### **Application for "Other Business" Cobb County, Georgia**

OB-47-2023

(Cobb County	<b>Zoning Division</b> - 770-528-2035)	<b>BOC Hearing Date Requested:</b>	10-17-2023
Applicant:	Garner Group	Phone #:(470)	867-9248
A -1 -1 201	(applicant's name printed)	GA 20227	
Address: 381	5 Northside Parkway, Suite 4-325, At	anta, GA 30327 E-Mail: smei@g	garnergroup.net
	IN & HUFF, LLP Address: S	uite 100, 376 Powder Springs Stree	et, Marietta, GA 30064
(representative's	name, printed)		-
(X)	Phone #: 770-422-7	016 E-Mail: phuff@sams	larkinhuff oom
(representative's		L-wan. phunasams	
Signed, sealed a	and delivered in presence of:	and a	CAMPBELLINI
Lan	a. Condrell	_ My commission expires:	O TOTARY &
Nothery Public	, V S	· · -	0 0
Titleholder(	s): SEE ATTACHED SIGNATURE	PAGE Phone #:	O COMPANIE
Address:	(property owner's name pr	nted)	W. COOM
Address:		E-Mail:	
(Property owner Signed, sealed a Notary Public	and delivered in presence of:	_ My commission expires:	W.C.
Commission	District: 4	Zoning Case: Z-51 of 20	)20
Size of propo	erty in acres: 58.28 ac	Solution of Solution	ept 2020 0-20-2020-Final Decision
Location: No	orth side of East-West Connector, west	of Floyd Road, and east of Brooky	wood Drive
	(street address, if applicable; nearest int	ersection, etc.)	
Land Lot(s):	855,856,922,923	District(s):19	
State specific	cally the need or reason(s) for (		mpervious surface to increas Olive Garden Outparcel;
(2) Allow a 30-	-foot tall sign in lieu of a 19-foot maxis	num; (3) Allow a 247 sq-foot sign	in lieu of 49 square feet;
	sq-ft sign structure area in lieu of 200		
for the propose	d Olive Garden out parcel as depicted	on the attached site plan; 6) Allow	an additional 15,000 sq.
addition on the	existing shopping center.		

### ATTACHMENT TO APPLICATION FOR OTHER BUSINESS

Application No.:

BOC Hearing Date: 10-17-2023

Applicant:

Garner Group

Titleholder:

GG AUSTELL LLC

Parcel #:

19092200020



The undersigned(s) below, or as attached, is the owner of the property considered in this application.

**GG AUSTELL LLC** 

Printed Name: \_\_\_

Date: Sephnyber 8, 2023

Address: 3715 Northside Pkay, Suik 4-325

Atlanta, Ga. 30327

Telephone No.: 678-907-4547

Signature of Notary Public

(Notary Seal)



### CERTIFICATE REGARDING CORPORATE AUTHORITY TO PURSUE "OTHER BUSINESS"

My name is Brad R. Garner. I am the officer who is delegated the responsibility for authenticating records of GG AUSTELL LLC, a Domestic Limited Liability Company ("Titleholder"). I am of legal age and suffer from no disabilities which would affect my competence to give this Certificate which is being given on my own personal knowledge for use with respect to the Applicant's Application for "Other Business" regarding certain lead property owned by the Titleholder Company located in Cobb County, Georgia. COBB COUNTY ZONING

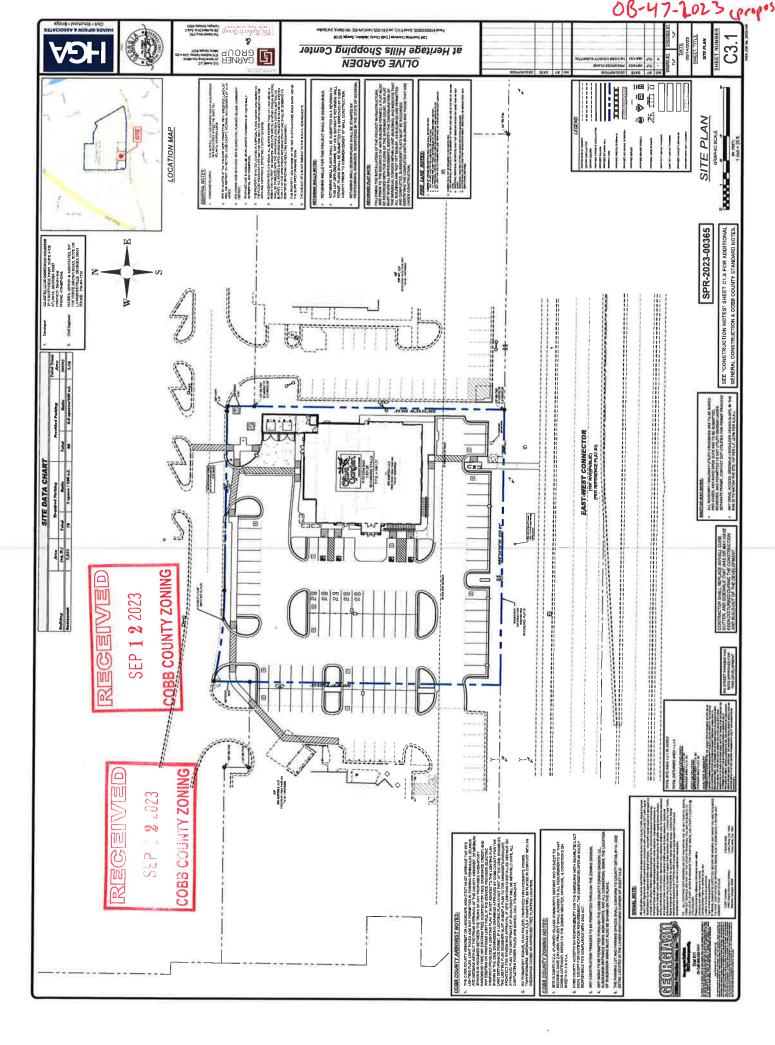
In accordance with the Requirements for completing a Cobb County Application for "Other Business", I hereby attest on behalf of the Titleholder Company that I have reviewed the Application for "Other Business" and related documents which are being filed simultaneously therewith on behalf of the Applicant and Titleholder (collectively, the "Other Business Application") to which this Certificate is attached and hereby certify:

- (a) That corporate seal or facsimile affixed to the Other Business Application is in fact the seal of the Titleholder Company or a true facsimile thereof; and
- (b) That the officer or other representative of the Titleholder Company who executed the Other Business Application does in fact occupy the official position indicated, that the position that the signer occupies has the authority to execute the Other Business Application on behalf of the Titleholder Company, and that the signature of said officer or other representative is genuine; and
- (c) That the execution of the Other Business Application and the filing of the Other Business Application on behalf of the Titleholder Company by the officer or other representative of the Applicant Company has been duly authorized by the Titleholder Company.

