



City of Tucker, GA
COMMUNITY COUNCIL

October 26, 2016

**SPECIAL CALLED
COMMUNITY COUNCIL
AGENDA**

7:00 PM

**Discover DeKalb
1957 Lakeside Parkway, Suite 510
Tucker GA 30084**

- A) **Roll Call**
- B) **Pledge of Allegiance**
- C) **Approval of Minutes:** (None)
- D) **Old Business:** (None)
- E) **New Business:**
 - 1. **Recommendation to Planning Commission** for SLUP-16-005 for a 210-unit multi-family development (30-units per acre) at 2200 Northlake Parkway and 2180 Northlake Parkway.
- F) **City Business Items:** (None)
- G) **Comments by Staff and Community Council Members**
- H) **Adjournment**



LAND USE PETITION SLUP-16-005

Case Information:

Case Number: SLUP-16-005

Current Zoning: C-1 and O-I

Proposed Zoning: C-1 and O-I

Location: 2200 Northlake Parkway and 2180 Northlake Parkway (rear portion of lot)

Acreage: 7 acres

Future Land Use Map Designation: RC (Regional Center)

Overlay District: Northlake; Tier 2

District: 18th District

Land Lot(s): 210

Project Description: 210-unit multi-family development (30-units per acre)

Applicant: Northlake Investment Partners c/o Kathryn M. Zickert

Owner: Northlake Investment Partners

Expected Hearing Dates:

Community Council (Special Called): October 26, 2016

Planning Commission: November 28, 2016

Mayor and City Council: December 12, 2016 and January 9, 2017



678-597-9040 ~ www.tuckerga.gov
 4119 Adrian Street, Tucker, GA 30084

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LAND USE PETITION CHECKLIST & APPLICATION FORM
REZONING, COMPREHENSIVE PLAN AMENDMENT,
SPECIAL LAND USE PERMIT & CONCURRENT VARIANCE

INSTRUCTIONS

A properly completed application and fees are due at the time of submittal. **An incomplete application will not be accepted.** Original signatures are required for the Application. **Note: Applicants are highly encouraged to meet with nearby property owners prior to filing an application.**

APPLICATION MATERIALS

REQUIRED ITEMS	NUMBER OF COPIES	CHECK ✓
Provide one (1) a digital copy of <u>all submitted materials.</u>	• One (1) CD or flash drive in .JPEG, .TIFF, .PDF or .DOC format	<input checked="" type="checkbox"/>
Pre-Application Meeting Form	• One (1) Copy	<input type="checkbox"/>
Application	• One (1) Copy	<input checked="" type="checkbox"/>
Written Legal Description	• One (1) 8 ½" x 11" Legal Description	<input checked="" type="checkbox"/>
Boundary Survey and Proposed Site Plan (See Page 16 for Requirements)	• Ten (10) Full-Size (24" x 36") Copies of each • One (1) 8 ½" x 11" Site Plan of each	<input checked="" type="checkbox"/>
Building Elevations (renderings or architectural drawings to show compliance with Article 5)	• One (1) Copy	<input checked="" type="checkbox"/>
Letter of Intent	• One (1) Copy	<input checked="" type="checkbox"/>
Analysis of standards/criteria listed in 7.3.4, 7.3.5, 7.4.6, 7.4.7, and/or 7.5.3	• One (1) Copy	<input checked="" type="checkbox"/>
Environmental Site Analysis Form	• One (1) Copy	<input checked="" type="checkbox"/>
Disclosure Form	• One (1) Copy	<input checked="" type="checkbox"/>
Peak-hour Trip Generation Count	• One (1) Copy	<input checked="" type="checkbox"/>
THE FOLLOWING ITEMS MAY BE REQUIRED		
Traffic Impact Study	• Three (3) Copies	<input type="checkbox"/>
Development of Regional Impact Review Form	• Three (3) Copies	<input type="checkbox"/>
Environmental Impact Report	• Three (3) Copies	<input type="checkbox"/>
Noise Study Report	• Three (3) Copies	<input type="checkbox"/>

PROPERTY OWNER'S CERTIFICATION

I do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the legal owner, as reflected in the records of DeKalb County, Georgia, of the property identified below, which is the subject of the attached Land Use Petition before the City of Tucker, Georgia. As the legal owner of record of the subject property, I hereby authorize the individual named below to act as the applicant in the pursuit of the Application for Rezoning (RZ), Comprehensive Plan Amendment (CA), Special Land Use Permit (SLUP), & Concurrent Variance (CV) in request of the items indicated below.

I, Northlake Investment Partners, authorize, Kathryn M. Zickert,
(Property Owner) (Applicant)

to file for SLUP at 2200 Northlake Parkway, Tucker, GA 30084
(RZ, CA, SLUP, CV) (Address)

on this date oct 12, 2016.
(Month) (Day)

- I understand that if a rezoning is denied or assigned a zoning classification other than the classification requested in the application, then no portion of the same property may again be considered for rezoning for a period of twenty-four (24) months from the date of the mayor and city councils' final decision.
- I understand that if an application for a special land use permit affecting all or a portion of the same property for which an application for the same special land use was denied shall not be submitted before twenty-four (24) months have passed from the date of final decision by the mayor and city council on the previous special land use permit.
- I understand that failure to supply all required information (per the relevant Applicant Checklists and requirements of the Tucker Zoning Ordinance) will result in REJECTION OF THE APPLICATION.
- I understand that preliminary approval of my design plan does not authorize final approval of my zoning or signage request. I agree to arrange additional permitting separately, after approval is obtained.
- I understand that representation associated with this application on behalf of the property owner, project coordinator, potential property owner, agent or such other representative shall be binding.

[Handwritten Signature]

10/12/2016

Signature of Property Owner

Date

Shirley BAWJEE

Managing Member

Type or Print Name and Title

[Handwritten Signature]

10/12/16

Signature of Notary Public

Date

Notary Seal



**STANDARDS AND FACTORS GOVERNING REVIEW OF PROPOSED AMENDMENTS
TO THE OFFICIAL ZONING MAP**

Section 7.3.5 of the City of Tucker Zoning Ordinance lists standards and factors that are found to be relevant to the exercise of the city's zoning powers and shall govern the review of all proposed amendments to the Official Zoning Map. The applicant shall write a detailed written analysis of each standard and factor as it relates to their proposed project.

