

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

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September 26, 2017

## (REVISED STIPULATION LETTER & REVISED SITE PLAN)

### VIA EMAIL & HAND DELIVERY:

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

Re: Application of Neighborhood Commercial, LLC to Rezone a 1.188 Acre Tract from R-15 to RAD – Conditional - (No. Z-17-013)

Dear Ken:

This firm represents Neighborhood Commercial, LLC regarding the above-captioned Application for Rezoning. The application is scheduled to be heard and considered by the Planning & Zoning Board on October 9, 2017 and, thereafter, is scheduled to be heard and considered for final action by the Mayor and City Council on November 20, 2017.

Consistent with the dialogue which we have established with the City's Professional Staff, Smyrna elected and appointed officials, area residents and others, enclosed find the requisite number of copies of a Revised Site Plan. Also enclosed with this revised stipulation letter are elevations/renderings depicting the proposed architectural style and composition of the four (4) homes planned for the subject property.

The subject property is bounded on the north by a three (3) lot subdivision fronting on Walker Street which is zoned RAD Conditional which was rezoned in 2015 (No. Z-15-011); on the east by property zoned RAD Conditional in 2013 (No. Z-13-008); on the south by Spring Street and on the west by a vertically-oriented R-15 Residential development situated at the intersection of Spring Street and Walker Court. The property is in an area on the City's Future Land Use Map which is denominated as Moderate Density Residential which allows maximum densities up to 4.5 u.p.a. (Neighborhood Commercial's density at 3.39 u.p.a. is significantly lower meaning that an amendment to the Future Land Use Map will not be necessary concurrent within an approval of the rezoning.

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With respect to the foregoing, the balance of this letter will serve as Neighborhood Commercial's expression of agreement with the following revised stipulations which, upon the Rezoning Application being approved as amended and revised herein, shall become conditions and a part of the grant of the requested rezoning and binding upon the subject property thereafter. The referenced revised stipulations are as follows:

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 or which have been proposed concerning the Subject Property.
2. The rezoning of the Subject Property shall be from R-15 to RAD – Conditional in substantial conformity to the Revised Site Plan prepared by BH&D Engineering, Inc. which is being submitted concurrently herewith.
3. The Subject Property shall be developed for the construction of four (4) custom, quality-built, single-family detached homes at price points ranging from approximately \$600,000.00 to \$720,000.00 and greater.
4. The size of the homes shall range from a minimum of 3,000 square feet up to 4,500 square feet and greater.
5. The architectural style and composition of the homes shall be in substantial conformity to the architectural renderings/elevations which are being submitted concurrently herewith. The architectural style and composition of the homes shall be consistent with the City's architectural and zoning requirements.

Each of the homes, at a minimum, shall have an attached, two (2) car garage which shall be designed at all times to accommodate a minimum of two (2) vehicles. The driveway shall be a minimum of twenty-two feet (22') in length to accommodate two (2) additional vehicles. All four (4) homes shall be served by and oriented to the interior street which intersects with Spring Street. However, the home located on Lot 1, will "present" and architecturally appear to be oriented to Spring Street as shown on the architectural renderings/elevations.

In addition to the above-described architectural style and composition, there will also be a mixture of architectural elements including, but not limited to, a variety of complementary colors and differing placements of windows and dormers.

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6. All of the homes which are proposed shall be “For Sale” homes and shall be governed by a Mandatory Homeowners Association (“HOA”) and a Declaration of Covenants, Conditions and Restrictions (“CCRs”) which shall include, among other components, strict architectural controls.

The Mandatory HOA shall be responsible for the upkeep and maintenance of all Common Areas, tree preservation areas, community Open Space, the stormwater management facility (detention/water quality); the private drive; and, landscaping which is not installed/planted on the individual lots.

