

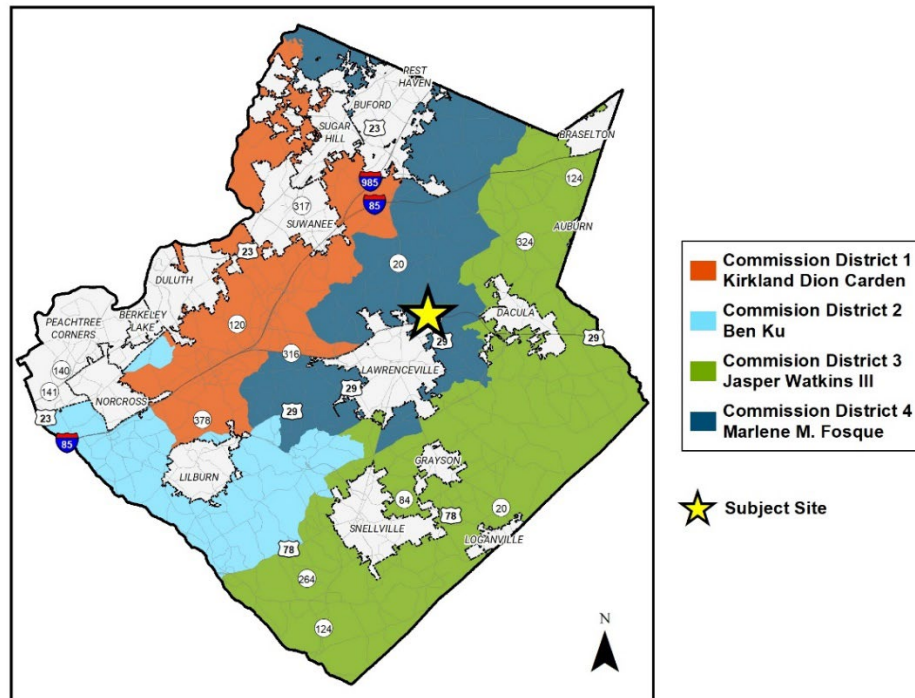


## PLANNING AND DEVELOPMENT DEPARTMENT CASE REPORT

**Case Number:** SUP2022-00070  
**Current Zoning:** M-1 (Light Industry District)  
**Request:** Special Use Permit  
**Additional Request:** Variance  
**Address:** 750 Hurricane Shoals Road  
**Map Number:** R7013 026  
**Site Area:** 5.78 acres  
**Square Feet:** 12,183  
**Proposed Development:** Truck and Heavy Equipment Sales, Rental and Service  
**Commission District:** District 4 – Commissioner Fosque  
**Character Area:** Innovation District

**Staff Recommendation:** APPROVAL WITH CONDITIONS

**Planning Commission Recommendation:** APPROVAL WITH CONDITIONS



**Planning Commission Advertised Public Hearing Date: 12/5/2022**  
**Board of Commissioners Advertised Public Hearing Date: 12/13/2022**

**Applicant:** HREP Hurricane Shoals, LLC  
c/o Andersen Tate & Carr  
1960 Satellite Boulevard, Suite 4000  
Duluth, GA 30097

**Owner:** Bankhead Capital, LLC  
Bankhead Reserve, LLC  
P.O. Box 99  
Auburn, GA 30011

**Contact:** Melody Glouton

**Contact Phone:** 770.822.0900

## **Zoning History**

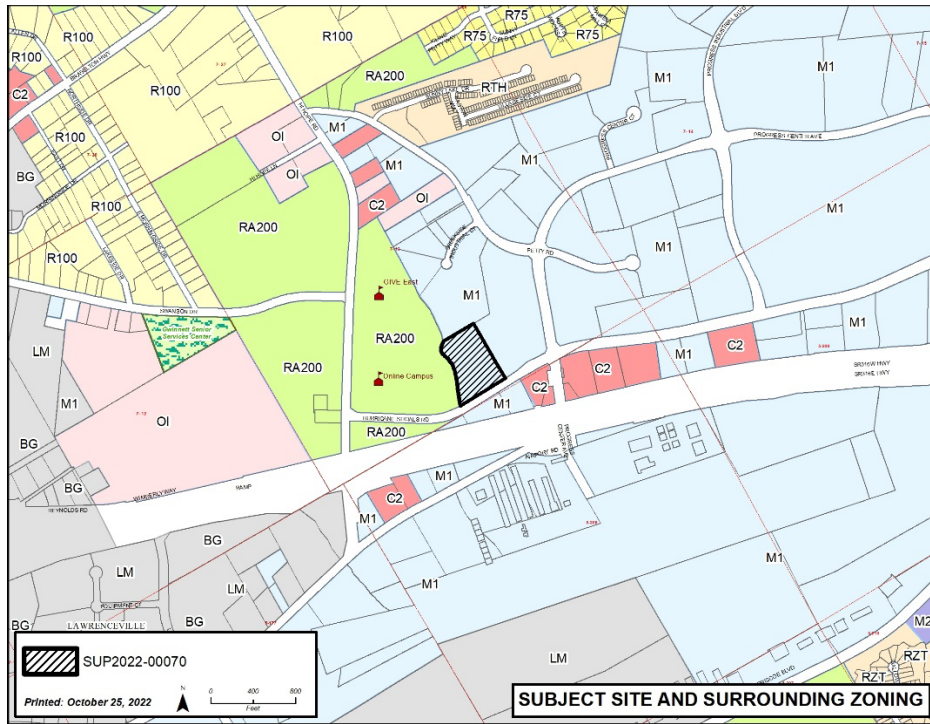
The subject property is zoned M-1 (Light Industry District). There are no previous zoning cases on record for this property. Two variances were approved in 1987 that allowed the outdoor storage area to be gravel and another for a side yard setback encroachment (V205-87) for the office building.

## **Existing Site Condition**

The subject site is a 5.78-acre parcel located on Hurricane Shoals Road west of its intersection with Progress Center Avenue. The parcel is fully developed with a majority of the site being a gravel storage area. There are mature trees along the side and rear property lines which help conceal the outdoor storage area from the adjoining properties. A portion of stream is located in the northwest corner of the site. It appears that the required stream buffers have been maintained. There are a number of existing buildings and carports on the site totaling 12,183 square feet. A small, brick office building is located near the southeast corner of the property. A larger metal building and carports are located near the center of the site. There is a small, paved parking area located in front of the buildings near the front of the site used for employee and customer parking. A black, vinyl coated chain link fence with barbed wire exists along the property frontage. There are no sidewalks along Hurricane Shoals Road. The nearest Gwinnett County Transit stop is 1.9 miles from the subject site.

## **Surrounding Use and Zoning**

The subject site is surrounded by institutional and light industrial uses. To the north and east, are large industrial buildings located with the Progress Center Industrial Park. Across Hurricane Shoals Road to the south are two small, metal industrial buildings. To the west is the Gwinnett County Public Schools Online Campus and Transportation Training Facility. The following is a summary of surrounding uses and zoning:



Location	Land Use	Zoning	Density
Proposed	Truck and Heavy Equipment Sales, Rental and Service	M-1	N/A
North	Light Industrial	M-1	N/A
East	Light Industrial	M-1	N/A
South	Light Industrial	M-1	N/A
West	Institutional	RA-200	N/A

## Project Summary

The applicant requests a special use permit on a 5.78-acre property zoned M-1 to allow a Truck and Heavy Equipment Sales, Rental and Service facility, including:

- Continued use of the property as a truck and trailer sales, rental and service facility.
- Additional heavy equipment rental services which require special use permit approval.
- Continued use of the existing buildings on site totaling 12,183 square feet.
- Continued use of the paved surface area for customer and employee parking.
- Continued use of the gravel storage area for outdoor storage and display.
- No external changes proposed to the site or building.

