

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 checked="" type="checkbox"/> Property Owner <input type="checkbox"/> Owner's Agent <input type="checkbox"/> Contract Purchaser		
Name: 3000 Langford Rd, LLC c/o Battle Law PC		
Address: One West Court Sq., Suite 750		
City: Decatur	State: GA	Zip: 30030
Contact Name: Michele L Battle		
Phone: 404-601-7616	Email: mlb@battlelawpc.com	
OWNER INFORMATION		
Name: 3000 Langford Rd, LLC		
Address: 3100 Medlock Bridge Rd #100		
City: Norcross	State: GA	Zip: 30071
Contact Name: Kyu Man Park		
Phone: 770-242-330	Email: kmpark@inoknoll.com	
PROPERTY INFORMATION		
Property Address: 2274 Northlake Center Drive		
Present Zoning District(s): C-1 & Northlake Tier II	Requested Zoning District(s):	
Present Land Use Category: Downtown	Requested Land Use Category:	
Land District: 18th	Land Lot(s): 210	Acreage: 1.78acres
Proposed Development: 4 story multi-story self storage facility		
Concurrent Variance(s): Section 3.35.17D and Section 3.35.17A /Northlake Design Guidelines		
RESIDENTIAL DEVELOPMENT		
No. of Lots/Dwelling Units:	Dwelling Unit Size (Sq. Ft.):	Density:
NON-RESIDENTIAL DEVELOPMENT		
No. of Buildings/Lots: 1	Total Building Sq. Ft.: 94,800	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.



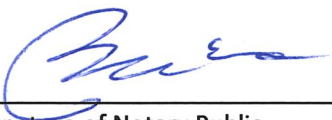
Signature of Applicant

Feb. 22, 2019

Date

Kyu Man Park, Manager

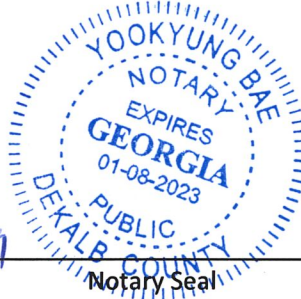
Type or Print Name and Title



Signature of Notary Public

2-22-19

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, 3000 Langford Rd, LLC, authorize, Battle Law, P.C>
(Property Owner) (Applicant)

to file for SLUP, at 2274 Northlake Center Drive, Tucker GA
(RZ, CA, SLUP, CV) (Address)

on this date February 22, 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.

3000 Langford Rd, LLC

By: [Signature] 2/22/2019
Signature of Property Owner Date

Kyu Man Park, Manager
Type or Print Name and Title

[Signature] 2-22-19 _____
Signature of Notary Public Date Notary Seal

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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:

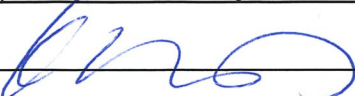
- | | |
|--------------------------|----|
| 1. 3000 Langford Rd, LLC | 5. |
| 2. | 6. |
| 3. | 7. |
| 4. | 8. |

3. CAMPAIGN CONTRIBUTIONS:

Name of Government Official	Total Dollar Amount	Date of Contribution	Enumeration and Description of Gift Valued at \$250.00 or more
None			

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) Kyu Man Park, Manager

Signature: 

Date: 2/22/2019

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Legal Description

(Boundary Survey)

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 210 of the 18th District of DeKalb County, Georgia and being more particularly described as follows:

Commencing at the intersection of Northlake Center Drive and the Westerly right of way of Northlake Parkway (84' R/W), thence proceed North 00 degrees 03 minutes 52 seconds West, for a distance of 180.66 feet to a ½" rebar found, said point being the POINT OF BEGINNING, thence leaving said POB, run the following courses and distances:

- 1) thence proceed North 87 degrees 01 minutes 21 seconds West, for a distance of 316.56 feet to a ½" rebar found;
- 2) thence proceed North 12 degrees 07 minutes 15 seconds West, for a distance of 132.46 feet to a ½" rebar found;
- 3) thence proceed along the arc of a curve for an arc distance of 379.09 feet, said curve being subtended by a chord bearing South 68 degrees 15 minutes 55 seconds West, for a chord distance of 370.06 feet and a radius of 499.66 feet to a ½" rebar found;
- 4) thence proceed South 00 degrees 02 minutes 15 seconds East, for a distance of 279.61 feet to a ½" rebar found;
- 5) thence proceed South 00 degrees 03 minutes 52 seconds East, for a distance of 3.37 feet to a ½" rebar found, said point being the POINT OF BEGINNING.

Said tract contains approximately 1.784 acres and 77,720 square feet as shown on that certain Boundary, Topographic and Tree Survey for INO ARCHITECHS dated December 10, 2008, prepared by Boundary Zone, Inc., Atlanta, Georgia, Project No. 0820802.