**STANDARDS AND FACTORS GOVERNING REVIEW OF PROPOSED AMENDMENTS
TO THE COMPREHENSIVE PLAN MAP**

Section 7.3.4 of the City of Tucker Zoning Ordinance lists standards and factors that are found to be relevant for evaluating applications for amendments to the comprehensive plan map and shall govern the review of all proposed amendments to the comprehensive plan map. The applicant shall write a detailed written analysis of each standard and factor as it relates to their proposed project.

SPECIAL LAND USE PERMIT CRITERIA

Section 7.4.6 and 7.4.7 of the City of Tucker Zoning Ordinance lists specific criteria that shall be considered by the community development department, the planning commission, and the mayor and city council in evaluating and deciding any application for a special land use permit. No application for a special land use permit shall be granted by the mayor and city council unless satisfactory provisions and arrangements have been made concerning each of the following factors, all of which are applicable to each application, and the application is in compliance with all applicable regulations in Article 4. The applicant shall write a detailed written analysis of criteria as it relates to their proposed project.

CONCURRENT VARIANCE CRITERIA

Section 7.5.3 of the City of Tucker Zoning Ordinance lists specific criteria the board shall use in determining whether or not to grant a variance. The applicant shall provide a written analysis of how the request complies with this criteria, if they are requesting a concurrent variance.

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ENVIRONMENTAL SITE ANALYSIS (ESA) FORM

Analyze the impact of the proposed rezoning and provide a written point-by-point response to Points 1 through 3:

1. **CONFORMANCE WITH THE COMPREHENSIVE PLAN.** Describe the proposed project and the existing environmental conditions on the site. Describe adjacent properties. Include a site plan that depicts the proposed project.

Describe how the project conforms to the Comprehensive Land Use Plan. Include the portion of the Comprehensive Plan Land Use Map which supports the project's conformity to the Plan. Evaluate the proposed project with respect to the land use suggestion of the Comprehensive Plan as well as any pertinent Plan policies.

2. **ENVIRONMENTAL IMPACTS OF THE PROPOSED PROJECT.** For each environmental site feature listed below, indicate the presence or absence of that feature on the property. Describe how the proposed project may encroach or adversely affect an environmental site feature. Information on environmental site features may be obtained from the indicated source(s).

- a. Wetlands
 - U. S. Fish and Wildlife Service, National Wetlands Inventory (<http://wetlands.fws.gov/downloads.htm>)
 - Georgia Geologic Survey (404-656-3214)
 - Field observation and subsequent wetlands delineation/survey if applicable
- b. Floodplain
 - Federal Emergency Management Agency (<http://www.fema.org>)
 - Field observation and verification
- c. Streams/stream buffers
 - Field observation and verification
- d. Slopes exceeding 25 percent over a 10-foot rise in elevation
 - United States Geologic Survey Topographic Quadrangle Map
 - Field observation and verification
- e. Vegetation
 - United States Department of Agriculture, Nature Resource Conservation Service
 - Field observation
- f. Wildlife Species (including fish)
 - United States Fish and Wildlife Service
 - Georgia Department of Natural Services, Wildlife Resources Division, Natural Heritage Program
 - Field observation
- g. Archeological/Historical Sites
 - Historic Resources Survey
 - Georgia Department of Natural Resources, Historic Preservation Division
 - Field observation and verification

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ENVIRONMENTAL SITE ANALYSIS (ESA) FORM (CONTINUED)

3. **PROJECT IMPLEMENTATION MEASURES.** Describe how the project implements each of the measures listed below as applicable. Indicate specific implementation measures required to protect environmental site feature(s) that may be impacted.
- a. Protection of environmentally sensitive areas, i.e., floodplain, slopes exceeding 25 percent, river corridors.
 - b. Protection of water quality
 - c. Minimization of negative impacts on existing infrastructure
 - d. Minimization on archeological/historically significant areas
 - e. Minimization of negative impacts on environmentally stressed communities where environmentally stressed communities are defined as communities exposed to a minimum of two environmentally adverse conditions resulting from public and private municipal (e.g., solid waste and wastewater treatment facilities, utilities, airports, and railroads) and industrial (e.g., landfills, quarries and manufacturing facilities) uses.
 - f. Creation and preservation of green space and open space
 - g. Protection of citizens from the negative impacts of noise and lighting
 - h. Protection of parks and recreational green space
 - i. Minimization of impacts to wildlife habitats

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DISCLOSURE REPORT FORM

WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING \$250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF \$250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.

CIRCLE ONE: YES (if YES, complete points 1 through 4); **NO** (if NO, complete only point 4)

1. CIRCLE ONE: **Party to Petition** (if party to petition, complete sections 2, 3 and 4 below)

In Opposition to Petition (if in opposition, proceed to sections 3 and 4 below)

2. List all individuals or business entities which have an ownership interest in the property which is the subject of this rezoning petition:

1. _____	5. _____
2. _____	6. _____
3. _____	7. _____
4. _____	8. _____

3. CAMPAIGN CONTRIBUTIONS:

Name of Government Official	Total Dollar Amount	Date of Contribution	Enumeration and Description of Gift Valued at \$250.00 or more

4. The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. seq. Conflict of interest in zoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

Name (print) Northlake Investment Partners

Signature:

Date: 10/12/2016

CITY OF TUCKER

DISCLOSURE REPORT FORM

WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING \$250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF \$250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.

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2.	6.
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Name (print) Kathryn M. Zickert

Signature: *Kathryn M Zickert* Date: 10/12/16

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DISCLOSURE REPORT FORM

WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING \$250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF \$250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.

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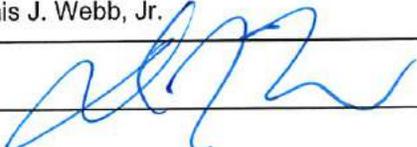
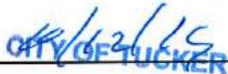
1. _____	5. _____
2. _____	6. _____
3. _____	7. _____
4. _____	8. _____

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4. The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. seq. Conflict of interest in zoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

Name (print) Dennis J. Webb, Jr.