## Zoning and Development Standards

The applicant is requesting a special use permit for a truck and heavy equipment sales, rental and service facility in the M-1, Light Industry District. The following is a summary of applicable development standards from the Unified Development Ordinance (UDO):

Standard	Required	Existing	Meets Standard?
Building Height	Maximum 45'	<45'	YES
Front Yard Setback	Minimum 50'	15'	YES (V205-87)*
Side Yard Setback	Minimum 25'	>19'	NO**
Rear Yard Setback	Minimum 50'	>50'	YES
Landscape setback	Minimum: 10'	>10'	YES
Buffer	Minimum: 50' to RA-200	>50'	YES

\* A variance from the front yard setback was granted in 1987.

\*\*The applicant is requesting a side yard setback variance.

## Variance Request

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

1. Section 230-10 Dimensional Standards of Zoning Districts

### ***Minimum side setback 25' for properties zoned M-1***

The applicant is requesting a variance to allow the existing office building to be located 19 feet from the eastern side property line.

## 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 E). 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

**Special Use Permit Analysis:** According to the UDO, the staff analysis and recommendation on each application for a special use permit shall follow the same procedures as those contained in Section 270-20. Emphasis shall be given to the evaluation of characteristics of the proposed use in relationship to neighboring properties and the compatibility of the proposed use with its surroundings. 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 special use permit will permit a use that is suitable in view of the use and development of adjacent and nearby property.**

The surrounding area primarily consists of light industrial uses. The requested special use permit for a light industrial use adjacent to an existing industrial park is suitable considering the similarity of nearby uses.

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

The requested special use permit would not adversely affect the existing use or usability of adjacent or nearby property. The proposed use is substantially similar to the property's long time previous use. Therefore, the proposed use would not be expected to adversely affect nearby property.

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

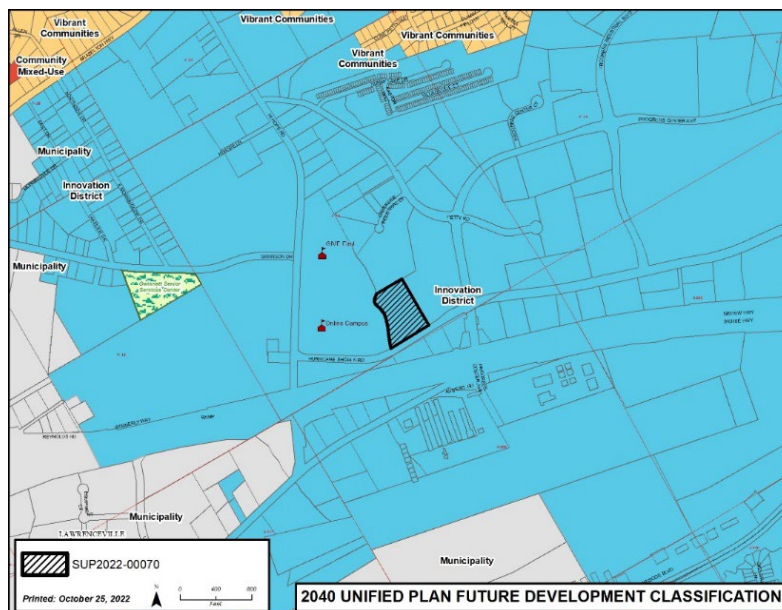
The property has a reasonable economic use as currently zoned.

**D. Whether the proposed 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.**

The proposed special use would create minimal impacts on public facilities 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 request are attached (Exhibit E).

**E. Whether the proposed 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 Innovation District Character Area. This designation is intended to where the predominate use is research and development, technological uses, industrial parks, and area where there are colleges and universities. The requested special use permit for heavy equipment rental, sales and service does not conform with the policy and intent of the Unified Plan and Future Development Map, however it is substantially similar to the existing use of the property.



**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 special use permit.**

The use is adjacent to an existing industrial park, which is a land use that is experiencing higher tenant vacancy rates than in previous decades. The Unified Plan encourages attracting service activities to these spaces to offset the projected decline in manufacturing and light industrial uses which gives supporting grounds for approval.

**Variance Request Analysis:** The standards for granting variances are outlined in Section 270-100.7 of the Unified Development Ordinance. Staff makes the following findings related to the variance request:

The applicant requests a variance from the side yard setback for the existing brick office building. The building was granted a variance to encroach upon the front setback in 1987. Approving the variance would allow the building to remain where it is currently located and bring it into compliance with current zoning requirements. The adjacent parcel would not be adversely affected by the approval of the variance nor would it be opposed the general spirit and intent of the UDO.

**Staff Recommendation**

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

In addition, staff recommends **APPROVAL** of the following Variance request:

1. To allow the office building to encroach six feet into the required side yard setback.

**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 special use permit request.

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

1. To allow the office building to encroach six feet into the required side yard setback.

**Planning Commission Recommended Conditions (includes Staff Recommended Conditions)**

Approval of a special use permit for a Truck and Heavy Equipment Sales, Rental and Service, subject to the following conditions:

1. All service and repair of equipment shall take place within buildings.
2. The paved parking areas shall be repaired and restriped within four months of the special use

permit approval.

3. The required 10-foot-wide front landscape strip shall be supplemented with plantings to meet the requirements of the UDO, subject to the review and approval of the Department of Planning and Development.

**Exhibits:**

- A. Site Visit Photos
- B. Site Plan
- C. Letter of Intent and Applicant's Response to Standards
- D. Application and Campaign Contribution Disclosure
- E. Internal and External Agency Review Comments
- F. Maps

**Exhibit A: Site Visit Photos**



**View of the office building and metal building from Hurricane Shoals Road**



**View of metal building and gravel parking area from Hurricane Shoals Road**

**Exhibit B: Site Plan**

**[attached]**



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

**[attached]**

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10.6.2022

October 6, 2022

**LETTER OF INTENT AND JUSTIFICATION FOR  
SPECIAL USE PERMIT**

**Special Use Permit Application  
Gwinnett County, Georgia**

**Applicant:**

Hickory Real Estate Partners | HREP Hurricane Shoals, LLC

**Property:**

Tax Parcel ID R7013 026

±5.78 Acres of Land

Located at 750 Hurricane Shoals Road, Lawrenceville, Georgia 30043

**SUP For Maintenance, Repair, Sales, Leasing, and Storage**

**To an Existing Industrial Site**

**Submitted for Applicant by:**

Melody A. Glouton, Esq.

ANDERSEN TATE & CARR, P.C.

