

REVISED DEVELOPMENT AGREEMENT

THIS REVISED DEVELOPMENT AGREEMENT (the “**Agreement**”) is entered into as of the Effective Date set forth below by and among the **CITY OF LILBURN, GEORGIA** (the “**City**”), a municipal corporation of the State of Georgia (the “**State**”) and **THE PRESERVE AT KILLIAN HILL LLC** (the “**Developer**”), a Georgia limited liability company, each a “**Party**” and collectively the “**Parties.**”

WITNESSETH

WHEREAS, the Parties entered into a Development Agreement dated October 12, 2021 (the “**Original Agreement**”) relating to Phases II and III of The Preserve at Killian Hill (the “**Preserve**”) prior to the Developer’s acquisition of Parcel No. 6111 005, the 3.33-acre parcel required for Phase III; and

WHEREAS, the Developer acquired title to Parcel No. 6111 005 on September 2, 2022 and has requested revisions to the Original Agreement; and

WHEREAS, revisions to the Original Agreement are required for the Developer to request approval of the Proposed Master Concept Plan for Phase III, prepared by Acuminis Consulting, and dated January 17, 2023 (the “**Master Concept Plan**”, attached as Exhibit A), from City Council as required by the Mixed-Use Zoning District regulations.

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, the City and the Developer agree as follows:

**ARTICLE I
AGREEMENTS**

- The Parties agree to replace the Original Agreement with this Agreement dated February 22, 2023.
- The Parties agree that, once constructed, the 1.18-acre retail tract (the “**Commercial Tract**”) and proposed two-story restaurant/retail with rooftop dining option (the “**Commercial Building**”) shown on the Master Concept Plan will satisfy the non-residential component of the Mixed-Use (“**MU**”) Zoning District for the Preserve. Therefore, the requirement in the Original Agreement for four live/work units in building 12, shown as units 18 – 21 in Exhibit A, is removed in this Agreement. Building 12 may be up to five townhomes, subject to satisfying all open space requirements of the MU Zoning District for Phase II.
- Prior to submitting the preliminary plat for Phase III to the City for review and approval, the Developer agrees:
 - (1) To engineer Phase III of the Preserve to accommodate a Commercial Tract that is a minimum of 1.18 acre with a Commercial Building that is a minimum of 10,040 square feet; and
 - (2) To meet all stormwater requirements; and

- (3) To seek approval for either full access or right-in/right out access to the Commercial Tract from Killian Hill Road from Gwinnett County Department of Transportation.

If the Developer is unable to obtain dedicated access to the Commercial Tract from Killian Hill Road, the Developer agrees to revise the Master Concept Plan and obtain City Council approval.

- Prior to submitting the final plats for Phases II and III to the City for review and approval, the Developer agrees:
 - (1) To obtain approval of water and sewer as-builts from Gwinnett County; and
 - (2) To obtain approval of stormwater as-builts by the City; and
 - (3) To amend covenants to address additional utility easements and inter-parcel access between phases; and
 - (4) To obtain the standard applicable performance surety bond or letter of credit; and
 - (5) To schedule all unfinished site work, including but not limited to, stormwater facilities, Killian Hill Road improvements, sidewalks, street lights, and landscaping; and
 - (6) To obtain certification of all stormwater best management practices from the City.
- Prior to submitting a site development permit application for Phase III to the City for review and approval, the Developer agrees:
 - (1) To record the final plat for Phase II; and
 - (2) To obtain the City's approval for the proposed architectural elevations for building 12 in Phase II and the buildings in Phase III that are visible from Killian Hill Road to feature more than four paint colors, designs consistent with existing structures, and a mixture of brick, stone, and hardiplank siding. Facades visible from Killian Hill Road shall feature elevated building materials and architectural features consistent with buildings in Phase II that are visible from a public street.
- The Parties agree that once the Site Development Permit for Phase III has been issued, the Developer may then apply to permit, construct, and CO not more than 50% of the Phase III residences according to standard development regulations.
- The Parties agree that the Developer may start construction of the remaining 50% of Phase III residences but may not CO said residences until the building permit is acquired for the Commercial Building.
- The Parties agree that the Developer shall not receive Certificates of Occupancy for the units in Building 12 of Phase II or Units 1, 2, 3, and 4 in Phase III, as shown in Exhibit A, until infrastructure as-builts are approved and a Certificate of Occupancy has been issued for the Commercial Building in Phase III by the City.

- The Parties agree that any modifications to this agreement or the Master Concept Plan, once approved, require approval from the Mayor and Council of the City of Lilburn.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below:

The Preserve at Killian Hill, LLC

By: 
Zac Kittle, Manager

Date: 3/1/2023

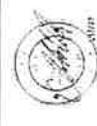
The City of Lilburn, Georgia

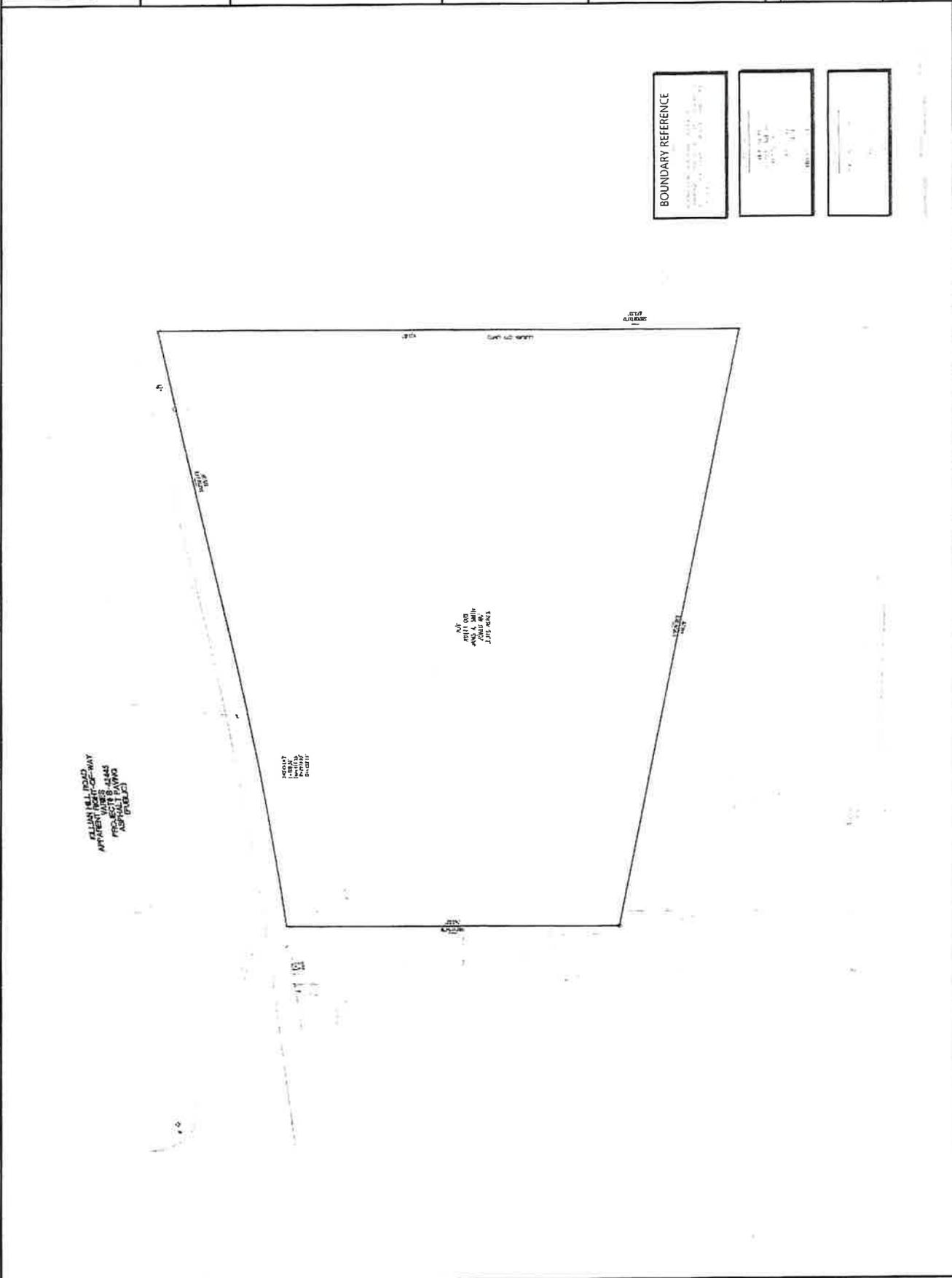
By: 
Tim Dunn, Mayor

Date: 2/22/2023

Attest: _____
Rick Badie, City Clerk

Date: _____

 <p>acuminis consulting group</p> <p>910 Hwy 1024 Gresham, Georgia 30017 770.527.4638 www.acuminisconsulting.com</p>	 <p>STATE OF GEORGIA Professional Engineer No. 12345 Exp. 12/31/2024</p>	<p>DATE</p>	<p>REVISION</p>	<p>No</p>	<p>PREPARED FOR:</p> <p>KITTLE HOMES, LLC 412 SEAGRAVES DRIVE ATHENS, GEORGIA 30605 24-HOUR CONTACT ZAC KITTLE (706) 340-9186</p>	<p>PROJECT NAME</p> <p>THE PRESERVE AT KILLIAN HILL PHASE III 327 KILLIAN HILL PARCEL 6-11-005 CITY OF LILBURN GWINNETT COUNTY, GEORGIA</p>	<p>1-2024</p>	<p>EXISTING CONDITIONS</p>	<p>1 of 3</p>
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BOUNDARY REFERENCE

1-2024

1/15/24

6/7
2020

2 of 3
SHEET

CONCEPT
PLAN
PHASE III

TASK

PROJECT NAME
THE PRESERVE AT
KILLIAN HILL
PHASE III
327 KILLIAN HILL
PARCEL 6-11-005
CITY OF LISBURN
SWINNETT COUNTY GEORGIA

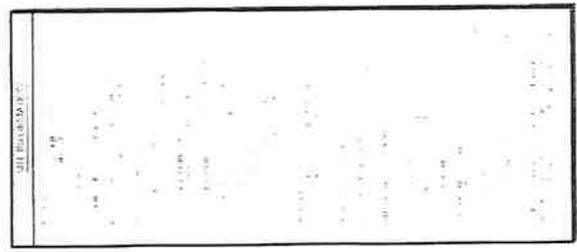
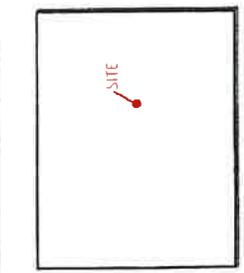
PREPARED FOR
KITTE HOMES, LLC
412 SEAGRAVE DRIVE
ATLANTA, GEORGIA 30307
24-HOUR CONTACT
242 KITTLE
CITY OF LISBURN
(707) 340-9186

DATE	REVISION



acuminis
consulting group

PO Box 1074
Grayson Georgia 30017
770 527 3950
www.acuminisconsulting.com



NO.	DATE	DESCRIPTION