Signature:  Date: 

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UPDATED 8/12/2016

SITE PLAN CHECKLIST

All items must be included on the Site Plan; separate Site Plans may be necessary to address all items

1. Key and/or legend and site location map with North arrow
2. Boundary survey of subject property which includes dimensions along property lines that match the metes and bounds of the property's written legal description and clearly indicates the point of beginning
3. Acreage of subject property
4. Location of land lot lines and identification of land lots
5. Existing, proposed new dedicated and future reserved rights-of-way of all streets, roads, and railroads adjacent to and on the subject property
6. Proposed streets on the subject site
7. Posted speed limits on all adjoining roads
8. Current zoning of the subject site and adjoining property
9. Existing buildings with square footages and heights (stories), wells, driveways, fences, cell towers, and any other structures or improvements on the subject property
10. Existing buildings with square footages and heights (stories), wells, driveways, fences, cell towers, and any other structures or improvement or adjacent properties within 400 feet of the subject site based on the City's aerial photography or an acceptable substitute as approved by the Director
11. Location of proposed buildings (except single family residential lots) with total square footage
12. Layout and minimum lot size of proposed single family residential lots
13. Topography (surveyed or City) on subject site and adjacent property within 200 feet as required to assess runoff effects
14. Location of overhead and underground electrical and pipeline transmission/conveyance lines
15. Required and/or proposed setbacks
16. 100 year flood plain horizontal limits and flood zone designations as shown on survey or FEMA FIRM maps
17. Required landscape strips, undisturbed buffers, and any other natural areas as required or proposed
18. Required and proposed parking spaces; Loading and unloading facilities
19. Lakes, streams, and waters on the state and associated buffers
20. Proposed stormwater management facilities
21. Community wastewater facilities including preliminary areas reserved for septic drain fields and points of access
22. Availability of water system and sanitary sewer system
23. Tree lines, woodlands and open fields on subject site
24. Entrance site distance profile assuming the driver's eye at a height of 3.5 feet
25. Wetlands shown on the County's GIS maps or survey.
26. Mail kiosk location.

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All that Tract or Parcel of land lying and being in Land Lot 210 of the 18th District of DeKalb County, Georgia, as being more particularly described as follow:

Commencing at a point formed by the intersection of the northerly right-of-way of Lavista Road (Right-of-way varies) with the westerly right-of-way of Northlake Parkway (Right-of-way varies); Thence northerly along the westerly right of way of Northlake Parkway a distance of 644.03 feet to a 5/8" Rebar Set, said 5/8" Rebar set being the Point of Beginning;

Thence leaving said right-of-way of Northlake Parkway S 89°19'33"W a distance of 262.30' to a point; Thence S 00°57'09"E a distance of 270.89' to a point; Thence N 89°49'35"W a distance of 209.98' to a 5/8" rebar Set; Thence S 74°02'49"W a distance of 48.19' to a 5/8" Rebar Set; Thence N 31°33'42"W a distance of 12.51' to a 5/8" rebar Set on the easterly right-of-way of Interstate 285 (Right-of-way varies); Thence along said right-of-way of Interstate 285 the following courses and distances: N 05°13'10"E a distance of 271.18' to a 5/8" Rebar Set; N 04°43'10"E a distance of 508.12' to a 1/2" Rebar Found; Thence leaving said right-of-way N 89°29'03"E a distance of 445.80' to a 1/2" Rebar Found on the westerly right-of-way of Northlake Parkway; Thence along said right of way of Northlake Parkway S 00°57'09"E a distance of 504.64' to a 5/8" Rebar Set, said 5/8" Rebar Set being the Point of Beginning.

Said Tract contains 7.003 acres or 305,066 square feet, more or less.

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31% WINDOW OPENINGS

NORTHLAKE APARTMENTS CITY OF TUCKER

BLDG 1000 I-285 ELEVATION

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30% WINDOW OPENINGS

CITY OF TUCKER

NORTHLAKE APARTMENTS

BLDG 1000 INTERIOR ELEVATION

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33% WINDOW OPENINGS

CITY OF TUCKER

NORTHLAKE APARTMENTS
BLDG 1000 POOL COURTYARD ELEVATION B

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32% WINDOW OPENINGS

CITY OF TUCKER

NORTHLAKE APARTMENTS

BLDG 1000 POOL COURTYARD ELEVATION A

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NORTHLAKE APARTMENTS

BLDG 2000 NORTHLAKE PARKWAY ELEVATION (OCT 13 2016)

