

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

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January 23, 2018

(REVISED STIPULATION LETTER, REVISED SITE PLAN & REVISED EXHIBITS/ATTACHMENTS)

VIA HAND DELIVERY & 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 for Rezoning of SSP Blue Ridge, LLC concerning a 23.914 Acre Tract of Land from CRC, GC, NS, R-20 & R-80 to Planned Village Community ("PVC")- No. Z-12 [2017]

Application for a Special Land Use Permit by SSP Blue Ridge, LLC concerning a 1.026 Acre Tract of Land for purposes of a Climate Controlled Self-Service Storage Facility ("CCSSSF") - No. SLUP-8 [2017]

Dear John:

You will recall that this firm represents SSP Blue Ridge, LLC ("SSP") concerning the above-captioned Applications for Rezoning and a Special Land Use Permit ("SLUP"). The Applications were heard, considered and held by the Cobb County Planning Commission last month on December 5, 2017. The Applications are now scheduled to be heard and considered by the Planning Commission on February 6, 2018 and thereafter scheduled to be heard and considered for final action by the Cobb County Board of Commissioners on February 20, 2018. The property at issue ("Subject Property") consists of an assemblage of 23.914 acres.

In accordance with direction from the Planning Commission and in order to address and resolve outstanding issues with respect to the various dialogues which have been established with the County's Professional Staff, nearby business owners, contiguous and adjacent residential property owners and organized members of the community including, but not limited to, the Powers Ferry Corridor Alliance ("PFCA") and the Salem Ridge HOA ("Salem Ridge"), enclosed are copies of a Revised Site Plan seeking a Rezoning of the Subject Property to the Planned Village Community ("PVC") Zoning District and Revised Supporting Exhibits and related documentation relative to the proposed Mixed-Use Development which shall be named MarketPlace Terrell Mill.

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY & VIA EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
January 23, 2018
Page 2

The revisions to SSP's proposal are responsive to and consistent with the overall intent of the PVC district which contemplates designs that consolidate unified retail centers within the center of a community and which are developed in order to occupy a quadrant of an intersection at the confluence of major rights-of-way, such as Powers Ferry Road and Terrell Mill Road both of which are designated as Arterial rights-of-way.

SSP's revised proposal and the resultant development therefrom will represent in excess of \$120 Million Dollars in real estate development which, if approved as revised, will be consistent with Cobb County's Future Land Use Map ("FLUM"); the Powers Ferry ("Master Plan"); and, consistent with the type of Mixed-Use Development which will precipitate a time-critical revival of needed redevelopment on both the Powers Ferry Road and the Terrell Mill Road Corridors.

We have been authorized by SSP to follow the direction provided by the Planning Commission and the County's Professional Staff and to submit this Revised Stipulation Letter which, upon the Applications being approved, as revised and submitted, shall become conditions and a part of the grant of the requested entitlements and binding upon the Subject Property thereafter. The referenced stipulations are as follows, to wit:

I. GENERAL STIPULATIONS APPLICABLE TO THE OVERALL 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 property which constitutes the subject matter of the above-captioned Applications. More specifically, the revised stipulations and conditions set forth herein shall replace and supersede in full Stipulation Letters previously submitted and dated October 19, 2017; November 3, 2017; November 27, 2017; and, November 28, 2017.
2. The Rezoning of the Subject Property shall be from CRC, GC, NS, R-20 & R-80 to PVC with reference to that certain Revised Site Plan prepared by Robertson Loia Roof for SSP which is being submitted concurrently herewith.¹

¹ The Revised Site Plan, as many of its iterations prior hereto, includes that portion of the Subject Property (1.026 Acres) for which a companion SLUP Application has been filed for the purposes of the development of a CCSSSF.

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY & VIA EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
January 23, 2018
Page 3

3. The total site area of the Subject Property consists of an approximate 23.914 acre tract which is planned to be developed as MarketPlace Terrell Mill a Mixed-Use Development, including a Kroger Grocery store approximately 95,545 square feet in size; a fuel center attendant to the Kroger Grocery store; restaurants; retail; CCSSSF; highly amenitized luxury multi-family homes; and, structured parking as well as surface parking dedicated to the aforementioned uses.
4. As a part of the future development of the Subject Property, there shall be protective covenants which shall be incorporated as each component of the proposed Mixed-Use Development is permitted and platted. Said protective covenants shall run with the Subject Property for the maximum timeframe allowed by law.

