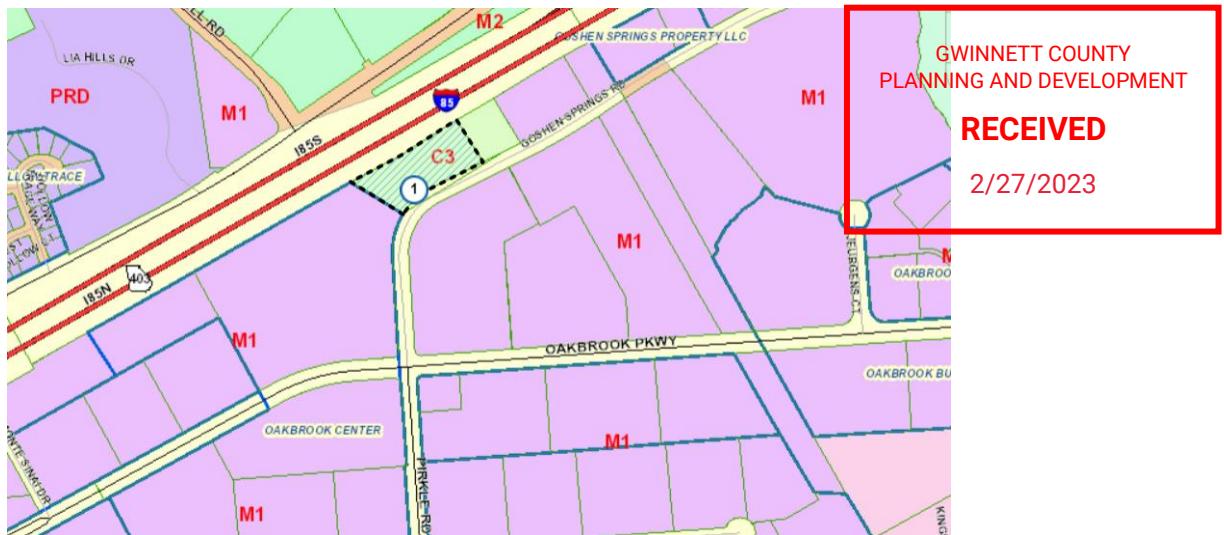
These Applications for Rezoning and a Special Use Permit (“SUP”) is submitted for a 3.033-acre parcel of land located in Land Lot 214 of the 6th District of Gwinnett County, Georgia, and known as 5493 Goshen Springs Road (the “Property”). The Property is a single tract of land located on Goshen Springs Road with frontage on both Goshen Springs Road and I-85. The Property is accessible from and existing driveway Goshen Springs Road. The Property is further shown on the survey prepared by Boundary Zone, Inc., dated October 20, 2022, and filed with these Applications. The Property is currently owned by Salmon Property Investments, LLC and further identified below from the Gwinnett County GIS:



The Property is currently zoned C-3 (Highway Business District) pursuant to the Gwinnett County Unified Development Ordinance (the “UDO”). The Applicant, JCB Atlanta Real Estate, LLC (the “Applicant”) now seeks approval to rezone the property to M-1 (Light Industrial District), with an associated SUP, to allow for the operation a JCB Construction Equipment Dealership to include heavy equipment sales, rentals, and service, outdoor display of new equipment for sale, and additional outdoor storage of equipment. This document is submitted as the Letter of Intent, Response to Standards Governing the Exercise of Zoning Power, and other materials required by the Gwinnett County UDO.

II. DESCRIPTION OF SURROUNDING USE AND ZONING

The subject site is surrounded by industrial uses. The site is adjacent to other buildings zoned M-1, including the Norcross Corporate Park to the south. Industrial uses are located to the east and west of the Property. The following is a summary of surrounding uses and zoning:



Location	Land Use	Zoning
Proposed	Heavy Equipment Sales, Rentals, & Service, and Outdoor Display	C-3 (Highway Business District)
North	Interstate 85	N/A
South	Norcross Corporate Park, Industrial	M-1 (Light Industrial)
East	Georgia Kitchen & Bath, Industrial	M-1 (Light Industrial)
West	Canon, Industrial	M-1 (Light Industrial)

The Future Development Map of the Gwinnett County 2040 Unified Plan (the “2040 Plan”) classifies this Property as within the “Workplace Center Character Area” of the Gwinnett County Future Development Map. The Workplace Center Character Area is for predominantly employment-oriented uses and includes office parks, industrial parks, and locations for freight oriented and logistic uses. In keeping with the policies of the Workplace Center Character Area, the operation of JCB Construction Equipment would be consistent with the other light and heavy industrial uses established in the area and the proposal would be in conformity with similar approvals in the surrounding area. Accordingly, the proposed rezoning satisfies the intent of the 2040 Plan, especially considering the Property is surrounded by other industrial uses.

