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 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 <input checked="" type="checkbox"/>
Provide one (1) a digital copy of <u>all</u> submitted materials.	• 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 checked="" 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"/>
<b>THE FOLLOWING ITEMS MAY BE REQUIRED</b>		
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"/>
Other items required per the Zoning Ordinance	• Three (3) Copies	<input type="checkbox"/>

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## PRE-APPLICATION FORM

### REZONING, COMPREHENSIVE PLAN AMENDMENT, SPECIAL LAND USE PERMIT, AND CONCURRENT VARIANCE

#### Purpose & Process

A Pre-Application Meeting provides you the opportunity to present a conceptual plan and letter of intent to a representative of the Community Development Department. This meeting benefits you, the applicant, by receiving general comments on the feasibility of the plan, the process(es)/procedure(s) and fees required to process and review the application(s). Please contact Courtney Lankford at [clankford@tuckerga.gov](mailto:clankford@tuckerga.gov) to schedule an appointment. This form will be completed during the pre-application meeting. After completing the pre-application meeting, the applicant may file the Land Use Petition.

Applicant: Northlake Senior Apartments

Site Address: 2150 + 2152 Northlake Parkway Parcel Size: 1.5 acres

Proposal Description: \_\_\_\_\_  
90 unit apartment development

Existing Zoning Designation and Case Number: C-1

Proposed Zoning Designation: C-1

Comprehensive Land Use Map Designation: RC

Overlay District: Northlake overlay, Tier 1

Staff: [Signature] Date: 2-21-17

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**APPLICATION**

APPLICANT INFORMATION	OWNER INFORMATION
NAME: <u>Northlake Senior Apartments LP</u> ADDRESS: <u>3550 South Tamiami Trail, Suite 301</u> CITY: <u>Sarasota</u> STATE: <u>Florida</u> ZIP: <u>34239</u> PHONE: <u>941.929.1271</u>	NAME: <u>Tarek Real Estates LLC</u> ADDRESS: <u>3081 Mount Olive Drive</u> CITY: <u>Decatur</u> STATE: <u>Georgia</u> ZIP: <u>30033</u> PHONE: <u>404.808.0128</u>
CONTACT PERSON: <u>Wayne Reece</u> PHONE: <u>404.586.2100</u> CONTACT'S E-MAIL: <u>wreece@reeceassociates.com</u>	
<p style="text-align: center;"><b>APPLICANT IS THE:</b></p> <input type="checkbox"/> OWNER'S AGENT <input type="checkbox"/> PROPERTY OWNER <input checked="" type="checkbox"/> CONTRACT PURCHASER	
PRESENT ZONING DISTRICT(S): <u>C-1</u> REQUESTED ZONING DISTRICT: _____ PRESENT LAND USE CATEGORY: <u>Commercial</u> REQUESTED LAND USE CATEGORY: _____ LAND DISTRICT(S): <u>18</u> LAND LOT(S): <u>210-08-044; 210-08-014</u> ACREAGE: <u>1.5 acres</u> ADDRESS OF PROPERTY: <u>2150-52 Northlake Parkway, Tucker, Georgia 30084</u> PROPOSED DEVELOPMENT: <u>Multifamily Residential</u> CONCURRENT VARIANCES: _____	
<p style="text-align: center;"><b>RESIDENTIAL DEVELOPMENT</b></p> No. of Lots/Dwelling Units <u>2 lots/90 dwelling units</u> Dwelling Unit Size (Sq. Ft.): <u>750 sq. ft. (average)</u> Density: <u>60 units per acre</u>	<p style="text-align: center;"><b>NON-RESIDENTIAL DEVELOPMENT</b></p> No. of Buildings/Lots: _____ Total Building Sq. Ft. _____ Density: _____

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**APPLICANT'S CERTIFICATION**

THE UNDERSIGNED BELOW STATES UNDER OATH THAT THEY ARE AUTHORIZED TO MAKE THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION OR REAPPLICATION AFFECTING THE SAME LAND SHALL BE ACTED UPON WITHIN 24 MONTHS FROM THE DATE OF LAST ACTION BY THE MAYOR AND CITY COUNCIL.

  
\_\_\_\_\_  
Signature of Applicant

*2/24/17*  
\_\_\_\_\_  
Date

Northlake Senior Apartments LP by Don Paxton, Limited Partner  
\_\_\_\_\_  
Type or Print Name and Title

  
\_\_\_\_\_  
Signature of Notary Public

*2/24/17*  
\_\_\_\_\_  
Date

Notary Seal



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**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, Tarek Real Estates LLC, authorize, Northlake Senior Apartments LP,  
(Property Owner) (Applicant)

to file for SLUP, at 2150-52 Northlake Parkway, Tucker, Georgia 30084  
(RZ, CA, SLUP, CV) (Address)

on this date FEBRUARY 27, 20 17  
(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.

Mohammed Tarek 2-27-2017  
Signature of Property Owner Date

Mohammed Tarek, CEO

Type or Print Name and Title

[Signature] 2/27/17  
Signature of Notary Public Date

**C DANIELS**  
NOTARY PUBLIC  
Gwinnett County  
State of Georgia  
My Comm. Expires Nov. 22, 2018  
Notary Seal

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## **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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**STATEMENT OF INTENT**

and

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

of

**NORTHLAKE SENIOR APARTMENTS LIMITED PARTNERSHIP**

for

1.5 Acres of Land  
Located in  
Land Lot 210, 18th District, DeKalb County  
Address: 2150-52 Northlake Parkway, Tucker, Georgia 30084

Submitted for Applicant by:

Wayne Reece  
Jordan Wilkinson  
Reece & Associates  
4200 Northside Parkway, N.W., Building 7  
Atlanta, Georgia 30327  
404.586.2100

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**I. Introduction.**

This Land Use Petition Application (“Application”) seeks a Special Land Use Permit (“SLUP”) to allow for the construction of Northlake Senior Apartments (the “Development”), a 90-unit multifamily development marketed toward seniors. The Development will be constructed on 1.5 acres of land located at 2150 and 2152 Northlake Parkway, Land Lot 210 of the 18th District of DeKalb County, in Tucker, Georgia (the “Property”). The Property consists of two parcels zoned as C-1 (Local Commercial) Districts. It is located in Tier 1 of the Northlake Overlay District (the “Overlay”) on the City of Tucker’s District Overlay Map and in the Regional Center on the City’s Future Land Use Map. The Development will consist of a single structure with four stories of residential units on top of one story of un-walled ground-level parking. The structure will be surrounded by public open space that provides sidewalk access to the building and facilitates interaction between residents and pedestrian traffic. The proposed density of the Development is sixty (60) units per acre as permitted in Tier 1 of the Overlay with a SLUP.