Concurrently therewith, a Property Owner Association shall be formed which will include all owned components of the proposed development on a phased, build-out basis. The Association shall be responsible for the oversight, upkeep and maintenance of entrance areas, common areas, community structures and strategic aesthetic features reflecting a theme-inspired, village-type Mixed-Use Development; Open Space areas and similar features contained within the overall community.

There is a small (0.354 acre) remnant tract of land owned by Cobb County, shown on the Revised Site Plan, which may contain signage, artistic elements and ancillary components of the Mixed-Use Development. In that regard, SSP will utilize that tract by way of being granted a license from the Cobb County Department of Transportation ("DOT") for said parcel and said purposes. Likewise, the remnant parcel and any development features located thereon shall be fully maintained by SSP or a designated Property Owner Association.

5. The Property Owner Association to be formed shall have Architectural Design Regulations ("Village Design Standards") which shall control the architectural style and composition of all construction and buildings and such items as signage and other usual and necessary Covenants, Conditions and Restrictions ("CCRs") to protect the quality and integrity of the overall Mixed-Use Development. A copy of the Village Design Standards is enclosed/attached.

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A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY & VIA EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
January 23, 2018
Page 4

6. In accordance with the recommendations from the Cobb County Department of Transportation ("DOT") and consistent with the Traffic Impact Study ("TIS") prepared by A&R Engineering, Inc. ("A&R"), the various points of ingress/egress of the proposed Mixed-Use Development shall include, with ancillary operational revisions, five (5) separate and distinct points of ingress/egress with attendant synchronized signalization and the installation of deceleration lanes and turning lanes for dedicated and protected turning movements on both Powers Ferry Road and Terrell Mill Road.

The expenses associated with signalization at the two (2) main access points as shown on the Revised Site Plan (on Powers Ferry Road across from Micro Center and on Terrell Mill Road across from LA Fitness) shall be borne by SSP. The timing for the installation of these new traffic signals will be determined during the proposed development's Plan Review process with the exact dates of installation to be determined based upon discussions between SSP and DOT during Plan Review. The installation of signalization at these two (2) main access points is critical to the development of the Subject Property and the approval of these Applications is predicated upon Cobb County's acceptance of the stipulations contained herein.

Recommendations within the TIS also include recommendations which are consistent with DOT's goals which:

- a. Align the point of ingress/egress from the proposed Mixed-Use Development with LA Fitness across Terrell Mill Road.
- b. Include new traffic signalization on both Powers Ferry Road and Terrell Mill Road which will alleviate turning conflicts and enhance maneuverability created by the Micro Center and the LA Fitness developments which currently have no signalized access.

SSP agrees to the following site specific recommendations from DOT:

- a. The submission of the TIS which was formally submitted to DOT and Community Development staff on October 19, 2017 consisting of 343 pages and related documents and exhibits. The TIS has been continually revised and updated during the pendency of these Applications.

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY & VIA EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
January 23, 2018
Page 5

- b. The voluntary donation and conveyance or right-of-way on both Powers Ferry Road and Terrell Mill Road (Arterials) in an appropriate distance from the centerline of said rights-of-way which will be determined during the Plan Review process.
 - c. The elimination of existing points of ingress/egress and related “aprons” and curbing (with the extension of sidewalk where indicated) except for those which are shown on the Revised Site Plan.
 - d. The installation of deceleration lanes with appropriate tapers at all points of ingress/egress, as shown on the Revised Site Plan.
 - e. The installation and construction of left-turn lanes and designated right-in/right-out turning movements concerning proposed points of ingress/egress as shown on the Revised Site Plan.
7. All road frontage signage shall be ground-based, monument-style signage and multi-tenant signage with finish, materials and colors being in substantial conformity to the Village Design Standards.

The Village Design Standards include Renderings/Elevations representing both the Kroger signage and templates representing other signage within and around the proposed Mixed-Use Development.