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STATEMENT OF INTENT

And

Other Material Required by
City of Tucker, Georgia Zoning Ordinance
For

A Special Land Use Permit for a Multi-Warehouse Self Storage Facility pursuant to
the City of Tucker Zoning Ordinance

Of

3000 LANGFORD RD, LLC

For

+/-1.78 acres of Land
located at
2274 Northlake Center Dr in
Land Lot 210 18th District, City of Tucker, City of Tucker

Submitted for Applicant by:

Michèle L. Battle
Battle Law, P.C.
One West Court Square, Suite 750
Decatur, Georgia 30030
(404) 601-7616 Phone
(404) 745-0045 Facsimile
mlb@battlelawpc.com

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I. STATEMENT OF INTENT

The Subject Property is a 1.78-acre tract of land located at 2274 Northlake Center Dr, which is currently zoned C-1 and located within Tier-2 of the Northlake Overlay District. The nearest multi-warehouse storage facilities to the Subject Property is a Public Storage located at 1438 Montreal Road in Tucker, which is approximately 2.1 miles from the Subject Property and an Extra Space Storage located at 1989 Montreal Road in Tucker.

Currently, the Subject Property is vacant with no existing improvements. The proposed facility will be a 4-story climate controlled +/-94,800 square foot facility with a basement. On October 9, 2017, the Tucker City Council approved SLUP-17-002 and Concurrent Variances VS-17-002-02 and VS-17-002-03 for the development of the proposed project. Unfortunately, the SLUP expired under Section 7.4.11 B of the Tucker Zoning Ordinance on October 9, 2018 due to the Applicant filing there land development permits after the expiration period. The Applicant is now seeking to reinstate the SLUP based upon the same conditions approved by City Council pursuant to City Ordinance O2018-06-68, a copy of which is being submitted herewith.

ZONING ORDINANCE SECTION 27-7.4.6 - CRITERIA

- A. Adequacy of the size of the Site for contemplated use:** The site is adequate for the proposed use. The subject property is 1.78 acres and provides ample space for the proposed use.
- B. Compatibility of the proposed use with adjacent properties:** The proposed use is compatible with the adjacent properties, which includes office and retail uses.
- C. Adequacy of public services, facilities and utilities:** There are adequate public service, facilities and utilities to support the proposed uses.
- D. Adequacy of the public street:** The Subject Property is located on Northlake Center Dr, which is classified as a "Local" street, and as such has adequate capacity to handle the volume of traffic to be generated by the proposed use.
- E. Possibility of adverse effect along access routes to the site:** There is no possibility of adverse effect along the access route to the Subject Property as a result of the use of the Subject Property as a multi-warehouse self storage facility.
- F. Ingress and egress to the subject property:** There is adequate ingress and egress to the Subject Property.
- G. Adverse impact on adjoining land use by reason of noise, smoke, odor, dust or vibration:** The Applicant's proposed use of the Subject Property will not create an adverse impact on the adjoining land uses by reason of noise, smoke, odor, dust or vibration.

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H. Adverse impact on adjoining land use by reason of hours of operation: The Applicant's hours of operation will not have an adverse impact on the adjoining land uses.

I. Adverse impact by manner of operation: The manner of operation of the Applicant will not have an adverse impact on the adjoining land uses.

J. Use consistent with zoning district classification: The use of the Subject Property for a storage facility is consistent with the C-1 Zoning District Regulations and the Tier-2 Northlake Overlay District Regulations.

K. Use consistent with the Comprehensive Land Use Plan: The use of the Subject Property for a multi-warehouse self storage facility is consistent with the Comprehensive Land Use Plan designation for the Subject Property, which is Downtown.

L. Compliance with buffer zones and setback requirements: The proposed uses will be developed in compliance with the development requirements for the Tier-2 Northlake Overlay District Regulations and with the Zoning Ordinance's supplemental regulations applying to multi-warehouses.

M. Adequate provision for refuse and service areas: There is adequate provision for refuse and service areas.

N. Length of time for SLUP: The special land use permit should not be limited in duration.

O. Appropriateness of size, scale and massing of buildings in comparison to adjacent properties: The size, scale and massing of the existing building is appropriate in comparison to the surrounding residential uses.

P. Adverse historic impact: The proposed project will not have an adverse impact on any historic buildings, sites, districts or archaeological resources in the surrounding area.

Q. Satisfaction of Supplemental Regulations: The proposed facility meets the Supplemental Regulations.

R. Appropriateness of height: The proposed uses will be in compliance with the Tier-2 Northlake Overlay District regulations, and will not exceed 9 stories in height.

S. Compatibility with Community Needs. The Subject Property will house a multi-warehouse storage facility and will be located near offices, multi-family housing developments, a shopping center and a mall.