The Development was initiated prior to the City’s incorporation and was reviewed twice by the Tucker Civic Association (“TCA”) in May of 2016. The TCA first reviewed the Development at a public hearing in May of 2016 and again during a meeting with the Applicant and the Tucker Lifelong Community Committee (“TLCC”) around the time of the hearing. Both the TCA and TLCC concluded that the Development “meets the goals of the Tucker Community, DeKalb County, the Atlanta Regional Commission, and the Tucker Civic Association.”

According to the Zoning Ordinance of the City of Tucker (the “Zoning Ordinance”), the principle goals of the Northlake Overlay District are to: (1) encourage development of properties within the district to achieve a mixed-use community; (2) provide for the development of



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sidewalks and walkways to promote safe and convenient pedestrian access and reduce automobile dependence; (3) enhance the long-term economic viability of the district by encouraging new commercial and residential developments; and (4) establish and maintain a balanced relationship between industrial, commercial, and residential development, supporting high-density housing in particular. The Overlay's Tier 1 regulations further aim for a development mix of sixty percent (60%) retail, thirty percent (30%) residential, and ten percent (10%) office uses.

The Applicant submits that the Development meets or exceeds all of the principle goals established by the Zoning Ordinance. First, the Development will further the district's goal of enhancing its long-term viability as a new high-density residential development that will increase economic activity within the community and add to its tax base. The Development will also reduce the community's over-saturation of commercial and retail uses, which will help establish a balanced relationship between industrial, commercial, and residential developments. At sixty units per acre, the Development will provide the high-density housing specifically encouraged by the Overlay's stated purpose and intent in Article Three of the Zoning Ordinance. Since the Development will provide twenty percent (20%) open space accessible to the public, it will also further the development of sidewalks and walkways to promote safety, pedestrian access, and reduce automobile dependence. Based on the Development's excellent fit in the Overlay, the Applicant respectfully requests that this Application be approved by the Community Council, Planning Commission, and Mayor and City Council.

## **II. Criteria Applied for Special Land Use Permit Applications.**

### **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 Property is adequate for the Development's proposed use. The Property comprises 1.5 acres of land and the Development's density of 60 units per acre is authorized by the Overlay's density regulations with a SLUP. It also will include 28 percent of the total property acreage as open space, so the building will fit comfortably in the site. The Development's floor area ratio ("FAR") is roughly 1.4, well under the Overlay's FAR limit of 2.5. The Development will also comply with all C-1 (Local Commercial) District ("C-1") zoning regulations as well as the Overlay's Tier 1 regulations, such as the adequate parking, landscaping, and open space requirements. Compliance with the zoning regulations is reflected on the site plans and other documents submitted with this Application.

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

The Development is highly compatible with the adjacent properties and land uses as well as the other properties and land uses in the Overlay. The Development will be built in an area of substantial economic growth and development and offers a terrific opportunity for the surrounding businesses. It is surrounded by two large shopping centers and there are dozens of restaurants and retail stores within a mile of the Development. The Development's sidewalks and walkways will promote pedestrian travel to the nearby businesses and create the "urban lifestyle" envisioned by the Zoning Ordinance and Comprehensive Plan. This will enhance the Overlay's economic viability while providing entertainment for residents.

**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 Development. The DeKalb County Department of Watershed Management has identified water and sewer lines near the Property that will provide service to the Development.<sup>1</sup> The Development will have no impact on the local schools because none of the residents are anticipated to have school-aged children living with them. The site will also feature an underground stormwater facility.

**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 Development is located on Northlake Parkway, a four-lane road that is adequate for the proposed use. The Development will consist of 45 one-bedroom and 45 two-bedroom units, for a maximum of 135 residents. Northlake Parkway has sufficient traffic-carrying capacity for the proposed use because the Development's modest number of residents will have a minimal impact on the traffic and not unduly 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.**

As a multifamily development, the Development will not cause any change in the character of the vehicles traveling along access routes to the Property. Also, the Development will not unduly increase the volume of traffic, given its modest number of residents and its emphasis on pedestrian travel on sidewalks and walkways.

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<sup>1</sup> The DeKalb County Department of Watershed Management has indicated that there is sanitary sewer near the Property on LaVista Road but not adjacent to the Property, and that the Applicant may need to install improvements to the existing infrastructure to accommodate the new flow contribution. The Applicant is willing to make the necessary expenditures on any necessary infrastructure improvements.

**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 Development will provide adequate ingress and egress onto the Property and its sole building. The Property's main access point will be located along Northlake Parkway. The pedestrian traffic along Northlake Parkway will be largely unaffected by vehicles entering the Property; the open space along Northlake Parkway will reduce pedestrian congestion and allow vehicles to safely and conveniently enter and exit the Property. The Development's two access points will also provide multiple options for first responders accessing the Property in the event of an emergency and multiple options for residents to quickly exit the Property in such an event.

**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 Development is a multifamily residential project and will create no noise, smoke, odor, dust, or vibrations. Therefore, it will not adversely impact any adjoining land use.

**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 Development will provide 24-hour access to its residents and its leasing office will maintain general business hours of operation. These practices are typical of any multifamily development and will not adversely impact or create any disruptions to any adjoining land use.

**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 Development's manner of operation will consist primarily of providing residents access to their homes and amenities. The Development will employ various staff members to operate the leasing office during regular business hours and maintain the grounds, but this

minimal operation will be confined within the Property and will not create any 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 Development will comply with all C-1 zoning regulations in the Zoning Ordinance. It will also further the City of Tucker's purpose and intent in establishing the Northlake Overlay District as established by Article Three of the Zoning Ordinance. Specifically, the Development will help the City achieve the following goals enumerated in the Zoning Ordinance:

- (i) Achieve a mixed-use community by adding much-needed high-density senior housing to a highly commercial area of the district;
- (ii) Develop sidewalks and walkways to promote safe and convenient pedestrian access and to reduce dependence on automobile travel;
- (iii) Establish a physically attractive, environmentally safe and economically sound mixed-use community;
- (iv) Improve the visual appearance and increase property values within the Northlake Overlay District;
- (v) Enhance the long-term economic viability of the district as a new residential development that will increase the tax base and provide jobs to the City;
- (vi) Establish and maintain a balanced relationship between industrial, commercial, and residential development to ensure a stable and healthy tax base in the City;
- (vii) Provide higher-density housing with appropriate access and infrastructure;
- (viii) Meet the goals and objectives of the Atlanta Regional Commission's smart growth and livable centers initiatives;

- (ix) Incorporate innovative design of landscaping, green space, urban design, and public amenities;
- (x) Provide unit density and land use intensities capable of making productive use of alternative transportation modes such as bus transit, rail transit, ridesharing, bicycling and walking;
- (xi) Provide a well-designed, pedestrian-friendly activity center with high-density residential development that increases vitality and choices in living environments for the citizens of the City;
- (xii) Protect the health, safety and welfare of the citizens of the City; and
- (xiii) Contribute to the uniform and visually aesthetic architectural features which serve to unify the distinctive visual quality of the Northlake Overlay District.

