

Community Development
 4119 Adrian Street
 Tucker, GA 30084
 Phone: 678-597-9040
 Email: permits@tuckerga.gov
 Website: www.tuckerga.gov

Land Use Petition Application

Type of Application: Rezoning Comprehensive Plan Amendment Special Land Use Permit Concurrent Variance

APPLICANT INFORMATION

Applicant is the: <input type="checkbox"/> Property Owner <input checked="" type="checkbox"/> Owner's Agent <input type="checkbox"/> Contract Purchaser		
Name: Clean Harbors Environmental Services, Inc., c/o J. Dennis Webb, Jr.		
Address: 42 Longwater Drive		
City: Norwell	State: MA	Zip: 02061-9149
Contact Name: J. Dennis Webb, Jr.		
Phone: (404) 815-3620	Email: dwebb@sgrlaw.com	

OWNER INFORMATION

Name: BREIT Stone Mountain Owner LLC		
Address: 220 Commerce Drive, Suite 400		
City: Fort Washington	State: PA	Zip: 19034
Contact Name: Sonya Huffman		
Phone:	Email:	

PROPERTY INFORMATION

Property Address: 1374 Beverage Drive, Tucker, GA 30083		
Present Zoning District(s): M	Requested Zoning District(s): M-2	
Present Land Use Category:	Requested Land Use Category:	
Land District: 18th	Land Lot(s): 138	Acreage: +/- 8.009
Proposed Development: Solid Waste Use		
Concurrent Variance(s): None		

RESIDENTIAL DEVELOPMENT

No. of Lots/Dwelling Units:	Dwelling Unit Size (Sq. Ft.):	Density:
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NON-RESIDENTIAL DEVELOPMENT

No. of Buildings/Lots: 1	Total Building Sq. Ft.: 59,169	Density: N/A
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Community Development
 Department
 RZ-19-0004
 SLUP-19-0007

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, BRETT Stone Mountain Owner LLC authorize, Clean Harbors Environmental Services, Inc
(Property Owner) (Applicant)

to file for RZ SLUP, at 1374 Beverage Drive, Stone Mountain, GA 30083
(RZ, CA, SLUP, CV) (Address)

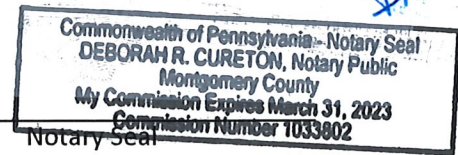
on this date May, 24, 2019
(Month) (Day)

- 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.

[Signature] _____ Date 5/24/19
Signature of Property Owner

Sanya Huffman / COO
Type or Print Name and Title

[Signature] _____ Date 05/24/2019
Signature of Notary Public



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LEGAL DESCRIPTION

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EXHIBIT A

As to File No. 734608-1:

1374 Beverage Drive

All that tract or parcel of land, lying and being in Land Lot 138 of the 18th Land District, Dekalb County, Georgia, being more particularly described as follows,

To find the true point of beginning, commence at a mag nail found where the South West right-of-way of the CSX Railroad (50 ft. Southwest of the Main Rail at this point) intersects the North West 60 ft. right of way of Beverage Drive;

Thence continuing along the North West 60 ft. right of way of Beverage Drive, South 50 degrees 31 minutes 19 seconds West for a distance of 12.58 feet to a chiseled hole in a concrete drive;

Thence continuing along the North West 60 ft. right of way of Beverage Drive, and along a curve to the left having a radius of 60.00 feet and an arc length of 54.10 feet, being subtended by a chord of South 84 degrees 23 minutes 41 seconds West for a distance of 52.29 feet to a 1/2" re-bar set, The True Point of Beginning;

Thence continuing along the West 60 ft. right of way of Beverage Drive, and along a curve to the left having a radius of 60.00 feet and an arc length of 102.88 feet, being subtended by a Chord of South 09 degrees 29 minutes 13 seconds West for a distance of 90.73 feet to a 1/2" re-bar found;

Thence leaving the West 60 ft. right of way of Beverage Drive, South 50 degrees 17 minutes 57 seconds West for a distance of 216.29 feet to a 1/2" re-bar found;

Thence South 31 degrees 08 minutes 40 seconds West for a distance of 58.06 feet to a 1" open top pipe found;

Thence North 89 degrees 35 minutes 42 seconds West for a distance of 404.94 feet to a calculated point in the centerline of a creek;

Thence in a northerly direction along the centerline of the creek the following courses and distances:

North 06 degrees 25 minutes 07 seconds West for a distance of 74.00 feet to a calculated point;

North 05 degrees 07 minutes 14 seconds East for a distance of 70.00 feet to a calculated point;

North 00 degrees 18 minutes 33 seconds East for a distance of 69.50 feet to a calculated point;

North 08 degrees 46 minutes 42 seconds East for a distance of 27.00 feet to a calculated point;

North 34 degrees 24 minutes 55 seconds East for a distance of 34.00 feet to a calculated point;

North 14 degrees 04 minutes 38 seconds West for a distance of 43.00 feet to a calculated point;

North 16 degrees 16 minutes 44 seconds East for a distance of 14.31 feet to a calculated point;

Thence leaving the centerline of said creek South 89 degrees 47 minutes 29 seconds West for a distance of 9.87 feet to a calculated point;

LEGAL DESCRIPTION (CONT'D)

Thence North 02 degrees 03 minutes 03 seconds East for a distance of 480.18 feet to a 1/2" re-bar found on the South side of an access tract that serves 1380 Beverage Drive;

Thence along a curve to the right having a radius of 135.00 feet and an arc length of 193.86 feet, being subtended by a chord of South 81 degrees 01 minutes 23 seconds East for a distance of 177.62 feet to a 1/2" re-bar set;

Thence South 39 degrees 53 minutes 08 seconds East for a distance of 652.36 feet to a 1/2" re-bar set, The True Point of Beginning.;

Said property contains 8.009 acres.