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30% WINDOW OPENINGS

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NORTHLAKE APARTMENTS

BLDG 2000 INTERIOR ELEVATION

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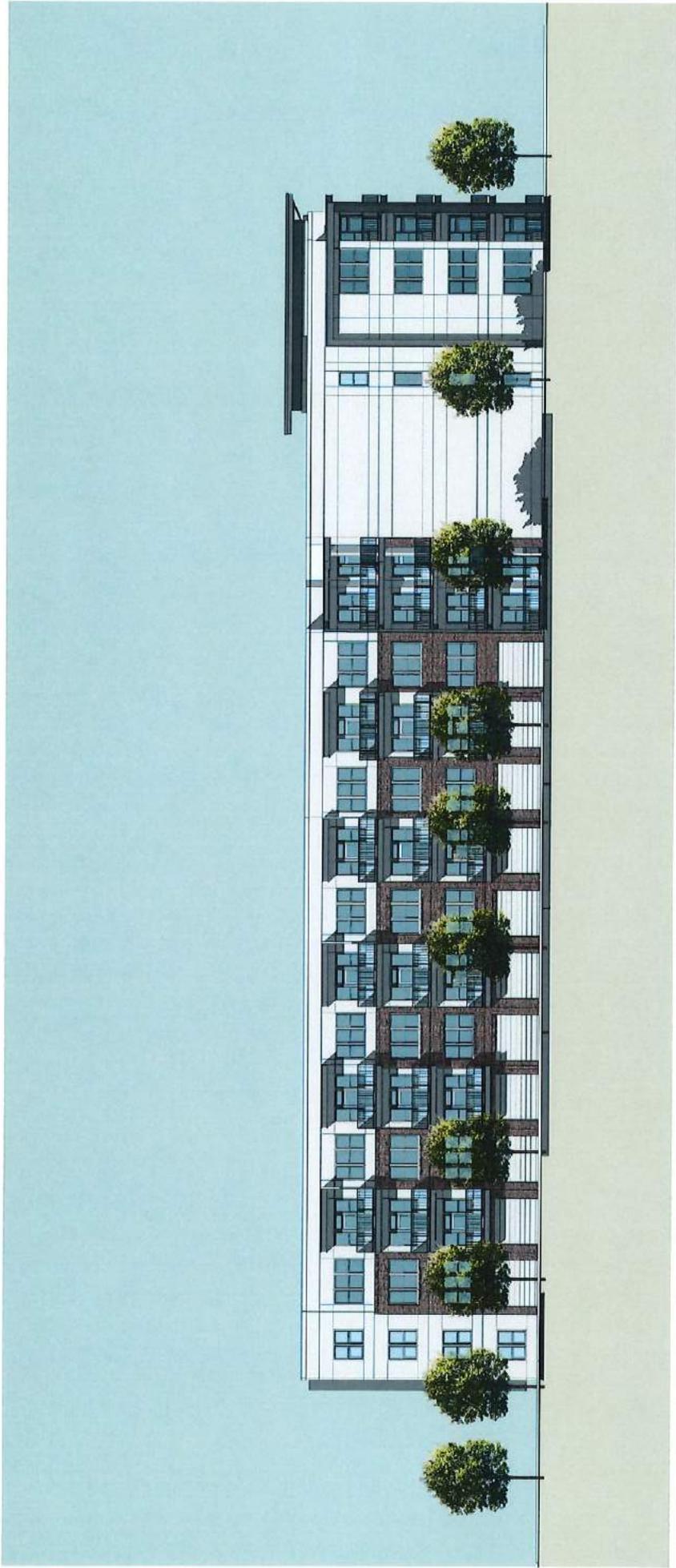
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19% WINDOW OPENINGS

CITY OF TUCKER

NORTHLAKE APARTMENTS

BLDG 2000 PARKING LOT ELEVATION B

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32% WINDOW OPENINGS

NORTHLAKE APARTMENTS ⁴ OF TUCKER

BLDG 2000 PARKING LOT ELEVATION A

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BLDG 3000 HOTEL PROPERTY ELEVATION CITY OF TUCKER

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30% WINDOW OPENINGS

NORTHLAKE APARTMENTS

BLDG 3000 EXTERIOR ELEVATION

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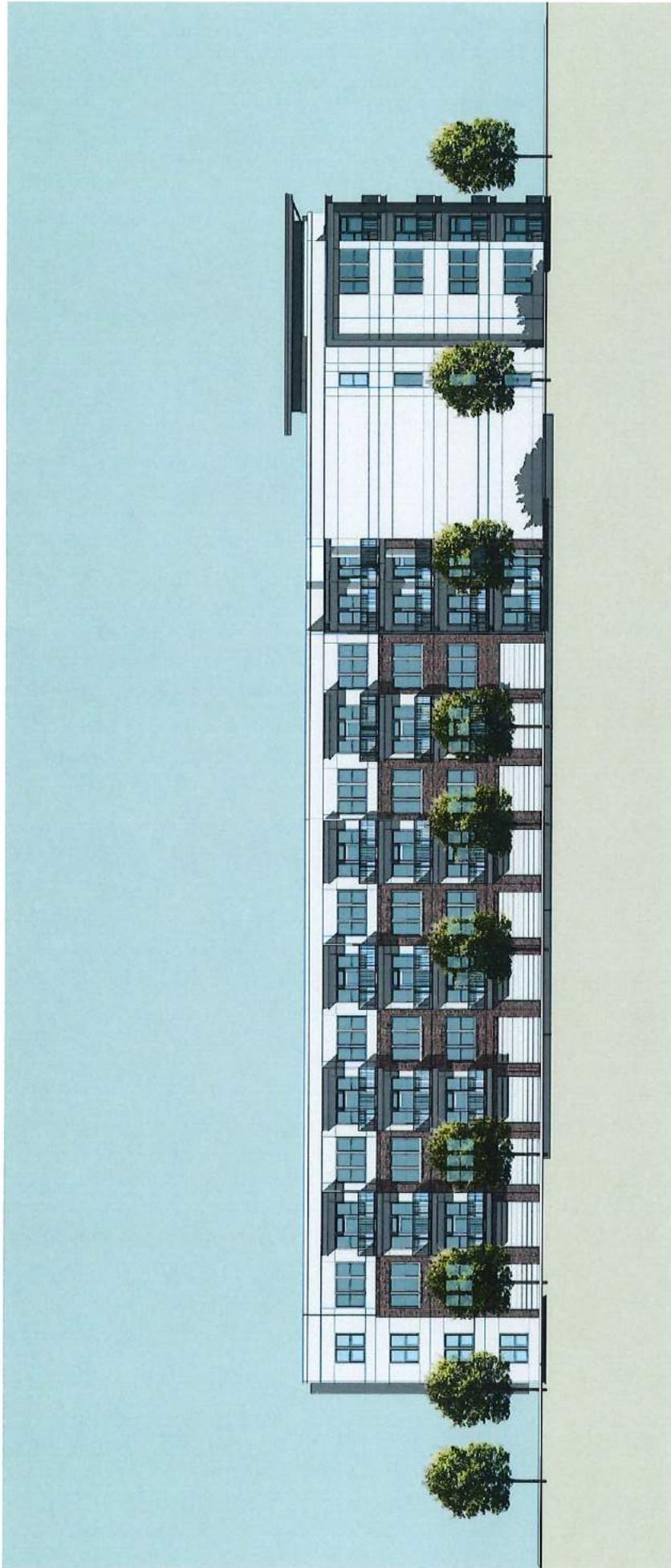
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19% WINDOW OPENINGS

NORTHLAKE APARTMENTS CITY OF TUCKER

BLDG 3000 I-285 ELEVATION

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32% WINDOW OPENINGS

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BLDG 3000 PARKING LOT ELEVATION A