Accordingly, the Development is highly consistent with its zoning district classification, as it furthers thirteen specifically enumerated goals in the Zoning Ordinance.

**K. Whether or not the proposed use is consistent with the policies of the Comprehensive Plan.**

This Application does not seek to rezone or amend the City's Zoning, Overlay Districts, or Future Land Use Maps and thus does not require analysis of the standards listed in Article Seven, Division 3.2 of the Zoning Ordinance. According to the Comprehensive Plan's Future Land Use Map, the Development falls within the Regional Center land use category. The Regional Center aims for a concentration of regionally-marked commercial and retail centers, office and employment areas, higher-education facilities, recreational complexes and *higher-density housing*. The primary land uses encouraged in the Regional Center include townhomes, condominiums, *apartments*, office, retail and commercial, and entertainment and cultural

facilities. In addition, the Comprehensive Plan's density policy emphasizes "increased density to encourage urban lifestyles that support mixed use in activity centers."

The Development offers the highest residential density permitted in the Northlake Overlay District. Its proximity to the surrounding commercial and retail land uses will allow its residents to adopt the urban lifestyle envisioned by the Comprehensive Plan, while becoming an activity center via its public open space. Moreover, the Overlay's Tier 1 regulations were established to promote the policies of the Comprehensive Plan. As such, the Development's compliance with those regulations further evidences its compliance with the Comprehensive Plan's policies.

**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.**

No transitional buffers are required along the sides of the Property. Article Three of the Zoning Ordinance does not require a transitional buffer because the Property is not located on the edge of the Northlake Overlay District boundary and does not adjoin a residentially zoned district. Article Two and Article Five of the Zoning Ordinance do not require a transitional buffer because the Property adjoins other properties zoned C-1 on each side. As such, no buffer zone is required between the Property and the surrounding zoning districts. The Development features landscape strips along the sides of the Property that meet all requirements of the Zoning Ordinance.

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

The Development will provide adequate refuse and service areas. As indicated on the site plan, a trash receptacle will be located within a trash enclosure behind the landscape strip.

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

There is no reason to limit the length of time for which the special land use permit should be granted, given the Development's compliance with the Zoning Ordinance and compatibility with the overall objective of the Comprehensive Plan.

**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 and scale of the Development's single building is appropriate in relation to the size of the Property and in relation to the size, scale, and massing of adjacent lots and buildings. The Development will consist of 90 units within a single structure consisting of four stories of living space over one level of open parking. It is appropriate in relation to the size of the Property because roughly 28 percent of the Property will be open space, thus it fits comfortably within the 1.5 acre lot. The Development is appropriate in relation to the size, scale, and massing of adjacent lots and buildings because all the surrounding lots are located in Tier 1 of the Overlay, which encourages high-density residential developments such as the Development. In addition, the Development is well below the 15-story maximum building height limit provided in the Overlay's Tier 1 regulations.

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

There are no known historic buildings, sites, districts, or archaeological resources located on the Property. Therefore, the Development will not adversely affect any historic buildings, sites, districts, or archaeological resources.

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

There are no supplemental regulations for 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 Development will not create a negative shadow impact on any adjoining lot or building as a result of its proposed height. The Development's proposed height is roughly 54 feet which is one-third of the 180 feet maximum building height limit under the Overlay's Tier 1 regulations. The minor shadow that the Development does cast on nearby properties will impact the parking lots on those properties since they are the closest features of those properties to the Development.

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

The Development would not result in a disproportionate proliferation of multifamily or other similar uses. The properties adjacent to the Development are zoned as either C-1 or O-I (Office Institutional) Districts and consist primarily of commercial and retail uses. Therefore, the Development would help the City achieve the Overlay's goal of a development mix of 60 percent retail, 30 percent residential, and 10 percent office 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 discussed in Section II.J, *supra*, the Development is consistent with the Overlay's purposes and intent established by Article Three, Division 35.3 of the Zoning Ordinance. Paragraphs (i) through (xiii) of Section II.J identify the specific goals set forth in Article Three that the Development will help achieve. The Development is not only compatible with the community under the Zoning Ordinance, but would provide a much-needed high-density residential use among the high concentration of retail and commercial uses found in the area

where the Property is located. The Development would also support the surrounding commercial and retail uses by creating additional pedestrian traffic to the surrounding area.

In addition, as discussed in Section II.K, *supra*, the Development is in full compliance with the Comprehensive Plan. Per the Future Land Use Map, the Development is in the Regional Center, which aims for a concentration of regionally-marked commercial and retail centers, office and employment areas, and higher-density housing. Multifamily apartments such as the Development are among the primary uses authorized in the Regional Center. Therefore, the Development does not conflict with the overall objectives of the Comprehensive Plan. Rather, the Development will further the Comprehensive Plan's specific and overall goals and increase the long-term economic viability of the Northlake Overlay District.

### **III. Preservation of Federal and State Constitutional and Civil Rights.<sup>2</sup>**

The Applicant respectfully submits that a refusal to approve the requested SLUP would be unlawful, arbitrary, capricious, irrational, and a manifest abuse of discretion and as a result, would violate the Fifth and Fourteenth Amendments to 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 requested SLUP would constitute a taking of property in violation of the Fifth and Fourteenth Amendments to 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 requested SLUP would also violate the Dormant Commerce Clause of the Constitution of the United States.

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<sup>2</sup> In the alternative, please treat this Application as a request for a reasonable accommodation pursuant to the letter request by James K. Green, dated January 31, 2017, and attached hereto as Exhibit "A."

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A refusal to approve the requested SLUP would be factually unjustified and would be solely the result of constituent opposition, which would constitute 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 requested SLUP would be invalid to the extent that the Zoning Ordinance is unlawful, null, and void because the City of Tucker's adoption of the Zoning Ordinance and map adoption and maintenance did not and does not comply with the requirements of its predecessor ordinance and/or the Zoning Procedures Law codified at Sections 36-66-1 to -6 of the Georgia Code.