8. Consistent with discussions with the County’s Professional Staff, at full build-out, there shall be a strategic network of walking paths, trails and/or sidewalks located within the proposed Mixed-Use Development which shall link the various components and which shall provide extraordinary pedestrian connectivity, as shown on the Revised Site Plan and in the Village Design Standards.
9. Lighting within the proposed Mixed-Use Development shall be chosen by SSP and shall be environmentally-sensitive, appropriately spaced for safe and effective lighting purposes (i.e. per a Photometric Plan), themed to the architectural style and composition of the buildings to be constructed and which shall be utilized throughout the entirety of the community. All efforts shall be made to make lighting as unobtrusive as possible but still as safety-forward as possible.

The Village Design Standards include photographs depicting the lighting which consist of the same type of lighting used within the Cumberland Community Improvement District (“CCID”).

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A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY & VIA EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
January 23, 2018
Page 6

10. The District Commissioner shall the authority to make minor modifications to the Revised Site Plan, these revised stipulations/conditions, the proposed architectural style and composition, landscaping, signage and other ancillary and attendant features, including the Village Design Standards before, during or after the Plan Review process except for those that:
 - a. Reduce the size of an approved buffer adjacent to property which is zoned the same or in a more restrictive zoning district.
 - b. Relocate a structure closer to the property line of an adjacent property which is zoned in the same or in a more restrictive zoning district.
 - c. Increase the height of a building which is adjacent to property which is zoned in the same or in a more restrictive zoning district.
 - c. Increase the size of a building footprint more than ten percent (10%).
 - d. Are in direct conflict with or in contradiction to the Cobb County Zoning Ordinance.
11. All setbacks and buffer areas may be penetrated for purposes of grading, utilities and stormwater management as long as such encroachments satisfy Cobb County Development Regulations and/or are consistent with direction from the Director of the Community Development Agency.
12. Compliance with Cobb County Development Standards and Ordinances related to project improvements except as otherwise approved by the Board of Commissioners and/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 and on-site stormwater detention. Additionally, compliance with the following:
 - a. To design and adhere to Best Management Practices (“BMPs”) regarding the construction of detention and water quality areas as shown on the Revised Site Plan with such design and installation based upon Cobb County Development Standards.

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY & VIA EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
January 23, 2018
Page 7

- b. All above-ground detention areas shall be landscaped and/or fenced in accordance with Cobb County Development Standards.
 - c. In order to improve water quality, reduce target contaminate loads and to maintain consistency with water quality standards by addressing run-off and pollution for non-point sources, SSP will work jointly with the Stormwater Management Division with respect to the utilization of applicable and County-mandated hydrologic technology concerning stormwater management, detention, hydrology and downstream considerations.
- 14. Compliance with the recommendations from the Cobb County Water System with respect to the availability and acquisition of water and sewer to service the Subject Property.
- 15. In reliance upon the stated purposes and intent of the PVC district which encourages flexible site designs and building arrangements under a unified plan of development and oriented to be self-sufficient neighborhoods making up a community, SSP seeks the Rezoning and the granting of a SLUP for the CCSSSF in substantial compliance with the Revised Site Plan and requests the following concurrent Variances to certain provisions of the PVC district, as follows:
 - a. A request to reduce Parking Ratio Requirements related to the Grocery Component, from the required 479 parking spaces to 409 parking spaces.
 - b. A request to waive the requirement of a twenty-five foot (25') landscape buffer with a three-foot (3') in height berm regarding the Grocery Component's frontage on Powers Ferry Road.
 - c. A request to increase the requirement limiting Outside Sales of Merchandise from a maximum 1,000 square feet to be capped at a maximum of 4,000 square feet regarding the combined Grocery and Fueling Station components.
 - d. A request to reduce the required Front Setback for the Climate Controlled Self-Service Storage Facility ("CCSSSF") from fifty feet (50') to forty feet (40').