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**FIRST AMENDED
STATEMENT OF INTENT**

and

Other Material Required by
City of Tucker Zoning Ordinance
for the
Special Land Use Permit

of

NORTHLAKE INVESTMENT PARTNERS

For

\pm 7.004 Acres of Land
located in
Land Lot 210, 18th District, DeKalb County
Address: 2200 Northlake Parkway, Tucker, GA 30084

Submitted for Applicant by:

Kathryn M. Zickert
Dennis J. Webb, Jr.
Vickie B. Chung
Smith, Gambrell & Russell, LLP
Promenade Suite 3100
1230 Peachtree Street, NE
Atlanta, Georgia 30309
404-815-3500

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I. INTRODUCTION

This Application seeks a Special Land Use Permit (“SLUP”) to allow for the construction of a mixed-use project with 210 residential apartment units (30 units per acre) and a restaurant use on a 7 acre site on Northlake Parkway, Land Lot 210 of the 18th District of DeKalb County, Georgia (the “Subject Property”). Approximately 6.1 acres of the Subject Property will be used for the multi-family portion, with the remaining ± 0.91 acres being used for a $\pm 5,300$ square foot restaurant. The proposed residential units will be divided among three four-story structures with surface parking, which will be concealed from the street. The residential units facing Northlake Parkway will engage the street by providing stoops and direct sidewalk access. The approximate FAR for the multi-family portion is 0.83, well within the allowed 1.5, and the proposed density is the allowed 30 units per acre, which is permitted under Tier 2 of the Northlake Overlay District with a SLUP. Approximately 30% open space will be provided and maintained by the multi-family owner management company. The central pool and amenities and all residential building entrances will be connected by an internal sidewalk system, which will connect to the public sidewalk.

The Subject Property is currently zoned C-1, located in the Northlake Overlay District, Tier 2, and designated as being within a “Regional Center” on Tucker’s Future Land Use Map. The Subject Property currently consists of two

parcels. The northern parcel is used as a shopping center and restaurant, while the southern parcel is used as a motel, the Northlake Inn. The restaurant and a portion of its parking will remain on the northern parcel, with a part of the remainder of the existing uses being demolished for the development of the multi-family units. The balance either will be converted to senior housing, or razed and converted to such a use.

This project was initiated prior to the incorporation of Tucker, and overlay review was completed by the Tucker Civic Association (“TCA”), the designated arm of the Northlake Overlay Review Committee, in April of this year. The TCA reviewed all materials submitted and made comments, all of which were fully addressed by the Applicant. The TCA found the proposed development was consistent with the goals of Tier 2 of the Northlake Overlay District, and represented a favorable mixture of new development and investment in the Northlake commercial area. DeKalb County also verbally approved the plan, and met with John McHenry, Community & Economic Development Director of the City of Tucker, to convey that approval.

The Subject Property is located in an area that has seen tremendous growth and redevelopment. The Subject Property, which is bounded by the west by I-285 and to the east by Northlake Parkway, is surrounded by uses compatible to those proposed. Directly across Northlake Parkway from the Subject Property is Tucker

Meridian, a $\pm 200,000$ square foot shopping center. Directly to the north of the Subject Property is a smaller shopping center and directly to the south is a hair salon, Budget Car Rental, and Chevron gas station. Across I-285 from the Subject Property are offices, apartments, hotels and other commercial uses.

Tier 2 of the Northlake Overlay District envisions a 60%/30%/10% split among office, commercial and residential uses, respectively. Because the office market in the Northlake commercial district is already heavily saturated, the Subject Property would best serve the goals of the Northlake Overlay District by being redeveloped for commercial and residential uses, as proposed. The Applicant submits this document as a Statement of Intent with regard to its Application, a preservation of the Applicant's constitutional rights with respect to the Subject Property, and a written justification for the proposed SLUP as required by Tucker's Zoning Ordinance, Section 7-4-6.

II. CRITERIA TO BE APPLIED TO SPECIAL LAND USE PERMITS

A. Adequacy of the size of the site for the use contemplated and whether or not adequate land area is available for the proposed use including provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located.

The size of the Subject Property is adequate for the proposed use. The proposed multi-family units, which will be located on ± 6.1 acres of the Subject Property, will be within the allowed density and FAR. The existing restaurant, which will remain on the remaining ± 0.91 acres, is modestly sized at 5,300 square feet, and has a FAR of 0.2. The Subject Property will comply with all

requirements of the C-1 district and the Northlake Overlay. Adequate parking, landscaping, open space and sidewalks will be provided.

B. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district.

The proposed use is fully compatible with the adjacent properties and land uses as well as those in the larger surrounding area. The proposed multi-family units will add a much-needed housing option to the Northlake commercial area and the restaurant will serve nearby residents and workers.

C. Adequacy of public services, public facilities, and utilities to serve the proposed use.

There are adequate public services, public facilities, and utilities to serve the proposed development. The proposed multi-family units will range from 12 studio units, 132 one-bedroom units and 66 two-bedroom units. The vast majority of anticipated residents will be young professionals without children and empty nesters. For those residents with school-aged children, the proposed development will be served by Midvale Elementary School, Tucker Middle School and Tucker High School, all of which have capacity.

D. Adequacy of the public street on which the use is proposed to be located and whether or not there is sufficient traffic-carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area.

The proposed Restaurant should not unduly increase traffic or created congestion in the area. The Subject Property is located on Northlake Parkway, a four lane road. According to the Institute of Transportation Engineers (ITE) *Trip Generation Manual* (Ninth Edition) (Land Use Category 221: Low-Rise Apartment), the proposed multi-family units should generate approximately 107 a.m. peak hour trips and 130 p.m. peak hour trips. Given the capacity of Northlake Parkway and surrounding roads, this minor amount of additional trips should not increase traffic or create congestion in the area.

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E. Whether or not existing land uses located along access routes to the site will be adversely affected by the character of the vehicles or the volume of traffic generated by the proposed use.

There should be no change in the character of vehicles visiting the Subject Property if this SLUP is approved. Additionally, while there may be some addition to the volume of traffic visiting the site, this increase should be minimal in light of the Subject Property's access to major thoroughfares.