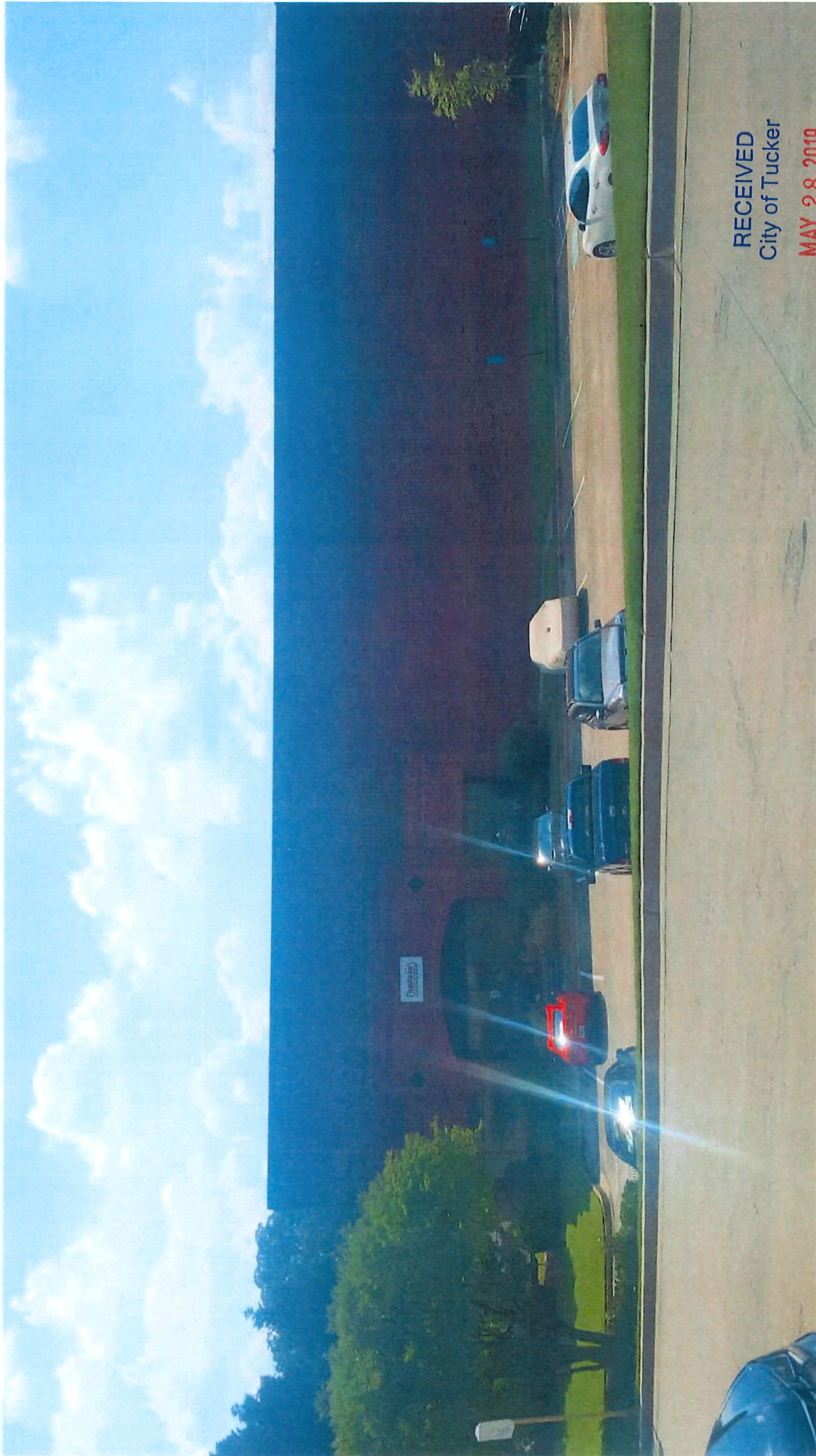
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FRONT - ELEVATION 1



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JLUP-19-0007

FRONT - ELEVATION 2



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RZ-19-00004

SLUP-19-00007

FRONT ELEVATION PANORAMA



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REAR - ELEVATION 1



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REAR - ELEVATION 2



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STATEMENT OF INTENT

and

Other Material Required by the
City of Tucker Zoning Ordinance
for the
Rezoning Application

of

CLEAN HARBORS ENVIRONMENTAL SERVICES, INC.

for

±8.009 Acres of Land
located in
Land Lot 138, 18th District, DeKalb County

Address:

1374 Beverage Drive

Submitted for Applicant by:

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

I. INTRODUCTION AND ANALYSIS

This application seeks to rezone ±8.009 acres in the City of Tucker from the Light Industrial district (M) to the Heavy Industrial district (M-2) to allow for a solid waste facility. The property is located at the southwestern terminus of Beverage Drive, approximately 255 feet from its intersection with East Ponce de Leon Avenue (the “Subject Property”). The Subject Property is more particularly located at 1374 Beverage Drive (Parcel ID No. 18 138 03 009). The Subject Property is in the Mountain Industrial Boulevard Overlay and is currently developed with a ±59,169 square foot warehouse/office building and appurtenant site improvements. The instant Application is accompanied by a concurrent Special Land Use Permit to allow the solid waste use.

The Applicant’s proposed use consists of a solid waste facility, where it temporarily receives and houses waste from all around the state of Georgia and the southeast region before the waste is shipped out for disposal. The waste materials vary from florescent light bulbs to cleaners, paints and oil, but can generally be described as household materials that are typically found under any home’s kitchen sink or in the garage.¹ The facility does not handle any infectious waste, biohazardous waste, or radioactive waste. The materials are packaged at the source site and brought to the facility in smaller box trucks, where they are unloaded. The waste arrives in metal drum containers of varying size, primarily 55-gallon drums, and is stored for no more than ten (10) days before being shipped offsite. There is no sorting, disposal or other processing of the waste materials at the Subject Property and the containers remain sealed while at the facility. The loading, unloading and storage of the waste is done inside the facility and

¹ As an illustration of the household nature of the waste material, the truck drivers carrying the waste to/from the facility are allowed to, and often do, park their trucks in hotel parking lots overnight during transportation.

there are no significant noise impacts from the operation, beyond the truck traffic. Further, the Applicant has extensive safety protocols in the unlikely event of a spill.

The Applicant formerly operated at another solid waste facility located at 4720 Stone Drive, Tucker, GA (the "Stone Drive Facility") from 2006 until March 2019 and has had other operations in Tucker since the early 1990's. In 2019, due to complications with its lease and unrelated to its operations, the Applicant moved its facilities to the Subject Property. The Applicant's proposed operations at the Subject Property are the same as those successfully and safely conducted at the Stone Drive Facility for over twelve (12) years.

The Applicant will utilize the Subject Property in its current configuration with no modifications to the site improvements and no expansion of the existing building envelope. The Subject Property's previous occupant was Integrated Supply Network, Inc., which operated a construction supplies distribution center. The proposed solid waste use will be similar in nature to the previous distribution facility in its operation. The proposed use will be loading and unloading sealed waste containers at the facility and loading them onto trucks when ready for shipment to a disposal site, like the previous construction supply distribution tenant, which functioned harmoniously with the surrounding development.

The Subject Property is located along the East Ponce de Leon Avenue corridor in an area that is predominantly characterized by M-zoned properties. To the northeast of the Subject Property is a small, narrow property (approximately 420' wide by 920' long) that contains the entrance drive for 1380 Beverage Drive and is zoned M. Further to the north across the narrow property is an active railroad right-of-way and the right-of-way of East Ponce de Leon Avenue. To the northwest, the Subject Property is bordered by an M-zoned property at 1380 Beverage Drive, which contains several industrial tenants, including American Medical Response (an

ambulance service) and Sempertrans USA (a conveyor belt supplier). To the southeast of the Subject Property is 1375 Beverage Drive, zoned M. The current tenants of 1375 Beverage Drive could not be identified, however, the existing structure is similar in style and nature to 1380 Beverage Drive and the Subject Property. To the south and southwest of the Subject Property is a parcel within unincorporated DeKalb County containing the Mountain Lake Apartment Homes that is zoned MR-1. As it can be seen, the Subject Property is almost completely surrounded by similar industrial uses. The one exception lies in the Mountain Lake Apartment Homes to the south and southwest. This development, however, has existed in harmony with the previous tenants of the Subject Property who operated similar businesses out of the facility with little to no impact to the adjacent multifamily residences. Much of this can be attributed to the large amount of buffer between the existing building and the adjacent residences; there is a ± 205 foot buffer with a significant amount of trees between the existing building and the multifamily residences that mitigates any impact. The Applicant will not be disturbing any of the existing buffer nor will its use be any more impactful than what has been in existence on the property for years. As a result, the proposed use is entirely consistent with the surrounding development.

The proposed zoning is also consistent with the distribution and location of other M-2 districts throughout the city. The nearest M-2 parcel is approximately 1.62 miles from the Subject Property at 2053 Mountain Industrial Boulevard (Parcel ID No. 18 184 07 007). It should be noted, however, that there are relatively few M-2 zoning districts within the City of Tucker. The few M-2 properties in Tucker are spread sporadically throughout the city and they are all surrounded by M-zoned properties. The proposed zoning for the Subject Property will be similar to the other M-2 districts in Tucker, in that it is surrounded by light industrial uses.

The Applicant submits this document as a Statement of Intent with regard to this Application, a preservation of the Applicant's constitutional rights, and a written justification for the Application as required by the City of Tucker Zoning Ordinance, § 7.4.5. A survey has been filed with the original Application, along with the other required materials.