APPLICANT'S PRESERVATION OF CONSTITUTION RIGHTS

The portions of the City of Tucker Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the City of Tucker Zoning Ordinance to the Subject Property which restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary and capricious act by the City of Tucker Mayor and City Council without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the City of Tucker Mayor and City Council to rezone the Subject Property to the classification as requested or issue the special land use permit requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the Property or granting of a special land use permit subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting Applicant's utilization of the property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

II. CONCLUSION

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

Environmental Site Analysis (ESA)

1. **Conformance with the Comprehensive Plan.** The Subject Property is located in the Northlake Overlay District and is zoned C-1. The lot is currently vacant. The 2025 Comprehensive Plan shows the Subject Property as having a land use designation of Downtown. Therefore, it is the Applicant's belief that the special land use proposal of the Subject Property as a place of multi-warehouse facility will allow for a use that is more compatible with the surrounding uses.
2. **Environmental Impacts of the Proposed Project.**
 - (a) **Wetlands.** According to the National Wetlands Inventory Wetlands Mapper, the Subject Property is not located within any area designated as wetlands
 - (b) **Floodplain.** According to the FEMA National Flood Hazard interactive mapping system, the Subject Property is in an area of minimal flood hazard in flood hazard Zone X.
 - (c) **Streams/stream buffers.** Based on field observation and verification by the Applicant's surveyor, there are no streams located on the Subject Property.
 - (d) **Slopes exceeding 25 percent over a 10-foot rise in elevation.** Based on field observation and verification by the Applicant's surveyor, there are no slopes exceeding 25 percent over a 10-foot rise in elevation on the Subject Property.
 - (e) **Vegetation (including endangered species).** To the Applicant's knowledge and based on field observation there are no endangered species located on the Subject Property.
 - (f) **Wildlife Species (including fish and endangered species).** Based on field observation, and to the Applicant's knowledge, there are no wildlife species, including fish and endangered species located on the Subject Property.
 - (g) **Archeological/Historical Sites.** Based on field observation and to the Applicant's knowledge, there are no archeological or historical sites located on the Subject Property.
3. **Project Implementation Measures**
 - (a) **Protection of environmentally sensitive areas.** There are no environmentally sensitive areas located on the Subject Property.
 - (b) **Protection of water quality.** All stormwater runoff generated from the site shall be adequately treated before discharge in accordance with local requirements.
 - (c) **Minimization of negative impacts on existing infrastructure.** The existing infrastructure surrounding the Subject Property will not be negatively impacted by the development of the proposed project. It is the Applicant's intent to comply with all City of Tucker development regulations, and to connect into the existing utilities in the area in order to minimize disturbance in the surrounding community.
 - (d) **Minimization on archeological/historically significant area.** To the Applicant's knowledge, there are no archeological/historically significant areas located on or near the Subject Property.

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- (e) **Minimization of negative impacts on environmentally stressed communities.** The proposed uses in the proposed project are generally compatible with nearby commercial sites, and will be contained wholly within the building, and to the knowledge of Applicant, will not generate any measurable dust, vibrations, odor, glare, emissions or noise beyond the Subject Property.
- (f) **Creation and preservation of green space and open space.** The proposed project will not result in the removal of trees from the Subject Property. A significant amount of open green space will remain on the Subject Property.
- (g) **Protection of citizens from the negative impacts of noise and lighting.** All lighting on the Subject Property will be in compliance with the County rules and regulations, and in accordance with the County's noise regulations.
- (h) **Protection of parks and recreational green space.** To the Applicant's knowledge, there are no parks or recreational green space in the area.
- (i) **Minimization of impacts to wildlife habitats.** To the Applicant's knowledge, there are no wildlife habitats on or near the Subject Property.