The City's Zoning Ordinance lacks adequate standards for the City Council to exercise its power to review this Application. Specifically, some of the criteria enumerated in Article Seven, Division 4.6 of the Zoning Ordinance are not sufficient to enable the discretion of the City Council and provide the courts with a reasonable basis for judicial review. As a result, the criteria, individually and collectively, are too vague, ambiguous, and uncertain to provide reasonable guidance and the Zoning Ordinance is unlawful and violates the Fifth and Fourteenth Amendments to 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 presenting the issues before the City Council, which has the power to make zoning decisions such as granting or denying SLUPs, constitutes a violation of the freedom of speech guarantees under the First Amendment to the Constitution of the United States and Article I, Section I, Paragraph V of the Constitution of the State of Georgia. Further, these limitations infringe upon the right to petition and assemble in violation of the First Amendment to the Constitution of the United States and Article I, Section I, Paragraph IX of the

Constitution of the State of Georgia and the due process clauses of the Constitution of the United States and the Constitution of the State of Georgia.

**IV. Conclusion.**

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

Respectfully submitted this February 27, 2017.

Reece & Associates  
4200 Northside Parkway, N.W.  
Building 7  
Atlanta, Georgia 30327  
404.586.2100  
404.586.2150 (fax)

/s/ Wayne Reece  
Wayne Reece  
Jordan Wilkinson  
*Attorneys for Applicant*

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**JAMES K. GREEN, P.A.**  
LAWYERS

JAMES K. GREEN  
NINA M. ZOLLO  
ANNE F. O'BERRY  
JOHN F. PAULY, OF COUNSEL

SUITE 1650, ESPERANTE  
222 LAKEVIEW AVENUE  
WEST PALM BEACH,  
FLORIDA 33401  
561.659.2029  
FACSIMILE 561.655.1357

January 31, 2017

The Honorable Frank Auman  
Mayor  
City of Tucker, Georgia  
c/o Brandon Bowen, Esq.  
Jenkins & Bowen, P.C.  
15 South Public Square  
Cartersville, Georgia 30120

Re: Northlake Senior Apartments- Request for Reasonable Accommodation

Dear Mayor Auman:

I represent Northlake Senior Apartments Northlake Limited Partnership. ("Northlake Senior Apartments"), which is a housing provider for low income seniors most of whom have or will have disabilities. Northlake Senior Apartments proposes to build a 90-unit dwelling named Northlake Senior Apartments that is in your City.

**I. The Apartments**

The unit mix will include 45 one-bedroom garden units and 45 two-bedroom garden units. The proposed Tax Credit collected rents range from \$293 to \$800 per month for one- and two-bedroom garden/flat units. The proposed market rents are \$835 and \$1,003 per month, respectively. The five-story, elevator-served building will offer generous and numerous amenities for seniors. These amenities include a community room, a computer center, covered front porch and fitness center. Among the commercial uses near the site are restaurants, gas stations/convenience stores, banks and department store Target, all within potential walking distance of the site.

Such proximity to desirable services adds to the appeal of the area. Over the next five years, the age 62 and older one- and two-person renters are projected to increase by nearly 21%, adding to the base of potential Tax Credit and market-rate qualifying households. There are no existing senior LIHTC units within the market area. The site is located along the west side of Northlake Parkway, just northwest of the intersection of Northlake Parkway and Lavista Road. Two public bus stops operated by MARTA are within potential walking distance of the site, while the MARTA Chamblee Station is present 6.8 miles northwest. Grocery stores in the area include Kroger as well as Publix Super Market at Briarcliff Village Shopping Center, both within 1.0 mile of the site. The Northlake Mall is present 1.3 miles west of the site and includes several department stores, such as Sears and JC Penney. Superstore Target, offering grocery and retail shopping opportunities as well as a pharmacy, is within potential walking distance south of the site. Additionally, Walmart

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Supercenter is available 2.7 miles to the east. Dining options are present in the area as well, including several restaurants within potential walking distance of the site; these include Waffle House, IHOP and Domino's Pizza.

The DeKalb County Police Department and Fire Rescue are both headquartered 0.5 miles south of the site, while a post office is present 1.1 miles northwest of the site. Focus Care Medical Center is within potential walking distance east of the site and offers primary medical care. More advanced health care is available at the Emory Clinic Hospital, 2.1 miles south of the site. Recreation and entertainment opportunities exist in the area as well, with LA Fitness center present 0.5 miles south of the site. Henderson Park, which offers walking trails and a lake, is located 3.4 miles northeast of the site, and the Center for Active Seniors, 2.9 miles east of the site, offers programs and activities for Tucker senior citizens.

My client respectfully requests that that the City of Tucker issue a zoning certification consistent with my client's vested interests.<sup>1</sup> This letter as a request for a Reasonable Accommodation under the Fair Housing Act and Americans With Disabilities Act.

## **II. Northlake Senior Apartments Was Already Properly Zoned Under DeKalb County Zoning**

The attempt by some City officials to delay and burden Northlake Senior Apartments with a special land use permit that was not required under the DeKalb ordinance should be rejected.

We respectfully urge you issue a zoning certification consistent with the zoning determination made by DeKalb County and with my client's vested interests. See the attached letter from Wayne Reece to Brandon Bowen, dated December 21, 2016.

## **III. In The Alternative, Please Treat This Letter as a Request for A Fair Housing Act and Americans With Disabilities Act Reasonable Accommodation <sup>2</sup>**

There is a shortage of accessible and affordable housing in Georgia, DeKalb County and the City for seniors with disabilities.

As of May, 2016, only 5% of apartments in the City were Market-rate/Tax Credit or Government-subsidized. There are no existing senior LIHTC units within the market area.

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<sup>1</sup> DeKalb County zoning that was in effect in March 2016 and thereafter, and my client's vested rights associated therewith, control this project. See attached letter from Wayne Reece to Brandon Bowen dated December 21, 2016. My client is submitting this request as a courtesy to the City of Tucker, and reserves all rights referenced above.

<sup>2</sup> City ZO 7.5.9 uses the term "variance." The burden on the applicant for a reasonable accommodation is merely to show that the request is reasonable on its face and necessary. Any requirement by the City above and beyond that threshold showing is unduly burdensome and violative of the ADA and FHA,

One hundred per cent of Northlake Senior Apartments will be fully accessible or adaptable to persons with disabilities.