F. Adequacy of ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency.

Adequate ingress and egress to the Subject Property will be provided, both for vehicular and pedestrian traffic. The proposed development will be served by a resident traffic gate and walking gate, in addition to internal sidewalks that connect to the public sidewalk system. The proposed development will also provide for 42 bicycle parking spaces on internal bike racks.

G. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust or vibration generated by the proposed use.

The Subject Property is surrounded by commercial uses that will not be adversely impacted by the proposed development.

H. Whether or not the proposed use will create adverse impacts upon any adjoin land use by reason of the hours of operation of the proposed use.

The restaurant's hours of operation are from 7 a.m. to 9 p.m., which is similar to other restaurants in the surrounding area.

I. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.

The manner of operation of the restaurant would be similar to that of the other retail services provided in the area. That is, patrons would visit the restaurant for a short time period to dine in or pick up food, much like patrons of the

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surrounding retail uses. Accordingly, the proposed use would not create adverse impacts upon any adjoining land use.

J. Whether or not the proposed use is otherwise consistent with the requirements of the zoning district classification in which the use is proposed to be located.

The proposed Restaurant would be fully compliant with the C-1 district regulations. In addition, the proposed use is compatible with the following purposes and goals of the Northlake Overlay District, Tier 2:

- Provide for the development of sidewalks and walkways in order to promote safe and convenient pedestrian access and to reduce dependence on automobile travel;
- Promote a physically attractive, environmentally safe and economically sound mixed-use community;
- Permit and encourage mixed-use developments containing both commercial and residential uses to create a pedestrian oriented community in which people can live, work and play;
- Encourage mixed-use developments that meet the goals and objectives of the Atlanta Regional Commission's Smart Growth and Livable Centers Initiatives;
- Allow and encourage development densities and land use intensities that are capable of making productive use of alternative transportation modes such as bus transit, rail transit, ridesharing, bicycling and walking;
- Encourage the formation of a well-designed, pedestrian-friendly activity center with high-density commercial and residential development that increases vitality and choices in living environments for the citizens of DeKalb County;
- Protect established single-family residential areas surrounding the Northlake Overlay District from encroachment of commercial, retail, office and industrial uses by providing for increased density of development within the boundaries of the Northlake Overlay District.

K. Whether or not the proposed use is consistent with the policies of the comprehensive plan.

The Subject Property is designated as "Regional Center" on Tucker's Future Land Use Map. The Regional Center character area encourages commercial and higher-density residential uses such as those proposed. The proposed development

is fully allowed within this character area, and promotes the following specific goals and strategies of the City's Land Use Plan:

- LUS1: Locate developments in areas with direct access to existing infrastructure.
- LUS3: Encourage development within and near principal transportation corridors and activity centers.
- RCCAP4: Create pedestrian scale communities that focus on the relationship between the street, buildings, streetscaping and people.
- RCCAP5: Create compact mixed use districts and reduce automobile dependency and travel to obtain basic services.
- RCCAS5: Clearly define road edges by locating buildings near the roadside with parking in the rear.
- RCCAS7: Encourage that all development and redevelopment in activity centers provide open space and/or contribute to the public realm with wider public sidewalks, pedestrian linkages and other design guidelines.
- RCCAS8: Promote healthy living in neighborhoods by incorporating a pedestrian environment that encourages socialization, walking, biking and connectivity.
- RCCAS9: Residential development should reinforce the center by locating higher density housing options adjacent to the center, targeted to a broad range of income levels.
- RCCAS10: Enhance the pedestrian-friendly environment by adding sidewalks and creating other pedestrian-friendly trail/bike routes linking to other neighborhood amenities.
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- RCCAS16: Design for each center should be pedestrian-oriented with walkable connections between different uses.
- RCCAS20: Each Regional Center should include a very high-density mix of retail, office, services, and employment to serve several neighborhoods.

L. Whether or not the proposed use provides for all required buffer zones and transitional buffer zones where required by the regulations of the zoning district in which the use is proposed to be located.

The proposed development provides for all required buffers.

M. Whether or not there is adequate provision of refuse and service areas.

Adequate refuse and service areas will be provided.

N. Whether the length of time for which the special land use permit is granted should be limited in duration.

Because the proposed development is suitable for the Subject Property, there is no reason to limit the duration of the requested SLUP.

O. Whether or not the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings.

The size of the proposed four-story multi-family buildings is appropriate in light of adjacent and nearby properties. In addition, the proposed development will provide 31.7% of open space.

P. Whether the proposed use will adversely affect historic buildings, sites, districts, or archaeological resources.

The Applicant is not aware of any historic buildings, sites, districts, or archaeological resources in the nearby or surrounding area.

Q. Whether the proposed use satisfies the requirements contained within the supplemental regulations for such special land use permit.

There are no supplemental regulations applicable to the requested SLUP.

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R. Whether or not the proposed use will create a negative shadow impact on any adjoining lot or building as a result of the proposed building height.

The proposed use will not create any negative shadow impacts on adjoining properties. The multi-family units will be within the allowed 60' maximum height.

S. Whether the proposed use would result in a disproportionate proliferation of that or similar uses in the subject character area.

The proposed multi-family units and restaurant would not result in a disproportionate proliferation of similar uses in the subject character area. The surrounding area consists of a diverse mix of commercial, retail and residential uses, but has relatively few restaurants and apartment options in relation to other uses. The proposed development will contribute to Tier 2's goal of a 60%/30%/10% mix of office, commercial and residential uses.

T. Whether the proposed use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood, and would not be in conflict with the overall objective of the comprehensive plan.

As mentioned in subsection S above, the proposed development will provide uses that are relatively lacking in the immediate area, contributing to the Northlake District Overlay's goals of creating a community where residents and workers can live, work and play. In sum, it would be consistent with the City's Zoning Ordinance and Comprehensive Plan's objectives for this area.

III. PRESERVATION OF CONSTITUTIONAL RIGHTS

The Applicant respectfully submits that a refusal to approve the proposed SLUP would be unlawful, arbitrary, capricious, irrational and a manifest abuse of discretion; all 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.

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A refusal to approve the proposed SLUP would amount to a taking of property, 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.

A refusal to approve the proposed SLUP would be in violation of the Dormant Commerce Clause of the Constitution of the United States.