II. ZONING HISTORY

The Subject Property is zoned M and is located within the Mountain Industrial Boulevard Overlay. It is designated as being in the "Light Industrial" (LI) character area on the city's Future Land Use Map. The Applicant's research of the Subject Property has not revealed any prior rezonings or conditions that affect the property. The LI character area fully allows the proposed M-2 Zoning.

III. IMPACT ANALYSIS

A. WHETHER THE ZONING PROPOSAL IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE COMPREHENSIVE PLAN.

The proposed use is consistent with the Tucker Tomorrow Comprehensive Plan, which places the Subject Property within the LI character area. The Comprehensive Plan's stated policy and intent for the LI character area is one that is "dedicated to low-intensity manufacturing, wholesale trade, and distribution activities that do not generate excessive noise, particulate matter, vibration, smoke, dust, gas, fumes, odors, radiation, or other nuisances." As stated in previous paragraphs, the proposed solid waste operations are entirely indoors with limited noise or other impacts and consequently fall neatly within this stated intent. In addition, the Comprehensive Plan also notes that one of its primary goals is to preserve and expand Tucker's industrial employment base. The proposed rezoning to M-2 achieves this by allowing the Applicant's industrial business to remain in Tucker, where it has operated for years. The alternative would force the Applicant to relocate elsewhere in the Metro Atlanta area.

Furthermore, the Proposed Development meets many of the expressed goals for the LI character area, including:

- Supporting the redevelopment or establishment of new compatible commercial land uses within these [industrial] character areas so that they grow as both local and regional generators of jobs.
- Installing landscaping and other design measures to soften or shield views of buildings and parking lots, and loading docks.

The proposed use, therefore, is suitable vis-à-vis the policies of the Comprehensive Plan.

B. WHETHER THE ZONING PROPOSAL WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY OR PROPERTIES.

Yes. The adjacent and nearby properties are a mix of industrial uses and the proposed M-2 zoning is complimentary and suitable in view of these uses. The proposed solid waste use will be complimentary to the nearby light industrial uses and suitable for the property's location in a predominantly industrial area. Moreover, and as stated above, the existing landscape buffers and the significant separation of the existing building from the adjacent Mountain Lake Apartment Homes will mitigate impacts to the nearby apartments.

C. WHETHER THE PROPERTY TO BE AFFECTED BY THE ZONING PROPOSAL HAS A REASONABLE ECONOMIC USE AS CURRENTLY ZONED.

No. The property has remained unoccupied since the previous tenant vacated. The Applicant has a strong desire to keep its operations within the City of Tucker and the Subject Property creates the opportunity to revitalize vacant building with one of Tucker's long-standing industrial citizens.

D. WHETHER THE ZONING PROPOSAL WILL ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY OR PROPERTIES.

No. The primary goal of land use planning is to eliminate or minimize the potential adverse effects of the dissimilar uses of adjacent tracts of land by establishing a harmonious transition between them. The traditional method of achieving this goal is through both “off-site” and “on-site” transition. Off-site transition consists of avoiding the placement of dissimilar uses next to each other by placing uses of intermediate density between them. On-site transition, which might either supplement or replace off-site transition, consists of measures imposed on or adjacent to the more intensive use to protect neighborhoods from adverse effects. Thus, this method of land use planning includes measures such as maintenance of buffers; walls, fences or berms; lighting control; noise control; aesthetic control; limitations on building location and orientation; location of or restrictions upon accessory uses; and prohibition of certain uses or hours of use normally permitted for that district. Many of these devices, including buffers, noise control, and maintaining regular operating hours have been utilized in this application.

As an example, the Applicant’s proposed operations are almost entirely interior to the building. The loading, unloading and handling of the waste drums is done inside the facility and there are no significant noise impacts in the operation, beyond truck traffic. Accordingly, rezoning the Subject Property to M-2 will not adversely affect the nearby existing uses and will enhance the adjacent properties.

E. WHETHER THERE ARE OTHER EXISTING OR CHANGING CONDITIONS AFFECTING THE USE AND DEVELOPMENT OF THE PROPERTY WHICH GIVE SUPPORTING GROUNDS FOR EITHER APPROVAL OR DISAPPROVAL OF THE ZONING PROPOSAL.

As stated in previous paragraphs, the City of Tucker's Comprehensive Plan encourages the preservation of the city's industrial base. The Applicant has operated in the city for many years before being compelled to find a new location. The Applicant wishes to continue its operations in the City of Tucker, however, the instant rezoning is necessary to do so.

Hence, the zoning requested here conforms to the ideals and spirit of the City of Tucker's Zoning Ordinance and complements the existing uses in the area, while allowing a practical and useful development that will bolster Tucker's growing industrial base.

F. WHETHER THE ZONING PROPOSAL WILL ADVERSELY AFFECT HISTORIC BUILDINGS, SITES, DISTRICTS, OR ARCHAEOLOGICAL RESOURCES.

The Applicant is not aware of any historic buildings, sites, districts, or archaeological resources either on the Subject Property or located in the immediate vicinity that would suffer adverse impacts from the rezoning requested.

G. WHETHER THE REQUESTED REZONING WILL NOT RESULT IN A USE WHICH WILL OR COULD CAUSE EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS.

No. The proposed development will not overly burden existing streets or transportation facilities. The Applicant consulted the ITE Trip Generation Manual, 9th Edition ("ITE Manual") to evaluate the number of trips that the proposed solid waste use will generate, however, the ITE Manual does not list solid waste as one of its studied uses. The proposed use most closely resembles ITE category 152, High-Cube Warehouse/Distribution Center. The ITE Manual describes this use as the storage of materials, goods, and merchandise prior to their distribution to retail outlets, distribution centers or other warehouses. The Applicant's proposed use can be

similarly described as the storage of solid waste drums prior to its distribution to disposal sites. Moreover, the previous use of the property was a construction supply distribution center which would also be categorized under ITE category 152. The Applicant is not expanding this use beyond what was previously on site (i.e., the existing building's dimensions remain the same). Since the use and the building are not expanding through the rezoning, there will be no net increase in traffic generated by the proposed use.

In addition, the truck traffic that is generated by the proposed use will not negatively impact the surrounding roadways. The Subject Property is located on Beverage Drive which only has an outlet onto East Ponce de Leon Avenue, classified as a major arterial. East Ponce de Leon Avenue's classification as a major arterial indicates that the road is intended to carry large volumes of traffic. This major roadway is more than adequate to accommodate trips the proposed development will generate. Additionally, the Subject Property is located approximately 0.6 miles from the access ramp onto Memorial Drive/Stone Mountain Freeway/US Hwy 78, which is a limited access freeway providing quick access to regional interstate highways. It is anticipated that much of the truck traffic will utilize the freeways rather than local streets. Therefore, the proposed development is not anticipated to contribute significantly to the trips on the surrounding roadways.

As for utilities, the Subject Property has access to water and sewer. Finally, the Proposed Development is commercial and will have no impact on local schools.

H. WHETHER THE ZONING PROPOSAL ADVERSELY IMPACTS THE ENVIRONMENT OR SURROUNDING NATURAL RESOURCES.

The Applicant will comply with all federal, state, and city regulations relating to environmental protection to ensure that the proposed development will not adversely affect the environment.

IV. NOTICE OF LEGAL AND CONSTITUTIONAL CHALLENGES AND PRESERVATION OF RIGHTS

The zoning on the Subject Property (and any intervening zoning district other than that requested) is unconstitutional. Further, the Zoning Ordinance of the City of Tucker, Georgia lacks adequate standards for the Mayor and City Council to exercise their power to zone and rezone. In essence, the standards are not sufficient to contain the discretion of the Mayor and City Council and to provide the Courts with a reasonable basis for judicial review. Because the stated standards (individually and collectively) are too vague and uncertain to provide reasonable guidance to the Mayor and City Council, the Zoning Ordinance violates the Fifth and Fourteenth Amendments of the Constitution of the United States in matters of zoning. The Zoning Ordinance also violates Article I, Section III, Paragraph 1; and Article I, Paragraphs 1 and 2 of the Constitution of the State of Georgia, 1983.