**IV. As a HUD funding participant, your City has an affirmative duty to further fair housing**

As a HUD funding participant, your City has an affirmative duty to further fair housing. The *Affirmatively Furthering Fair Housing; Final Rule*, promulgated at 24 CFR Parts 5, 91, 92, *et al.*, directs HUD's program participants such as the City to take significant actions to overcome historic patterns of segregation, achieve truly balanced and integrated living patterns, promote fair housing choice, and foster inclusive communities that are free from discrimination.

They are further consistent with the concerns in GAO-16-360 Low-Income Housing Tax Credit Report about local governments trying to "opt out" of developing LIHTC projects due to local officials' fear of losing elections if affordable housing were built in their districts.

**V. Request for Reasonable Accommodation under the FHA and ADA**

Both the Fair Housing Act, 42 U.S.C. § 3600, *et seq.* ("FHA") and the Americans with Disabilities Act, 42 U.S.C. § 12000 ("ADA") impose duties on local governments such as the City to grant reasonable accommodations. 42 U.S.C. § 3604(f) (3) (B) and 42 U.S.C. § 12132(2) (discrimination under FHA and ADA also includes refusals to make "reasonable accommodations" "in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.") "The purpose of reasonable accommodations is to facilitate the integration of persons with disabilities into all communities." *Sharpvisions v. Borough of Plum*, 475 F. Supp. 2d 514, 526 (W.D. Pa. 2007) (citing *Cmty. Servs. v. Heidelberg Twp.*, 439 F. Supp. 2d 380, 398 (M.D. Pa. 2006)).

**A. Seniors and other low income people with disabilities are clearly protected by the FHA and the ADA.**

Seniors and other low income people with disabilities are clearly protected by the FHA and the ADA. *See Dadian v. Wilmette*, 269 F.3d 831, 836-41 (7th Cir. 2001); *Cason v. Rochester Hous. Auth.*, 748 F. Supp. 1002 (W.D.N.Y. 1990) (holding that both FHA and § 504 apply); *Elderhaven, Inc. v. Lubbock*, 98 F.3d 175, 176 (5th Cir. 1996) (applying the FHA to shared living residence for elderly disabled persons); *HUD v. Courthouse Square Co.*, 2A Fair Hous.-Fair Lending (Aspen Law & Bus.) ¶ 25,155, at 26,232 (HUD ALJ Aug. 13, 2001) (applying the FHA to HUD-assisted apartment complex "for the elderly and the handicapped"); *HUD v. Ocean Sands, Inc.*, 2A Fair Hous.-Fair Lending (Aspen Law & Bus.) ¶ 25,055, at 25,530-31 (HUD ALJ Sept. 3, 1993), *rev'd in part on other grounds*, 2A Fair Hous.-Fair Lending (Aspen Law & Bus.) ¶ 25,056 (HUD Secretary Oct. 4, 1993) (applying the FHA to 10-unit condominium to which complainants moved after they retired); *Lapid-Laurel, L.L.C. v. Zoning Bd. of Adjustment*, 284 F.3d 442, 445-46, 459 (3d Cir. 2002) (noting that the parties agree that ninety-five-bed care facility for the elderly is a "dwelling" under the FHA); *Parkview Assocs. P'ship v. Lebanon*, 225 F.3d 321, 322-23 (3d Cir. 2002) (assuming the FHA applies to fifty-bed personal care facility); *Smith & Lee Assocs., Inc. v. Taylor, Mich.*, 13 F.3d 920, 922 (6th Cir. 1993) (applying the FHA to adult foster care home for disabled elderly persons); *Barry v. Rollinsford*, No. Civ. 02-147M, 2003 WL

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22290248, at \*2, 5–7 (D.N.H. Oct. 6, 2003) (assuming the FHA applies to a facility for frail elderly persons); *Town & Country Adult Living, Inc. v. Mt. Kisco*, No. 02 CIV4441 (LTS), 2003 WL 21219794, at \*1–3 (S.D.N.Y. May 21, 2003) (assuming the FHA applies to a residence for disabled senior citizens); *Chiara v. Dizoglio*, 81 F. Supp. 2d 242, 244–47 (D. Mass. 2000), *aff'd*, 6 Fed. Appx. 20 (1st Cir. 2001) (applying the FHA to proposed assisted-living facility for seniors); *Assisted Living Assocs. v. Moorestown Township*, 996 F. Supp. 409, 414, 433–41 (D.N.J. 1998) (applying the FHA to a facility designed to care for the elderly and handicapped); *United States v. Lorantffy Care Ctr.*, 999 F. Supp. 1037, 1040 (N.D. Ohio 1998) (applying the FHA to assisted-living center for the elderly); *Gamble v. Escondido*, 104 F.3d 300, 303–04 (9th Cir. 1997) (applying the FHA to a facility with housing units for physically disabled elderly adults); *HUD v. Country Manor Apartments*, 2A Fair Hous.–Fair Lending (Aspen Law & Bus.) ¶ 25,156, at 26,248 (HUD ALJ Sept. 20, 2001) (applying the FHA to multiphase housing facility for seniors that includes 45 assisted-living units); Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers About the Guidelines, 59 Fed. Reg. 33364 (June 28, 1994) (discussing whether continuing care facilities are “dwellings” subject to the FHA); *Weinstein v. Cherry Oaks Ret. Cmty.*, 917 P.2d 336 (Colo. App. 1996) (applying the state’s FHA-equivalent to residential care facility for senior citizens); *see also* 28 C.F.R. pt. 36, app. B, at 678–79 (stating that nursing homes and other “mixed use” facilities may be covered by both the FHA and ADA); Consent order, *United States v. Pooler, Ga.*, No. CV 401-263, (N.D. Ga. June 16, 2003) (resolving case alleging FHA violations by municipality that blocked proposed apartment complex for low-income senior citizens; settlement agreement at [https://www.justice.gov/archive/opa/pr/2003/June/03\\_crt\\_336.htm](https://www.justice.gov/archive/opa/pr/2003/June/03_crt_336.htm)).

#### **B. Northlake Senior Apartments has standing under both the FHA and the ADA.**

Housing providers like Northlake Senior Apartments that propose to provide housing services to “qualified individuals” with disabilities, such as low income seniors, have standing as “person[s] alleging discrimination on the basis of disability” under the ADA to bring an action against discriminatory zoning ordinances. 42 U.S.C. § 12133 and 28 C.F.R. § 35.130(b)(6); *A Helping Hand, LLC v. Baltimore County, Md.*, 515 F.3d 356, 364 (4th Cir. 2008) (“every circuit that has considered whether a methadone clinic has standing under Title II of the ADA to bring a claim based on injuries resulting from its association with the addicted persons it serves has found that the clinic does have standing”) (citations omitted).

