

SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

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December 4, 2018

VIA EMAIL:

Mr. Ken Suddreth, Director
Community Development Department
City of Smyrna
3180 Atlanta Road
Smyrna, GA 30080

Re: Rezoning Application of MCP III Real Estate, LLC to Rezone a 0.99 ± Acre Tract
from OI to TS (No. Z18-019)

Dear Ken:

You will recall that this firm represents MCP III Real Estate, LLC (“MCP”) concerning the above-captioned Rezoning Application. The Application is scheduled to be heard and considered by the Smyrna Planning Commission on December 10, 2018 and, thereafter, is scheduled to be heard and considered for final action by the Mayor and City Council on January 22, 2019.¹

This Application was submitted to the City on November 9, 2018. Since that time and as a consequence of the dialogue we have established with Members of the City’s Professional Staff, area business owners, other area Property Owners and representatives from Cobb County’s Community Development Staff, this letter will serve as MCP’s comprehensive letter of agreeable stipulations/conditions.

In furtherance thereof, MCP proposes to construct a seven-story, nationally branded boutique Hotel approximately 103,685 sq. ft. (exclusive of structured parking, canopy and patio) in size. The proposed Hotel will accommodate approximately one-hundred thirty-six (136) rooms/keys with associated structured parking within this commercially-oriented sub-area of the City of Smyrna. Adjacent properties include a Holiday Inn Express (owned, operated and managed by MCP) and a Hyatt Place Hotel along with other commercial and office uses.

The Subject Property which is zoned OI does not have a reasonable economic use considering the context of market conditions and in light of the halo effect of the development of the Braves SunTrust Park and The Battery which have precipitated dramatic changes in

¹ Typically, this hearing would be on January 21st; however, the meeting time has been changed in recognition of the Martin Luther King national holiday.

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developmental conditions within this sub-area of the City. MCP's proposal is in conformity with the policy and intent of the City's LCI Master Plan and the City's Comprehensive Plan and Future Land Use Map. Additionally, the Subject Property is further defined as being within a key development node identified as "The South Spring" area.

This Application for Rezoning for the purposes of the construction of a Hotel, when viewed in concert with the "sense of place" and character which will continue to be established and accentuate MCP's ability to target demographics of the travelling and corporate public will add to the revitalization of properties with aging commercial and office space in order to precipitate quality redevelopment within the City and to provide for high-end, nationally-branded uses.²

These stipulations shall become conditions and a part of the grant of the requested Rezoning and binding upon the Subject Property thereafter, to wit:

1. The 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 Application for Rezoning.
2. MCP seeks to rezone the Subject Property to allow for the demolition of existing buildings located thereon and to construct a nationally branded Hotel in substantial conformity to the site plan which was submitted concurrently with the Application for Rezoning.
3. The Subject Property consists of an approximate 0.99 acre tract of land which shall be developed as a seven-story Hotel with attendant structured parking including the components mentioned above with ancillary and permitted uses which may also be allowed under the Tourist Services ("TS") zoning district.
4. The Applicant which is also the Property Owner shall be the Master Developer and will be involved in all aspects of the development including, but not limited to, the ownership, management and day-to-day operations of the Hotel as it has done with other Hotels it owns, operates and manages within the United States, including the Smyrna and Metropolitan Atlanta Area.

² Presently, MCP has control of this geographic sub-area granted by Marriott for its most current nationally branded, millennially oriented Hotel known as Element.

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5. MCP agrees to construct all of the necessary driveways and infrastructure improvements as more particularly shown and reflected on the site plan. Additionally, MCP agrees to comply in all respects with the City's specifications concerning site interior infrastructure and agrees to the following:
 - a. Relocating the dumpster as presently shown on the site plan in order to eliminate that specific access point because of conflicting and potentially dangerous turning/back-up movements by public sanitation vehicles.
 - b. The dumpster, once relocated, will be positioned in order to prevent visual intrusion from streets and adjacent properties by way of screening by landscaping, walls and/or vegetation. The dumpsters shall have rubber lids and bumpers to minimize noise during emptying. At-grade trash compaction shall also be allowed and screened as appropriate.
 - c. The installation of curb and gutter along Spring Hill Parkway which eliminates the ditch presently along the Subject Property's frontage thereon.
6. Entrance signage shall be ground-based, monument-style signage within finish, materials and colors being in substantial conformity to the architectural style and composition embodied within the Construction Design Guidelines for the proposed Hotel. Additionally, MCP is requesting a concurrent Variances regarding deviations from the City's Sign Ordinance by way of the sign profiles/renderings/elevations being submitted under separate cover tomorrow, December 5, 2018.