Environmental Impact Report

1. **Environmental Adverse Uses.** There are no environmentally sensitive uses located on the Subject Property.
2. **Impact on noise levels of the surrounding area.** The use of the Subject Property will be in compliance with the City of Tucker's rules and regulations regarding noise levels. As the use on the Subject Property will be wholly contained within the proposed improvements with adequate and required noise buffering, there should be no impact on the surrounding area from the proposed use of the Subject Property.
3. **Impact on air quality of surrounding area.** As previously stated, the proposed project will not generate any measurable dust, vibrations, odor, glare, emissions or noise beyond the Subject Property.
4. **Impacts of water quality/resources.** All stormwater runoff generated from a site shall be adequately detained and treated before discharged.
5. **Impacts on vegetation, fish and wildlife species.** There are no state waters, made ponds or other water features on Subject Property. To the best of Applicant's knowledge there is no wildlife located on or near the Subject Property. No trees will be removed during the development of the Subject Property.
6. **Impacts of thermal and explosive hazards on the surround areas.** The Subject Property will be used for a multi-warehouse storage facility which will provide an office and multiple storage units. There is no intent for thermal or explosive hazards to be located on the Subject Property, and to the extent that any such uses may be located on the Subject Property in accordance with the C-1 District Regulations, such uses will be conducted in accordance with all Federal, State and local laws and regulations.
7. **Impacts of hazardous wastes on the surrounding area.** The Subject Property will be used for a multi-warehouse storage facility which will provide an office and multiple storage units, and to the extent that any hazardous waste is generated in connection with the operation of any business to be located on the Subject Property in accordance with the C-1 District Regulations, such waste shall be disposed of in accordance with all Federal, State and local laws and regulations.
8. **Minimization of negative impacts on environmentally stressed communities.** The proposed uses in the proposed project will be contained wholly within the building, and to the knowledge of Applicant, will not generate any measurable dust, vibrations, odor, glare, emissions or noise beyond the Subject Property. Furthermore, to the best of the Applicant's knowledge, there are no environmental stressed communities within the general vicinity of the Subject Property.

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**CONCURRENT VARIANCE JUSTIFICATION
DATED FEBRUARY 22, 2019**

APPLICANT: 3000 Langford Road, LLC

SUBJECT
PROPERTY: 2274 Northlake Center Drive
Tax Parcel 18 210 09 022

ATTORNEY: Michèle L. Battle
Romel Cadet
Battle Law, P.C.
One West Court Square, Suite 750
Decatur, Georgia 30030
Phone: 404.601.7616

The Subject Property is a 1.78-acre tract of land located at 2274 Northlake Center Drive, which is currently zoned C-1 and located in Tier-2 of the Northlake Overlay District.

The Subject Property is currently unimproved and forested. It abuts the I-285 freeway to the West and is surrounded by a bank, multiple office buildings, and a large shopping center that is currently under construction. The proposed facility will be a 4-story climate controlled 88,000 square foot facility with a basement. The Applicant has two fully operational storage facilities on North Decatur Road in Decatur and on Highway 138 in Stockbridge. Similar to the other two locations, the proposed facility will feature 24-hour security, code gated access, and climate controlled storage.

In order to meet the regulations under the Article 4 Supplemental Regulations for Mini-Warehouses while also promoting a physically attractive, environmentally safe, and economically sound community as intended by the Northlake Overlay District the Applicant is seeking the following concurrent variance:

1. Waiver of Section 3.34.13 of the City of Tucker Northlake Overlay District Regulations prohibiting the use of EIFS as a façade material on the 2nd through 4th stories of the proposed improvements, as shown on the submitted elevations.

VARIANCE CRITERIA

1. **By reason of a need to maintain a climate controlled facility, reduced environmental impact, and security, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district;**

In order to maintain a climate controlled facility while also reducing the environmental impact of the storage facility, the outer walls will be encased with approximately 8" of high-grade insulation designed to maintain a constant even temperature throughout the facility regardless of the outside weather conditions. Most of the outer walls will be comprised of EIFS while the lower first floor walls will be made of brick. Among features of the EIFS will be ½" thick with Styrofoam, waterproof, aesthetically similar to stucco, a highly crack resistant surface, a continuously fresh appearance that requires minimal cleaning, and a highly decreased likeliness to develop unsightly molding issues compared to conventional stucco. This environment will help to lead to lower energy costs which in turn leads to lower use costs for the consumer and a physically attractive appearance as intended under the Northlake District Overlay.

Currently, the Tucker City Code does not permit for the use of EIFS on structures in the Northlake Overlay District. This prohibition of EIFS is more applicable to residential uses which do not require the same metrics that a storage facility requires. EIFS is visually similar to cement stucco and provides numerous benefits to conventional stucco.

The Supplemental Regulations in the Tucker City Code requires that multi-storage warehouses be climate-controlled. While conventional stucco may allow for a somewhat adequate climate controlled environment, it is not as energy efficient as EIFS. EIFS provides excellent energy cost reduction which can reduce the costs by as much as 10x the costs of stucco. For example, a 4 story 86,000 square foot building with brick applied for the 1st level and EIFS applied on the 2nd, 3rd, and 4th levels, then the average monthly energy costs would be around \$1,700 per month. On the other hand, a single story 15,000 square foot brick building with glass windows has an average monthly energy cost of \$1,500 per month. This reduction in energy costs for such a large facility helps to significantly reduce the costs to consumers and allows units in the facility to be more affordable.

The strict application of the requirements of the City of Tucker Zoning Ordinance would deprive the Applicant of rights and privileges enjoyed by other commercial facilities in the area.