Similarly, those who wish to provide housing for handicapped persons have standing to seek protection for their residents under the FHA. *See, e.g., Judy B. v. Borough of Tioga*, 889 F. Supp. 792, 797 (M.D. Pa. 1995); *North Shore-Chicago Rehab., Inc. v. Village of Skokie*, 827 F. Supp. 497, 507 n.3 (N.D. Ill. 1993); *Horizon House Dev. Servs., Inc. v. Twp. of Upper Southampton*, 804 F. Supp. 683, 692 (E.D. Pa. 1992), *aff'd mem.*, 995 F.2d 217 (3d Cir. 1993).

#### **C. The FHA and ADA prohibit public entities such as the City from discriminating against individuals or their providers on the basis of their disability.**

“The ADA is a federal civil rights statute designed to provide comprehensive protection for disabled individuals against discrimination based on their disabilities.” *Theriacault v. Flynn*, 162 F. 3d 46, 47-48 (1st Cir. 1998). Title II of the ADA, 42 U.S.C. § 12131, *et seq.*, provides:



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[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

42 U.S.C. § 12132. The City is a public entity and therefore regulated by the ADA. Public entities like the City are prohibited from discriminating against "qualified individuals" with disabilities.

Of particular note here, both the FHA and ADA apply to municipal zoning and land use ordinances, codes and decisions. The anti-discrimination provision of the ADA proscribes discriminatory land use decisions by a municipality, including land use requirements that unnecessarily burden people with disabilities who rely on public or private transportation that require no or little parking spaces. *See, e.g., Jeffrey O., supra; Innovative Health Systems, Inc. v. City of White Plains*, 117 F.3d 37,44 (2d Cir. 1997), *overruled on other grounds by Zervos v. Verizon N. Y., Inc.*, 252 F.3d 163 (2d Cir.2001; *Bay Area Addiction Res. & Treatment, Inc. v. City of Antioch*, 179 F.3d 725, 732 (9th Cir. 1999); *Lakeside Resort Enters., LP v. Board of Sup'rs of Palmyra Twp.*, 455 F.3d 154 (3d Cir. 2006); *Dr. Gertrude A. Barber Center, Inc. v. Peters Twp.*, 273 F. Supp. 2d 643, 652 (W.D. Pa. 2003); *Tsombanidis v. West Haven Fire Dept.*, 352 F.3d 565, 573 (2d Cir. 2003); *N.J. Coalition of Rooming and Boarding House Owners v. Mayor and Council of the City of Asbury Park*, Civ. No. 94-5134 (D.N.J. 1997), *aff'd in part and rev'd in part*, 152 F.3d 217 (3d Cir. 1998); *Oxford House, Inc. v. Twp. of Cherry Hill*, 799 F. Supp. 450 (D.N.J. 1992); *ReMed Recovery Care Centers v. Twp. of Willistown*, 36 F. Supp. 2d 676 (E.D. Pa. 1999).

#### **D. The City has a duty to grant Northlake Senior Apartments and its future residents a reasonable accommodation**

The City has a duty to grant Northlake Senior Apartments and its future residents a reasonable accommodation.

Even if a proposed housing development such as the one proposed by Northlake Senior Apartments is severely restricted or excluded in a particular zoning district, public officials have an affirmative duty to waive or modify the rule as a "reasonable modification" under Title II of the ADA. *See generally, Smith-Berth v. Baltimore County*, 68 F. Supp. 2d 602, 621 (D. Md. 1999); 28 C.F.R. § 35.130(b)(7).

The Maryland Court of Appeals has specifically imposed this affirmative duty on land use officials in Maryland, who are empowered and specifically directed to consider and provide accommodations under the ADA: "Everybody involved with public matters [must] make reasonable accommodations to the disabled." *Mastandrea v. North*, 361 Md. 107, 119 n. 11 (2000) (emphasis added) (approving county board's decision to set aside local zoning requirements to accommodate a disabled individual's needs and agreeing that public officials have a duty to consider accommodations when requested).

Accommodations or modifications required by the ADA are wide-ranging. Accommodations can include, but are not limited to, relaxing or not enforcing a zoning rule, waiving a policy, granting a use variance or special exception, construing a provision in the code favorable to the applicant, treating a use as permissible, and making other types of exceptions. *See, e.g., Hovsons, Inc. v. Township of Brick*, 89 F.3d 1096, 1104 and 1106 n. 5 (3d Cir. 1996) (accommodation was not to enforce a zoning rule that would have excluded a nursing home from a residential zone); *Horizon House Developmental Svcs. v. Upper Southampton*, 804 F.Supp. 683,

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699 (E.D. Pa. 1992) (accommodation was to refrain from enforcing spacing requirement for group home); *U. S. v. City of Philadelphia*, 838 F.Supp. 223, 228-29 (E.D. Pa. 1993) (accommodation was to waive yard/lot size requirements for shelter); *North Shore-Chicago Rehabilitation, Inc. v. Village of Skokie*, 827 F. Supp. 497, 502 (N. D. Ill. 1993) (accommodation was to waive licensing and occupancy requirements of zoning ordinance for rehabilitation center); *Oxford House v. City of Plainfield*, 769 F. Supp. 1329, 1344 (D.N. J. 1991) (accommodation is to treat unrelated group home residents as if they were a "family"); *Regional Economic Community Action Program, Inc. v. City of Middletown*, 294 F.3d 35 (2d Cir. 2002) (waiver or modification of rules prohibiting elevators in buildings where this would prohibit certain people from residing in the buildings is a reasonable accommodation under the statute); *Oconomowoc Residential Programs v. City of Milwaukee*, 300 F.3d 775 (7th Cir. 2002) (a variance from the distance restrictions for the operation of group homes would be a reasonable accommodation under the ADA).