GG AUSTELL LLC

NOTARY SEAL









# FRONT ELEVATION











CONCRETE ROOF TILE EAGLE ROOF TILE CAPISTRANO "OLIVE GARDEN BLEND"













P78 Domani Box Left



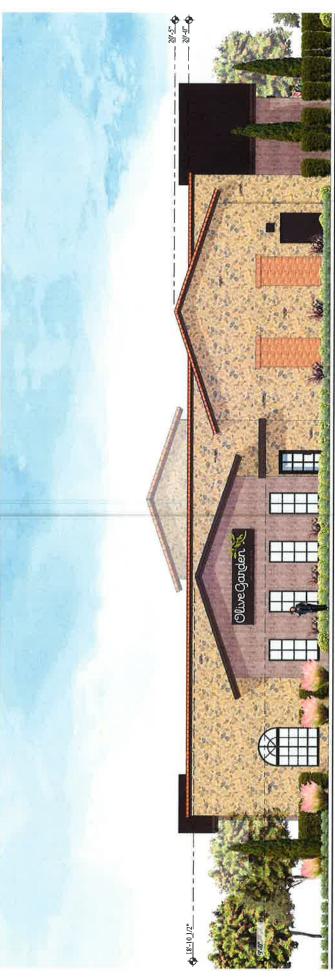




Sheet 1 of 4







### REAR ELEVATION







BRICK CLINKERS CORONADO STONE THIN TUMBLED BRICK 2 1/8" X 8" \*\*\*





















### ITALIAN RESTAURANT P78 Domani Box Left 0





# RIGHT ELEVATION







PRE-FINISH PAINT (DOORS & WINDOWS) "DARK BRONZE"



























### ITALIAN RESTAURANT P78 Domani Box Left

0









Sheet 3 of 4





### LEFT ELEVATION

















P78 Domani Box Left 0





BRICK VENEER CORONADO STONE SICILIAN BRICK 2 1/2" X 8" 90% "SALTILLO", 10% "FERRARA BLEND"

PAINT (WOOD TRIM & FASCIA) BENJAMIN MOORE 2112-10 "MINK"

STANDING SEAM METAL ROOF DURO-LAST "MEDIUM BRONZE"

CONCRETE ROOF TILE
EAGLE ROOF TILE
CAPISTRANO
"OLIVE GARDEN BLEND"



11-03-22

**U** 02 **U** 02 u OZ **JERITAGE HILLS** HOBBY 160 48 " 144" 3" <u> 901</u> 8 4 8 36 East West Connector Frontage . OZ . OZ . OZ ERITAGE HILLS Utilize Existing Post & Foundation OBB HOBB 1355 12 ft Recondition Existing Sign ui tot ui 971 . 90L 30#

06"H x 160"W x 36"D OWER BASE COVER; Aluminum Frame with

Saddles to Accommodate 12" Round Steel PostClad with lesta Plank Siding 482 Gilded Grain

Header Reverse Routed and Backed with White Plexi

Painted Grey Cityscapte - SW 7067

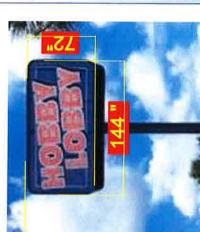
108"'H×12"W×20"D (Cap 28"D)

UPPER DOUBLESIDED ALUMINUM CABINET:

Saddles to Accommodate 12" Round Steel Post

LED Illumination

Painted Black and Pin Mounted to Base Cover 25" Flat Cut Aluminum Address Numbers







PROOF DATE:

GG\_HH\_HL Recondition

DESIGNER:

Kimberly

SCALE:

FILE NAME:

7.25.23



CUSTOMER APPROVAL:

COBB COUNTY ZONING

return this document upon request of Southern Sign Systems, Inc. Sign Systems, Inc. By receipt hereof the holder agrees not to use the information, discloseit to contained in it is without the prior written consent of Southern Sign immediately This document is owned and the information proprietary to, Southern reproduce this document Systems, Inc. Holder also party, any third agrees to

CENTER DOUBLESIDED ALUMINUM CABINET:

146"H×144"W×20"D Painted Grey Cityscapte - SW 7067

LED Illumination

Saddles to Accommodate 12" Round Steel Post

MINUTES OF ZONING HEARING COBB COUNTY BOARD OF COMMISSIONERS OCTOBER 20, 2020 PAGE 15



### **REGULAR AGENDA**

**Z-51** GARNER GROUP (Holbrook Floyd Road Property, L.P.; Holbrook Heritage Hills, L.P.; Ronald W. Mann; Holbrook Properties, L.P.; Lois D. Holbrook, Tammy Elaine Sloan, owners) requesting rezoning from GC, NRC, CRC, PSC, and R-20 to PVC for a mixed-use development in land lots 854, 855, 922, and 923 of the 19<sup>th</sup> district. Property is located on the north side of East-West Connector, west of Floyd Road, and east of Brookwood Drive (3890, 3906, 3920, 3930, 3934, 3938, 3958 Floyd Road; 1345, 1355, 1365 East-West Connector). (Continued by Staff until the October 6, 2020, Planning Commission hearing).

The public hearing was opened; Garvis L. Sams, Jr. and Brad Garner addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Cupid, second by Boyce, to <u>approve</u> Z-51 to the **PVC** zoning district, subject to:

- Planning Commission comments and recommendations (attached and made a part of these minutes), with the following addition and change:
  - A. Letter of agreeable conditions from Garvis L. Sams, Jr. dated October 15, 2020 (attached and made a part of these minutes), which modifies the site plan, legal description, renderings, and elevations for this site
  - B. Comment No. 4 strike the last sentence, revise to read: "For the Residential Component, balconies, patios, and porches shall only have furniture designed for outdoor use and plants; there shall not be any banners, flags, or other items hung outside"
- 2. List of additional uses to be excluded: firework sales; discount sales stores, such as Dollar Stores; wholesale merchandise-only stores; vehicle parking except for customers patronizing businesses within the retail area or for special event or special permitted purpose; check cashing establishments; second-hand, thrift or used good, or flea market establishments; and precious metal sales
- 3. Any new or additional *automotive related* establishments to come back to the District Commissioner for review and approval
- 4. Any additional or new considerations of *Dollar Store* establishments to come back to the District Commissioner for review and approval
- 5. Final building architecture and landscaping to be approved by the District Commissioner
- 6. Staff is in agreement to waive a left and right turn lane on Brookwood Drive listed in the Staff comments and recommendations

MINUTES OF ZONING HEARING COBB COUNTY BOARD OF COMMISSIONERS OCTOBER 20, 2020 PAGE 16

### REGULAR AGENDA (CONT.)

### Z-51 GARNER GROUP (CONT.)

- 7. Applicant to install concrete medians in the gore areas going toward Floyd Road to reinforce existing restrictions to help improve safety
- 8. Developer agrees to cover cost of traffic signal if warranted following two years of site build-out
- 9. All other Planning Commission comments and recommendations are to remain in effect, not otherwise in conflict with those stated today
- 10. Any recommendations, comments, or stipulations submitted by the Applicant to remain in effect, unless in conflict with those of the Planning Commission or those stated today
- 11. All other Staff comments and recommendations are to remain in effect

VOTE: **ADOPTED** 3-2, Gambrill and Ott opposed

Clerk's Note: Chairman Boyce made the following statement prior to the motion of Z-51, "There are several references made in this study to the City of Mableton, and if we approve this zoning, this does not acknowledge any formal-recognition of the City of Mableton by the Cobb County Government."