One Sugarloaf Centre

1960 Satellite Blvd.

Suite 4000

Duluth, Georgia 30097

770.822.0900

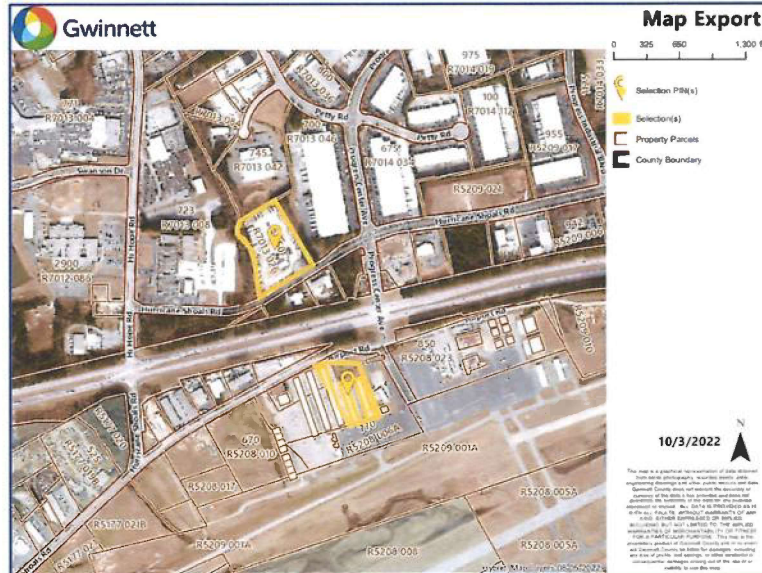
[mglouton@atclawfirm.com](mailto:mglouton@atclawfirm.com)

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## I. INTRODUCTION

This Application for Special Use Permit is submitted for a 5.78-acre parcel of land located in Land Lot 13 of the 7<sup>th</sup> District of Gwinnett County, Georgia, Lawrenceville, and known as 750 Hurricane Shoals Road (the “Property”). The Property is a single tract of land located along Hurricane Shoals Road just north of Highway 316. The Property is shown on the September 26, 2022, site plan filed with the Application. The Property is currently owned by Bankhead Capital, LLC and Bankhead Reserve, LLC and further identified below from the Gwinnett County GIS:



The Property is currently zoned M-1 (Light Industry District) pursuant to the Gwinnett County Unified Development Ordinance (the “UDO”). The Applicant now seeks approval of a Special Use Permit (“SUP”) to provide additional supplemental and related services to an existing light industrial property, including outdoor storage, maintenance and repair, and equipment sales and leasing. 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.

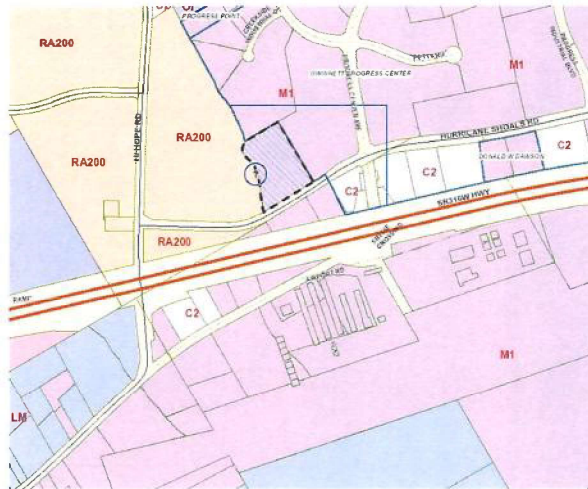
## II. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA

The Property is an irregularly shaped parcel with frontage along Hurricane Shoals Road in Lawrenceville, Georgia. The Property is located in a heavily Light Industrial Corridor just north of University Parkway with M-1 zoning classifications surrounding it to the north, south, and east, with a single RA-200 zoning classification to the west which is occupied by Gwinnett Online Campus and Gwinnett County Public Schools Hurricane Shoals Transportation Training Facility (Graveled Bus Outdoor Storage, Parking, and Training Facility). The Property has direct access to Hurricane Shoals Road, and the proposed uses would provide ample parking and circulation in compliance with Gwinnett County transportation requirements. In addition, the Property has access to a public water supply and convenient direct access to collector streets, major thoroughfares, and state and interstate highways.

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The Future Development Map of the Gwinnett County 2040 Unified Plan (the “2040 Plan”) classifies this Property as within the “Innovation District” of the Gwinnett County Future Development Map. The policies for this Character Area focus on corridors along University Parkway to include industrial parks of higher intensity located at specific nodes with lighter intensity research and development or commercial uses located between these particular nodes. The 2040 Plan characterizes surrounding uses as a mix of light industrial, commercial, and public service entities. The Property is situated centrally between a node that includes an online campus and transportation training facility, the County’s Department of Correction, and Police Headquarters to the west and light industrial to the north, south, and east. Specifically, the area consists of a wide variety of relatively intense industrial uses, including plumbing, safety supply stores, electric supply stores, and automotive sales. Below is a map of the surrounding zoning classifications for the Property:



As such, the proposed SUP aligns with the encouraged land uses. The proposed development would permit the development of a business with related and accessory services. Accordingly, the proposed development satisfies the intent of the 2040 Plan, especially when considering the Property is near more intense commercial uses.

### III. PROJECT SUMMARY

As shown on the site plan by Ashford Engineers, LLC, dated September 26, 2022, and filed with this Application (the “Site Plan”). This Application is for four SUP requests:

1. Onsite Maintenance and Repair of Vehicles (Including Trucks and Trailers), Heavy Equipment, and Materials;
2. Onsite Equipment Sales and Leasing of Vehicles Heavy Equipment, and Materials;
3. Outdoor Storage of Vehicles (Including Trucks and Trailers), Heavy Equipment, and Materials;
4. Administrative zoning variance to allow for existing office building to encroach upon 25-foot setback on the eastern side of the Property.

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The Proposed SUP would provide the Applicant with indispensable flexibility as the Applicant seeks to develop the Property through a new high-quality industrial user with expanded and related services to the existing use. Each of the following requests are consistent with the current use but require additional permission from the County. The Property's location and topography make these request nonintrusive complementary services.

#### IV. SITE IMPACT ANALYSIS

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

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

Yes, approval of the proposed SUP Application will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The Property is located Hurricane Shoals Road among existing light industrial nodes. The Property is near existing large-scale industrial developments and intense industrial uses including M1 uses.

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

No, the proposed SUP Application will not adversely affect the existing use or usability of any of the nearby properties. The proposed uses are simply a continuation of the historical existing uses and are compatible with existing commercial uses of adjacent property. Rather the proposed uses would serve nearby residential and achieve the policy and intent of the 2040 Plan.

(C) WHETHER THE PROPERTY TO BE AFFECTED BY A PROPOSED SPECIAL USE PERMIT 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 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:

No, the proposed SUP will not result in an excessive or burdensome use of the infrastructure systems. The Property has convenient access to Hurricane Shoals Road. The proposed uses would complement the existing commercial and nearby residential uses.

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More importantly, the proposed uses would provide needed commercial use to serve the nearby community.

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

The proposed SUP application is in conformity with the policy and intent of the Gwinnett County 2040 Unified Plan. The subject Property is located within the Innovative District Character Area of the 2040 Future Development Map. Encouraged land uses for this Character Area specifically include industrial parks, office parks, technology-related businesses and more. The proposed development would be compatible with and successfully co-exist with the surrounding uses.

(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 SPECIAL USE PERMIT:

The Applicant submits that the character of the surrounding development and the existing mix of uses in the area provide supporting reasons for approval of the SUP application. In addition, the Applicant submits that the Property's location, size, and dimensions, as well as its proximity to among major light industrial major nodes, provide further support for approval of the proposed SUP application.