## VI. Damages

Failure to grant a reasonable accommodation under the ADA and FHA constitutes unlawful discrimination, thereby subjecting the City to significant liability and exposure to considerable damages and attorneys' fees and costs. See *Jeffrey O. v. City of Boca Raton*, 511 F.Supp.2d 1339 (S.D. Fla. 2007) (defense firm paid in excess of \$500,000.00 for unsuccessful defense; Northlake Senior Apartments' counsel awarded in excess of \$600,000.00); *Tracey P., et al. v. Sarasota County, et al.*, Case No. 8:05-CV-927-T-27EAJ (M.D. Fla.) (County paid outside defense firm \$3.2 million for unsuccessful defense; Northlake Senior Apartments' counsel paid in excess of \$600,000.00); *Pacific Shores Properties, LLC v. City of Newport Beach*, 730 F.3d 1142 (9th Cir. 2013) (City paid \$5.25 million to settle fair housing settlement, <http://www.latimes.com/tn-dpt-me-0716-newport-group-home-settlement-20150716-story.html>). See also, **Idaho developer wins \$4M judgment over teen center**, <http://www.idahostatesman.com/2010/12/20/1462244/idaho-developer-wins-4m-judgment.html#storylink=mirelated> (Boise County Commissioners violated the Fair Housing Act when they undermined the proposal because of neighborhood opposition).

## VII. Conclusion

For the reasons set forth above, my client respectfully requests that the City and any associated entities or officials take all necessary steps to acknowledge Northlake Senior Apartments' zoning.

Sincerely,

/s/ James K. Green

**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

**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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ENGINEERING

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211 Perimeter Center Parkway, Ste 1070  
Atlanta, GA 30346  
PHONE 678-695-6800

SLWP-17-001

February 24, 2017  
Electronic Delivery

City of Tucker  
Community Development Office  
4119 Adrian Street  
Tucker, GA 30084

Attn: Courtney Langford

Re: 2150 Northlake Parkway Senior Apartments  
Environmental Site Analysis Form

Dear Mrs. Langford:

On behalf of Beneficial Communities, please find the enclosed analysis and responses to the required criteria for the Environmental Site Analysis (ESA) to help analyze the impact of the proposed rezoning:

**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 projects' 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.*

The proposed project for the site is a senior living apartment building with associated parking and driveway access to Northlake Pkwy (east) and Rockwood Road (west).

The existing property currently contains a vacant restaurant building (approx. 9,260 sf) with associated parking, sidewalks and curbing. There are no known environmental site conditions that should effect the development of the site during the time of this application.

The proposed senior living apartment building is to provide 90 units; which will result in a density of 60 units per acre. Per the Comprehensive Land Use Plan, the proposed site is located in the Tier-1 Northlake Parkway Overlay District which allows multi-family development with a density up to 60 units per acre by Special Land Use Permit. A portion of the Comprehensive Plan Land Use Map has been provided with this document depicting current Land Use.

Adjacent properties use:



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North – Commercial Building / Siggers Hairdressers  
East (Across North Pkwy) – Commercial Properties / Checkers (Restaurant) and Waffle House (Restaurant)  
South- Commercial Property / Chevron (Gas Station) and Budget (Car Rentals)  
West – City of Tucker Right-of-Way for Rockwood Road

**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.*

- a. Wetlands:
  - Per U.S. Fish and Wildlife Service, National Wetlands Inventory and field observations, wetlands do not exist on the subject site.
- b. Floodplain:
  - Per FEMA FIRM Map #13089C0076J and field observations, floodplains do not exist on the subject site.
- c. Streams / Stream Buffers:
  - Per field observations, streams are not present on the subject site.
- d. Slopes exceeding 25 percent over a 10-foot rise in elevation:
  - Per USGS Topographic Quadrangle Map and field survey observation. No slopes exist on the subject site with an elevation change 10- foot in rise or greater.
- e. Vegetation:
  - Per field observation, approximately eighteen (18) specimen trees ranging between 18 and 30 inches exist on-site. Further determination of impact will be determined through the LDP Process.
- f. Wildlife Species (including fish):
  - Per United States Fish and Wildlife Service and field observation, there will be no direct impact on any wildlife species.
- g. Archeological / Historical Sites:
  - Per field observation and Historic Resources Survey, the subject site has no historical significance.



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**Project Implementation Measures:**

*Indicate specific implementation measures required to protect environmental site features that may be impacted.*

- a. Protection of environmentally sensitive areas:
  - No environmentally sensitive areas, inclusive of wetlands or floodplains exist on-site. In any areas where slopes are to exceed 25%, necessary retaining walls will be constructed along with adequate slope stabilization to prevent any negative impacts or erosion measures.
- b. Protection of water quality:
  - On site detention and water quality measures will be implemented per necessary City, County and State Standards. This will prevent Post-Development runoff conditions from exceeding Pre-Development conditions while providing necessary attenuation and discharge rates.
- c. Minimization of negative impacts on existing infrastructure:
  - The proposed development will utilize and improve existing infrastructure within and around the site.
- d. Minimization on archeological / historically significant areas:
  - There are no known archeological or historically significant areas on the subject site.
- 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:
  - Environmentally stressed communities are not present within a proximity of the proposed site.
- f. Creation and preservation of green space and open space:
  - The proposed site will have a minimum of 20% public space which complies with the Northlake Tier 1 Overlay District Requirements.
- g. Protection of citizens from the negative impacts of noise and lighting:
  - The proposed development will be designed to minimize negative impacts of noise and lighting on the adjacent commercially zoned properties.
- h. Protection of parks and recreational green space:
  - No parks or recreational green space exists within the proposed property.



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i. Minimization of impacts to wildlife habitats:

- There are no significant wildlife habitats on the subject site that will be impacted from this development.

Should you have any questions or require additional information, please feel free to contact me directly.

Sincerely,  
**BOHLER ENGINEERING GA, LLC**

Aaron Chase Beasley  
Professional Engineer



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SLUP-17-001

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. MOHAMMED TAREK
2.
3.
4.
5.
6.
7.
8.

3. CAMPAIGN CONTRIBUTIONS:

Table with 4 columns: Name of Government Official, Total Dollar Amount, Date of Contribution, Enumeration and Description of Gift Valued at \$250.00 or more. The table is currently empty.

