

# SAMS, LARKIN, HUFF & BALLI

A LIMITED LIABILITY PARTNERSHIP

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ADAM J. ROZEN

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SLHB-LAW.COM

July 25, 2017

**(INCLUDES 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:

As you know, this firm represents Neighborhood Commercial, LLC concerning the above-captioned Application for Rezoning. The application is scheduled to be heard and considered by the Planning & Zoning Board on August 14, 2017 and, thereafter, is scheduled to be heard and considered for final action by the Mayor and City Council on September 18, 2017.

Consistent with the dialogue which we have established with the City's Professional Staff, Smyrna officials and others, enclosed find the requisite number of copies of a Revised Site Plan. The Revised Site Plan takes into consideration past discussions generated with respect to another developer's truncated attempt to rezone this same property two (2) years ago (No. Z-15-016). That particular application was not handled by this Firm.

With respect to the foregoing, the balance of this letter will serve as Neighborhood Commercial's expression of agreement with the following 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 which shall be binding upon the Subject Property thereafter. The referenced stipulations are as follows, 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 or which have been proposed concerning the Subject Property.

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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.
4. The size of the homes shall range from a minimum of 3,000 square feet to 4,500 square feet and possibly greater.<sup>1</sup>
5. The architectural style and composition of the homes shall be in substantial conformity to the revised architectural renderings/elevations which will be submitted under separate cover before the Planning & Zoning Board hearing. 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 private drive which intersects with Spring Street. However, the home located on Lot 1, despite its orientation toward the private drive, will present and architecturally appear to be oriented to Spring Street.

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.

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.<sup>2</sup>

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<sup>1</sup> The price points of the proposed homes are anticipated ranging from \$600,000 and above.

<sup>2</sup> Enclosed is an Arborist's Report prepared by T.J. Schell, LLC and dated May 23, 2017 (of course the original number of proposed lots has been reduced from 5 lots to 4 lots).

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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. 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.
  - b. 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.
  - c. 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.
  - d. The installation of sod in the front, side and rear yards of the proposed homes which shall be irrigated.
  - e. 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.
  - f. Compliance with the City of Smyrna Sign Ordinance and Regulations including 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>3</sup>
  - g. 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 (as mentioned above) which were submitted concurrently with the Application for Rezoning.

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<sup>3</sup> In the past, Williams Park representatives have requested that there be no identification signage for individual in-fill developments. In that regard, this stipulation will be discussed with Williams Park representatives further.

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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.

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 above and may also include benches, walking paths and other aesthetically pleasing features and those which provide meaningfully and strategically positioned pedestrian connectivity.

8. Subject to recommendations from the City Engineer concerning hydrological/stormwater management and downstream considerations, including the following:
  - a. A reduction of 10% of pre-development conditions.
  - b. Following recommendations with respect to on-site detention, water quality and downstream considerations.
  - c. 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 sidewalks along the Subject Property's respective frontages on Spring Street and on the private drive. The private drive shall be designed to meet the City's Design and Detail Specifications for public rights-of-way.
  - 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 service 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.

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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 Ward Councilmember and/or 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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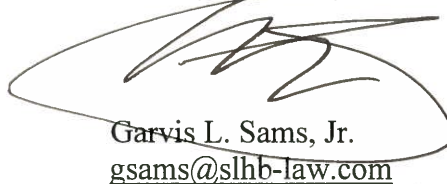
In all respects, Neighborhood Commercial's Application for Rezoning is in compliance with the City's and its consultants' vision for this sub-area of the City of Smyrna; is consistent with the City's Future Land Use Map (which allows residential densities up to 4.5 units per acre); and, consistent with the City's Comprehensive Land Use Plan with four (4) proposed homes at a density of 3.37 units per acre.

Please do not hesitate to contact me should you or your Staff require further information or documentation prior the formulation of Staff's Analysis and Recommendations.

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./klk  
Enclosures/Attachments

cc: Listed on next page

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cc: Honorable A. Max Bacon, Mayor (via email w/attachments)  
Ms. Teri Anulewicz, City Council Member (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)  
Lemuel Ward, Esq., Dentons US LLP (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)





ARBORIST REPORT FOR:

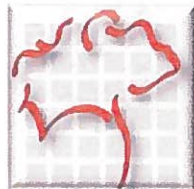
**Spring Street 5 Lot SD**

**Smyrna, Georgia**

Prepared For:

Thair Hanaway

**Thunder Road Construction, LLC**  
Visual Inspection only



Prepared by:

**T.J. Schell, LLC**

Landscape Architect  
& Certified Arborist

2985 Gordy Parkway, Suite 422

Marietta, GA 30066

Fax 770-578-9126

Cell 770-361-2319

Teresa H. Eldredge, RLA, ISA

Certified Arborist

**ISA SO-5442A**

May 23, 2017

**1. Water Oak (Tag #158) 33" Caliper - FAILED**



- 2. Red Oak (Tag #159) 32" Caliper - 10% dieback - minimal included bark at high split - Fair to Good Condition – To Remain with 2 Year Maintenance plan**
- 3. Water Oak (Tag #355) 24" Caliper – Good Condition – To Remain**
- 4. Water Oak (Tag #169) 26" Caliper - Hollow area at base with active insect infestation, Co-dominant – 1 Large dead branches – To Remain with 2 Year Maintenance plan**



5. **Water Oak (Tag #166) 40" Caliper** - 8 major dead branches- more than 50% canopy gone - hollow when thumped – Tree in serious decline – Request Not Specimen



6. **Water Oak (Tag #167) 44" Caliper** - Large conks at base, extensive decay, 3 major branches dead, hollow when thumped. Request Not Specimen



7. **Water Oak (Tag #168) 35" Caliper** – One main leader dead and 3 major dead branches dead with obvious decay/wounds throughout lower trunk – water sprouts - 10% dieback



**Boundary Trees**

- **Water Oak - 30" Caliper** - Fair to Good Condition (Request 2 Yr. Maintenance Plan for disturbed area of CRZ)
- **Pecan - 25" Caliper** - Fair to Good Condition (Request 2 Yr. Maintenance Plan for disturbed area of CRZ)
- **Hickory – 38" Caliper** – Fair to Good Condition (Request 2 Year Maintenance Plan for disturbed area of CRZ)