EVANGELOS M. DEMESTIHAS AND JOYCE B. DEMESTIHAS (Evangelos M. Demestihas and Joyce B. Demestihas, owners) requesting a Temporary Land Use Permit for a special events facility in land lot 379 of the 16<sup>th</sup> district. Property is located on the east side of Knight Road, north of the termination of Knight Lane (3550 Knight Road). (Continued by the Planning Commission (PC) until the October 6, 2020, PC hearing).

The public hearing was opened; Kevin Moore, Marsha Stemme, and the following virtual speakers: Andy Rumbaugh, Juliana Rumbaugh, Eric Jakstadt, and Leslie Felder addressed the Board. Following presentation and discussion, the following motion was made:

MOTION: Motion by Birrell, second by Boyce, to <u>hold</u> LUP-17 until the November 17, 2020, Board of Commissioners' Zoning Hearing.

VOTE: **ADOPTED** 5-0

Chairman Boyce called for a brief recess from 10:45 a.m. until 10:55 a.m.

Min.	Bk.	91	Petiti	ion N	lo2	-51
Doc.	Тур	Ple	anning	Con	~m/s3	100
			- Z-5			
			10-6			

### MINUTES OF ZONING HEARING COBB COUNTY PLANNING COMMISSION OCTOBER 6, 2020 9:00 A.M.

The Planning Commission Zoning Hearing was held on Tuesday, October 6, 2020, in the second-floor public meeting room of Cobb County Building A, 100 Cherokee Street, Marietta, Georgia. Present and comprising a quorum of the Commission were:

Galt Porter, Chairman Judy Williams, Vice Chairman Fred Beloin Alice Summerour (via Webex) Tony Waybright

### CALL TO ORDER - CHAIRMAN PORTER

Chairman Porter called the hearing to order at 9:04 a.m.

### REGULAR AGENDA (CONT.)

Z-51 GARNER GROUP (Holbrook Floyd Road Property, L.P.; Holbrook Heritage Hills, L.P.; Ronald W. Mann; Holbrook Properties, L.P.; Lois D. Holbrook, Tammy Elaine Sloan, owners) requesting rezoning from GC, NRC, CRC, PSC, and R-20 to PVC for a mixed-use development in land lots 854, 855, 922, and 923 of the 19<sup>th</sup> district. Located on the north side of the East-West Connector, west of Floyd Road, and east of Brookwood Drive (3890, 3906, 3920, 3930, 3934, 3938, 3958 Floyd Road; 1345, 1355, 1365 East-West Connector). (Previously continued by Staff until the October 6, 2020, Planning Commission hearing).

The public hearing was opened; Garvis L. Sams, Jr. addressed the Commission. Following presentation and discussion, the following motion was made:

MOTION: Motion by Porter, second by Williams, to recommend <u>approval</u> of Z-51 to the **PVC** zoning district, subject to:

- 1. Letters of agreeable conditions from Garvis L. Sams, Jr. dated September 28, 2020 (on file in the Zoning Division), with the following changes:
  - A. Item 16, subset b change from: "twenty feet (20')", to: "fifty (50')"
  - B. Item 16, subset c change from: "twenty-five feet (25')", to: "forty (40')"
  - C. Item 16, subset h change from: "Brookwood Drive", to: "Floyd Road"
- 2. Department of Transportation (DOT) is still analyzing the application; therefore, DOT may revise stipulations prior to the Board of Commissioners' Zoning hearing; Planning Commission would adopt those revisions

Petition No	2-51	· ·
Meeting Date _	10-6-20	
Continued		

- 3. DOT recommendations shall prevail over those in the letter from Garvis Sams, Jr., where in conflict
- 4. For the Residential Component, balconies, patios, and porches shall only have furniture designed for outdoor use and plants; there shall not be any banners, flags, or other items hung outside
- 5. The apartments and townhomes, that are viewable from the public right-of-way, shall have at least 20% brick or stacked stone on the elevations
- 6. For the Residential Component, heavy landscaping to be used adjacent to the public right-of-ways
- 7. District Commissioner to approve the Landscape Plan
- 8. All dumpsters to be in masonry enclosures with steel gates
- 9. In addition to the minor modification exceptions in the letter from Garvis Sams, Jr., the District Commissioner may not approve the modifications that are in conflict with an expressed stipulation or condition of Zoning
- 10. Staff comments and recommendations, not otherwise in conflict

VOTE: ADOPTED 4-1, Beloin opposed



Doc. Type letter Meeting Date 10-20-20

Min. Bk. 91 Petition No. Z-51

GARVIS L. SAMS, JR. JOEL L. LARKIN PARKS F. HUFF

A LIMITED LIABILITY PARTNERSHIP SUITE 100 376 POWDER SPRINGS STREET MARJETTA, GEORGIA 30064-3448

770-422-7016 TELEPHONE 770-426-6583 FACSIMILE

October 15, 2020

### (REVISED SITE PLAN, LEGAL DESCRIPTION & RENDERINGS/ELEVATIONS)

### **VIA EMAIL & HAND DELIVERY:**

Mr. John P. Pederson, AICP, Manager **Cobb County Zoning Division** Community Development Agency 1150 Powder Springs Road, Suite 400 Marietta, GA 30064

> Re: Application of The Garner Group to Rezone a 58.28 Acre Tract from GC to Conditional PVC (No. Z-51 [2020])

### Dear John:

As you know, this firm represents both The Garner Group ("Garner") and Greystar Properties ("Greystar") concerning the above-captioned Application for Rezoning. Your staff has recommended approval as did the Planning Commission on October 6, 2020. The Application is now scheduled to be heard and considered for final action by the Board of Commissioners next week on October 20, 2020.

As a follow-up to the Planning Commission hearing last week, attached and enclosed are a Revised Site Plan and a corresponding Legal Description. We are simply deleting the small tract which is subject to a ground lease to Burlington for the purposes of detention. The Revised Site Plan and the Legal Description simply depict that the small tract has been removed from the overall Master Plan.

Also and consistent with Planning Commission directives, enclosed/attached are Revised Renderings/Elevations depicting the architectural style and composition of the Residential Components. Already on file are the original submissions of the residential architecture and both the existing and the proposed architecture for the retrofitting, rehabbing and repurposing of the Retail Component of the Mixed-Use Development.