**V. 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 or use that would preclude use of an existing industrial site with accessory approved 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, or SUP for, 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 used 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 with SUP requested hereunder would constitute an arbitrary and

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able 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 use this Property 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.

Further, the Applicant respectfully submits that failure to approve the requested SUP 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 existing uses 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.

This Application 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).

## VI. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that this Application for Special Use Permit 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 6<sup>th</sup> day of October, 2022.

ANDERSEN, TATE & CARR, P.C.

*Melody A. Glouton*

Melody A. Glouton, Esq.

Enclosures  
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**Exhibit D: Application and Campaign Contribution Disclosure**

**[attached]**

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**SPECIAL USE PERMIT APPLICATION**

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

APPLICANT INFORMATION	PROPERTY OWNER INFORMATION*
HREP Hurricane Shoals, LLC NAME: <u>c/o Andersen Tate &amp; Carr</u> 1960 Satellite Blvd ADDRESS: <u>S-4000</u> CITY: <u>Duluth</u> STATE: <u>GA</u> ZIP: <u>30097</u> PHONE: <u>770-822-0900</u> EMAIL: <u>mglouton@atclawfirm.com</u>	NAME: <u>Bankhead Capital, LLC &amp; Bankhead Reserve LLC</u> ADDRESS: <u>P.O. Box 99</u> CITY: <u>Auburn</u> STATE: <u>GA</u> ZIP: <u>30011</u> PHONE: _____ EMAIL: _____
CONTACT PERSON: <u>Melody 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>M1</u>	BUILDING/LEASED SQUARE FEET: <u>12,183 sq feet</u>
PARCEL NUMBER(S): <u>R7013 026</u>	ACREAGE: <u>5.78</u>
ADDRESS OF PROPERTY: <u>750 Hurricane Shoals Road, Lawrenceville, GA</u>	
SPECIAL USE REQUESTED: <u>(1) Outdoor Storage; (2) Maintenance and Repair; and (3) Sales and Leasing of Vehicles (including trucks and trailers), heavy equipment, and materials (Including Building Materials) within existing Graveled Outdoor Storage Area Administrative Zoning Variance to allow for existing Office Building to encroach upon 25' Side Setback</u>	

**PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED**



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**SPECIAL USE PERMIT 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.

*Michael Johnson*

Signature of Property Owner

*10.10.22*

Date

*Michael Johnson - Manager / Trustee*

Type or Print Name and Title

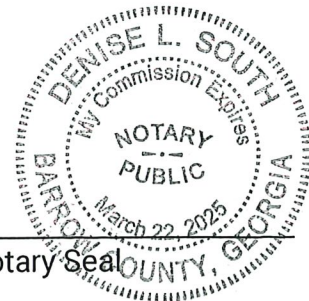
*D. L. S.*

Signature of Notary Public

*10-10-22*

Date

Notary Seal



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**SPECIAL USE PERMIT 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.

*Wallace Johnson*  
\_\_\_\_\_  
Signature of Property Owner

*10.10.22*

\_\_\_\_\_  
Date

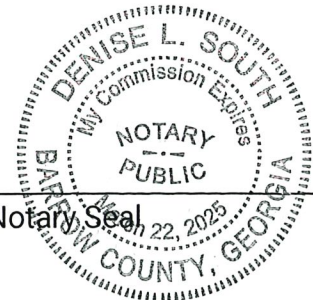
*Wallace Johnson -*  
\_\_\_\_\_  
Type or Print Name and Title

*Manager / Trustee*

*D. L. South*  
\_\_\_\_\_  
Signature of Notary Public

*10-10-22*  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Notary Seal



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10.6.2022 **CONFLICT OF INTEREST CERTIFICATION FOR SPECIAL USE PERMIT**

The undersigned below, making application for a Special Use Permit, 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. Glouton*                      10/6/22                      Melody A. Glouton, Attorney for Applicant

\_\_\_\_\_  
SIGNATURE OF APPLICANT'S                      DATE                      TYPE OR PRINT NAME AND TITLE  
ATTORNEY OR REPRESENTATIVE

*[Signature]*                      10/6/22

\_\_\_\_\_  
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 OFFICAL 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	11/15/2021 03/25/2022
Kirkland Carden	\$500	05/05/2022
Marlene Fosque	\$1,500	06/08/2022

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

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10.6.2022

**CONFLICT OF INTEREST CERTIFICATION FOR SPECIAL USE PERMIT**

The undersigned below, making application for a Special Use Permit, 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.

TJ Costen \_\_\_\_\_ TJ Costen, Manager  
SIGNATURE OF APPLICANT                      DATE                      TYPE OR PRINT NAME AND TITLE

\_\_\_\_\_  
SIGNATURE OF APPLICANT'S ATTORNEY OR REPRESENTATIVE      DATE                      TYPE OR PRINT NAME AND TITLE

D. Boyd                      9/9/22  
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    TJ Costen, Manager  
YOUR NAME

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

NAME AND OFFICAL 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.

GWINNETT COUNTY  
PLANNING AND DEVELOPMENT

**RECEIVED VERIFICATION OF CURRENT PAID PROPERTY TAXES FOR SPECIAL USE PERMIT**

10.6.2022

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 SPECIAL USE PERMIT REQUEST.**

PARCEL I.D. NUMBER:                      7th                      -                      013                      -                      026  
(Map Reference Number)                      District                      Land Lot                      Parcel

*Anre' Davis Washington*                      *September 30, 2022*  
Signature of Applicant                      Date

Anre' Washington, 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)