The Mayor and City Council are granted the power to zone pursuant to Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia, 1983. It is a power which must be fairly exercised. Based on this element of fairness, the Zoning Ordinance of the City of Tucker, Georgia violates Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia, 1983.

The Zoning Ordinance presently in effect is contrary to the best interest of the health and welfare of the citizens of the City of Tucker, Georgia, and constitutes an arbitrary and capricious act. As a result, the Zoning Ordinance is in violation of Article I, Section I, Paragraphs 1 and 2 of the Constitution of the State of Georgia 1983; Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia; and Article I, Section II, Paragraph 3 of the Constitution of the State of Georgia, 1983. Furthermore, the Zoning Ordinance violates the due process clause

and equal protection clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States of America.

In addition, the Zoning Ordinance presently in effect is unconstitutional in that it renders this property unusable and destroys its marketability. Therefore, the Zoning Ordinance constitutes a taking of applicant's property without just and adequate compensation and without due process of law in violation of the Fifth and Fourteenth Amendments to the United States Constitution and in violation of Article I, Section I, Paragraph 1 and Article I, Section III, Paragraph 1(a) of the Constitution of Georgia.

The failure to rezone the Subject Property as requested, would constitute the taking of property without due process and without the payment of adequate compensation in violation of Article I, Section I, Paragraph 1 of the Constitution of the State of Georgia, 1983; and the Fifth and Fourteenth Amendments of the Constitution of the United States.

Failure to grant the application for rezoning or to zone the property to any other classification, including other intervening classifications, would be contrary to the best interest of the health and welfare of the citizens of the City of Tucker, Georgia, and would further constitute an arbitrary and capricious act. As such, failure to grant the application would constitute a Violation of Article I, Section I, Paragraph 1 of the Constitution of the State of Georgia, 1983; and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia; and Article I, Section II, Paragraph 3 of the Constitution of the State of Georgia, 1983, together with the due process clause and equal protection clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States of America.

Any limitation on the time for presentation of the issues before the Mayor and City Council who have the power to zone and rezone is a violation of the guarantees of free speech

under Article I, Section I, Paragraph 5 of the Constitution of the State of Georgia, 1983 and the First Amendment of the Constitution of the United States of America. Further, said limitations are in violation of the right to petition and assemble, in violation of Article I, Section I, Paragraph IX of the Constitution of Georgia, 1983 and the First Amendment of the Constitution of the United States of America, as well as the due process clauses of the Constitution of Georgia, 1983 and the Constitution of the United States of America.

The Zoning Ordinance of the City of Tucker is unlawful, null and void in that its adoption and map adoption/maintenance did not comply with the requirements of its predecessor ordinance and/or the Zoning Procedures Law, O.C.G.A. § 36-66-1, *et seq.*

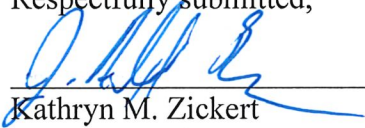
Opponents to this rezoning request lack standing, have failed to exhaust administrative remedies, and have waived their rights to appeal.

V. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Rezoning Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of the City of Tucker so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 28th day of May, 2019.

Respectfully submitted,


Kathryn M. Zickert
Dennis J. Webb, Jr.
J. Alexander Brock
Attorneys for Applicant

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Promenade, Suite 3100
1230 Peachtree Street, N.E.
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STATEMENT OF INTENT

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

of

CLEAN HARBORS ENVIRONMENTAL SERVICES, INC.

for

±8.009 Acres of Land
located in
Land Lot 138, 18th District, DeKalb County

Address:
1374 Beverage Drive

Submitted for Applicant by:

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

I. INTRODUCTION AND ANALYSIS

This application seeks a Special Land Use Permit (“SLUP”) to allow a solid waste use on a ±8.009 acre property in the City of Tucker. The property is located at the southwestern terminus of Beverage Drive, approximately 255 feet from its intersection with East Ponce de Leon Avenue (the “Subject Property”). The Subject Property is more particularly located at 1374 Beverage Drive (Parcel ID No. 18 138 03 009). The Subject Property is in the Mountain Industrial Boulevard Overlay and is designated as “Light Industrial” on the city’s Future Land Use Map. The instant Application is accompanied by a concurrent rezoning application to rezone the Subject Property from Light Industrial (M) to Heavy Industrial (M-2).

The Applicant’s proposed use consists of a solid waste facility, where it temporarily receives and houses waste from around the state of Georgia and the southeast region before the waste is shipped out for disposal. The waste materials vary from florescent light bulbs to cleaners and paints, but can generally be described as household materials that are typically found under any kitchen sink or in any garage. The materials are packaged at the source site and brought to the facility in smaller box trucks, where they are unloaded. The waste arrives in sealed metal drum containers of varying size, primarily 55-gallon drums, and is stored for no more than ten (10) days before being shipped offsite. There is no sorting, disposal or other processing of the waste materials at the Subject Property and none of the containers are opened while at the facility. The loading, unloading and storage of the waste is done inside the facility and there are no significant noise impacts from the operation, beyond the truck traffic. It should also be noted that the Applicant has in place a number of procedures to prevent any of the stored waste material from reaching any storm sewers or surrounding waterways in the event of an accidental spill. The

Applicant describes its operations at the Beverage Drive facility as “Truck-to-Truck” or “In-Transit” waste transportation.

Clean Harbors has operated in Tucker since the early 1990’s and its current Truck-to-Truck operations have been on-going in Tucker since at least 2006. At the Applicant’s former facility, located at 4720 Stone Drive, Tucker, GA (the “Stone Drive Facility”), it successfully and safely operated for over 12 years in harmony with the surrounding developments. In 2019, due to complications with its lease and unrelated to its operations, the Applicant moved its facilities to the Subject Property. The Applicant’s proposed operations at the Subject Property are the same those it successfully and safely conducted at the Stone Drive Facility.

Furthermore, the Applicant is not proposing any further modifications to the existing building or property to house its solid waste use. The site is already developed and previously contained a business similar to what the Applicant now proposes.

The Subject Property’s previous occupant was Integrated Supply Network, Inc., a construction supplies distribution center comparable to the Applicant’s proposed solid waste use. The proposed use will be loading and unloading sealed waste containers at the facility and loading them onto trucks when ready for shipment to a disposal site, like any other distribution center, including the former occupant of the Subject Property. Consequently, the proposed use will continue an operation similar to the use that has existed at the Subject Property for many years and functioned harmoniously with the surrounding development.

The Applicant submits this document as a Statement of Intent with regard to this Application, a preservation of the Applicant’s constitutional rights, and a written justification for the Application as required by the City of Tucker Zoning Ordinance, § 7.4.6. A survey and site plan have been filed with the original Application, along with the other required materials.

II. ZONING HISTORY

The Subject Property is zoned Light Industrial (M) and is within the Mountain Industrial Boulevard Overlay. Also, it is designated as being in the Light Industrial (LI) Character Area on the City's Future Land Use Map. The Applicant's research of the Subject Property has not revealed any prior rezonings or conditions that affect the property. As noted in prior paragraphs, the Applicant is submitting a concurrent application to rezone the Subject Property to Heavy Industrial (M-2). The LI character area fully allows the proposed M Zoning and the proposed solid waste use.

III. IMPACT ANALYSIS

The following paragraphs are a written analysis of the criteria for the granting of a SLUP as outlined in the City of Tucker Zoning Ordinance § 7.4.6:

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 typical for the proposed use and meets the dimensional requirements of the proposed M-2 zoning district. Additionally, the Applicant is not proposing any modifications that affect the existing yards, setbacks and open space. Accordingly, the Applicant is not seeking any variances to allow the proposed solid waste use. Also, as stated in previous paragraphs, a similar distribution center use operated on the Subject Property previously, which supports the site's suitability for the Applicant's proposed solid waste use.