III. PROJECT SUMMARY AND DEVELOPER

As shown on the site plan filed with these Applications (the “Site Plan), the rezoning and SUP would allow JCB to operate their existing business on site to include heavy equipment sales, rentals and service, outdoor display of new equipment for sale, and additional outdoor storage of equipment. Initially, the Applicant intends to use the existing building on the Property for its sales and service office with outdoor display of new equipment to be placed interior on the tract and fronting I-85. The Property currently contains a 21,796 square foot single story building with parking spaces along the front and side of the building. However, the Applicant does plan

to ultimately replace the existing building with new construction. As such, the Applicant is including an alternative site plan to include future construction of a new, one-story building containing 12,440SF. The new building would also comply with the 50' front and rear yard setbacks.

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Today, the Property is occupied by BusMax Rent-A-Bus and stores vans, buses, and other vehicles on site. A billboard, visible from I-85, is also located on the property and the Applicant is requesting continued use of the billboard. JCB is a British multinational manufacturer of equipment for construction, agriculture, waste handling, and demolition, founded in 1945. Today, JCB is a global force in manufacturing with 22 plants on four continents and more than 750 dealers around the world.

IV. VARIANCES REQUESTED

(1) Gateway 85 Overlay District: The property is located within the Gateway 85 Overlay District. The Overlay District has additional requirements over and above the base zoning requirements. As such, the Applicant is requesting variances from Section 220-50 of the UDO. Those variances include relief from the following requirements as further identified in Table 220.3:

- 1) Section 50.5 Streetscape Standards
- 2) Section 50.6 Lighting Standards
- 3) Section 50.7 Pedestrian Access – the Applicant intends to install a 5-foot wide sidewalk along the frontage of Goshen Springs Road.
- 4) Section 50.9 Building Design
- 5) Section 50.10 Screening – due to the size of the equipment, the screening will not be of a height equal to or greater than the height of the equipment.
- 6) Section 50.11 Site Accessories – the Applicant intends to remove the existing barbed wire on the site.
- 7) Section 50.12 Common Area
- 8) Section 50.4(F)(1)(b) - the business plan does include the sale of used equipment.

(2) The Applicant is also requesting a variance with regard to the required minimum rear setback pursuant to Section 230-10, Table 230.3. The building currently meets the required 50' front setback but will require a 10' variance from the required 50' rear setback. As previously indicated, any new construction would be in compliance with the required setbacks.

(3) Finally, the Applicant is seeking a variance to reduce the required minimum parking spaces pursuant to Section 240-20, Table 240.1. The UDO requires 1 space per 500 square feet for the proposed use. The site currently provides for 13 parking spaces.

The requested variances are necessary to afford the Applicant relief so that the Property may be redeveloped in accordance with the intent of the site plan. Due to the size, existing layout, and topography of the Property, strict adherence to the requirements of the UDO is not

possible in this matter. Further, granting the variances would not adversely affect the existing use or usability of adjacent property.

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V. SITE IMPACT ANALYSIS

Pursuant to UDO § 270-20.6, entitled "Impact Analysis," the Applicant submits its written impact analysis which shows that approving the rezoning satisfies UDO § 270-20.5, entitled "Standards Governing Exercise of the Zoning Power," as follows:

(A) WHETHER A PROPOSED REZONING WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY:

Yes, approval of the rezoning will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The Property is located on Goshen Springs Road among existing light industrial properties. The Property is surrounded by intense commercial uses.

(B) WHETHER A PROPOSED REZONING WILL ADVERSELY AFFECT THE EXISTING USE OR USEABILITY OF ADJACENT OR NEARBY PROPERTY:

No, the proposed rezoning will not adversely affect the existing use or usability of any of the nearby properties. The proposed use is compatible with existing industrial uses of adjacent property.

(C) WHETHER THE PROPERTY TO BE AFFECTED BY A PROPOSED REZONING HAS REASONABLE ECONOMIC USE AS CURRENTLY ZONED:

The Applicant submits that due to the size, location, layout, topography, and natural features of the Subject Property, it does not have reasonable economic use as currently zoned.

(D) WHETHER THE PROPOSED REZONING WILL RESULT IN A USE WHICH WILL OR COULD CAUSE AN EXCESSIVE OR BURDENOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS:

No, the rezoning will not result in an excessive or burdensome use of the infrastructure systems. The Property has convenient access to Goshen Springs Road and Oakbrook Parkway. The proposed development would be consistent with the existing industrial uses. Moreover, appropriate conditions, site development requirements, and planning could mitigate any of the above-referenced impacts.