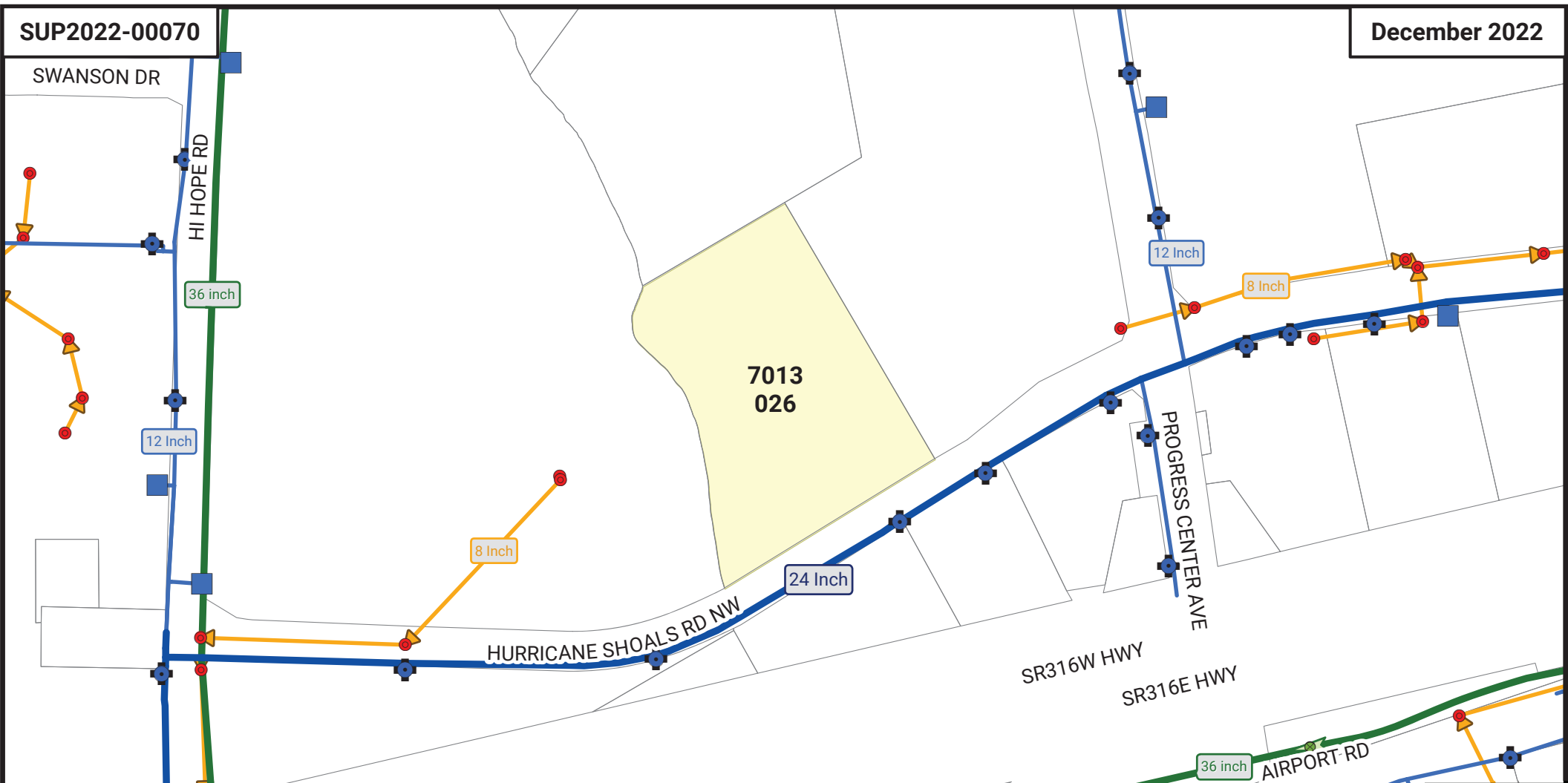
*Jessilyn M. Doffie*                      *TSA*  
NAME                      TITLE  
*9/30/22*                      *2022 Taxes Due 11/1/22*  
DATE

**Exhibit E: Internal and External Agency Review Comments**

**[attached]**

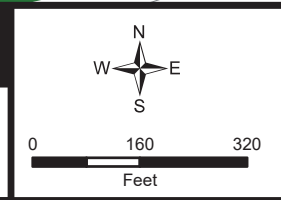
<b>TRC Meeting Date:</b>		11.9.2022	
Department/Agency Name:		Transportation	
Reviewer Name:		Brent Hodges	
Reviewer Title:		Construction Manager 1	
Reviewer Email Address:		<a href="mailto:Brent.Hodges@gwinnettcounty.com">Brent.Hodges@gwinnettcounty.com</a>	
Case Number:		SUP2022-00070	
Case Address:		750 Hurricane Shoals Road	
<b>Comments:</b>		<input checked="" type="checkbox"/>	<input type="checkbox"/>
		<b>YES</b>	<b>NO</b>
1	Hurricane Shoals Road is a major collector. ADT = 4,602.		
2	1.9 miles to the nearest transit facility (#2454819) Collins Hill Road and Collins Industrial Way.		
3			
4			
5			
6			
7			
<b>Recommended Zoning Conditions:</b>		<input type="checkbox"/>	<input checked="" type="checkbox"/>
		<b>YES</b>	<b>NO</b>
1			
2			
3			
4			
5			
6			
7			

<b>TRC Meeting Date:</b>				
Department/Agency Name:		DWR		
Reviewer Name:		Mike Pappas		
Reviewer Title:		GIS Planning Manager		
Reviewer Email Address:		<a href="mailto:Michael.pappas@gwinnettcounty.com">Michael.pappas@gwinnettcounty.com</a>		
Case Number:		SUP2022-00070		
Case Address:		750 Hurricane Shoals Road		
<b>Comments:</b>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>1</b>	Water: The development is already connected to public water.			
<b>2</b>	Sewer: The development is already connected to septic sewer.			
<b>3</b>				
<b>4</b>				
<b>5</b>				
<b>6</b>				
<b>7</b>				
<b>Recommended Zoning Conditions:</b>		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>1</b>				
<b>2</b>				
<b>3</b>				
<b>4</b>				
<b>5</b>				
<b>6</b>				
<b>7</b>				



<b>LEGEND</b>		Flow Management		Hydrant		Sewer Force Main
		Pump Station		City		Effluent Outfall
		Regional		Water Main		Sewer Collector
		Manhole		Reuse Main		Sewer Interceptor