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 WILL BE COMPATIBLE WITH ADJACENT PROPERTIES.

As outlined in the paragraphs above, the proposed development is completely compatible with the surrounding industrial uses. There is, however, the Mountain Lake Apartment Homes to the south and southwest. Nonetheless, this multifamily development has existed in harmony with the previous tenant of the Subject Property who operated similar businesses with little to no impact. Much of this can be attributed to the large amount of buffer between the existing building and the adjacent residences; there is a ± 205 foot buffer with a significant amount of trees between the existing building and the apartments that mitigates any impact. The Applicant will not be disturbing any of the existing buffer nor will its use be anymore impactful than what has been in operation on the Subject Property for years. As a result, the proposed use is entirely consistent with the surrounding development.

C. ADEQUACY OF PUBLIC SERVICES, PUBLIC FACILITIES, AND UTILITIES TO SERVE THE PROPOSED USE.

The Subject Property is currently served by water and sewer and the Applicant anticipates sufficient capacity to allow the proposed use. The Subject Property was previously occupied by a distribution facility and the proposed solid waste use will not create a significant burden beyond this prior use.

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.

No. The proposed use will not overly burden existing streets or transportation facilities. The Applicant consulted the ITE Trip Generation Manual, 9th Edition (“ITE Manual”) to determine the number of trips that the proposed solid waste use will generate, however, the ITE Manual

does not list solid waste as one of the studied uses. The proposed use most closely resembles ITE category 152, High-Cube Warehouse/Distribution Center. The ITE Manual describes this use as the storage of materials, goods, and merchandise prior to their distribution to retail outlets, distribution centers or other warehouses. The Applicant's proposed use can be similarly described as the storage of solid waste drums prior to its distribution to disposal sites. Moreover, the previous use of the property was a construction supply distribution center which would also be categorized under ITE category 152. The Applicant is not expanding this use beyond what was previously on site (i.e., the existing building's dimensions remain the same). Since the use and the building are not expanding through the rezoning, there should be no net increase in traffic generated by the proposed use.

In addition, the truck traffic that is generated by the proposed use will not negatively impact the surrounding roadways. The Subject Property is located on Beverage Drive which only has an outlet onto East Ponce de Leon Avenue, classified as a major arterial. East Ponce de Leon Avenue's classification as a major arterial indicates that the road is intended to carry large volumes of traffic. This major roadway is more than adequate to accommodate the trips the proposed development will generate. Additionally, the Subject Property is located approximately 0.6 miles from the access ramp onto Memorial Drive/Stone Mountain Freeway/US Hwy 78, which is a limited access freeway providing quick access to regional interstate highways. It is anticipated that much of the truck traffic will utilize the freeways rather than local streets. Therefore, the proposed development is not anticipated to contribute significantly to the trips on the surround roadways.

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.

The character of vehicles and volume of traffic should be similar to the adjacent industrial uses. The Subject Property is located a short distance from US Highway 78, which is the anticipated route for much of the truck traffic. As a result, there will be no adverse impact along the access route.

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.

The Subject Property currently has adequate vehicular ingress and egress, including that required for emergency vehicles.

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.

No adverse impacts are anticipated due to noise, smoke, odor, dust or vibration. The loading, unloading and handling of the waste drums will be entirely indoors, with only truck traffic on the exterior of the building. As a consequence, there will be no impacts beyond the truck traffic, which has been typical of the Subject Property and the surrounding properties for many years. The proposed use is similar in nature and operation to other uses within the vicinity of the Subject Property and is entirely appropriate for the area.

H. WHETHER OR NOT THE PROPOSED USE WILL CREATE ADVERSE IMPACTS UPON ANY ADJOINING LAND USE BY REASON OF THE HOURS OF OPERATION OF THE PROPOSED USE.

The proposed use will have standard hours of operation and will not create adverse impacts upon adjoining land.

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 and proposed use will be consistent with nearby properties and no adverse impacts are expected. As described in further detail above, the surrounding properties are mostly light industrial and the Subject Property's former use as a distribution center is analogous to what is now proposed. In addition, the Applicant safely and successfully operated a similar facility in the City of Tucker for many years. Consequently, the proposed solid waste use is not anticipated to negatively impact any of the surrounding properties.

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 use is entirely consistent with the M-2 zoning and the Mountain Industrial Boulevard Overlay.

K. WHETHER OR NOT THE PROPOSED USE IS CONSISTENT WITH THE POLICIES OF THE COMPREHENSIVE PLAN.

The proposed use is consistent with the Tucker Tomorrow Comprehensive Plan, which places the Subject Property within the LI character area. The Comprehensive Plan's stated policy and intent for the LI character area is one that is "dedicated to low-intensity manufacturing, wholesale trade, and distribution activities that do not generate excessive noise, particulate matter, vibration, smoke, dust, gas, fumes, odors, radiation, or other nuisances." As stated in previous paragraphs, the proposed solid waste operations are analogous to a distribution center and its operations are entirely indoor, thus minimizing any impacts. In addition, the Comprehensive Plan also notes as one of its primary goals is to preserve and expand Tucker's industrial employment base. The proposed SLUP achieves this by allowing the Applicant's industrial business to remain in Tucker, where it would otherwise be forced to relocate elsewhere

in the Metro Atlanta area.

Furthermore, the Proposed Development meets many of the expressed goals for the LI character area, including:

- Supporting the redevelopment or establishment of new compatible commercial land uses within these character areas so that they grow as both local and regional generators of jobs.
- Installing landscaping and other design measures to soften or shield views of buildings and parking lots, and loading docks.

The proposed use, therefore, is suitable vis-à-vis the policies of the Comprehensive Plan.

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 Subject Property is currently developed and meet the required buffer zones for the existing M zoning and the proposed M-2 zoning.

M. WHETHER OR NOT THERE IS ADEQUATE PROVISION OF REFUSE AND SERVICE AREAS.

The Subject Property is currently developed with adequate refuse and service areas and the instant Application does not anticipate any changes to these areas.

N. WHETHER THE LENGTH OF TIME FOR WHICH THE SPECIAL LAND USE PERMIT IS GRANTED SHOULD BE LIMITED IN DURATION.

No. The proposed land use would not be temporary and would seek to serve the community for a significant period of time.

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 building is existing, nevertheless its size, scale and massing is standard and similar to adjacent properties. The Applicant is not proposing any exterior alterations to the building

through this Application.

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 either on the Subject Property or located in the immediate vicinity that would suffer adverse impacts from the rezoning requested.

Q. WHETHER THE PROPOSED USE SATISFIES THE REQUIREMENTS CONTAINED WITHIN THE SUPPLEMENTAL REGULATIONS FOR SUCH SPECIAL LAND USE PERMIT.

The Tucker Code of Ordinances § 27-7.4.6.D.1 lists certain conditions to regulate the proposed solid waste use:

- a. **Whether the proposed use does not pose any potential negative impact resulting from air pollution, degradation of soil and/or water quality, noise, odor, or other negative environmental effects.**

The proposed use will not have any adverse impacts on soil/water quality, noise, odor or other environmental impacts. The waste materials will be kept entirely within the building, except when it is loaded onto trucks to leave the facility. Furthermore, all of the waste is kept in sealed containers which remain sealed and are not opened at the facility. As a result, there are no adverse effects from noise or odor.

Additionally, the Applicant implements spill containment practices at its facility, so that in the event of an accidental spill no waste enters storm sewers, the ground or any nearby waterways. The Applicant also has its own spill response team that is responsible for the clean-up and handling of any spills on site, to ensure that any hazardous materials are properly disposed of.