(E) WHETHER THE PROPOSED REZONING IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE LAND USE PLAN:

The proposed rezoning is in conformity with the policy and intent of the Gwinnett County 2040 Unified Plan. The subject property is located within the Workplace Center Character Area of the 2040 Future Development Map. This designation includes office parks, industrial parks, freight-oriented, and logistic uses. The requested rezoning for a heavy equipment construction business would conform with the policy and intent of the Unified Plan and Future Development Map.

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(F) WHETHER THERE ARE OTHER EXISTING OR CHANGING CONDITIONS AFFECTING THE USE AND DEVELOPMENT OF THE PROPERTY WHICH GIVE SUPPORTING GROUNDS FOR EITHER THE APPROVAL OR DISAPPROVAL OF THE PROPOSED REZONING:

The Applicant submits that the character of the surrounding properties and the existing industrial uses provide supporting reasons for approval of the rezoning. In addition, the Applicant submits that the Property's location, size, and dimensions, as well as its proximity to among major light industrial, provide further support for approval of the rezoning.

VI. JUSTIFICATION FOR REZONING

The Applicant respectfully submits that "The Unified Development Ordinance of Gwinnett County, Georgia" (the "Ordinance"), as amended from time to time, to the extent that it classifies the Property in any zoning district that would preclude development and operation of a heavy equipment and construction business with accessory uses under M-1, is unconstitutional as a taking of property, a denial of equal protection, an arbitrary and capricious act, and an unlawful delegation of authority under the specific constitutional provisions later set forth herein. Any existing inconsistent zoning of the Property pursuant to the Ordinance deprives the Applicant and Property owner of any alternative reasonable use and development of the Property. Additionally, all other zoning classifications, including ones intervening between the existing classification and that requested herein, would deprive the Applicant and Property owner of any reasonable use and development of the Property. Further, any attempt by the Gwinnett County Board of Commissioners to impose greater restrictions upon the manner in which the Property will be developed than presently exist would be equally unlawful.

Accordingly, Applicant submits that the current zoning classification and any other zoning of the Property save for what has been requested as established in the Ordinance constitute an arbitrary and unreasonable use of the zoning and police powers because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant and Property owner. All inconsistent zoning classifications between the existing zoning and the zoning requested hereunder would constitute an arbitrary and unreasonable use of the zoning and police powers because they bear or would bear no substantial relationship to the public health, safety, morality, or general welfare of the public and would substantially harm the Applicant and Property owner. Further, the existing inconsistent zoning classification constitutes, and all zoning and plan classifications intervening between the existing inconsistent zoning classification and that required to develop this Project would constitute, a taking of the owner's private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of

the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States.

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GWINNETT COUNTY
PLANNING AND DEVELOPMENT

Further, the Applicant respectfully submits that failure to approve the requested rezoning change would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and Property owner and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

Finally, the Applicant respectfully submits that the Gwinnett County Board of Commissioners cannot lawfully impose more restrictive standards upon the development of the Property than presently exist, as to do so not only would constitute a taking of the Property as set forth above, but also would amount to an unlawful delegation of their authority, in response to neighborhood opposition, in violation of Article IX, Section IV, Paragraph II of the Georgia Constitution.

These Applications meets favorably with the prescribed test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning and planning as an expression of the government's police power. See Guhl v. Holcomb Bridge Road Corp., 238 Ga. 322 (1977).

IV. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that these Applications to Rezone from C-3 to M-1, with an associated SUP, be approved. The Applicant welcomes the opportunity to meet with the Gwinnett County Planning Department staff to answer any questions or to address any concerns relating to this Letter of Intent or supporting materials.

Respectfully submitted this 27th day of February, 2023.

ANDERSEN, TATE & CARR, P.C.

Melody A. Glouton

Melody A. Glouton, Esq.