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY & VIA EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
January 23, 2018
Page 8

- e. A request to increase the Overall Maximum Impervious Surface from seventy percent (70%) allowed within the confines of a Community Activity Center (“CAC”) to seventy-five percent (75%).
 - f. A request to allow the positioning of the Fully Enclosed and Screened Dumpsters so that they can be located on the Side of a Primary Structure pertaining to Outlot #5 within the Subject Property’s interior.
 - g. A request to reduce the minimum Parking Ratio Requirements for the Multi-Family Component from 521 parking spaces to 500 parking spaces (which correlates to a total of 298 units).
 - h. A request to reduce the acreage requirement of the PVC district from 50 acres to 23.914 acres.
 - i. A request to reduce the minimum requirement of 550 square feet of Open Space per dwelling unit to 400 square feet of Open Space per dwelling unit.
 - j. A request to waive the maximum amount of 3,000 square feet for Eating and Drinking Establishments.
16. Prior to the issuance of building permits, Staff shall review and approve all landscaping and architecture not otherwise herein submitted as may be depicted in additional renderings/elevations and plans which, by the very nature of the PVC district, may be filed under separate cover.
17. The Revised Site Plan includes restaurants as part of the retail component within the proposed Mixed-Use Community. Said restaurants may serve alcoholic beverages as a part of their respective food and beverage services upon securing the proper permits from Cobb County and State agencies.
18. 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 the property owners and any prospective tenant and the property owners agree to undertake their best efforts to enforce these provisions against any tenant which violates the foregoing.

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY & VIA EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
January 23, 2018
Page 9

19. Construction hours shall be in accordance with Cobb County standards with no outside construction work being allowed on Sunday unless pre-approved by the District Commissioner. All construction vehicles, including worker vehicles, delivery and construction equipment, etc. are to be confined to the interior of the Subject Property during construction and build-out and at no time shall said activity be stacked, queued or parked on adjacent streets, within adjacent business parking areas or in a manner to encroach upon residential property, nor shall they, at any time, impede the flow of traffic on Powers Ferry Road or Terrell Mill Road.

II. STIPULATIONS APPLICABLE TO THE NON-RESIDENTIAL COMPONENTS

1. SSP proposes the construction and development of retail, restaurants, a Grocery Store and its companion Fueling Center and CCSSSF with varying fronts, roof elevations and other aesthetically pleasing treatments utilizing a Village Concept architectural approach.

The architectural style and composition of the buildings shall be reasonably consistent with the Architectural Renderings/Elevations which are being submitted concurrently herewith or as may be approved during the Plan Review process or thereafter by the District Commissioner and shall be consistent with Village Design Standards established by SSP, all subject to the District Commissioner's review and approval.

2. The proposed non-residential components shall contain a maximum number of 250,000 square feet which will include a flexible mix of commercial space including retail, restaurants and CCSSSF.
3. Landscaping for the proposed non-residential/commercial components shall be consistent with the Revised Site Plan; Village Design Standards; the Landscape Plan; the Berm Plan; and, Site Section "C" which include, but which is not necessarily limited to:
 - a. The installation of a forty foot (40') landscape buffer and berm utilizing existing vegetation, where possible, enhanced by the planting of Cryptomeria or Arborist-approved analogous evergreen trees separating the Subject Property (including the residential and non-residential components) along the common property line between the Subject Property and Salem Ridge which is zoned RM-10T (Townhome Community) and The Gardens of East Cobb which is zoned RM-12 (Apartment Community).²

² During the installation of the landscaping, SSP will defer to recommendations from the County's Arborist with respect to the types of landscape vegetation which are compatible with and/or indigenous to the Subject Property.

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY & VIA EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
January 23, 2018
Page 10

- b. The landscape buffer shall include the installation of an eight foot (8') in height opaque decorative fencing component as shown in the Berm Exhibit and Site Section "C" attached hereto.
- c. The Property Owner Association described herein and/or SSP shall be granted a perpetual easement and shall be responsible for the upkeep and maintenance of said landscape buffer and berm in perpetuity and shall be responsible for enforcing the control of the buffer by removing or having removed any dead or irrevocably diseased vegetation. Additionally, the Property Owner Association (regarding both the residential and non-residential components) may selectively remove any invasive, harmful vegetative species such as Kudzu, Poison Ivy, etc. located within these areas.
- d. During the construction, development and build-out of the Mixed-Use Development, the above-mentioned landscape buffer shall be clearly marked prior to the beginning of any land disturbance in a manner consistent with Cobb County Developmental Regulations. Thereafter, the buffer shall be clearly marked in strategic areas by permanent ground based markers indicating that the buffer shall remain free of encroachments except as necessary for the removal of existing pavement and structures, installation of utilities, grading or other components required by Cobb County. This area shall be installed and planted as shown on the Landscape Plan and the Berm Exhibit which are enclosed/attached.
- e. No storage or structures may be placed within said landscape buffer. However, fencing as described above shall be required along the eastern border of the forty foot (40') buffer.
- f. The Georgia Native Plant Society ("GNPS") shall be allowed to conduct a "Plant Rescue" on those portions of the Subject Property which are to be designated and installed as a landscape buffer prior to the commencement of construction assuming, of course, that said Plant Rescue does not delay or hinder the construction and development of the Subject Property.