A refusal to approve the proposed SLUP would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Constitution of the State of Georgia.

A refusal to approve the proposed SLUP would be invalid inasmuch as the Zoning Ordinance of the City of Tucker is unlawful, null and void because its adoption and map adoption/maintenance did not and does not comply with the requirements of its predecessor ordinance and/or the Zoning Procedures Law, O.C.G.A. § 36-66-1, *et seq.*

Tucker's Zoning Ordinance lacks adequate standards for the City Council to exercise its power to review this Application. Specifically, some of the "criteria" set out in Section 7-4-6 are not sufficient to contain the discretion of the City Council and to provide the Courts with a reasonable basis for judicial review. Because the stated criteria (individually and collectively) are too vague and

CITY OF TUCKER

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uncertain to provide reasonable guidance, the Zoning Ordinance is unlawful and violates, among other things, the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraphs I and II of the Constitution of the State of Georgia.

Any limitation on the time for presentation of the issues before the City Council that has the power to zone and grant SLUPs is a violation of the guarantees of free speech under the First Amendment of the Constitution of the United States and Article I, Section I, Paragraph V of the Constitution of the State of Georgia. Further, said limitations are in violation of the right to petition and assemble, in violation of the First Amendment of the Constitution of the United States and Article I, Section I, Paragraph IX of the Constitution of Georgia, as well as the due process clauses of the U.S. and Georgia Constitutions.

IV. CONCLUSION

For the foregoing reasons, the Applicant respectfully asks that the proposed SLUP be approved. The Applicant also invites and welcomes any comments from City staff, officials, and other interested parties so that such recommendations or input may be considered as conditions of approval of this Application.

This 12th day of October, 2016.

Smith, Gambrell & Russell, LLP
Promenade, Suite 3100
1230 Peachtree Street, N.E.
Atlanta, Georgia 30309
404-815-3500

/s/ Kathryn M. Zickert
Kathryn M. Zickert
Dennis J. Webb, Jr.
Vickie B. Chung
Attorneys For Applicant

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STATEMENT OF INTENT

and

Other Material Required by
City of Tucker Zoning Ordinance
for the
Special Land Use Permit

of

NORTHLAKE INVESTMENT PARTNERS

For

± 7.004 Acres of Land
located in
Land Lot 210, 18th District, DeKalb County
Address: 2200 Northlake Parkway, Tucker, GA 30084

Submitted for Applicant by:

Kathryn M. Zickert
Dennis J. Webb, Jr.
Vickie B. Chung
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I. INTRODUCTION

This Application seeks a Special Land Use Permit (“SLUP”) to allow for the construction of a mixed-use project with 210 residential apartment units (30 units per acre) and a restaurant use on a 7 acre site on Northlake Parkway, Land Lot 210 of the 18th District of DeKalb County, Georgia (the “Subject Property”). Approximately 6.1 acres of the Subject Property will be used for the multi-family portion, with the remaining ± 0.91 acres being used for a $\pm 5,300$ square foot restaurant. The proposed residential units will be divided among three four-story structures with surface parking, which will be concealed from the street. The residential units facing Northlake Parkway will engage the street by providing stoops and direct sidewalk access. The approximate FAR for the multi-family portion is 0.83, well within the allowed 1.5, and the proposed density is the allowed 30 units per acre, which is permitted under Tier 2 of the Northlake Overlay District with a SLUP. Approximately 30% open space will be provided and maintained by the multi-family owner management company. The central pool and amenities and all residential building entrances will be connected by an internal sidewalk system, which will connect to the public sidewalk.

The Subject Property is currently zoned C-1, located in the Northlake Overlay District, Tier 2, and designated as being within a “Regional Center” on Tucker’s Future Land Use Map. The Subject Property currently consists of two

parcels. The northern parcel is used as a shopping center and restaurant, while the southern parcel is used as a motel, the Northlake Inn. The restaurant and a portion of its parking will remain on the northern parcel, with the remainder of the existing uses being demolished for the development of the multi-family units.

This project was initiated under prior to the incorporation of Tucker, and overlay review was completed by the Tucker Civic Association (“TCA”), the designated arm of the Northlake Overlay Review Committee, in April of this year. The TCA reviewed all materials submitted and made comments, all of which were fully addressed by the Applicant. The TCA found the proposed development was consistent with the goals of Tier 2 of the Northlake Overlay District, and represented a favorable mixture of new development and investment in the Northlake commercial area.

The Subject Property is located in an area that has seen tremendous growth and redevelopment. The Subject Property, which is bounded by the west by I-285 and to the east by Northlake Parkway, is surrounded by uses compatible to those proposed. Directly across Northlake Parkway from the Subject Property is Tucker Meridian, a ±200,000 square foot shopping center. Directly to the north of the Subject Property is a smaller shopping center and directly to the south is a hair salon, Budget Car Rental, and Chevron gas station. Across I-285 from the Subject Property are offices, apartments, hotels and other commercial uses.

Tier 2 of the Northlake Overlay District envisions a 60%/30%/10% split among office, commercial and residential uses, respectively. Because the office market in the Northlake commercial district is already heavily saturated, the Subject Property would best serve the goals of the Northlake Overlay District by being redeveloped for commercial and residential uses, as proposed. The Applicant submits this document as a Statement of Intent with regard to its Application, a preservation of the Applicant's constitutional rights with respect to the Subject Property, and a written justification for the proposed SLUP as required by Tucker's Zoning Ordinance, Section 7-4-6.

II. CRITERIA TO BE APPLIED TO SPECIAL LAND USE PERMITS

A. Adequacy of the size of the site for the use contemplated and whether or not adequate land area is available for the proposed use including provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located.

The size of the Subject Property is adequate for the proposed use. The proposed multi-family units, which will be located on ± 6.1 acres of the Subject Property, will be within the allowed density and FAR. The existing restaurant, which will remain on the remaining ± 0.91 acres, is modestly sized at 5,300 square feet, and has a FAR of 0.2. The Subject Property will comply with all requirements of the C-1 district and the Northlake Overlay. Adequate parking, landscaping, open space and sidewalks will be provided.

B. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district.