Enclosures
MAG/dwb

**Exhibit E: Application and Disclosure of Campaign Contributions
[attached]**

SPECIAL USE PERMIT APPLICATION

AN APPLICATION TO AMEND THE OFFICIAL ZONING MAP OF GWINNETT COUNTY, GA

GWINNETT COUNTY
PLANNING AND DEVELOPMENT**RECEIVED**

2/27/2023

APPLICANT INFORMATION	PROPERTY OWNER INFORMATION*
NAME: <u>JCB Atlanta Real Estate, LLC c/o Andersen Tate & Carr</u>	NAME: <u>Salmon Property Investments, LLC</u>
ADDRESS: <u>1960 Satellite Blvd S-4000</u>	ADDRESS: <u>506 Turner McCall Blvd, SW</u>
CITY: <u>Duluth</u>	CITY: <u>Rome</u>
STATE: <u>GA</u> ZIP: <u>30097</u>	STATE: <u>GA</u> ZIP: <u>30165</u>
PHONE: <u>770-822-0900</u>	PHONE: _____
EMAIL: <u>mglouton@atclawfirm.com</u>	EMAIL: _____
CONTACT PERSON: <u>Melody A. Glouton</u> PHONE: <u>770-822-0900</u>	
CONTACT'S E-MAIL: <u>mglouton@atclawfirm.com</u>	

*Include any person having a property interest and any person having a financial interest in any business entity having property interest (use additional sheets if necessary).

APPLICANT IS THE:					
<input type="checkbox"/>	OWNER'S AGENT	<input type="checkbox"/>	PROPERTY OWNER	<input checked="" type="checkbox"/>	CONTRACT PURCHASER
EXISTING/PROPOSED ZONING: <u>C-3/M-1</u>			BUILDING/LEASED SQUARE FEET: <u>21,796</u>		
PARCEL NUMBER(S): <u>R6214 005</u>			ACREAGE: <u>3.03</u>		
ADDRESS OF PROPERTY: <u>5493 Goshen Springs Road, Norcross, GA 30093</u>					
SPECIAL USE REQUESTED: <u>Heavy equipment Rental, Sales, and Service; continued use of billboard on site</u>					

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

REZONING APPLICATION

AN APPLICATION TO AMEND THE OFFICIAL ZONING MAP OF GWINNETT COUNTY, GA

GWINNETT COUNTY
PLANNING AND DEVELOPMENT

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APPLICANT INFORMATION	PROPERTY OWNER INFORMATION
NAME: <u>JCB Atlanta Real Estate, LLC c/o Andersen Tate & Carr</u>	NAME: <u>Salmon Property Investments, 12/07/2023</u>
ADDRESS: <u>1960 Satellite Blvd S-4000</u>	ADDRESS: <u>506 Turner McCall Blvd SW</u>
CITY: <u>Duluth</u>	CITY: <u>Rome</u>
STATE: <u>GA</u> ZIP: <u>30097</u>	STATE: <u>GA</u> ZIP: <u>30165</u>
PHONE: <u>770-822-0900</u>	PHONE: _____
EMAIL: <u>mglouton@atclawfirm.com</u>	EMAIL: _____
CONTACT PERSON: <u>Melody A. Glouton</u>	PHONE: <u>770-822-0900</u>
CONTACT'S E-MAIL: <u>mglouton@atclawfirm.com</u>	
APPLICANT IS THE:	
<input type="checkbox"/> OWNER'S AGENT	<input type="checkbox"/> PROPERTY OWNER <input checked="" type="checkbox"/> CONTRACT PURCHASER
PRESENT ZONING DISTRICT(S): <u>C-3</u>	REQUESTED ZONING DISTRICT: <u>M-1</u>
PARCEL NUMBER(S): <u>R6214 005</u>	ACREAGE: <u>3.03</u>
ADDRESS OF PROPERTY: <u>5493 Goshen Springs Road, Norcross, GA 30093</u>	
PROPOSED DEVELOPMENT: <u>Heavy Equipment Rental, Sales, and Service; outdoor storage</u>	

RESIDENTIAL DEVELOPMENT	NON-RESIDENTIAL DEVELOPMENT
No. of Lots/Dwelling Units	No. of Buildings/Lots: <u>1</u>
Dwelling Unit Size (Sq. Ft.):	Total Building Sq. Ft. <u>21,796</u>
Gross Density:	Density: <u>n/a</u>
Net Density:	

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

RECEIVED

11.3.2022

Gwinnett County Planning Division
Rezoning Application
Last Updated 12/2015

REZONING APPLICANT'S CERTIFICATION

THE UNDERSIGNED BELOW IS AUTHORIZED TO MAKE THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION OR REAPPLICATION AFFECTING THE SAME LAND SHALL BE ACTED UPON WITHIN 12 MONTHS FROM THE DATE OF LAST ACTION BY THE BOARD OF COMMISSIONERS UNLESS WAIVED BY THE BOARD OF COMMISSIONERS. IN NO CASE SHALL AN APPLICATION OR REAPPLICATION BE ACTED UPON IN LESS THAN SIX (6) MONTHS FROM THE DATE OF LAST ACTION BY THE BOARD OF COMMISSIONERS.