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Petition No. 2-51
Meeting Date 10-20-20
Continued

### **VIA EMAIL & HAND DELIVERY:**

Mr. John P. Pederson, AICP, Manager Cobb County Zoning Division Community Development Agency October 15, 2020 Page 2

Please do not hesitate to contact me should you have any questions whatsoever regarding these matters. With kind regards, I am

Very truly yours,

Garvis L. Sams, Jr. gsams@samslarkinhuff.com

GLS, Jr./klk Enclosures/Attachments

cc: Members, Cobb County Board of Commissioners (via email w/attachments)

Dr. Jackie McMorris, County Manager (via email w/attachments)

Members, Cobb County Planning Commission (via email w/attachments)

Board of Commission Assistants (via email w/attachments)

Ms. Jessica Guinn, AICP, Director (via email w/attachments)

Mr. Jason S. Gaines, AICP, Planning Manager (via email w/attachments)

Ms. Jeannie Peyton, Sr. Planner (via email w/attachments)

Mr. Terry Martin, Planner III (via email w/attachments)

Mr. Donald Wells, Planner I (via email w/attachments)

Ms. Tannesha Bates, Planner I (via email w/attachments)

Ms. Pamela Mabry, County Clerk (via email w/attachments)

Ms. Robin Stone, Deputy County Clerk (via email w/attachments)

Ms. Leila Washington, Deputy County Clerk (via email w/attachments)

Ms. Mary Lanning, RLA, Fire Marshal's Department (via email w/attachments)

Mr. David Breaden, P.E. (via email w/attachments)

Mr. Carl Carver, P.E. (via email w/attachments)

Ms. Amy Diaz, P.E. (via email w/attachments)

Ms. Robin Meyer, MIC (via email w/attachments)

Mr. Scott Brooks, WellStar, Assistant V.P. of Real Estate (via email w/attachments)

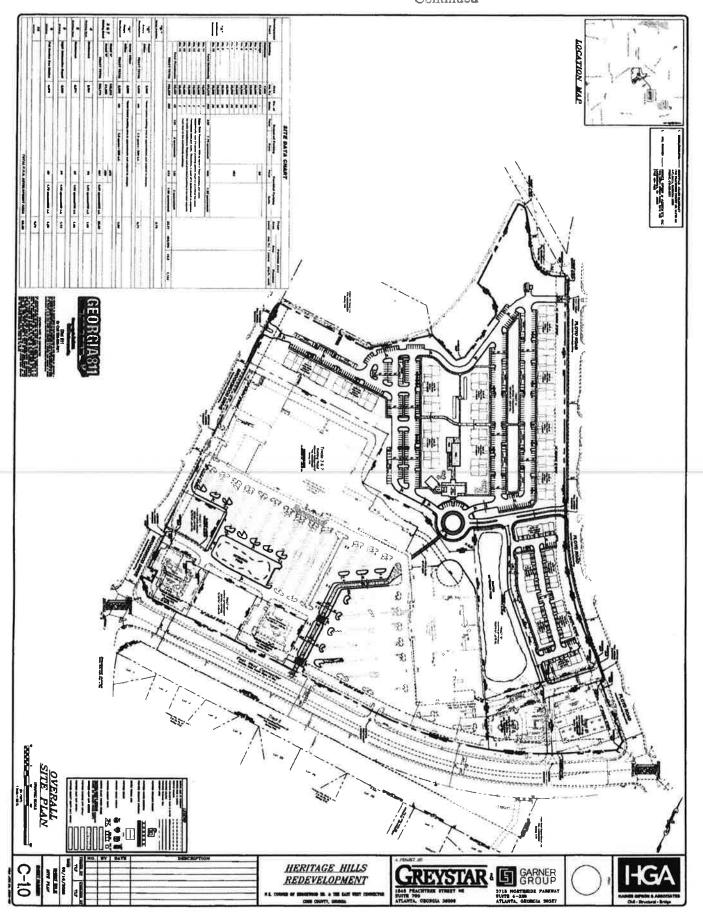
Mr. Brad Garner, The Garner Group (via email w/attachments)

Mr. Robert Drake, The Garner Group (via email w/attachments)

Mr. Robert Sucher, Greystar Properties (via email w/attachments)

Mr. Craig Gearhart, Greystar Properties (via email w/attachments)

Petition No. 2-5!
Meeting Date 10-20-20
Continued



Petition No.	2-51	
Macting Date	10-20-20	
Continued		

### **Revised Legal Description**

of Tract 1 (which deletes the small tract referenced in the Revised Site Plan)

### Tract 1

All that tract or parcel of land lying and being in Land Lots 854, 855, 922 and 923 of the 19th District, 2nd Section, Cobb County, Georgia and being more particularly described as follows:

BEGINNING at a 1/2" rebar found at the Land Lot corner of Land Lots 855, 856, 921 and 922, said point also being at the intersection of the easterly Right of Way of Brookwood Drive (Variable R/W); from point thus established and running along the easterly Right of Way of Brookwood Drive and the Land Lot line common to Land Lots 855 and 856 North 00° 32' 32" East a distance of 272.15 feet to a 1/2" rebar found; thence leaving said Right of Way and Land Lot line South 89° 27' 02" East a distance of 408.54 feet to a 1/2" rebar found; thence North 51° 44' 01" East a distance of 273.95 feet to a 1/2" rebar found;

thence South 70° 42' 13" East a distance of 145.00 feet to an iron pin set; thence North 44° 32' 47" East a distance of 40.00 feet to an iron pin set; thence North 10° 13' 42" East a distance of 218.25 feet to an iron pin set; thence North 37° 47' 13" West a distance of 65.00 feet to an iron pin set; thence North 71° 22' 13" West a distance of 90.00 feet to an iron pin set; thence North 00° 31′ 46″ East a distance of 363.31 feet to a 1/2″ rebar found; thence running along a curve to the right an arc length of 50.65 feet, (said curve having a radius of 38.37 feet, with a chord bearing of South 71° 58' 02" East, and a chord length of 47.05 feet) to a 1/2" rebar found; thence South 34° 13' 08" East a distance of 170.49 feet to a 1/2" rebar found; thence running along a curve to the left an arc length of 148.66 feet, (said curve having a radius of 106.62 feet, with a chord bearing of South 74° 13' 39" East, and a chord length of 136.91 feet) to a 1/2" rebar found; thence North 65° 54' 37" East a distance of 40.78 feet to a 1/2" rebar found on the westerly Right of Way of Floyd Road (Variable R/W); thence running along said Right of Way the following courses: running along a curve to the left an arc length of 25.93 feet, (said curve having a radius of 1180.89 feet, with a chord bearing of South 25° 25' 09" East, and a chord length of 25.93 feet) to a point; thence South 26° 13' 37" East a distance of 818.67 feet to a point; thence South 27° 35' 14" East a distance of 179.82 feet to an iron pin set at the intersection of the westerly Right of Way of Floyd Road and the Land Lot line common to Land Lots 854 and 923; thence continuing along said Right of Way the following courses: South 27° 25' 09" East a distance of 142.30 feet to a 1/2" rebar found; thence South 35° 31' 03" East a distance of 99.35 feet to a 1/2" rebar found; thence South 41° 26' 26" East a distance of 101.42 feet to an iron pin set; thence South 43° 36' 28" East a distance of 102.27 feet to an iron pin set; thence South 48° 58' 51" East a distance of 104.79 feet to an iron pin set; thence South 51° 00' 49" East a distance of 34.27 feet to a point; thence leaving said Right of Way and running South 01° 52' 28" East a distance of 21.51 feet to a point thence South 45° 49' 49" West a distance of 173.23 feet to a point; thence South 53° 35' 39" West a distance of 47.48 feet to a point; thence North 45° 23' 40" West a distance of 381.99 feet to a point; thence running along a curve to the right an arc length of 61.57 feet, (said curve having a radius of 185.00 feet, with a chord bearing of North 35° 51' 33" West, and a chord length of 61.29 feet) to a point; thence North 26° 19'