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY & VIA EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
January 23, 2018
Page 11

4. All lighting shall be consistent with the provisions of the Village Design Standards.
5. A Site Lighting/Photometric Plan shall be submitted to Staff during the Plan Review process.
6. Dumpsters, or at-grade trash compaction facilities, will be screened and enclosed as required under the PVC district and will otherwise be positioned to be screened from major streets, connecting points to community spaces and wherever possible from any pedestrian-oriented component of the Subject Property. Dumpsters shall have rubber lids and bumpers to minimize noise during emptying and shall otherwise comply with Cobb County Development Regulations.
7. There shall be no outside paging systems, phone bells or loud speakers. However, outdoor, low-decibel music systems and drive-through speakers shall be allowed.
8. The following uses shall be prohibited:
 - a. Automotive sales, repair and/or service facilities, except that minor auto-related services performed within totally enclosed facilities shall be allowed, including tire and oil change services.
 - b. Video arcades as a primary use.
 - c. Adult-themed bookstores.
 - d. Pawn shops and check-cashing establishments.
 - e. Skating rinks, except for small, season-appropriate rinks.
 - f. Houses of worship.
 - g. Tattoo or body piercing parlors.
 - h. Any business which features sexually explicit products or drug-related paraphernalia.
 - i. Retail facilities which sell knives as a primary use.

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY & VIA EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
January 23, 2018
Page 12

- j. Retail facilities which sell or initiate transactions which include guns as a primary use.
- k. Retail facilities which sell gasoline except Kroger's Fuel Center.
- l. Wholesale warehouse sales centers.

III. STIPULATIONS APPLICABLE TO THE RESIDENTIAL COMPONENT

1. The residential area shall consist of a maximum number of 298 highly amenitized, luxury apartment homes at a density of 12.46 units per acre.
2. The architectural style and composition of the residential component shall be reasonably consistent with the Renderings/Elevations mentioned above which are being submitted concurrently herewith and which may be modified or revised during the Plan Review process in accordance with the Village Design Standards subject to review and final approval by the District Commissioner.
3. The residential component of the Subject Property shall follow the same stipulations regarding landscaping and other issues regarding buffers, landscaping and fencing as covered above in Sec. II, 3 (a – f). Should Salem Ridge or The Gardens of East Cobb cease being used as presently zoned in non-residentially oriented zoning classifications, SSP shall have the option of removing/reconfiguring said buffer and berm subject to review and approval by the District Commissioner.
4. The Property Owner Association and/or SSP shall manage the day-to-day operations of the Multi-Family Component including the responsibility of all commonly used amenities within the proposed community and shall be responsible for the management of all monies and ensuring that the Multi-Family Development is properly insured.
5. SSP will comply with the landscaping components mentioned above and in concert with the landscaping specifications described above in Sec. II, 3 (a – f) of the stipulations and the Village Design Standards applicable to the non-residential component.

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY & VIA EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
January 23, 2018
Page 13

IV. MISCELLANEOUS STIPULATIONS/CONDITIONS

1. The gross square footage of permitted uses within the Revised Site Plan shall be as described thereon. Any unused but otherwise permitted development may be transferred to and among the various components as shown on the Revised Site Plan except with respect to the CCSSSF component, the Multi-Family Component and the Kroger Grocery Store and Fueling Station.
2. Trees shall be planted on all interior streets and shall be a minimum of two and one-half inches (2½") in caliper. Said trees shall have a minimum of twenty-four square feet (24 square feet) of planting area and shall be spaced an average of fifty feet (50') on center or grouped one hundred twenty feet (120') on center. Trees shall be permitted within two feet (2') of the face of curb at the time of planting.
3. Street lighting shall be consistent with the Village Design Standards and will consist of light fixtures which shall be utilized on all interior rights-of-way within the proposed Mixed-Use Development.
4. Pedestrian crossings within the interior of the Subject Property shall have standard painted markings. Pedestrian crossings will also be provided at key parking and retail facilities. No other pedestrian markings shall be required within the proposed development.
5. With respect to interior signage, standard street signage shall be utilized. However, a "topper" may be installed on any street signage indicating a connection with or relation to PFCA as a gateway-type of "branding" for PFCA and Cobb County.