2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located

It is the Applicant's contention that the requested variance does not go beyond the minimum necessary to afford relief, and do not constitute a special privilege.

3. The grant of the variances will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located

The granting of the requested variances will not have a negative impact on the surrounding community or be detrimental to the public welfare. In fact, the failure to grant the requested variance will result in negatively impacting the surrounding community.

4. The literal interpretation and strict application of the applicable provisions or requirements of the Zoning Ordinance will cause undue and unnecessary hardship on the Applicant.

The literal interpretation and strict application of the applicable provision or requirements of the Zoning Ordinance would cause undue and unnecessary hardship on the Applicant, and thereby cause the Applicant to be treated in a manner which is dissimilar to other comparable businesses.

5. The requested variance would be consistent with the spirit and purpose of the City of Tucker Zoning Ordinance and the Comprehensive Plan text.

The requested variances are consistent with the spirit, purpose and intent of the City of Tucker Zoning Ordinance and the Comprehensive Plan text.

CONSTITUTIONAL ALLEGATIONS

The portions of the Zoning Resolution of the City of Tucker as applied to the Subject Property which classify or may classify the Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph 1 and 2 of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

In addition, the development of the Subject Property subject to the present standards set forth in the Zoning Ordinance 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 Constitutional and in violation of Article I, Section I, Paragraph 1 and Article I, Section III, Paragraph 1(a) of the Constitution of Georgia.

A denial of this Application would constitute an arbitrary and capricious act by the City of Tucker without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the City of Tucker Mayor and City Council to grant the variances as proposed by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any variances or special exceptions granted with respect to the subject Property that are subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting the Applicant's utilization of the subject Property would also constitute an arbitrary, capricious and discriminatory act and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

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**CONCURRENT VARIANCE JUSTIFICATION
DATED FEBRUARY 22, 2019**

APPLICANT: 3000 Langford Road, LLC

SUBJECT
PROPERTY: 2274 Northlake Center Drive
Tax Parcel 18 210 09 022

ATTORNEY: Michèle L. Battle
Romel Cadet
Battle Law, P.C.
One West Court Square, Suite 750
Decatur, Georgia 30030
Phone: 404.601.7616

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The Subject Property is currently unimproved and forested. It abuts the I-285 freeway to the West and is surrounded by a bank, multiple office buildings, and a large shopping center that is currently under construction. The proposed facility will be a 4-story climate controlled 88,000 square foot facility with a basement. The Applicant has two fully operational storage facilities on North Decatur Road in Decatur and on Highway 138 in Stockbridge. Similar to the other two locations, the proposed facility will feature 24-hour security, code gated access, and climate controlled storage.

In order to provide 24-hour security, maintain the integrity of customer property, and facilitate the climate controlled properties of the facility, the Applicant is seeking the following concurrent variance:

1. Modification of the transparency requirements to provide for transparent windows along the front and side of the building, as shown on the submitted elevations for the proposed facility.

VARIANCE CRITERIA

1. **By reason of the shape, size and/or topography of the property, together with a need for security, a reasonable expectation of privacy and integrity, and reduced environmental impact, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district;**

As found on the Site Plan, the Proposed Facility meets the 30% window requirements along the front façade. However, not all of the windows can meet the transparent glass requirement due to the severe topography of the Subject Property, which drops roughly 50 feet from the front of the Subject Property to the rear, thereby increasing the need for security, privacy and integrity. Additionally, reducing the number of transparent windows will facilitate better management of environmental impacts on the Subject Property.

The Subject Property will contain storage lockers on all four floors of the facility and the basement. By reason of a need for security of customer belongings, the facility cannot have transparent glass windows beyond the first floor of the front facade of the facility. Similar to the storage facility on North Decatur Road, the only point of access into the facility will be through the entrance on front façade which has code gated security accessible only by customers and employees of the facility. Any transparent glass window treatments, particularly along the lower floors of the facility, disrupts the secure nature of the facility that is being offered to customers and can potentially invite break-ins to the facility. The imposition of faux windows beyond the first floor of the front façade of the facility will cause little to no disruption to the current use of the Subject Property.

Given the secure nature of the facility, customers will have a reasonable expectation of privacy and integrity with respect to their items placed within the storage facility. It would not be reasonable to have transparent glass window treatments beyond the first floor of the front facade of the facility. The storage facility will be designed to maintain the integrity of customer's items stored in the facility. Prolonged exposure to natural elements including, but not limited to, heat, cold, and sunlight can cause damage to items left in storage lockers after prolonged periods. The need for faux windows allows for compliance with the Tier-2 Northlake Overlay District Regulations while maintaining the privacy and integrity of items in the storage facility.