Position No. 2-51
Macting Date 10-20-20
Continued

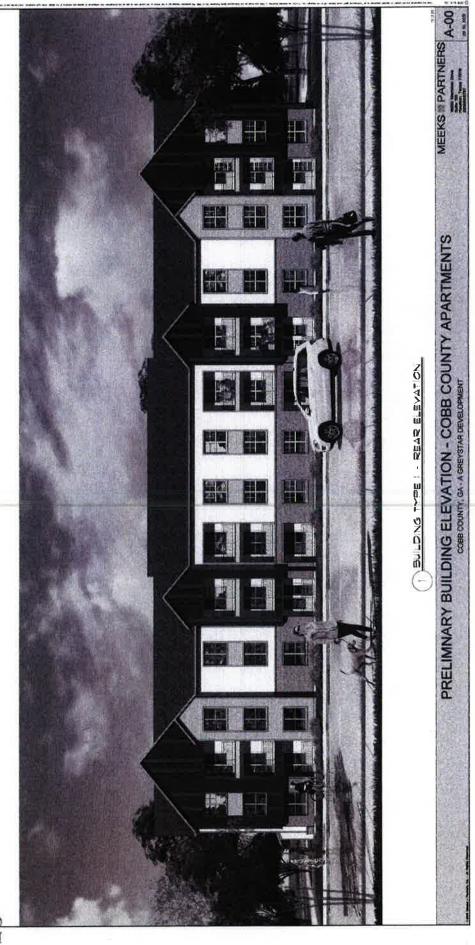
28" West a distance of 149.73 feet to a point; thence running along a curve to the left an arc length of 38.25 feet, (said curve having a radius of 213.00 feet, with a chord bearing of North 31° 28' 10" West, and a chord length of 38.20 feet) to a point; thence North 36° 36' 51" West a distance of 36.04 feet to a point; thence South 53° 23' 09" West a distance of 69.62 feet to a point; thence running along a curve to the right an arc length of 56.10 feet, (said curve having a radius of 312.45 feet, with a chord bearing of South 58° 31' 47" West, and a chord length of 56.03 feet) to a point; thence South 63° 29' 06" West a distance of 19.06 feet to a point; thence South 26° 19' 29" East a distance of 80.92 feet to an iron pin set; thence South 59° 16' 03" West a distance of 103.92 feet to an iron pin set; thence North 62° 27' 46" West a distance of 197.71 feet to an iron pin set; thence North 89° 24' 35" West a distance of 270.74 feet to an iron pin set; thence North 00° 35' 25" East a distance of 225.15 feet to an iron pin set on the Land Lot line common to Land Lots 855 and 922; thence running along said Land Lot line North 89° 25' 08" West a distance of 645.18 feet to the TRUE POINT OF BEGINNING. Said tract contains 22.907 Acres (997,849 Square Feet).

Perition No. 2-51 Maching Date 10-20-20 Continued



PRELIMINARY BUILDING ELEVATION - COBB COUNTY APARTMENTS COBB COUNTY GAVA GRENSTAR DEVELOPMENT

MEEKS N PARTNERS



Petition No. 2-51
Meeting Date 10-20-20
Continued





GARVIS L. SAMS, JR. JOEL L. LARKIN PARKS F. HUFF

### A LIMITED LIABILITY PARTNERSHIP SUITE 100 376 POWDER SPRINGS STREET

376 POWDER SPRINGS STREET MARIETTA, GEORGIA 30064-3448 770•422•7016 TELEPHONE 770•426•6583 FACSIMILE

September 28, 2020

### (REVISED STIPULATION LETTER & IMAGERY)

### VIA EMAIL:

Mr. John P. Pederson, AICP, Manager Cobb County Zoning Division Community Development Agency 1150 Powder Springs Road, Suite 400 Marietta, GA 30064

Re: Application of The Garner Group to Rezone a 59.23 Acre Tract from GC to Conditional PVC (No. Z-51 [2020])

Dear John:

You will recall that this firm represents The Garner Group ("Garner") and Greystar Properties ("Greystar") concerning the above-captioned Application for Rezoning. As you know, Garner will be responsible for the development and redevelopment of the Commercial components of the overall Mixed-Use Development. The Residential components, including both Townhomes and Multi-Family Homes, will be the responsibility of Greystar.

The Application was continued by the Staff with our consent earlier this month and is scheduled to be heard and considered by the Cobb County Planning Commission on October 6, 2020. Thereafter, the Application will be heard and considered for final action by the Cobb County Board of Commissioners ("BOC") on October 20, 2020.

During the time within which the Application was continued, I submitted a revised site plan and revised Traffic Impact Study ("TIS") on September 23, 2020 in order to address and resolve issues raised by Cobb DOT and other members of the County's Professional Staff. This revised stipulation letter supersedes in full the original stipulation letter which was submitted on August 6, 2020.

Garner's and Greystar's Application for Rezoning seeks entitlements to allow the construction of a Mixed-Use Development consisting of Townhomes, Multi-Family Apartments and Retail/Commercial components in combination with significant revisions to the existing

A LIMITED LIABILITY PARTNERSHIP

### VIA EMAIL:

Mr. John P. Pederson, AICP, Manager Cobb County Zoning Division Community Development Agency September 28, 2020 Page 2

Shopping Center which is located on the Subject Property at issue ("Subject Property"). In addition to the foregoing, other revisions have been made to the overall zoning proposal so that now the Residential mix consists of a total of four-hundred and two (402) units consisting of forty-two (42) Townhomes and three-hundred and sixty (360) Multi-Family homes referenced in the revised site plan. You will note in the revised site plan the reconfiguration of portions of the plan in response to the issues articulated by Staff and the Planning Commission.

The Subject Property is currently zoned in the General Commercial ("GC"); Planned Shopping Center ("PSC"); Community Retail Commercial ("CRC"); Neighborhood Retail Commercial ("NRC"); and, R-20 Zoning classifications, respectively. Cobb County's Future Land Use Map ("FLUM") reflects that the Subject Property is located within the confines of a Community Activity Center ("CAC") which is appropriate for the proposed Mixed-Use Development as shown on the revised site plan and other documentation submitted under separate cover on September 23, 2020.