- b. **Whether the proposed use will not have a significant deleterious effect on use of land and value of existing housing in adjacent and nearby neighborhoods.**

No. As stated in the paragraphs above, the Subject property is located in a

predominantly industrial area and the proposed solid waste use is an entirely appropriate use given the surrounding developments and existing uses. Consequently, proposed solid waste use will not have any negative impacts on the value of nearby properties.

c. Whether the proposed use will not create a negative traffic impact on any adjacent or nearby residential street(s) resulting from truck and other vehicular traffic associated with the facility.

No. The truck traffic generated by the proposed solid waste operations will be similar in nature and scale to the prior distribution facility that existed on the Subject Property. Additionally, the Applicant anticipates much of the truck traffic leaving the facility to use the nearby access to US Highway 78 with little to no impact on local roadways.

d. Whether the proposed use does not represent an over-concentration of such uses in the area.

No. There are no other solid waste uses on the adjacent properties. Therefore, the grant of this SLUP will not result in an over-concentration of uses in the area.

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 existing building is one-story in height and is not being modified. Therefore, no negative shadow impact on the adjoining lots is expected.

S. WHETHER THE PROPOSED USE WOULD RESULT IN A DISPROPORTIONATE PROLIFERATION OF THAT OR SIMILAR USES IN THE SUBJECT CHARACTER AREA.

No. As stated previously, the Applicant is moving its operations from another facility within Tucker and not creating a new one. Accordingly, the proposed SLUP will not result in any proliferation of solid waste 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.

The City of Tucker's Comprehensive Plan states that one of its primary goals is to preserve and expand Tucker's industrial employment base. The Applicant has operated its solid waste business in the City of Tucker for more than 12 years and the SLUP is required due to moving to a new facility. The Applicant has operated its solid waste business harmoniously with the city since 2006 and has a strong desire to stay within the Tucker community. The grant of the SLUP to allow a solid waste use on the Subject Property will allow the Applicant to maintain its business in Tucker and preserve Tucker's industrial base.

IV. NOTICE OF LEGAL AND CONSTITUTIONAL CHALLENGE AND PRESERVATION OF CONSTITUTIONAL RIGHTS

The zoning on the Subject Property (and any intervening zoning district other than that requested) is unconstitutional. Further, the Zoning Ordinance of the City of Tucker, Georgia lacks adequate standards for the Mayor and City Council to exercise their power to zone and rezone. In essence, the standards are not sufficient to contain the discretion of the Mayor and City Council and to provide the Courts with a reasonable basis for judicial review. Because the stated standards (individually and collectively) are too vague and uncertain to provide reasonable guidance to the Mayor and City Council, the Zoning Ordinance violates the Fifth and Fourteenth Amendments of the Constitution of the United States in matters of zoning. The Zoning Ordinance also violates Article I, Section III, Paragraph 1; and Article I, Paragraphs 1 and 2 of the Constitution of the State of Georgia, 1983.

The Mayor and City Council are granted the power to zone pursuant to Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia, 1983. It is a power which must be fairly

exercised. Based on this element of fairness, the Zoning Ordinance of the City of Tucker, Georgia violates Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia, 1983.

The Zoning Ordinance presently in effect is contrary to the best interest of the health and welfare of the citizens of the City of Tucker, Georgia, and constitutes an arbitrary and capricious act. As a result, the Zoning Ordinance is in violation of Article I, Section I, Paragraphs 1 and 2 of the Constitution of the State of Georgia, 1983; Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia; and Article I, Section II, Paragraph 3 of the Constitution of the State of Georgia, 1983. Furthermore, the Zoning Ordinance violates the due process clause and equal protection clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States of America.

In addition, the Zoning Ordinance presently in effect is unconstitutional in that it renders this property unusable and destroys its marketability. Therefore, the Zoning Ordinance constitutes a taking of applicant's property without just and adequate compensation and without due process of law in violation of the Fifth and Fourteenth Amendments to the United States Constitution and in violation of Article I, Section I, Paragraph 1 and Article I, Section III, Paragraph 1(a) of the Constitution of Georgia.

The failure to grant the Special Land Use Permit to allow a solid waste use on the Subject Property as requested, would constitute the taking of property without due process and without the payment of adequate compensation in violation of Article I, Section I, Paragraph 1 of the Constitution of the State of Georgia, 1983; and the Fifth and Fourteenth Amendments of the Constitution of the United States.

Failure to grant the application for the Special Land Use Permit would be contrary to the best interest of the health and welfare of the citizens of the City of Tucker, Georgia, and would further constitute an arbitrary and capricious act. As such, failure to grant the application would constitute a Violation of Article I, Section I, Paragraph 1 of the Constitution of the State of Georgia, 1983; and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia; and Article I, Section II, Paragraph 3 of the Constitution of the State of Georgia, 1983, together with the due process clause and equal protection clauses of Fifth and Fourteenth Amendments to the Constitution of the United States of America.

Any limitation on the time for presentation of the issues before the Mayor and City Council who have the power to zone and rezone is a violation of the guarantees of free speech under Article I, Section I, Paragraph 5 of the Constitution of the State of Georgia, 1983 and the First Amendment of the Constitution of the United States of America. Further, said limitations are in violation of the right to petition and assemble, in violation of Article I, Section I, Paragraph IX of the Constitution of Georgia, 1983 and the First Amendment of the Constitution of the United States of America, as well as the due process clauses of the Constitution of Georgia, 1983 and the Constitution of the United States of America.

The Zoning Ordinance of the City of Tucker is unlawful, null and void in that its adoption and map adoption/maintenance did not comply with the requirements of its predecessor ordinance and/or the Zoning Procedures Law, O.C.G.A. § 36-66-1, et seq.

The opponents to this rezoning request lack standing, have failed to exhaust administrative remedies, and have waived their rights to appeal.

V. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Special Land Use Permit Application at issue be approved. The Applicant also invites and welcomes any comment from Staff or other officials of the City of Tucker so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 28th day of May, 2019.

Respectfully submitted,



Kathryn M. Zickert
Dennis J. Webb, Jr.
J. Alexander Brock
Attorneys for Applicant

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City of Tucker

MAY 28 2019

Community Development
Department

RZ-19-0004
SLUP-19-0007

MAY 28 2019

Community Development
Department

RZ-19-0004
SLUP-19-0007

JAB

MEMORANDUM

TO: City of Tucker, Department of Community Development

FROM: J. Alexander Brock, P.E. Smith, Gambrell & Russell, LLP (GA P.E. 031209)
Dennis J. Webb, Jr., Smith, Gambrell & Russell, LLP
Kathryn M. Zickert, Smith, Gambrell & Russell, LLP

DATE: May 24, 2019

RE: Environmental Site Analysis - 1374 Beverage Drive (Parcel ID No. 18 138 03 009)

1) CONFORMANCE WITH THE COMPREHENSIVE PLAN.

The property is located at the southwestern terminus of Beverage Drive, approximately 255 feet from its intersection with East Ponce de Leon Avenue (the "Subject Property"). The Subject Property is more particularly located at 1374 Beverage Drive (Parcel ID No. 18 138 03 009). The Subject Property is zoned Light Industrial (M) and is in the Mountain Industrial Boulevard Overlay. The Subject Property is developed with a ±59,169 square foot building, paving and other appurtenant site improvements.

The Applicant seeks to rezone the Subject Property to Heavy Industrial (M-2) and the grant of a Special Land Use Permit to allow its solid waste business on the property. The City of Tucker's Comprehensive Land Use Plan designates the Subject Property as Light Industrial which is appropriate for the proposed M-2 zoning and solid waste use.

The City of Tucker approved the Tucker Tomorrow Comprehensive Plan (the "Plan") on April 23, 2018. The Plan identifies the Light Industrial character area as:

"Purple represents areas of light industrial development. These areas are largely dedicated to low-intensity manufacturing, wholesale trade, and distribution activities that do not generate excessive noise, particulate matter, vibration, smoke, dust, gas, fumes, odors, radiation, or other nuisances."