There shall be no temporary signs excepting only "Grand Opening" signage and signage indicating the coming Hotel Development. Free-standing signs and other signage such as building-attached, vertical marquee signage shall be permitted in accordance with the terms and provisions of the City of Smyrna Sign Ordinance.
7. The primary entrance to the Hotel shall be professionally designed, landscaped, maintained and themed to the architectural style and composition of the development.
8. Architecture for the Hotel shall be in conformity to the specific architectural renderings/elevations (depicting Element which is the highest-end suites Hotel in the Marriott chain) which were submitted within the Application for Rezoning.

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9. Lighting within the Hotel property shall be environmentally sensitive, decorative and themed to the architectural style and composition of the Hotel Development. There shall be shielded security lighting and automatic cut-off components.

MCP agrees to install and construct site lighting pursuant to a Site Lighting/Photometric Plan which shall be submitted to the City Staff for review and approval during the Plan Review Process.

10. All set-back areas may be penetrated for purposes of detention, utilities and stormwater management as well as life-safety/fire prevention components or any other encroachments which are necessary in order to satisfy the City of Smyrna requirements.
11. An agreement to comply with the City of Smyrna Developmental Standards and Ordinances related to project improvements, except as hereinafter approved by the Mayor and City Council and the Community Development Director as a respective authority may allow.
12. Parking for the Hotel shall be provided by means of structured and surface parking as shown on the site plan. In light of empirical evidence which MCP has with respect to other hotels which it has built, owns and is presently operating, the following components obviate the necessity for specific compliance with parking ratio requirements, as follows:
 - a. The Hotel will provide a regularly scheduled shuttle service to SunTrust Park, The Battery, Cumberland Mall, The Galleria and other featured destinations within this Regional Activity Center.
 - b. An agreement to submit a Reciprocal Parking Easement Agreement between the Subject Property and the Holiday Inn Express which, as mentioned above, is also owned and operated by MCP.
 - c. Prevalent utilization of Uber/Lyft shared transportation/traffic concepts and shared corporate travel to and from other destinations including other hotels within this area.
 - d. Utilization of the Cumberland Area Circulator Route.

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13. Prior to the issuance of Building Permits, the City Staff shall review and approve all architecture which shall be in substantial conformity to the architecture depicted in the architectural renderings/elevations previously and concurrently submitted with the Application for Rezoning.
14. Compliance with recommendations from the City Fire Marshal including, but not necessarily limited to:
 - a. Providing a turning model for fire apparatus vehicle access both into and out of the Subject Property.
 - b. The building and the structured parking shall have a sprinklers and fire suppression systems installed therein.
 - c. Compliance with International Fire Code (“IFC”) No. 510 regarding required emergency radio communications.
15. Compliance with recommendations from the City Engineer with respect to detention, hydrology, water quality and downstream considerations including, but not necessarily limited to:
 - a. Providing a Conceptual Hydrology Study to the City Engineer prior to the public hearing before the Mayor and City Council.
 - b. An agreement to follow the recommendations from the City Engineer with respect to ensuring that the underground detention shall be placed within and under the surface of the Subject Property in a vault which has appropriate access to it.
16. Minor modifications the within and foregoing stipulations/conditions, lighting, landscaping, signage, architecture, site fixtures and the like may be approved by the City’s Community Development Director and/or his designee as needed or necessary.

MCP’s Application is in conformity with the policy and intent of the City of Smyrna, its Comprehensive Land Use Plans, the dictates of the Future Land Use Map, and meets the intent of the City’s LCI Study which renders the proposal appropriate from a land use planning perspective.

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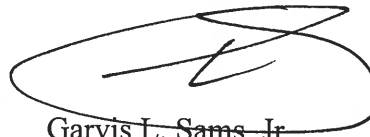
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However, please do not hesitate to contact me should you or the City's Staff, Planning Commission, Mayor or City Council require any further information or documentation prior to the formulation of your Zoning Analysis and Staff Recommendations. With kind regards, I am

Very truly yours,

SAMS, LARKIN, HUFF & BALLI, LLP



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

GLS, Jr./dls

cc: Honorable Mayor A. Max Bacon, Mayor (via email)
Mr. Derek Norton, City Council Member (via email)
Members, City of Smyrna City Council (via email)
Members, City of Smyrna Planning Commission (via email)
Ms. Tammi Saddler Jones, City Administrator (via email)
Mr. Russell Martin, AICP, Senior City Planner (via email)
Mr. Tom Boland, Economic Development Manager (via email)
Scott A. Cochran, Esq. (via email)
Mr. Kevin Moore, P.E., City Engineer (via email)
Mr. Frank Martin, Public Works Director (via email)
Mr. Timothy Grubaugh, Fire Marshall (via email)
Ms. Terri Graham, City Clerk (via email)
Mr. Sachin Desai, MCP III Real Estate, LLC (via email)
Mr. Chetan Patel, MCP III Real Estate, LLC (via email)
Mr. Dipan Patel, Buckhead America (via email)
Ms. Kate Triplett, P.E., Kimley-Horn (via email)