MarketPlace Terrell Mill, as proposed, is consistent with Cobb County's Comprehensive Land Use Plan and Future Land Use Map. Additionally, even prior to these beneficial revisions and modifications being submitted, the proposal has been recommended for approval by Cobb County's Professional Staff. Once construction has commenced, this proposed development will set the tone for the type of development and redevelopment envisioned by the Master Plan as a walkable, upscale, family lifestyle development which will translate into significant and positive economic impact for Cobb County.

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

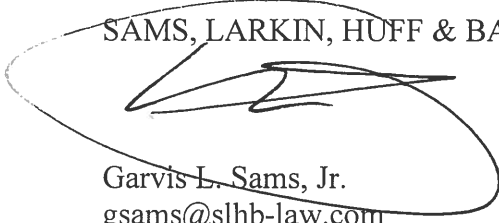
VIA HAND DELIVERY & VIA EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
January 23, 2018
Page 14

Please do not hesitate to contact me should you have any questions regarding these matters or if you need additional information or documentation prior to the Applications being heard and considered next month by the Planning Commission and the Board of Commissioners. With kind regards, I am

Very truly yours,

SAMS, LARKIN, HUFF & BALLI, LLP



Garvis L. Sams, Jr.
gsams@slhb-law.com

GLS, Jr./klk
Enclosures/Attachments

cc: Mr. Bob Ott, District Commissioner (via email w/attachments)
Members, Cobb County Board of Commissioners (via email w/attachments)
Mr. Mike Terry, Chairman, Planning Commission (via email w/attachments)
Members, Cobb County Planning Commission (via email w/attachments)
Mr. Robert L. Hosack, Jr., AICP, County Manager (via email w/attachments)
Mr. Dana Johnson, AICP Director (via email w/attachments)
Mr. Lee McClead, Assistant Director (via email w/attachments)
Mr. Jason Gaines, Manager, Planning Division (via email w/attachments)
Mr. Jason Campbell, Planner III (via email w/attachments)
Mr. Terry Martin, Planner II (via email w/attachments)
Mr. Donald Wells, Zoning Analyst (via email w/attachments)
Ms. Tannesha Bates, Zoning Analyst (via email w/attachments)
Ms. Pamela Mabry, County Clerk (via email w/attachments)
Ms. Lori Jordan, Deputy County Clerk (via email w/attachments)
Ms. Robin Presley, Deputy County Clerk (via email w/attachments)
Captain Robert "Rock" Toler, Fire Marshall (via email w/attachments)
Mr. David Breaden, P.E. (via email w/attachments)
Ms. Amy Diaz, P.E. (via email w/attachments)
Ms. Ashley White, P.E. (via email w/attachments)
Mr. Tim Davidson, Cobb Water System (via email w/attachments)
Mr. Nick Parker, Cobb County School District (via email w/attachments)
Debra L. Blair, Esq., County Attorney's Office (via email w/attachments)

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

VIA HAND DELIVERY & VIA EMAIL:

Mr. John P. Pederson, AICP, Manager
Cobb County Zoning Division
Community Development Agency
January 23, 2018
Page 15

David Hammock, Esq., Cobb County School District (via email w/attachments)
Ms. Patricia J. Rice, President, Powers Ferry Corridor Alliance (via email w/attachments)
Ms. Sheri George, Powers Ferry Corridor Alliance (via email w/attachments)
Ms. Patricia Zerman, Salem Ridge HOA (via email w/attachments)
Mr. Brandon J. Ashkouti (via email w/attachments)
Mr. Timothy "J. R." Connolly, II (via email w/attachments)
Mr. Brian Fratesi (via email w/attachments)
Mr. Daniel Buyers (via email w/attachments)
Mr. Paul Harrell, P.E., Robertson Loia Roof (via email w/attachments)
Mr. Abdul K. Amer, P.E., A&R Engineering, Inc. (via email w/attachments)