The proposed development meets the development strategy of the Light Industrial character area by "[s]upporting the redevelopment or establishment of new compatible commercial land uses within these [industrial] character areas so that they grow as both local and regional generators of jobs." The project at issue represents a consistent use commensurate with other existing uses on adjacent and nearby properties, in an area which is predominantly industrial. The proposed use is, therefore, suitable *vis-a-vis* the policies of the Comprehensive Plan.

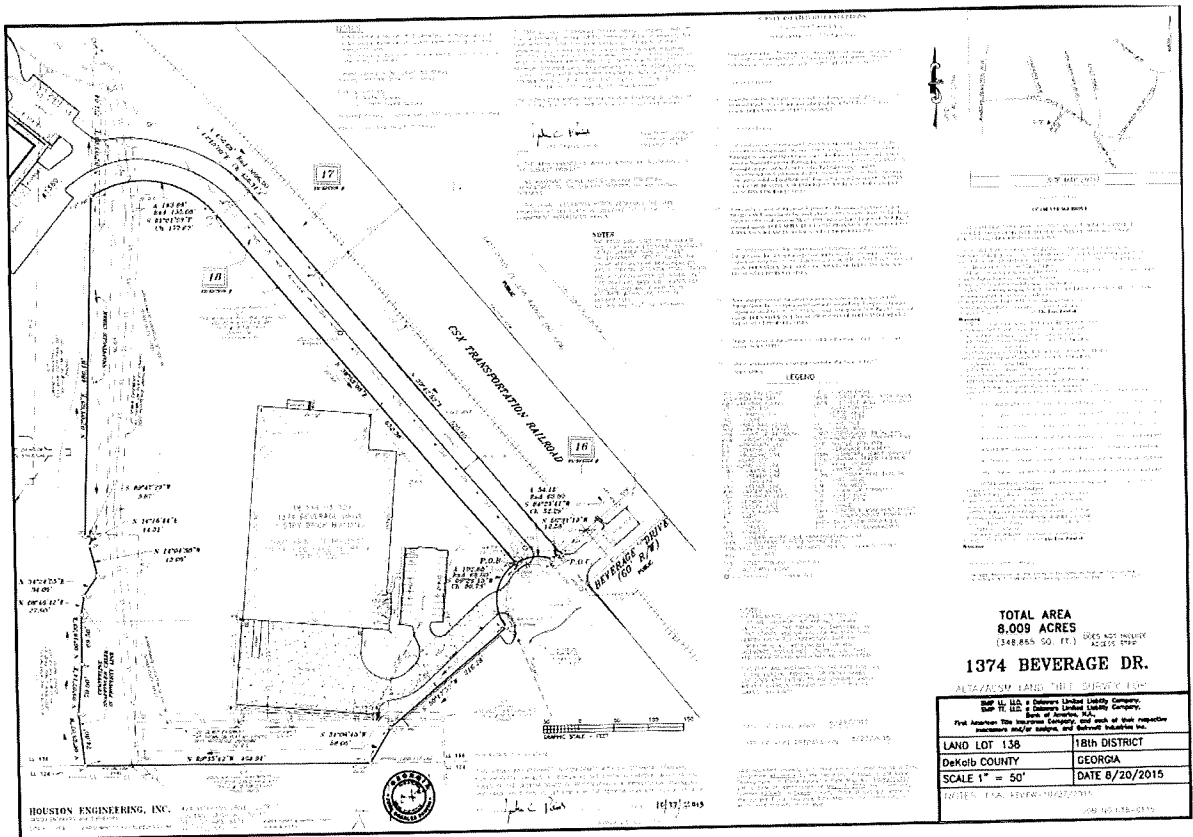


Figure 1. Survey

2) ENVIRONMENTAL IMPACTS OF THE PROPOSED PROJECT.

a) Wetlands

There are riverine wetlands on the property as indicated by the U. S. Fish and Wildlife Service, National Wetlands Inventory Maps. The proposed Applications to rezone the Subject Property and to allow a solid waste use on the Subject Property do not anticipate any modifications to the existing improvements on the site. Accordingly, there are no impacts to the adjacent wetlands proposed.

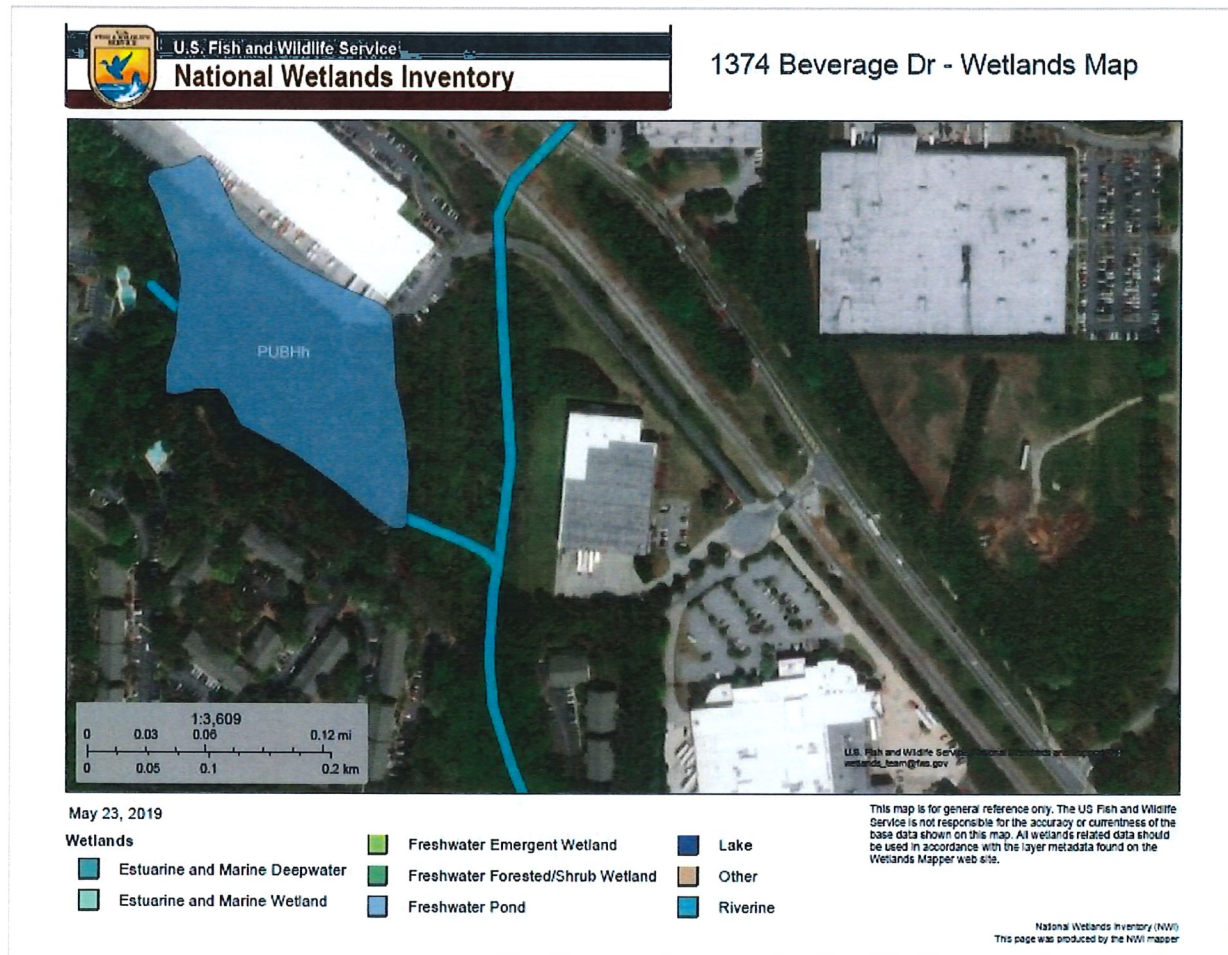
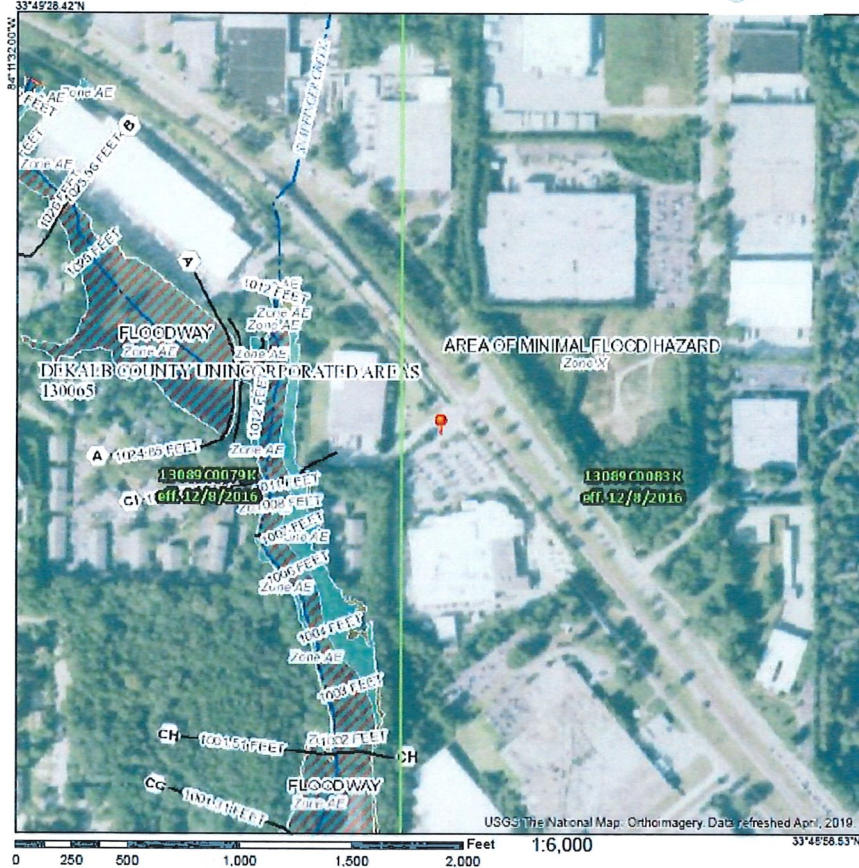