Melody A. Glouton

Signature of Applicant

11/3/22

Date

Melody A. Glouton, Attorney for Applicant

Type or Print Name and Title

Angela Gratz
Signature of Notary Public

11-3-22

Date



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11.3.2022

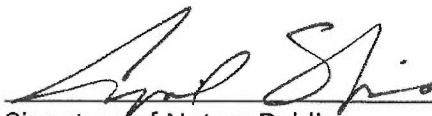
REZONING PROPERTY OWNER'S CERTIFICATION

THE UNDERSIGNED BELOW, OR AS ATTACHED, IS THE OWNER OF THE PROPERTY
CONSIDERED IN THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION
OR REAPPLICATION AFFECTING THE SAME LAND SHALL BE ACTED UPON WITHIN 12
MONTHS FROM THE DATE OF LAST ACTION BY THE BOARD OF COMMISSIONERS UNLESS
WAIVED BY THE BOARD OF COMMISSIONERS. IN NO CASE SHALL AN APPLICATION OR
REAPPLICATION BE ACTED UPON IN LESS THAN SIX (6) MONTHS FROM THE DATE OF LAST
ACTION BY THE BOARD OF COMMISSIONERS.


Signature of Property Owner

11/3/22
Date

David Salmon Partner
Type or Print Name and Title


Signature of Notary Public

11/3/22
Date

APRIL SHIFLETT
NOTARY PUBLIC
Gordon County
State of Georgia
My Comm. Expires October 14, 2023

Notary Seal

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11.3.2022

CONFFLICT OF INTEREST CERTIFICATION FOR REZONING

The undersigned below, making application for a Rezoning, has complied with the Official Code of Georgia Section 36-67A-1, et. seq, Conflict of Interest in Zoning Actions, and has submitted or attached the required information on the forms provided.

SIGNATURE OF APPLICANT

DATE

TYPE OR PRINT NAME AND TITLE

Melody A. Gloton

11/3/22

Melody A. Gloton, Attorney for Applicant

SIGNATURE OF APPLICANT'S

DATE

TYPE OR PRINT NAME AND TITLE

ATTORNEY OR REPRESENTATIVE

Angela Gratz

11-3-22

SIGNATURE OF NOTARY PUBLIC

DATE



DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the Board of Commissioners or a member of the Gwinnett County Planning Commission?

YES

NO

Andersen Tate & Carr

YOUR NAME

If the answer is yes, please complete the following section:

NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS (List all which aggregate to \$250 or More)	DATE CONTRIBUTION WAS MADE (Within last two years)
Kirkland Carden Commissioner Ben Ku	\$2,800 \$1,000	11/16/2021 03/25/2022
Kirkland Carden	\$500	05/05/2022
Marlene Fosque Commissioner Ben Ku	\$1,500 \$1,500	06/08/2022 10/06/2022

Attach additional sheets if necessary to disclose or describe all contributions.

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11.3.2022

Gwinnett County Planning Division
Rezoning Application
Last Updated 12/2015

CONFFLICT OF INTEREST CERTIFICATION FOR REZONING

The undersigned below, making application for a Rezoning, has complied with the Official Code of Georgia Section 36-67A-1, et. seq, Conflict of Interest in Zoning Actions, and has submitted or attached the required information on the forms provided.

Melody A. Gloton **11/3/22** Melody A. Gloton, Attorney for Applicant
SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE

SIGNATURE OF APPLICANT'S DATE
ATTORNEY OR REPRESENTATIVE

Angela Gratz **11-3-22** SIGNATURE OF NOTARY PUBLIC DATE



DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the Board of Commissioners or a member of the Gwinnett County Planning Commission?

YES NO **JCB Atlanta Real Estate, LLC**
YOUR NAME

If the answer is yes, please complete the following section:

NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS (List all which aggregate to \$250 or More)	DATE CONTRIBUTION WAS MADE (Within last two years)

Attach additional sheets if necessary to disclose or describe all contributions.

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11.3.2022

VERIFICATION OF CURRENT PAID PROPERTY TAXES FOR REZONING

THE UNDERSIGNED BELOW IS AUTHORIZED TO MAKE THIS APPLICATION. THE UNDERSIGNED CERTIFIES THAT ALL GWINNETT COUNTY PROPERTY TAXES BILLED TO DATE FOR THE PARCEL LISTED BELOW HAVE BEEN PAID IN FULL TO THE TAX COMMISSIONER OF GWINNETT COUNTY, GEORGIA. IN NO CASE SHALL AN APPLICATION OR REAPPLICATION FOR REZONING BE PROCESSED WITHOUT SUCH PROPERTY VERIFICATION.