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) Tarek Real Estates LLC by Mohammed Tarek, CEO

Signature: [Handwritten Signature] Date: 2-27-2017

### 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 Senior Apartments LP by Don Paxton, Limited Partner

Signature:  Date: 2/24/17

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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)

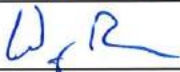
2. List all individuals or business entities which have an ownership interest in the property which is the subject of this rezoning petition:

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) Wayne Reece  
Signature:  Date: 12/27/2017

SLUP-17-001  
CITY OF TUCKER

FEB 27 2017

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Name (print) Jordan Wilkinson

Signature:  Date: 2/24/2017

## Land Use Petition Calendar

*Application Deadline	Community Council	**Revision Deadline	Planning Commission	M&CC 1 <sup>st</sup> Read	M&CC 2 <sup>nd</sup> Read
1/23/2017	2/8/2017	2/23/2017	3/23/2017	4/10/2017	4/24/2017
2/27/2017	3/8/2017	3/30/2017	4/27/2017	5/8/2017	5/22/2017
3/27/2017	4/12/2017	4/27/2017	5/25/2017	6/12/2017	6/28/2017
4/24/2017	5/10/2017	5/25/2017	6/22/2017	7/10/2017	7/24/2017
5/22/2017	6/14/2017	6/29/2017	7/27/2017	8/14/2017	8/28/2017
6/26/2017	7/12/2017	7/27/2017	8/24/2017	9/11/2017	9/25/2017
7/24/2017	8/9/2017	8/31/2017	9/28/2017	10/9/2017	10/23/2017
8/28/2017	9/13/2017	9/28/2017	10/26/2017	11/13/2017	11/27/2017
9/25/2017	10/11/2017	11/2/2017	11/30/2017	12/11/2017	TBD

**\*Incomplete applications will not be accepted.**

**\*\*Revisions to the application will not be accepted past the revision deadline.**

## Fee Schedule

Rezoning: Residential	\$500
Rezoning: Multifamily	\$750
Rezoning: Non-residential	\$750
Special Land Use Permit	\$400
Sign Fee (per sign)	\$80

## Community Council Notice Requirements

- The applicant is responsible for posting a Community Council sign on the property by the Monday following the application deadline. The sign can be rented from the City of Tucker for a refundable \$25 deposit.
- The applicant is responsible for mailing a letter to neighbors within 500' alerting them of the Community Council meeting by the Monday following the deadline.

## Public Notice Requirements

- The applicant is responsible for posting the public notice sign(s). Staff will order the signs and provide the required timeframe for posting.
- The City of Tucker is responsible for placing the legal ad in the newspaper and mailing the written notification to surrounding property owners.

CITY OF TUCKER

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EXHIBIT "A"

PARCEL A:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 210 OF THE 18<sup>TH</sup> DISTRICT OF DEKALB COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TO FIND THE TRUE POINT OF BEGINNING, BEGIN AT THE NORTHEAST INTERSECTION OF LAVISTA ROAD (RIGHT-OF-WAY VARIES) AND ROCKWOOD ROAD (RIGHT-OF-WAY VARIES) AT A CONCRETE MONUMENT FOUND; RUNNING THENCE NORTH 09 DEGREES 52 MINUTES 13 SECONDS WEST, A DISTANCE OF 200.30 FEET TO AN IRON PIN FOUND, A 2 INCH PIPE FILLED WITH CONCRETE WITH A NAIL SET IN CONCRETE, SAID POINT BEING THE TRUE POINT OF BEGINNING; FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED RUNNING THENCE NORTH 13 DEGREES 13 MINUTES 26 SECONDS WEST A DISTANCE OF 144.70 FEET TO AN IRON PIN SET; THENCE NORTH 72 DEGREES 53 MINUTES 39 SECONDS EAST A DISTANCE OF 230.00 FEET TO AN IRON PIN FOUND, A LEAD CIRCLE IN CONCRETE; RUNNING THENCE SOUTH 00 DEGREES 24 MINUTES 34 SECONDS WEST A DISTANCE OF 171.45 FEET TO AN IRON PIN FOUND, A 1 1/4" OPEN TOP PIPE; RUNNING THENCE SOUTH 78 DEGREES 41 MINUTES 56 SECONDS WEST A DISTANCE OF 189.17 FEET TO AN IRON PIN FOUND, A 2" OPEN TOP PIPE FILLED WITH CONCRETE WITH A NAIL SET IN CONCRETE, SAID POINT BEING THE TRUE POINT OF BEGINNING.

PARCEL B:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 210 OF THE 18<sup>TH</sup> LAND DISTRICT OF DEKALB COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TO FIND THE TRUE POINT OF BEGINNING, BEGIN AT THE NORTHEAST INTERSECTION OF LAVISTA ROAD (RIGHT-OF-WAY VARIES) AND ROCKWOOD ROAD (RIGHT-OF-WAY VARIES), AT A CONCRETE MONUMENT FOUND; RUN THENCE NORTH 09 DEGREES 52 MINUTES 13 SECONDS WEST, A DISTANCE OF 200.30 FEET, TO AN IRON PIN FOUND, A 2" PIPE FILLED WITH CONCRETE WITH A NAIL SET IN CONCRETE; THENCE NORTH 78 DEGREES 41 MINUTES 56 SECONDS EAST, A DISTANCE OF 189.17 FEET TO AN IRON PIN FOUND, A 1 1/4" OPEN TOP PIPE.

SAID IRON PIN FOUND BEING THE TRUE POINT OF BEGINNING; FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHING THENCE NORTH 00 DEGREES 24 MINUTES 34 SECONDS EAST, A DISTANCE OF 171.45 FEET TO AN IRON PIN FOUND, A LEAD CIRCLE IN CONCRETE; THENCE NORTH 00 DEGREES 06 MINUTES 31 SECONDS WEST, A DISTANCE OF 39.73 FEET, TO AN IRON PIN SET; THENCE SOUTH 89 DEGREES 37 MINUTES 24 SECONDS EAST, A DISTANCE OF 237.76 FEET, TO AN IRON PIN SET, SAID IRON PIN BEING ON THE WESTERLY RIGHT-OF-WAY OF NORTHLAKE PARKWAY (RIGHT-OF-WAY VARIES); CONTINUE THENCE ALONG THE WESTERLY RIGHT-OF-WAY OF NORTHLAKE PARKWAY SOUTH 07 DEGREES 41 MINUTES 51 SECONDS WEST, A DISTANCE OF 122.39 FEET TO A POINT; CONTINUING THENCE ALONG THE WESTERLY RIGHT-OF-WAY OF NORTHLAKE PARKWAY (RIGHT-OF-WAY VARIES) SOUTH 00 DEGREES 44 MINUTES 00 SECONDS WEST, A DISTANCE OF 23.32 FEET, TO AN IRON PIN FOUND, A #4 RE-ROD; THENCE DEPARTING FROM THE WESTERLY RIGHT-OF-WAY OF NORTHLAKE PARKWAY AT A BEARING OF SOUTH 73 DEGREES 41 MINUTES 40 SECONDS WEST, A DISTANCE OF 231.53 FEET, TO AN IRON PIN FOUND A 1-1/4" OPEN TOP PIPE, SAID POINT BEING THE TRUE POINT OF BEGINNING.