7. The submission of a Landscape Plan during the Plan Review process which shall be subject to Staff and the City’s Arborist’s review and approval and which shall include, but not necessarily be limited to, the following:
  - a. Neighborhood Commercial has created a natural “green fence” along the eastern side of the subject property in order to soften the transition between properties and in order to provide the Spring Street Commons Home Owners’ Association (“HOA”) with aesthetic enhancements and privacy.
  - b. The previously positioned “hammerhead” turn-around has been repositioned between proposed Lot Nos. 2 & 3 and has been “softened” with a low stone feature consisting of a curved circular wall with a stone patio area. In front of the patio area will be a pergola with bench seating.
  - c. Directly opposite of the foregoing component and across the street, the revised site plan also depicts a matching seating area on the subject property.
  - d. If approved by the neighboring HOA, their detention pond will be substantially landscaped as depicted on both the revised site plan on both the subject property and on the HOA’s property.

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- e. The construction of ground-based, monument style signage at the entrance to the proposed residential community which shall be lighted, landscaped and irrigated in substantial compliance with entrance signage of other high-end residential developments along Spring Street and other areas in and/or near the City's prime residential areas.<sup>1</sup>
- f. Compliance with the City's Tree Preservation & Replacement Ordinance and substantial conformity to the Tree Survey/Protection/Tree Replacement plans and the Arborist's Report which were submitted concurrently with the Application for Rezoning.
- g. All required Tree Protection measures shall be adhered to during the construction and build-out of the proposed residential community with every effort being made to save specimen trees thereon.
- h. The Open Space/Common Area which will be owned and controlled by the Mandatory HOA shall be used primarily for passive recreational purposes; however, said area will include the Gazebo as mentioned below and may also include benches, walking paths and other aesthetically pleasing features and those which provide meaningfully and strategically positioned pedestrian connectivity.
- i. The overall Landscape Plan shall be prepared, stamped and signed by a Georgia Registered Landscape Architect or a Degreed Horticulturist for Common Areas and other components of the residential community which shall be identified during the Plan Review process, including any buffer areas agreed upon.
- j. All HVAC systems and home utilities within the proposed residential community shall either be underground or screened from view by way of fencing and/or landscaping, including the detention and water quality facility shown on the Revised Site Plan.
- k. The proposed detention/water quality facility shall be designed according to the City of Smyrna regulations and shall consist of an earthen structure which shall be landscaped and screened from surrounding homes and public rights-of-way as noted above.

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<sup>1</sup> In the past, certain area residents have requested that there be no identification signage for individual in-fill developments. In that regard, this stipulation/condition can be included or omitted at the City Council's discretion.

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- l. The installation of sod in the front, side and rear yards of the proposed homes which shall be irrigated.
- m. The construction of a Gazebo which shall be placed within the designated Open Space/Common Area. Said Gazebo and the construction of same shall be in substantial conformity to the architectural style and composition as mentioned above.
8. Subject to recommendations from the City Engineer concerning hydrological/stormwater management and downstream considerations, including the following:
  - a. Agreeing to work with the City Engineer in order to accommodate the need to serve the “upland watershed” by way of utilizing detention on the subject property in a “regionally-oriented manner”.<sup>2</sup>
  - b. A reduction of 10% of pre-development conditions.
  - c. Following recommendations with respect to on-site detention, water quality and downstream considerations.
  - d. Ensuring downstream channel protection regarding stormwater volume contained on the site.
9. Subject to recommendations from the City Engineer and the Public Works Director regarding traffic/transportation issues, including the following:
  - a. Construction of sidewalk along the Subject Property’s frontage on Spring Street and running parallel along the street within the proposed residential subdivision. The private drive shall be designed to meet the City’s Design and Detail Specifications for public rights-of-way in accordance with recommendations from both the City Engineer and Public Works Director.

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<sup>2</sup> Neighborhood Commercial, its engineers and representatives have specifically discussed these issues with the City Engineer. There are several approaches and/or methodologies which can be employed at a later date and/or as a component of Neighborhood Commercial’s Application for Rezoning.