***Note: A SEPARATE VERIFICATION FORM MUST BE COMPLETED FOR EACH TAX PARCEL INCLUDED IN THE REZONING REQUEST.**

PARCEL I.D. NUMBER: 6th - 214 - 005
(Map Reference Number) District Land Lot Parcel

Melody A. Glouton

11/02/2022

Signature of Applicant

Date

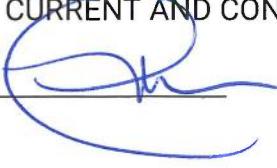
Melody A. Glouton, Attorney for Applicant

Type or Print Name and Title

*****PLEASE TAKE THIS FORM TO THE TAX COMMISSIONERS OFFICE AT THE GWINNETT JUSTICE AND ADMINISTRATION CENTER, 75 LANGLEY DRIVE, FOR THEIR APPROVAL BELOW.*****

TAX COMMISSIONERS USE ONLY

(PAYMENT OF ALL PROPERTY TAXES BILLED TO DATE FOR THE ABOVE REFERENCED PARCEL HAVE BEEN VERIFIED AS PAID CURRENT AND CONFIRMED BY THE SIGNATURE BELOW)

Jessilyn M. Suffe 
NAME
11/2/22
DATE

TSA
TITLE

**Exhibit F: Internal and External Agency Review Comments
[attached]**



Department of Planning and Development
TECHNICAL REVIEW COMMITTEE

TRC Meeting Date: 12.14.2022		
Department/Agency Name: Transportation		
Reviewer Name: Brent Hodges		
Reviewer Title: Construction Manager 1		
Reviewer Email Address: Brent.Hodges@gwinnettcounty.com		
Case Number: RZC2023-00003		
Case Address: 5493 Goshen Springs Road		
Comments: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
1	Goshen Springs Road is a local street. No ADT on file.	
2	0.75 mile to the nearest transit facility (#2334937) Center Way and Reece Supply.	
3		
4		
5		
6		
7		
Recommended Zoning Conditions: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
1	Per the Gateway 85 overlays district requirements, the developer shall construct an 8' concrete sidewalk along the Goshen Springs Road frontage.	
2		
3		
4		
5		
6		
7		

Note: Attach additional pages, if needed

Revised 7/26/2021



Department of Planning and Development
TECHNICAL REVIEW COMMITTEE

TRC Meeting Date:					
Department/Agency Name: DWR					
Reviewer Name: Mike Pappas					
Reviewer Title: GIS Planning Manager					
Reviewer Email Address: Michael.pappas@gwinnettcounty.com					
Case Number: RZC2023-00003					
Case Address: 5493 Goshen Springs Road					
Comments:		<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO
1	Water: DWR does not have comments for this development. The existing building is connected to public water.				
2	Sewer: DWR does not have comments for this development. The existing building is on septic and will remain on septic.				
3					
4					
5					
6					
7					
Recommended Zoning Conditions:		<input type="checkbox"/>	YES	<input checked="" type="checkbox"/>	NO
1					
2					
3					
4					
5					
6					
7					

Note: Attach additional pages, if needed

Revised 7/26/2021



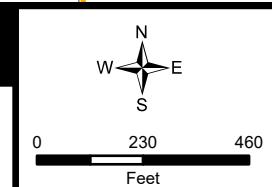
5493 Goshen Springs Road

C-3 to M-1

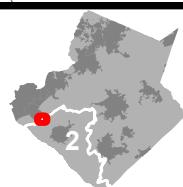
Water & Sewer Utility Map

LEGEND

▲ Flow Management	● Hydrant	▲ Sewer Force Main
▲ Pump Station	■ City	▲ Effluent Outfall
▲ Regional	■ Water Main	▲ Sewer Collector
● Manhole	■ Reuse Main	▲ Sewer Interceptor



LOCATION



Water Comments: DWR does not have comments for this development. The existing building is connected to public water.

Sewer Comments: DWR does not have comments for this development. The existing building is on septic and will remain on septic.

Water Availability: Water demands imposed by the proposed development may require upsizing or extensions of existing water mains in order to meet Gwinnett County Standards and fire flow demands. Any cost associated with such required improvements will be the responsibility of the development. Current Gwinnett County Standards require a minimum of 12" pipe size for commercial developments and a minimum of 8" pipe size for residential developments. Additionally, connection to a minimum of 12" and 8" mains are required for commercial and residential developments, respectively. It is the responsibility of the developer's engineer to confirm pressure and volumes are available for the development.