**750 Hurricane Shoals Road**  
M-1  
**Water & Sewer**  
**Utility Map**



**Water Comments:** The development is already connected to public water.

**Sewer Comments:** The development is already connected to septic sewer.

**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 designated by Gwinnett County during plan review.

**Water and Sewer Design and Construction Requirements:** 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.

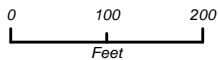
**Exhibit F: Maps**

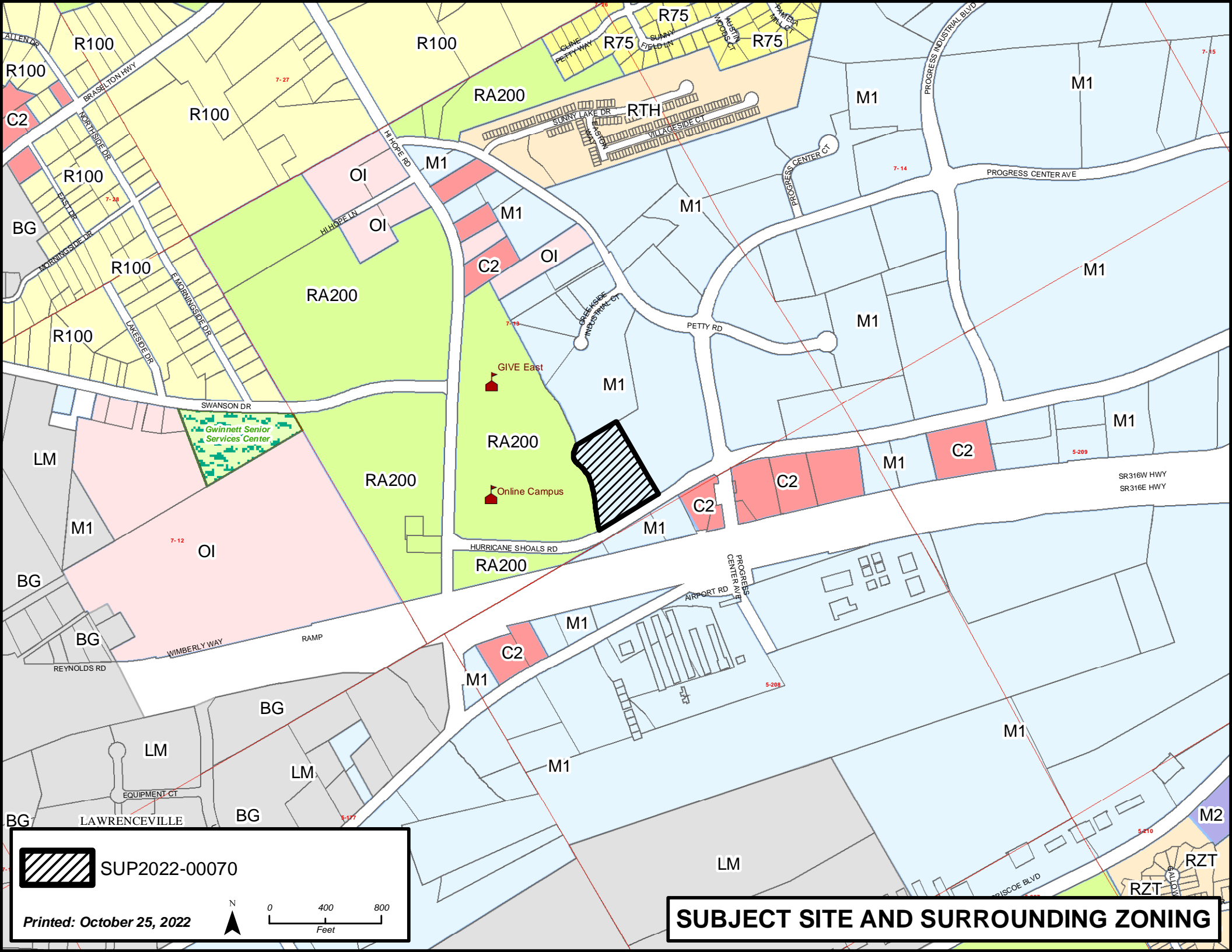
**[attached]**



SUP2022-00070

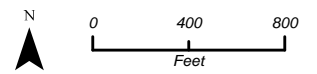
Printed: October 25, 2022



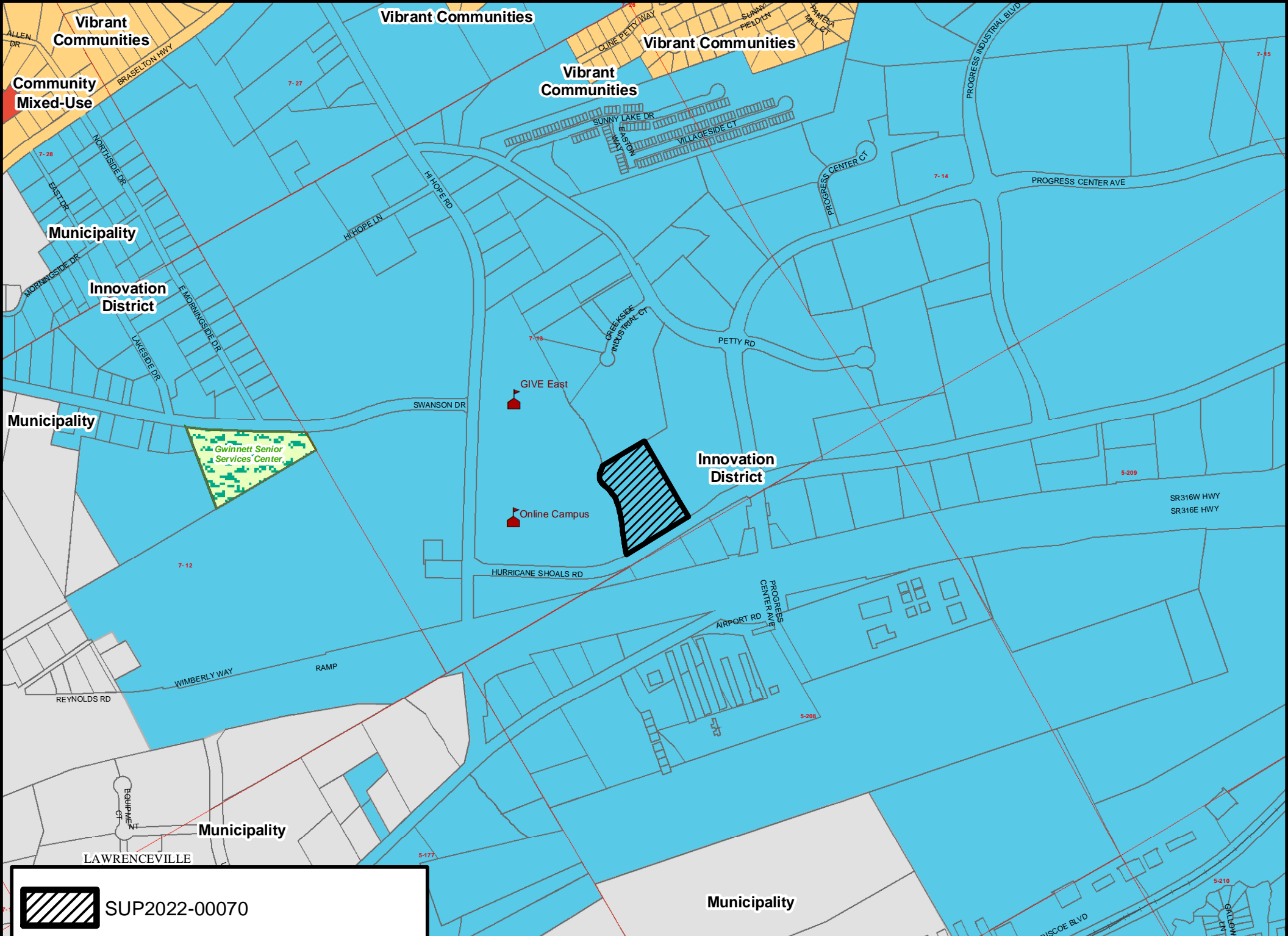


 SUP2022-00070

Printed: October 25, 2022



**SUBJECT SITE AND SURROUNDING ZONING**



 SUP2022-00070



**2040 UNIFIED PLAN FUTURE DEVELOPMENT CLASSIFICATION**

**SPECIAL USE PERMIT APPLICATION**

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

APPLICANT INFORMATION	PROPERTY OWNER INFORMATION*
NAME: <u>HREP Hurricane Shoals, LLC c/o Andersen Tate &amp; Carr</u> ADDRESS: <u>1960 Satellite Blvd S-4000</u> CITY: <u>Duluth</u> STATE: <u>GA</u> ZIP: <u>30097</u> PHONE: <u>770-822-0900</u> EMAIL: <u>mglouton@atclawfirm.com</u>	NAME: <u>Bankhead Capital, LLC &amp; Bankhead Reserve LLC</u> ADDRESS: <u>P.O. Box 99</u> CITY: <u>Auburn</u> STATE: <u>GA</u> ZIP: <u>30011</u> PHONE: _____ EMAIL: _____
CONTACT PERSON: <u>Melody 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>M1</u> BUILDING/LEASED SQUARE FEET: <u>12,183 sq feet</u> PARCEL NUMBER(S): <u>R7013 026</u> ACREAGE: <u>5.78</u> ADDRESS OF PROPERTY: <u>750 Hurricane Shoals Road, Lawrenceville, GA</u> SPECIAL USE REQUESTED: <u>(1) Outdoor Storage; (2) Maintenance and Repair; and (3) Sales and Leasing of Vehicles (including trucks and trailers), heavy equipment, and materials (Including Building Materials) within existing Graveled Outdoor Storage Area Administrative Zoning Variance to allow for existing Office Building to encroach upon 25' Side Setback</u>

**PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED**

EXHIBIT A  
[Legal Description]

All that tract of parcel of land lying and being in Land Lot 13 of the 7<sup>th</sup> District of Gwinnett County, Georgia, and being more particularly described as follows:

COMMENCING at the southerly end of a mitered corner at the intersection of the northerly side of the right-of-way of Hurricane Shoals Road (a public right-of-way, the width of which varies at this point) with the westerly side of the right-of-way of Progress Center Drive (a public right-of-way, the width of which varies); thence along the northerly side of the right-of-way of Hurricane Shoals Road, along the arc of a curve to the left an arc length of 188.92 feet (said curve having a radius of 2932.79 feet and being subtended by a chord bearing South 62 degrees 54 minutes 37 seconds West for a chord distance of 188.89 feet to a point; thence along the northerly side of the right-of-way of Hurricane Shoals Road, South 50 degrees 42 minutes 16 seconds West for a distance of 182.02 feet to a point; thence continuing along the northerly side of the right-of-way of Hurricane Shoals Road, South 59 degrees 01 minutes 38 seconds West for a distance of 76.64 feet to an iron pin found and THE POINT OF BEGINNING; FROM THE POINT OF BEGINNING AS THUS ESTABLISHED; thence along the northerly side of the right-of-way of Hurricane Shoals Road (a 80' public right-of-way), run South 58 degrees 49 minutes 30 seconds West for a distance of 384.96 feet to a point; thence continuing along the northerly side of the right-of-way of Hurricane Shoals Road, along the arc of a curve to the right an arc length of 121.90 feet (said curve having a radius of 1772.29 feet and being subtended by a chord bearing South 60 degrees 47 minutes 43 seconds West for a chord distance of 121.87 feet) to a point in the center of a creek branch; thence along the centerline of said creek branch, the following courses and distances: North 46 degrees 43 minutes 56 seconds West for a distance of 39.07 feet; North 77 degrees 51 minutes 13 seconds West for a distance of 19.65 feet; North 06 degrees 47 minutes 17 seconds East for a distance of 47.56 feet; North 01 degrees 18 minutes 32 seconds West for a distance of 72.33 feet; North 22 degrees 48 minutes 14 seconds West for a distance of 67.38 feet; North 10 degrees 03 minutes 38 seconds East for a distance of 96.54 feet; North 07 degrees 58 minutes 09 seconds West for a distance of 75.34 feet; North 30 degrees 50 minutes 16 seconds West for a distance of 84.22 feet; North 01 degrees 57 minutes 40 seconds West for a distance of 22.52 feet; North 31 degrees 07 minutes 09 seconds West for a distance of 96.18 feet; North 10 degrees 00 minutes 16 seconds East for a distance of 24.19 feet; North 75 degrees 56 minutes 33 seconds West for a distance of 28.99 feet to a point (which is South 59 degrees 08 minutes 21 Seconds West a distance of 56.29 feet from an iron pin found); thence leaving said centerline of said creek branch and running North 59 degrees 08 minutes 21 seconds East for a distance of 360.48 feet to an iron pin placed; thence South 30 degrees 45 minutes 08 seconds East for a distance of 600.92 feet to an iron pin found on the northerly side of the right-of-way of Hurricane Shoals Road and THE POINT OF BEGINNING.

Said tract or parcel of land, containing approximately 5.775 acres, is more accurately depicted on that certain ALTA/NSPS Land Title Survey and Retracement Survey prepared for HREP Hurricane Shoals, LLC and Chicago Title Insurance Company, by William C. Smith, Registered Land Surveyor No. 1803, dated August 29, 2022, last revision September 9, 2022.





<b>ashford engineers LLC</b> 337 Vintage Bay Dr. #18, Marco Island, FL 34145 350 Virginia Highlands, Fayetteville, GA 30215 Tel. (770) 435-2733 www.ashfordengineers.com civil engineers - land planning - development services		<b>Hurricane Shoals</b> Light Industrial Support Facility		750 Hurricane Shoals Rd. Survey and Aerial Photograph	
ACTIVITY DESIGNED BY: R. Galpin DRAWN BY: D. REED CHECKED BY: APPROVED BY: R. GALPIN REGISTRATION NO. GA 20938	NAME R. Galpin D. REED R. GALPIN GA 20938	NO. DATE DESCRIPTION	BY SCALE: 1" = 80' DATE: 09-26-2022 JOB NO. 22-W6016.10	SHEET 1 OF 1	

October 6, 2022

**LETTER OF INTENT AND JUSTIFICATION FOR  
SPECIAL USE PERMIT**

**Special Use Permit Application  
Gwinnett County, Georgia**

**Applicant:**

Hickory Real Estate Partners | HREP Hurricane Shoals, LLC

**Property:**

Tax Parcel ID R7013 026

±5.78 Acres of Land

Located at 750 Hurricane Shoals Road, Lawrenceville, Georgia 30043

**SUP For Maintenance, Repair, Sales, Leasing, and Storage**

**To an Existing Industrial Site**

**Submitted for Applicant by:**

Melody A. Glouton, Esq.

ANDERSEN TATE & CARR, P.C.

One Sugarloaf Centre

1960 Satellite Blvd.

Suite 4000

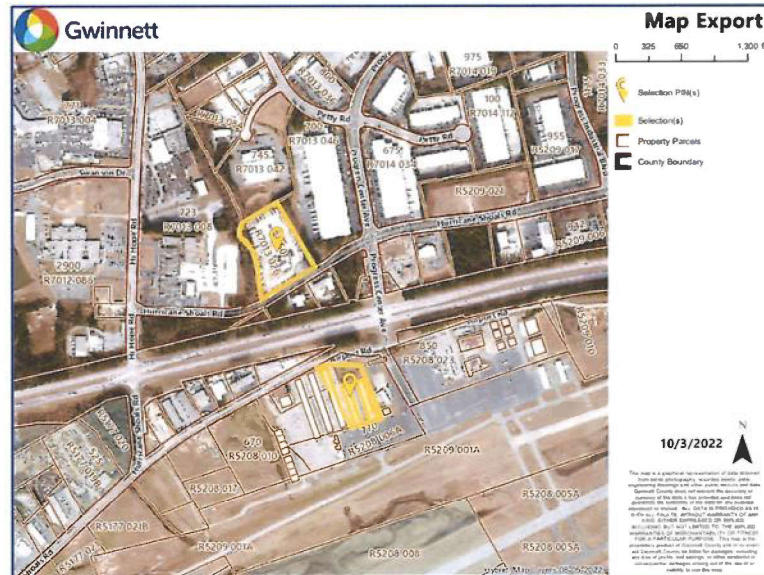
Duluth, Georgia 30097

770.822.0900

[mglouton@atclawfirm.com](mailto:mglouton@atclawfirm.com)

## I. INTRODUCTION

This Application for Special Use Permit is submitted for a 5.78-acre parcel of land located in Land Lot 13 of the 7<sup>th</sup> District of Gwinnett County, Georgia, Lawrenceville, and known as 750 Hurricane Shoals Road (the “Property”). The Property is a single tract of land located along Hurricane Shoals Road just north of Highway 316. The Property is shown on the September 26, 2022, site plan filed with the Application. The Property is currently owned by Bankhead Capital, LLC and Bankhead Reserve, LLC and further identified below from the Gwinnett County GIS:



The Property is currently zoned M-1 (Light Industry District) pursuant to the Gwinnett County Unified Development Ordinance (the “UDO”). The Applicant now seeks approval of a Special Use Permit (“SUP”) to provide additional supplemental and related services to an existing light industrial property, including outdoor storage, maintenance and repair, and equipment sales and leasing. 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 THE PROPERTY AND SURROUNDING AREA

The Property is an irregularly shaped parcel with frontage along Hurricane Shoals Road in Lawrenceville, Georgia. The Property is located in a heavily Light Industrial Corridor just north of University Parkway with M-1 zoning classifications surrounding it to the north, south, and east, with a single RA-200 zoning classification to the west which is occupied by Gwinnett Online Campus and Gwinnett County Public Schools Hurricane Shoals Transportation Training Facility (Graveled Bus Outdoor Storage, Parking, and Training Facility). The Property has direct access to Hurricane Shoals Road, and the proposed uses would provide ample parking and circulation in compliance with Gwinnett County transportation requirements. In addition, the Property has access to a public water supply and convenient direct access to collector streets, major thoroughfares, and state and interstate highways.



The Proposed SUP would provide the Applicant with indispensable flexibility as the Applicant seeks develop the Property through a new high-quality industrial user with expanded and related services to the existing use. Each of the following requests are consistent with the current use but require additional permission from the County. The Property's location and topography make these request nonintrusive complementary services.

#### **IV. SITE IMPACT ANALYSIS**

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

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

Yes, approval of the proposed SUP Application will permit a use that is suitable in view of the use and development of adjacent and nearby properties. The Property is located Hurricane Shoals Road among existing light industrial nodes. The Property is near existing large-scale industrial developments and intense industrial uses including M1 uses.

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

No, the proposed SUP Application will not adversely affect the existing use or usability of any of the nearby properties. The proposed uses are simply a continuation of the historical existing uses and are compatible with existing commercial uses of adjacent property. Rather the proposed uses would serve nearby residential and achieve the policy and intent of the 2040 Plan.

**(C) WHETHER THE PROPERTY TO BE AFFECTED BY A PROPOSED SPECIAL USE PERMIT 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 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:**

No, the proposed SUP will not result in an excessive or burdensome use of the infrastructure systems. The Property has convenient access to Hurricane Shoals Road. The proposed uses would complement the existing commercial and nearby residential uses.

More importantly, the proposed uses would provide needed commercial use to serve the nearby community.

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

The proposed SUP application is in conformity with the policy and intent of the Gwinnett County 2040 Unified Plan. The subject Property is located within the Innovative District Character Area of the 2040 Future Development Map. Encouraged land uses for this Character Area specifically include industrial parks, office parks, technology-related businesses and more. The proposed development would be compatible with and successfully co-exist with the surrounding uses.

**(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 SPECIAL USE PERMIT:**

The Applicant submits that the character of the surrounding development and the existing mix of uses in the area provide supporting reasons for approval of the SUP application. In addition, the Applicant submits that the Property's location, size, and dimensions, as well as its proximity to among major light industrial major nodes, provide further support for approval of the proposed SUP application.

**V. 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 or use that would preclude use of an existing industrial site with accessory approved 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, or SUP for, 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 used 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 with SUP 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 use this Property 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.

Further, the Applicant respectfully submits that failure to approve the requested SUP 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 existing uses 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.

This Application 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).

## **VI. CONCLUSION**

For the foregoing reasons, the Applicant respectfully requests that this Application for Special Use Permit 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 6<sup>th</sup> day of October, 2022.

**ANDERSEN, TATE & CARR, P.C.**

*Melody A. Glouton*

Melody A. Glouton, Esq.

Enclosures  
MAG/ag



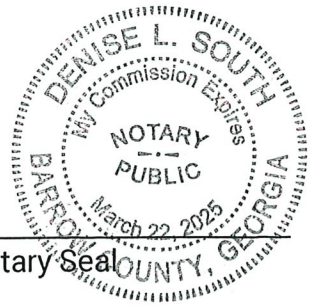
**SPECIAL USE PERMIT PROPERTY OWNER'S CERTIFICATION**

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.

Michael Johnson 10.10.22  
Signature of Property Owner Date

Michael Johnson - Manager / Trustee  
Type or Print Name and Title

D. L. S. 10-10-22  
Signature of Notary Public Date Notary Seal



**SPECIAL USE PERMIT 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.

*Wallace Johnson*  
\_\_\_\_\_  
Signature of Property Owner

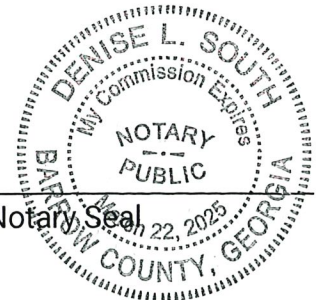
*10.10.22*  
\_\_\_\_\_  
Date

*Wallace Johnson - Manager / Trustee*  
\_\_\_\_\_  
Type or Print Name and Title

*D. L. South*  
\_\_\_\_\_  
Signature of Notary Public

*10-10-22*  
\_\_\_\_\_  
Date

Notary Seal



**CONFLICT OF INTEREST CERTIFICATION FOR SPECIAL USE PERMIT**

The undersigned below, making application for a Special Use Permit, 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. Glouton*                      10/6/22                      Melody A. Glouton, Attorney for Applicant

\_\_\_\_\_  
 SIGNATURE OF APPLICANT'S                      DATE                      TYPE OR PRINT NAME AND TITLE  
 ATTORNEY OR REPRESENTATIVE

*D. D. Carr*                      10/6/22

\_\_\_\_\_  
 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 OFFICAL 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	11/15/2021 03/25/2022
Kirkland Carden	\$500	05/05/2022
Marlene Fosque	\$1,500	06/08/2022

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

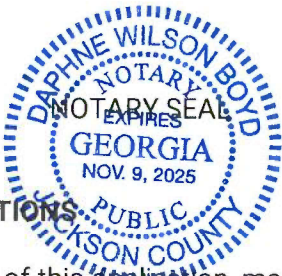
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The undersigned below, making application for a Special Use Permit, has complied with the Official Code of Georgia Section 36-67A-1, et. seq, Conflict of Interest in Zoning Actions, and has submitted or attached the required information on the forms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

TJ Costen \_\_\_\_\_ TJ Costen, Manager  
 SIGNATURE OF APPLICANT                      DATE                      TYPE OR PRINT NAME AND TITLE

\_\_\_\_\_  
 SIGNATURE OF APPLICANT'S ATTORNEY OR REPRESENTATIVE                      DATE                      TYPE OR PRINT NAME AND TITLE

D. Boyd                      9/9/22  
 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    TJ Costen, Manager  
 YOUR NAME

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

NAME AND OFFICAL 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.

**VERIFICATION OF CURRENT PAID PROPERTY TAXES FOR SPECIAL USE PERMIT**

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 SPECIAL USE PERMIT REQUEST.**

PARCEL I.D. NUMBER:                      7th                      -                      013                      -                      026  
(Map Reference Number)                      District                      Land Lot                      Parcel

Anre' Davis Washington                      September 30, 2022  
Signature of Applicant                      Date

Anre' Washington, 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. Doffie                      TSA  
NAME                      TITLE  
9/30/22                      2022 Taxes Due 11/1/22  
DATE