The proposed use is fully compatible with the adjacent properties and land uses as well as those in the larger surrounding area. The proposed multi-family

units will add a much-needed housing option to the Northlake commercial area and the restaurant will serve nearby residents and workers.

C. Adequacy of public services, public facilities, and utilities to serve the proposed use.

There are adequate public services, public facilities, and utilities to serve the proposed development. The proposed multi-family units will range from 12 studio units, 132 one-bedroom units and 66 two-bedroom units. The vast majority of anticipated residents will be young professionals without children and empty nesters. For those residents with school-aged children, the proposed development will be served by Midvale Elementary School, Tucker Middle School and Tucker High School, all of which have capacity.

D. Adequacy of the public street on which the use is proposed to be located and whether or not there is sufficient traffic-carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area.

The proposed Restaurant should not unduly increase traffic or created congestion in the area. The Subject Property is located on Northlake Parkway, a four lane road. According to the Institute of Transportation Engineers (ITE) *Trip Generation Manual* (Ninth Edition) (Land Use Category 221: Low-Rise Apartment), the proposed multi-family units should generate approximately 107 a.m. peak hour trips and 130 p.m. peak hour trips. Given the capacity of Northlake Parkway and surrounding roads, this minor amount of additional trips should not increase traffic or create congestion in the area.

E. Whether or not existing land uses located along access routes to the site will be adversely affected by the character of the vehicles or the volume of traffic generated by the proposed use.

There should be no change in the character of vehicles visiting the Subject Property if this SLUP is approved. Additionally, while there may be some addition to the volume of traffic visiting the site, this increase should be minimal in light of the Subject Property's access to major thoroughfares.

F. Adequacy of ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency.

Adequate ingress and egress to the Subject Property will be provided, both for vehicular and pedestrian traffic. The proposed development will be served by resident traffic gate and walking gate, in addition to internal sidewalks that connect to the public sidewalk system. The proposed development will also provide for 42 bicycle parking spaces on internal bike racks.

G. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust or vibration generated by the proposed use.

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H. Whether or not the proposed use will create adverse impacts upon any adjoin land use by reason of the hours of operation of the proposed use.

The restaurant's hours of operation are from 7 a.m. to 9 p.m., which is similar to other restaurants in the surrounding area.

I. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.

The manner of operation of the restaurant would be similar to that of the other retail services provided in the area. That is, patrons would visit the restaurant for a short time period to dine in or pick up food, much like patrons of the surrounding retail uses. Accordingly, the proposed use would not create adverse impacts upon any adjoining land use.

J. Whether or not the proposed use is otherwise consistent with the requirements of the zoning district classification in which the use is proposed to be located.

The proposed Restaurant would be fully compliant with the C-1 district regulations. In addition, the proposed use is compatible with the following purposes and goals of the Northlake Overlay District, Tier 2:

- Provide for the development of sidewalks and walkways in order to promote safe and convenient pedestrian access and to reduce dependence on automobile travel;
- Promote a physically attractive, environmentally safe and economically sound mixed-use community;
- Permit and encourage mixed-use developments containing both commercial and residential uses to create a pedestrian oriented community in which people can live, work and play;
- Encourage mixed-use developments that meet the goals and objectives of the Atlanta Regional Commission's Smart Growth and Livable Centers Initiatives;
- Allow and encourage development densities and land use intensities that are capable of making productive use of alternative transportation modes such as bus transit, rail transit, ridesharing, bicycling and walking;
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- Protect established single-family residential areas surrounding the Northlake Overlay District from encroachment of commercial, retail, office and industrial uses by providing for increased density of development within the boundaries of the Northlake Overlay District.

K. Whether or not the proposed use is consistent with the policies of the comprehensive plan.

The Subject Property is designated as "Regional Center" on Tucker's Future Land Use Map. The Regional Center character area encourages commercial and higher-density residential uses such as those proposed. The proposed development is fully allowed within this character area, and promotes the following specific goals and strategies of the City's Land Use Plan:

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L. Whether or not the proposed use provides for all required buffer zones and transitional buffer zones where required by the regulations of the zoning district in which the use is proposed to be located.

The proposed development provides for all required buffers.

M. Whether or not there is adequate provision of refuse and service areas.

Adequate refuse and service areas will be provided.

N. Whether the length of time for which the special land use permit is granted should be limited in duration.

Because the proposed development is suitable for the Subject Property, there is no reason to limit the duration of the requested SLUP.

O. Whether or not the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings.

The size of the proposed four-story multi-family buildings is appropriate in light of adjacent and nearby properties. In addition, the proposed development will provide 31.7% of open space.

P. Whether the proposed use will adversely affect historic buildings, sites, districts, or archaeological resources.

The Applicant is not aware of any historic buildings, sites, districts, or archaeological resources in the nearby or surrounding area.

Q. Whether the proposed use satisfies the requirements contained within the supplemental regulations for such special land use permit.

There are no supplemental regulations applicable to the requested SLUP.

R. Whether or not the proposed use will create a negative shadow impact on any adjoining lot or building as a result of the proposed building height.

The proposed use will not create any negative shadow impacts on adjoining properties. The multi-family units will be within the allowed 60' maximum height.

S. Whether the proposed use would result in a disproportionate proliferation of that or similar uses in the subject character area.

The proposed multi-family units and restaurant would not result in a disproportionate proliferation of similar uses in the subject character area. The surrounding area consists of a diverse mix of commercial, retail and residential uses, but has relatively few restaurants and apartment options in relation to other uses. The proposed development will contribute to Tier 2's goal of a 60%/30%/10% mix of office, commercial and residential uses.

T. Whether the proposed use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood, and would not be in conflict with the overall objective of the comprehensive plan.

As mentioned in subsection S above, the proposed development will provide uses that are relatively lacking in the immediate area, contributing to the Northlake District Overlay's goals of creating a community where residents and workers can live, work and play. In sum, it would be consistent with the City's Zoning Ordinance and Comprehensive Plan's objectives for this area.

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The Applicant respectfully submits that a refusal to approve the proposed SLUP would be unlawful, arbitrary, capricious, irrational and a manifest abuse of discretion; all 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.

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IV. CONCLUSION

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This 12th day of October, 2016.

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/s/ Kathryn M. Zickert
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Attorneys For Applicant