In order to reduce the environmental impact of the storage facility, there will be a strict climate controlled environment. The facility will be encased with approximately 8" of high-grade insulation designed to maintain a constant even temperature throughout the facility regardless of the outside weather conditions. This will help to prevent and/or eliminate any risk of damage to customer property stored in the facility year-round. In turn, the energy costs of the building are kept to a minimum thereby reducing the environmental impact of the facility.

The conditions of the Subject Property were not created by the Applicant and support the approval of this concurrent variance request, as the strict application of the requirements of the City of Tucker Zoning Ordinance would deprive the Applicant of rights and privileges enjoyed by other commercial facilities in the area.

2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the

limitations upon other properties in the zoning district in which the subject property is located

It is the Applicant's contention that the requested variances do not go beyond the minimum necessary to afford relief, and do not constitute a special privilege.

3. The grant of the variances will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located

The granting of the requested variances will not have a negative impact on the surrounding community or be detrimental to the public welfare. In fact, the failure to grant the requested variance will result in negatively impacting the surrounding community.

4. The literal interpretation and strict application of the applicable provisions or requirements of the Zoning Ordinance will cause undue and unnecessary hardship on the Applicant.

The literal interpretation and strict application of the applicable provision or requirements of the Zoning Ordinance would cause undue and unnecessary hardship on the Applicant, and thereby cause the Applicant to be treated in a manner which is dissimilar to other comparable businesses.

5. The requested variance would be consistent with the spirit and purpose of the City of Tucker Zoning Ordinance and the Comprehensive Plan text.

The requested variances are consistent with the spirit, purpose and intent of the City of Tucker Zoning Ordinance and the Comprehensive Plan text.

CONSTITUTIONAL ALLEGATIONS

The portions of the Zoning Resolution of the City of Tucker as applied to the Subject Property which classify or may classify the Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph 1 and 2 of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

In addition, the development of the Subject Property subject to the present standards set forth in the Zoning Ordinance 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 Constitutional and in violation of Article I, Section I, Paragraph 1 and Article I, Section III, Paragraph 1(a) of the Constitution of Georgia.

A denial of this Application would constitute an arbitrary and capricious act by the City of Tucker without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the City of Tucker Mayor and City Council to grant the variances as proposed by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any variances or special exceptions granted with respect to the subject Property that are subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting the Applicant's utilization of the subject Property would also constitute an arbitrary, capricious and discriminatory act and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

DATE: 07-19-2017
ISSUE:

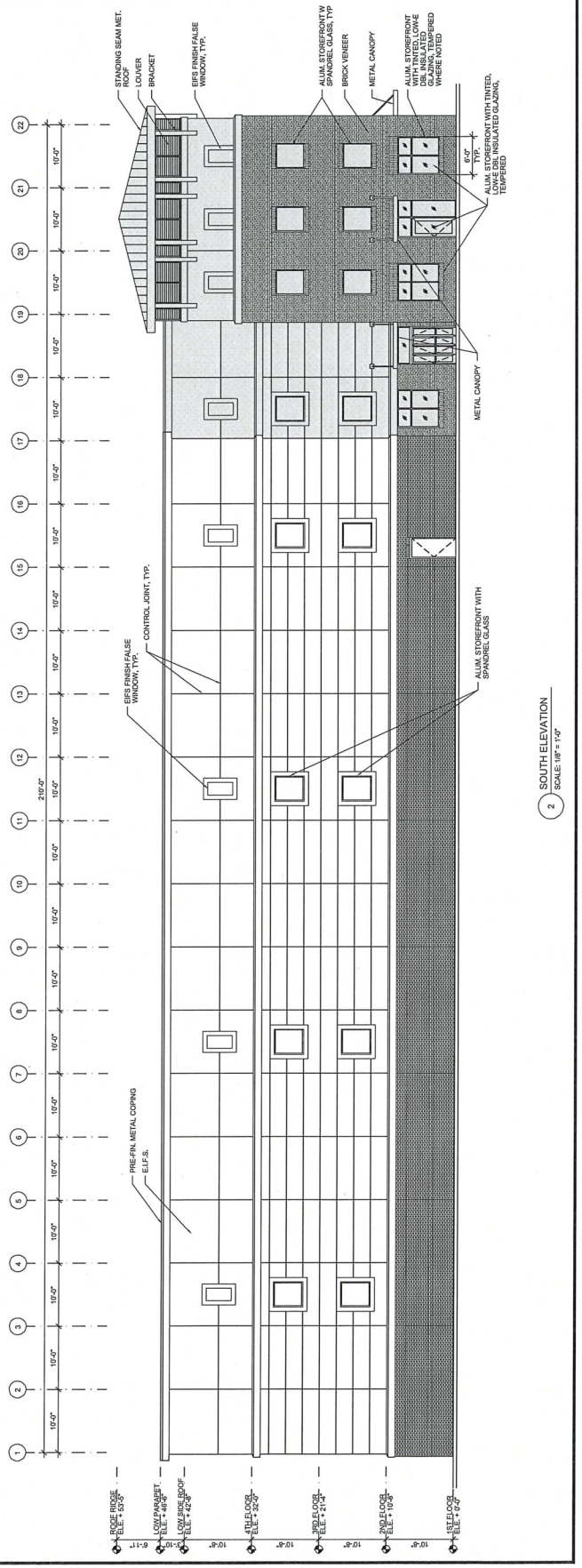
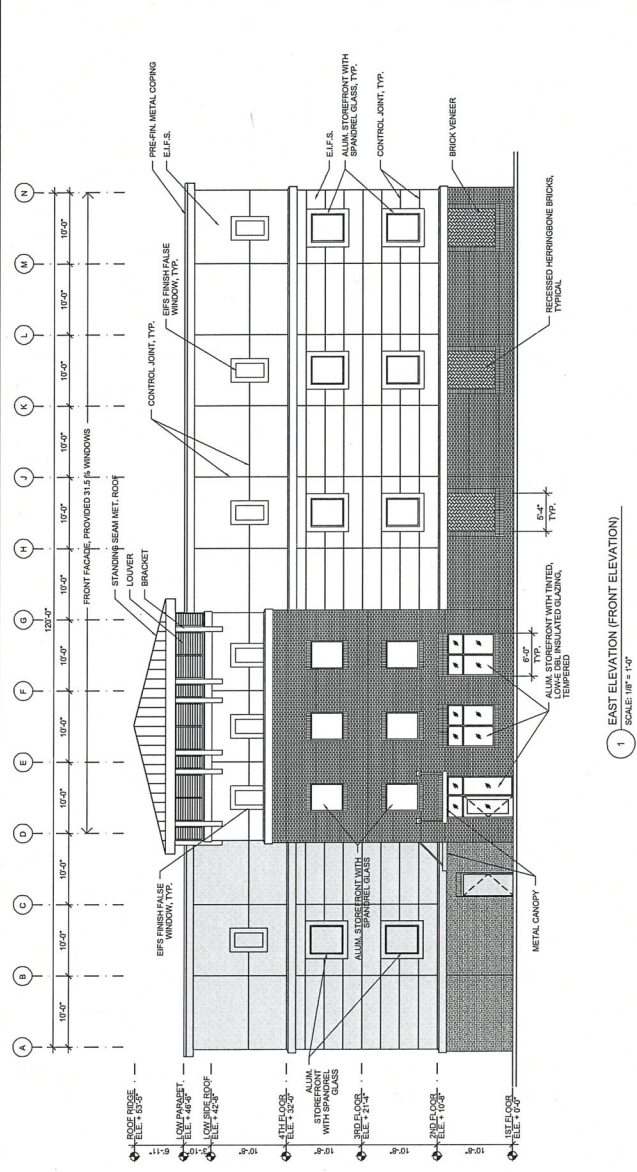
GENERAL CONTRACTOR
Knoll
KNOLL CONSTRUCTION, LLC
2100 Peachtree Dunwoody Road
Norcross, Georgia 30071
Phone: 770.452.3200

TOP STORAGE @ NORTH LAKE
NORTH LAKE CENTER DRIVE
NORTH LAKE, GEORGIA 30084

CONSTRUCTION DOCUMENT
DATE: 07-19-2017

EXTERIOR ELEVATIONS

DATE: 07-19-2017
AS NOTED
BY: JRN
CHECKED: JRN
DATE: 07-19-2017
A-201
RELEASED FOR CONSTRUCTION



STREET FRONTAGE:	92'-0"
% OF STREET FRONTAGE:	37.4%
TOTAL BUILDING FRONTAGE:	300'-4"
TOTAL FENESTRATION:	115'-4"
TOTAL % OF FENESTRATION:	31.5%

RECEIVED
City of Tucker
FEB 21 2019
Community Development
Department
SLUP-19-0003
CV-19-0002
CV-19-0003

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2742 APPLE ORCHARD TRAIL
DUNN, MISSISSIPPI 38829

DATE: 07-18-2017
SCALE:

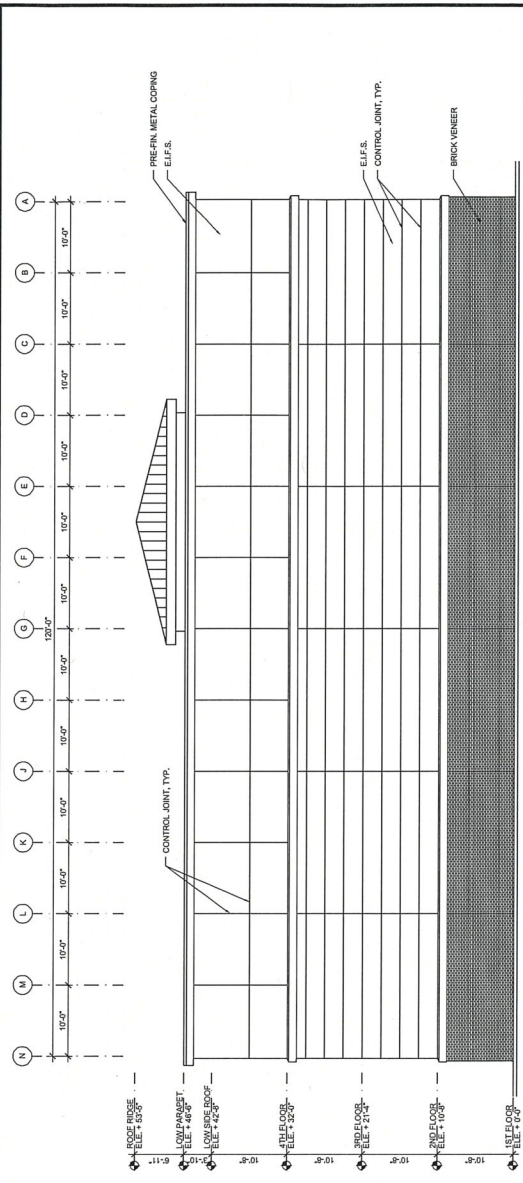
GENERAL CONTRACTOR
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 3100 N. HIGHWAY 160
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 Phone: 770-242-3300

TOP STORAGE
@ NORTH LAKE
 220 NORTH LAKE CENTER DRIVE
 CREEKER, GEORGIA 30084

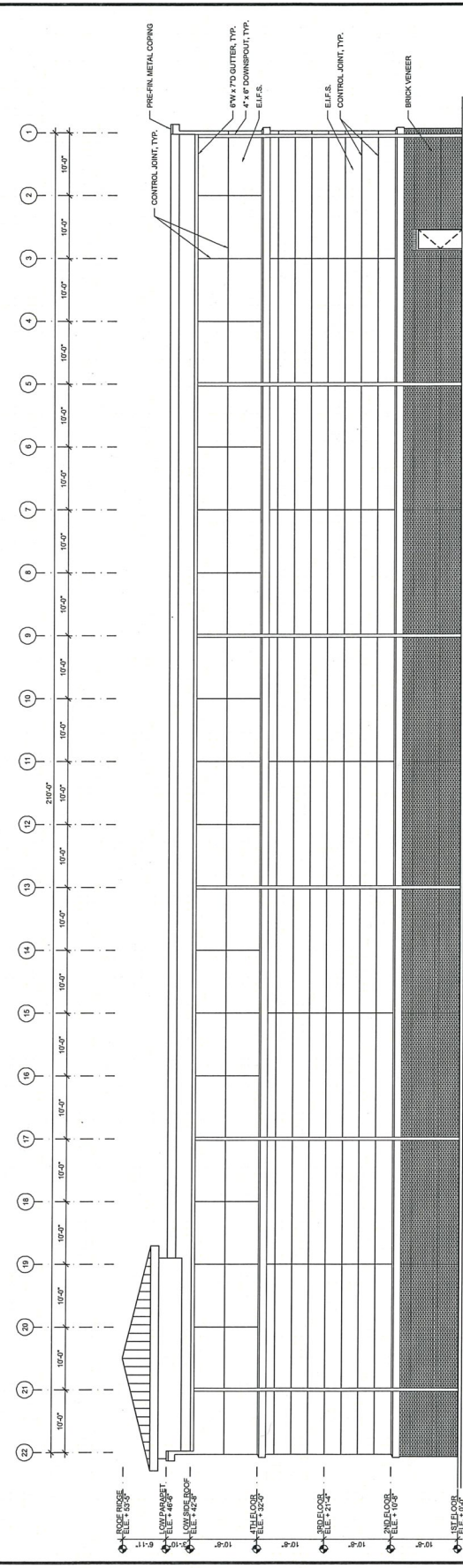
CONSTRUCTION DOCUMENT
 SHEET TITLE:

EXTERIOR ELEVATIONS

DATE: 07-18-2017
 DRAWN BY: JRN
 CHECKED BY: JRN
A-202
 RELEASED FOR CONSTRUCTION



1 WEST ELEVATION
 SCALE: 1/8" = 1'-0"



2 NORTH ELEVATION
 SCALE: 1/8" = 1'-0"

RECEIVED
 City of Tucker
FEB 21 2019
 Community Development
 Department

SLUP-19-0003
 CV-19-0002
 CV-19-0003