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- b. The establishment of a ten foot (10') "no access easement" along the Subject Property's frontage on Spring Street except, of course, with respect to the private drive which will serve the four (4) homes. However, this easement shall in no way preclude or discourage pedestrian connectivity or walkability.
    - c. Ensuring compliance with mandated sight distance on Spring Street or the implementation of remedial measures in which to mitigate same.
10. Compliance with recommendations from the City Fire Marshall including recommendations regarding building access and separation. Additionally, an agreement with all provisions regarding Life-Safety and Fire Prevention and compliance with recommendations regarding the submission of a Turning Performance Analysis which conforms to the City's specifications.
11. Compliance with the Public Works Director's recommendations concerning access to water lines; utilization of current water service components; the positioning and utilization of sanitary sewer; and, the installation of sidewalks as mentioned above.
12. The Community Development Director shall have the authority to approve minor modifications with respect to the Revised Site Plan, the architectural style and composition of the homes and other issues contained within these stipulations as the development proposal proceeds through the Plan Review process and thereafter, except for those that:
  - a. Increase the density of the residential community.
  - b. Reduce the size of an approved buffer adjacent to property which is zoned the same or in a more restrictive zoning district.
  - c. Relocate a structure closer to the property line of an adjacent property which is zoned in the same or in a more restrictive district.
  - d. Increase the height of a building which is adjacent to a property which is zoned in the same or a more restrictive zoning district.
  - e. Change access locations to a different right-of-way.

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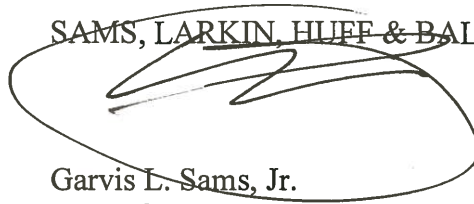
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Neighborhood Commercial's Application for Rezoning is consistent with the City's Future Land Use Map; the City's Comprehensive Land Use Plan; the City's Consultants' "vision" regarding this sub-area of the City of Smyrna; and, exceeds the tenor of development established within this sub-area (Spring Street/Walker Court/Walker Street) of the City of Smyrna. Clearly, with that being one of the linchpins of the City's staff's recommendation for approval, Neighborhood Commercial's Rezoning proposal is appropriate on all levels, including from a Land Use Planning perspective.

Please do not hesitate to contact me should you or the Staff require further information or documentation prior this Application being heard in October by the Planning & Zoning Board and in November by the Mayor and City Council. With kind regards, I am

Very truly yours,

SAMS, LARKIN, HUFF & BALLI, LLP



Garvis L. Sams, Jr.  
[gsams@slhb-law.com](mailto:gsams@slhb-law.com)

GLS, Jr./dls

Enclosures/Attachments

cc: Honorable A. Max Bacon, Mayor (via email w/attachments)  
Members, City of Smyrna City Council (via email w/attachments)  
Members, City of Smyrna Planning & Zoning Board (via email w/attachments)  
Ms. Tammi Saddler Jones, City Administrator (via email w/attachments)  
Mr. Russell G. Martin, AICP, Senior City Planner (via email w/attachments)  
Scott A. Cochran, Esq. (via email w/attachments)  
Mr. Eric Randall, P.E., City Engineer (via email w/attachments)  
Mr. Scott Stokes, Public Works Director (via email w/attachments)  
Mr. Timothy Grubaugh, Deputy Fire Marshall (via email w/attachments)  
Ms. Terri Graham, City Clerk (via email w/attachments)  
Mr. John Newton, Spring Street Commons Owner's Association (via email w/attachments)  
Ms. Casey Clavin, Williams Park (via email w/attachments)  
Mr. and Mrs. Ron Davis, Williams Park (via email w/attachments)  
Mr. Keith Bentley, Williams Park (via email w/attachments)  
Mr. Thair Hanaway, Neighborhood Commercial, LLC (via email w/attachments)  
Ms. Jennifer Steele, Neighborhood Commercial, LLC (via email w/attachments)  
Mr. Brennen Hicks, P.E. (via email w/attachments)