Sewer Availability: A Sewer Capacity Certification must be obtained from Gwinnett County to confirm the existing system can serve the development. Sewer demands imposed by the proposed development may require upsizing and/or extensions of existing sewer mains, and/or upsizing of an existing pump station, and/or installation of a new pump station. Any cost associated with such required improvements will be the responsibility of the development. The developer shall provide easements for future sewer connection to all locations.

RZC2023-00003 & SUP2023-00010

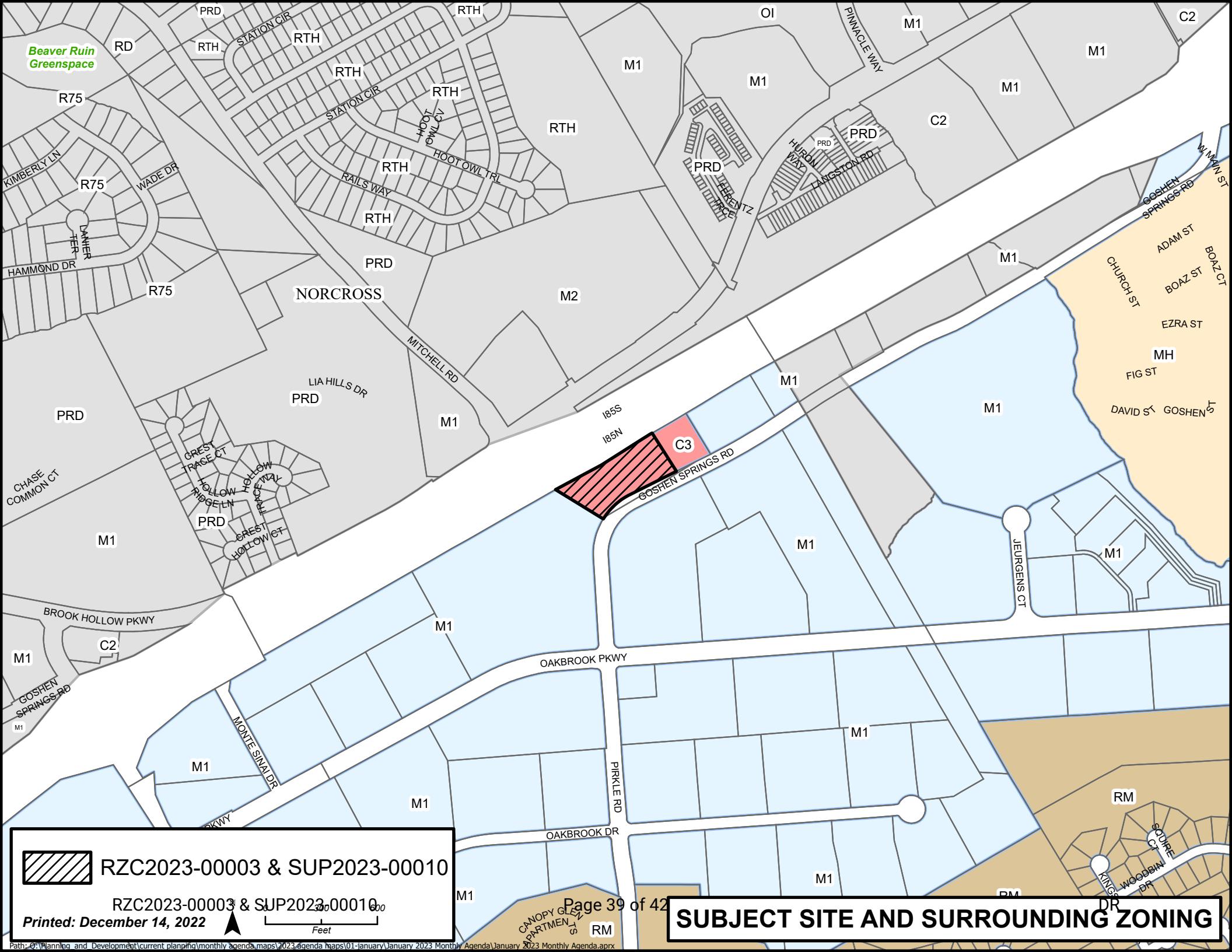
Extensions of the water and/or sanitary sewer systems within the subject development must conform to this department's policies, Gwinnett County's ordinances, and the Water Main and Sanitary Sewer Design and Construction Standards and Specifications, dated April 5th, 2016. Subsequent to design, construction, inspection, and final acceptance of the required utilities, service would then become available under the applicable utility permit rate schedules.

Private Road Developments: Any development with private roads must comply with the Standard Policy Requirement for the Installation of Water and Sanitary Sewer Mains within Private Developments. This policy stipulates minimum easement requirements and location of public mains and appurtenances, among other requirements.