The mixture of existing and new Retail and Restaurant uses within the existing Shopping Center will greatly enhance the original Retail Component which was built and developed in 1990 with the tenant mix at that time consisting of Walmart, Winn Dixie and Michael's. There are no long-term commitments of any of the existing Retail/Commercial tenants. In fact, many of them have considered closing and/or relocating if the Shopping Center is not updated and renovated. Garner's proposal for the Commercial component will serve to comprehensively revive the Shopping Center, thus providing this area of unincorporated Cobb County within this Austell sub-area with new residents and with new shopping and dining opportunities.

Because of the scope of the joint proposed Mixed-Use Development, we did inquire and investigated whether the proposed Mixed-Use Development meets the thresholds set by the Atlanta Regional Commission ("ARC") of a Development of Regional Impact ("DRI"). However, ARC's Principal Planner has advised that the proposed Development as currently constituted does not meet those thresholds and is not a DRI.

We have continued our dialogue with the County's Professional Staff, area business and property owners, representatives of other interests; and, stakeholders (including WellStar) within this sub-area. In that regard, both Garner and Greystar have authorized the submittal of this revised letter of agreeable stipulations which, upon the Application for Rezoning being approved, as revised, shall become conditions and a part of the grant of the requested rezoning and binding upon the Subject Property thereafter.

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### VIA EMAIL:

Mr. John P. Pederson, AICP, Manager Cobb County Zoning Division Community Development Agency September 28, 2020 Page 3

### STIPULATIONS APPLICABLE TO THE OVERALL MIXED-USE DEVELOPMENT

- 1. The revised stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions in whatsoever form which are currently in place concerning the Subject Property.
- 2. The Rezoning of the Subject Property shall be to the Planned Village Community ("PVC") zoning district in conformity to that certain Site Plan prepared by Haines Gipson & Associates, dated September 16, 2020 ("Heritage Hills") which was submitted under separate cover on September 23, 2020.
- 3. The total site area of the Subject Property (consisting of 59.23) acres shall be developed as a Mixed-Use Development including Single-Family Residential in the form of Townhomes; Multi-Family Residential in the form of Luxury Apartments; and, Retail/Commercial, Restaurants, Offices and other non-residential components.
- 4. As a part of the future development of the subject property, there shall be Covenants, Conditions and Restrictions ("CCRs") which will include each phase of the proposed community as permitted and platted and which will run with the Subject Property for the maximum time frame allowed by law.
  - Concurrently therewith, the CCRs will include all components of the proposed development and set forth responsibilities and obligations regarding the oversight, upkeep and maintenance of the entrance areas, common areas, community buildings and structures, open space areas and similar features contained within the overall community (i.e. walking trails, sidewalks, etc.).
- 5. The CCRs shall contain Architectural Design Regulations which shall control such items such as signage and other usual and necessary provisions in order to protect the quality and integrity of the overall development and its architectural style and composition.
- 6. At the request of the Sellers, if final permits regarding the proposed mixed-use development are not secured or Garner and/or Greystar do not close the property within a 24-month period from the date of the rezoning approval, then the Subject Property shall revert to its original zoning classifications without any further action being necessary on the part of the Applicants, the Owners or Cobb County.

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### **VIA EMAIL:**

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7. New signage shall be ground-based, monument-style signage with finish, materials and color being in substantial conformity to the architectural style embodied in the mixed-use development. However, Garner and Greystar intend to renovate and utilize the three (3) existing signs servicing the property, two of which consisting of pylon signs in order to properly brand and identify the uses and users on the property.

There shall be no billboard signs, no roof signs unless architecturally integrated into an approved building design and no exterior, temporary signs excepting only grand opening signage and signage indicating the coming development. Free standing signage, including sandwich-style retail boards and other signage shall be permitted in accordance with the terms and provisions of the Cobb County Sign Ordinance

- 8. At full build-out, there shall be a network of walking trails and sidewalks located within the proposed community which shall link the various components of the development and to accommodate pedestrian walkability and accessibility.
- 9. Lighting within the proposed mixed-use community shall be chosen by Garner and Greystar, shall be environmentally sensitive, appropriately spaced for safe lighting purposes (i.e. per a Photometric Plan) and, whenever possible, shall be themed to the architectural style of the buildings and residences to be constructed.
- 10. In order to facilitate the development during the Plan Review process, the District Commissioner shall have the authority to review and approve both the overall site plan and the commercial and residential architectural style and composition.
- 11. All setback and buffer areas may be penetrated for the purposes of detention, utilities, stormwater management, Fire Marshal regulations and other County-mandated encroachments, as needful or necessary.
- 12. Compliance with Cobb County Development Standards and Ordinances related to project improvements except as otherwise approved by the Board of Commissioners, the Cobb County Department of Transportation or the Cobb County Community Development Agency as their respective authority may allow.
- 13. Compliance with written recommendations from the Stormwater Management Division with respect to the location, configuration and methodology of water quality, detention and downstream considerations, including the following:

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### **VIA EMAIL:**

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- a. Undertaking on-site project improvements in order to address known drainage problems downstream from the Subject Property to the extent that such remedial measures are project related and do not constitute "system improvements".
- b. Stormwater discharges shall be controlled so as not to exceed the capacity of downstream storm drainage systems.<sup>1</sup>
- c. Garner and Greystar shall secure drainage easements, to the extent needful or necessary, in order to address potential concentrated stormwater discharges where none naturally exist.<sup>2</sup>
- d. During the Plan Review Process, a comprehensive Hydrology/Stormwater Control Study shall be submitted which includes the development of the Subject Property and its outparcels.
- e. Existing on-site detention ponds shall be upgraded to current regulations including water quality components.
- f. The redesign of off-site but upstream drainage passing through the site shall be studied in order to determine if there is compliance with one-hundred (100) year storm events and to ensure that the existing detention on the site shall continue to provide the lessening and/or the attenuation of off-site runoff prior to entering the drainage system which is situated under the East-West Connector.
- 14. Compliance with the following recommendations from the Cobb County Water System with respect to the availability and acquisition of water and sewer to service the Subject Property and as follows:

<sup>&</sup>lt;sup>1</sup> The Subject Property currently discharges into stormwater drainage systems under the East-West Connector and Brookwood Drive.

<sup>&</sup>lt;sup>2</sup> The sizing and width of said proposed drainage easements shall be based upon the diameter of the pipe and the depth of same once installed.

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### VIA EMAIL

Mr. John P. Pederson, AICP, Manager Cobb County Zoning Division Community Development Agency September 28, 2020 Page 6

- a. Performing a Sewer Flow Study to be submitted during the Plan Review Process.
- b. Both water and sewer are available to the site and the Subject Property is within the South Cobb Treatment Plant area wherein availability is ample.
- c. The submission of a Sewer Capacity Study as long as said study is project-related and not solely system related.
- 15. A Trip Generation Analysis was initially prepared by Lowe Engineering and submitted concurrently with the Application for Rezoning on July 2, 2020. Since that original submission, Lowe Engineering has prepared both a full Traffic Impact Study ("TIS") and most recently a revised TIS which was formally submitted under separate cover on September 23, 2020.