Figure 2. National Wetlands Inventory Map

b) Floodplain

A portion of the site is located in the Special Flood Hazard Area according to FEMA FIRM Map, Panel numbers 13089C0079K, revised December 8, 2016, and 13089C0083K, revised December 8, 2016. The stream is identified on the FIRM Map as a portion of Snapfinger Creek. The existing improvements and the proposed solid waste use will not encroach into any portion of the floodplain.

National Flood Hazard Layer FIRMette



Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS

- Without Base Flood Elevation (BFE) Zone A, V, AE
- With BFE or Depth Zone AE, AD, AH, VE, AH
- Regulatory Floodway

OTHER AREAS OF FLOOD HAZARD

- 0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
- Future Conditions 1% Annual Chance Flood Hazard Zone X
- Area with Reduced Flood Risk due to Levee. See Notes. Zone X
- Area with Flood Risk due to Levee Zone D

OTHER AREAS

- Area of Minimal Flood Hazard Zone X
- Effective LOMRs
- Area of Undetermined Flood Hazard Zone D

GENERAL STRUCTURES

- Channel, Culvert, or Storm Sewer
- Levee, Dike, or Floodwall

OTHER FEATURES

- Cross Sections with 1% Annual Chance Water Surface Elevation
- Coastal Transect
- Base Flood Elevation Line (BFE)
- Limit of Study
- Jurisdiction Boundary
- Coastal Transect Baseline
- Profile Baseline
- Hydrographic Feature

MAP PANELS

- Digital Data Available
- No Digital Data Available
- Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 5/28/2019 at 3:47:17 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legends, scale bar, map creation date, community identifiers, FIRM panel numbers, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

Figure 3. FEMA FIRM Panel

c) Streams/stream buffers

There are state waters present on the Subject Property based on site observations and as indicated by the boundary survey performed by Houston Engineering, Inc., dated August 20, 2015. The survey identifies the stream as Snapfinger Creek. The stream enters the Subject Property from an existing 84-inch corrugated metal pipe at the northwest corner of the Subject Property and flows in an open channel, south along its western border before leaving the property to the south.

d) Slopes exceeding 25 percent over a 10-foot rise in elevation

Based on topographic maps and site observation there are no slopes in excess of 25% over a 10-feet in rise on the Subject Property.

e) Vegetation

The project site consists primarily of trees, low lying brush and landscaped (primarily grassed) areas. An IPaC Trust Resource Report was generated from the U.S. Fish and Wildlife Service. The report revealed that there is one plant native to the region (Michaux's Sumac) that is endangered. This species was not found onsite.

f) Wildlife Species (including fish)

An IPaC Trust Resource Report was generated from the U.S. Fish and Wildlife Service, which did not indicate any endangered species in the area. The report did reveal that there are several species of migratory birds in the region. None were found to be present or nesting at the project location during the site visit on May 24, 2019.

g) Archeological/Historical Sites

According Georgia's Natural, Archaeological and Historic Resources GIS (GNAHRGIS) maps, the project site is not on a historic or archaeological registry. The site is currently developed with a 59,169 square foot building and appurtenant site improvements.



Figure 4. GNAHRGIS Map

3) **PROJECT IMPLEMENTATION MEASURES.**

a) Protection of environmentally sensitive areas, i.e., floodplain, slopes exceeding 25 percent, river corridors.

The Subject Property contains an environmentally sensitive stream corridor and riverine wetlands on a portion of the site. The site is currently development and the rezoning and Special Land Use Permit applications do not anticipate any further development of improvements on the site. As a result, there will be no impact to the environmentally sensitive areas of the site.

b) Protection of water quality

The Applicant has in place standard protocols for spill prevention and containment. These protocols will prevent any hazardous materials from entering nearby storm sewers or streams in the event of an accidental spill. In addition, the Applicant has a spill response team that manages the clean-up and disposal of any materials after a spill occurs.

c) Minimization of negative impacts on existing infrastructure

The proposed development has access to existing utilities with sufficient capacity to support the proposed use. The proposed use is not anticipated to overly burden existing utilities.

d) Minimization on archeological/historically significant areas

No archeological/historically significant areas were identified on or adjacent to the site and as a result no impacts are anticipated.

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.

The area is in proximity to industrial manufacturing facilities and an active rail line to the north and east, however there are no other environmentally adverse conditions (waste treatment facilities, airports, landfills, etc.) and therefore, the Subject Property is not in an environmentally stressed area. The Applicant's proposed solid waste use is not expected to cause any additional environmental stress on the area. The proposed solid waste use is completely interior to the existing building and the waste remains in sealed containers the entire time it is at the facility and the waste material is never exposed to the surrounding environment.

f) Creation and preservation of green space and open space

The Subject property is currently developed and the Applicant intends to preserve the existing landscaping and natural wooded areas on the site.

g) Protection of citizens from the negative impacts of noise and lighting

The proposed use will be interior to the existing building and the only noise impacts will be from trucks entering and exiting the facility, which is typical of other uses in the surrounding area. The proposed design, however, will maintain the current setbacks and buffers along the property lines. The setback areas will retain the existing undeveloped vegetation along the western property line to minimize noise and lighting impacts to nearby properties.

h) Protection of parks and recreational green space

No existing parks will be impacted.

i) Minimization of impacts to wildlife habitats

No sensitive wildlife areas were observed during the May 24, 2019 site visit and as a result no impacts are anticipated.