Exhibit G: Maps

[attached]





RZC2023-00003 & SUP2023-00010

RZC2023-00003 & SUP2023-00010

RZCZ023-000
Printed: December 14, 2023

1

M1 CANOPY GLEN APARTMENT RM Page 39 of 42 SUBJ
Agenda January 2023 Monthly Agenda.aprx

SUBJECT SITE AND SURROUNDING ZONING

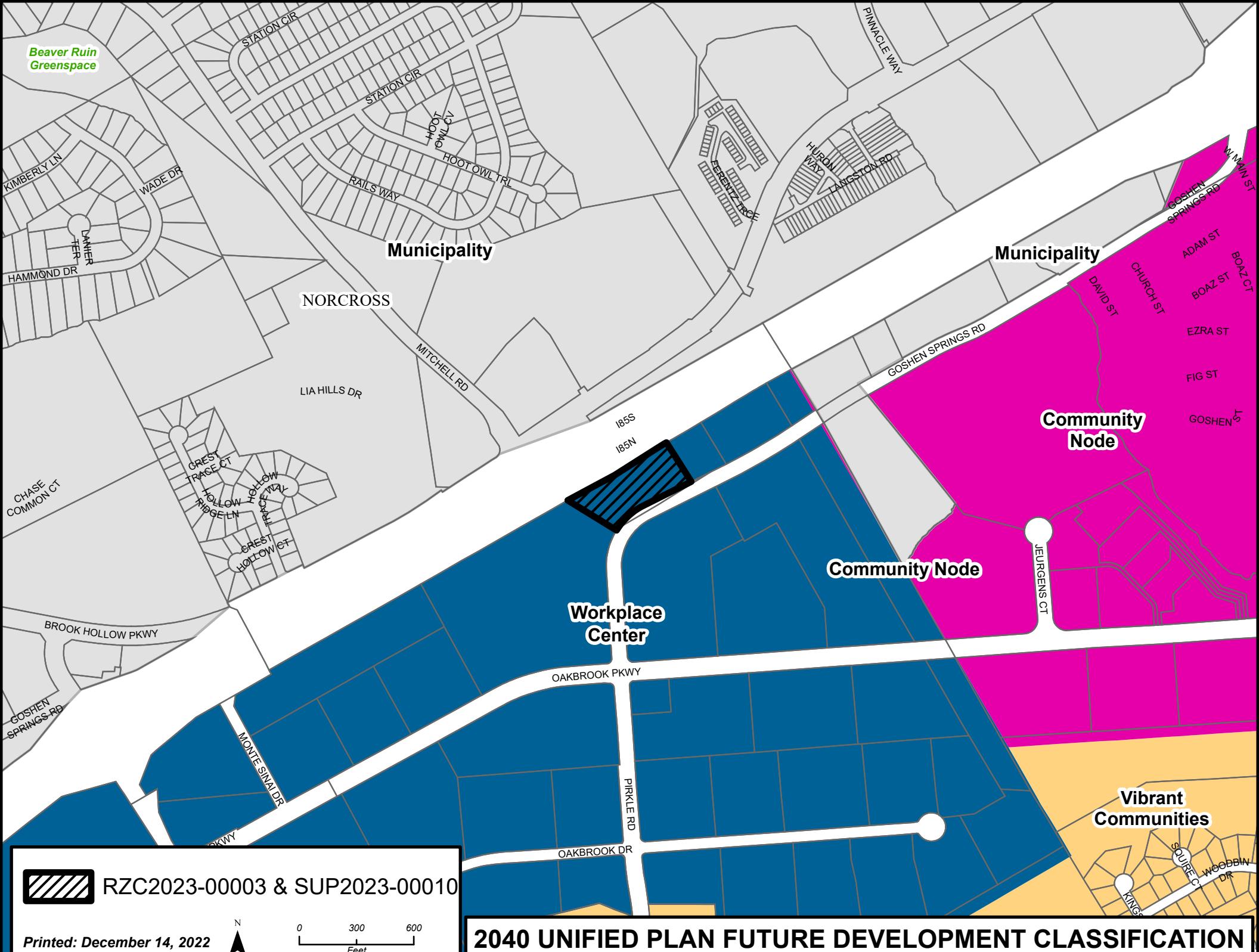


Exhibit H:

Fence Exhibit Presented at the March 8, 2023, Planning Commission Meeting.

[attached]



JCB preferred fence spec: 6' tall press point picket metal fence powder coated black.

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PLANNING AND DEVELOPMENT

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3/8/2023
RZC2023-00003 & SUP2023-00010