The further revised TIS addresses additional information regarding trip generation; maneuverability; turning movements and/or potential conflicts; Levels of Service ("LOS") at strategically positioned intersections; and, other data required by the Cobb County Department of Transportation ("DOT").

- 16. Compliance with the following on-site project improvements recommended by Lowe Engineering and Cobb DOT as follows, to wit:
  - a. The voluntary donation and conveyance of right-of-way along the East West Connector so that the County can achieve fifty feet (50') from the centerline of said right-of-way.
  - b. The voluntary donation and conveyance of right-of-way along Floyd Road so that the County can achieve twenty feet (20') from the centerline of said right-of-way which varies in width along the Subject Property's frontage thereon.
  - c. The voluntary donation and conveyance of right-of-way along Brookwood Drive so that the County can achieve twenty feet (25') from the centerline of said right-of-way which varies in width along the Subject Property's frontage thereon.
  - d. The installation of sidewalk, curb and gutter along the Subject Property's respective road frontages.

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### VIA EMAIL:

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- e. The installation of sidewalk on at least one side of the interior streets within the Mixed-Use Development.
- f. Recognition that any points of ingress/egress be situated/located at least two-hundred fifty feet (250') from the center of any signalized intersections.
- g. All existing and proposed access points shall include a deceleration lane and a taper if applicable. The determination regarding the exact dimensions as far as width and length of deceleration lanes and tapers will determined as will their design during the Plan Review Process.
- h. The full access driveway on Brookwood Drive shall be restricted to full movements going in/rights-out only operational status.
- Replacing any curb, gutter and sidewalk which may be disturbed during the construction and build-out of the proposed Mixed-Use Development.
- 17. Compliance with recommendations from the Cobb County Fire Marshal regarding Life-Safety and Fire-Prevention issues, including the following:
  - a. Compliance with International Fire Code Emergency Responder Radio Coverage (No. IFC-510).
  - b. Insuring interior maneuverability and accessibility so that Fire Apparatus Access Roads extend to within to one-hundred fifty feet (150') of all portions of buildings to be constructed, including undertaking remedial measures in order to ensure that the Fire Marshal is able to access the "long side of the building".
  - c. All Fire Apparatus Access Roads shall need AASHTO Design Protocols and Live-Load Protocols a minimum of 75,000 pounds per sq. in. with an unobstructed width of not less than twenty feet (20'); twenty-five foot (25') inside radius; fifty foot (50') outside turning radius; and, unobstructed vertical clearance of not less than thirteen feet, six inches (13' 6").
  - d. The maximum slope of the access road as mentioned above shall be ten percent (10%) front to back; five percent (5%) side to side; and, a maximum grade of roadways leading to fire access roads being compliant with Cobb County

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Development Standards; that is, fourteen percent (14%) for non-Residential Roads and a maximum angle of departure of eight and one-half percent (8.5%).

- e. Dead-end access roads more than one-hundred fifty feet (150') in length shall be provided with a turn-around, the dimensional criteria for which are set out in the Code.
- f. Aerial apparatus access is required for all structures over thirty feet (30') in height, as measured from the lowest level of Fire Department access to the ceiling height of the highest occupied floor level. In that regard, no overhead utility and/or power line shall be located so as to interfere with fire apparatus access.
- g. Gates securing fire apparatus access shall be a minimum of fourteen feet (14') in clear width for a single lane and twenty feet (20') for a double lane. However, in no event shall the gates reduce the operating width of the roadway. Double lane gates shall be a minimum of twenty feet (20') in clear width, with gates consisting of the swinging or sliding type which can include electric gates equipped with the means of opening and closing said gates by Fire Marshal personnel for emergency access.
- h. The requisite number of guest parking spaces shall be included in the final plans and shall be evenly distributed throughout the residential components of the Mixed-Use Development.
- i. The maximum distance from a fire hydrant to the most remote portion of a structure shall be five-hundred feet, with distance being measured around the structure and from the Fire Apparatus Access Road.
- 18. Prior to the issuance of building permits, the District Commissioner shall review and approve all landscaping and architecture not otherwise herein approved and as depicted in all of the renderings/elevations and plans submitted both concurrently with the Application for Rezoning and resubmitted concurrently herewith and those which may be submitted under separate cover.
- 19. The proposed plans are to include restaurants as a part of the retail component within the proposed community. Said restaurants may serve alcoholic beverages as a part of their respective food services upon securing the proper permits from Cobb County and State agencies.

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20. There shall be no tenant vehicles or vehicles of any type permanently parked in front of the proposed overall development containing tenant identification signage or advertising signage. This provision shall be contained within any lease between Garner and any prospective tenants and Garner agrees to make its best efforts to enforce these provisions against any tenant which violates the foregoing.

### STIPULATIONS APPLICABLE TO THE NON-RESIDENTIAL COMPONENTS

1. Garner proposes Retail/Commercial, Restaurants, Flex Space, Offices, Community Facilities and other Non-Residential Components utilizing a Village concept with varying storefronts, roof elevations and other aesthetically pleasing treatments.

The building facades which will face streets or important connecting ways to community spaces shall consist of a mixture of brick, stone, cedar shake, articulated stucco, hardy board, wood siding, EIFS and other compatible materials. The architectural style and composition shall be consistent with the renderings/elevations as mentioned above and as submitted or to be submitted, subject to review and approval by the District Commissioner.

- 2. The proposed Non-Residential Component shall contain and include a flexible mix of commercial space, including retail/restaurants and office space. The approximate square footage will include: a maximum of 270,000 sq. ft. which will include: Shopping Center 230,000 sq. ft.; Current Outparcels Longhorn 5,601 sq. ft./Juicy Crab (not owned currently) 5,571 sq. ft./Vacant 6,820 sq. ft.; QT 4,470 sq. ft.; and, Proposed Outparcels OP#5-5,000 sq. ft. and OP#6-5,000 sq. ft.
- 3. Landscaping for the proposed mixed-use development shall be pursuant to a specific landscape plan which shall be submitted during the Plan Review Process, reference being made to said plan for more particular delineation and location of existing and proposed future plantings. Garner and Greystar shall utilize the position and extent of existing landscaped features and enhance existing landscape with additional, new plantings.
- 4. Parking area lighting shall be a maximum of thirty-nine feet (39') in height which is "asbuilt" and which shall be fitted with environmentally sensitive, energy efficient, luminaries in order to prevent illumination from penetrating outside the boundaries of the subject property.

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### **VIA EMAIL:**

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- 5. Hooded security lighting shall be utilized on the buildings within the non-residential areas.
- 6. Garner agrees to install and construct site lighting pursuant to a Site Lighting/Photometric Plan which shall be submitted to staff for review and approval.
- 7. Dumpsters will be positioned to prevent visual intrusion from major streets, connection points to community spaces and wherever possible from any trail or green space with screening by berms, landscaping, walls and/or vegetation. Dumpsters shall comply in all respects to enacted Development Regulations as to size, shape, architecture and all other components.
- 8. All exhaust from restaurant facilities shall be filtered and attenuated to minimize grease and odors.
- 9. There shall be no outside paging systems, phone bells or loud speakers. However, outdoor music systems shall be allowed.
- 10. The following uses shall be prohibited:
  - a. Automotive sales.
  - b. Video arcades as a primary use.
  - c. Adult themed bookstores as a primary use.
  - d. Pawn shops and check cashing establishments.
  - e. Skating rinks, except for small, season-appropriate rinks.
  - f. Tattoo or body piercing parlors and any business which principally features sexually explicit products or drug related paraphernalia.
  - g. Retail facilities which sell knives as a primary use.
  - j. Retail facilities which sell or initiate transactions including guns and/or weapons.

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### VIA EMAIL:

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### STIPULATIONS APPLICABLE TO THE RESIDENTIAL COMPONENTS

- 1. Within Residential areas, there shall be a total maximum number of four-hundred two (402) rental Residential Units consisting of a mixture of luxury Multi-Family Units and attached Townhome units.
- 2. The architectural style and composition of the various Residential components shall be consistent with the renderings/elevations which were submitted with the Application for Rezoning, submitted under separate cover on August 6, 2020 and selections of which are being resubmitted. All architecture which be subject to review and approval by the District Commissioner
- 3. The establishment of Reciprocal Easement Agreements ("REAs") which will be between Garner and Greystar and submitted during the Plan-Review Process.
- 4. A third-party management company and/or Greystar shall manage the day-to-day operations of any Owners Association(s), including the responsibility of all commonly owned properties and all amenities within the proposed community, including responsibility for the management of all association monies as well as ensuring that any association is properly insured.
- 5. The submission of a landscape plan during the Plan and Review Process which shall be subject to staff review and approval and which shall include the following:
  - a. Sodded or otherwise landscaped front, side and rear yards.
  - b. The installation of underground utilities.
  - Ground-based, monument-style entry signage which shall be landscaped and irrigated.
  - d. Landscaping throughout the Mixed-Use Community which shall be irrigated as appropriate.

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### VIA EMAIL:

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6. A network of sidewalks throughout the residential community will promote a pedestrian-friendly atmosphere and which shall be designed in order to provide meaningful connectivity to adjacent Retail/Commercial areas. All homes shall have sidewalks on their respective road frontages.

### MISCELLANEOUS STIPULATIONS/CONDITIONS

- 1. Trees shall be planted on all streets and shall be a minimum of two and one-half inches (2½") in caliper. Said trees shall have a minimum of twenty-four (24) sq. ft. of planting area and shall be spaced an average of forty-five feet (45') apart and a maximum of fifty-five feet (55'). Smaller, ornamental trees may be spaced an average of twenty-five feet (25') apart. Trees shall be permitted within two feet (2') of the face of curb at the time of planting. A landscape plan shall be subject to the County's Arborist's and the District Commissioner's review and approval.
- 2. Street lighting will consist of light fixtures which shall be utilized on all roadways within the proposed development. Street lighting will be chosen by Garner & Greystar and shall be located on a landscape plan subject to the County's professional staff's review and approval and ultimate review and approval by the District Commissioner. Lamps shall be either metal halide, high pressure sodium, or other approved high-efficiency type lamps. Garner and Greystar shall determine the type of posts and fixtures subject to be reviewed and approved by the County's professional staff and then by the District Commissioner.
- 3. All public street widths, including parking lane widths and travel lane widths shall be built according to Cobb County Development Standards, subject to modifications approved by the District Commissioner and/or Cobb County's professional staff.
- 4. The District Commissioner shall have the authority to approve minor modifications to these stipulations, the site plan, architectural renderings/elevations and all other components of this development as it proceeds through the Plan Review Process and thereafter. However, the District Commissioner shall not have the authority to approve modifications or revisions which:
  - a. Increase the density.

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- b. Reduce the size or composition of an approved buffer or landscape strip adjacent to contiguous properties.
- c. Relocate a structure closer to a perimeter property line.
- d. Increase the height of a building so that it exceeds the at-grade level of buildings located on contiguous and/or adjacent properties.
- e. Which seek additional waivers from the Cobb County Zoning Ordinance other than those depicted on the current site plan.

With both Garner and Greystar being fully integrated companies which develop and build high-quality Retail/Commercial and Residential projects across the United States, they are also specifically experienced in the various components of this Mixed-Use Development as represented by the current and project-specific imagery.

Based upon the foregoing and in view of the fact that the County's Professional Staff has recommended that the Application be approved, both Garner and Greystar respectfully request that the Application for Rezoning be approved and are prepared to provide you and your Staff with any additional information or documentation which you may need prior to the upcoming Planning Commission Work Session and then the hearings which are scheduled before the Planning Commission and Board of Commissioners next month. With kind regards, I am

Very truly yours,

SAMS, LARKIN & HUFF, LLP

Garvis L. Sams, Jr.

gsams@samslarkinhuff.com

GLS, Jr./dls Attachments

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### VIA EMAIL:

Mr. John P. Pederson, AICP, Manager Cobb County Zoning Division Community Development Agency September 28, 2020 Page 14

cc: Members, Cobb County Board of Commissioners (via email w/attachments)

Dr. Jackie McMorris, County Manager (via email w/attachments)

Members, Cobb County Planning Commission (via email w/attachments)

Board of Commission Assistants (via email w/attachments)

Ms. Jessica Guinn, AICP, Director (via email w/attachments)

Mr. Jason S. Gaines, AICP, Planning Manager (via email w/attachments)

Ms. Jeannie Peyton, Sr. Planner (via email w/attachments)

Mr. Terry Martin, Planner III (via email w/attachments)

Mr. Donald Wells, Planner I (via email w/attachments)

Ms. Tannesha Bates, Planner I (via email w/attachments)

Ms. Pamela Mabry, County Clerk (via email w/attachments)

Ms. Robin Stone, Deputy County Clerk (via email w/attachments)

Ms. Leila Washington, Deputy County Clerk (via email w/attachments)

Ms. Mary Lanning, RLA, Fire Marshal's Department (via email w/attachments)

Mr. David Breaden, P.E. (via email w/attachments)

Mr. Carl Carver, P.E. (via email w/attachments)

Ms. Amy Diaz, P.E. (via email w/attachments)

Ms. Robin Meyer, MIC (via email w/attachments)

Mr. Scott Brooks, WellStar, Assistant V.P. of Real Estate (via email w/attachments)

Mr. Brad Garner, The Garner Group (via email w/attachments)

Mr. Robert Drake, The Garner Group (via email w/attachments)

Mr. Robert Sucher, Greystar Properties (via email w/attachments)

Mr. Craig Gearhart, Greystar Properties (via email w/attachments)